



**TOWN OF MILLIKEN  
PLANNING COMMISSION  
AGENDA MEMORANDUM**

To: Acting Chair Bernhardt and Planning Commissioners From: Martha Perkins, Community Development Director Via: Kent Brown, Town Administrator		Public Hearing Date: July 20, 2016	
Agenda Item #	Action:	Discussion: x	Information:
Agenda Title: Review and Approval to Set Public Hearing for Accessory Structures			
Attachments: Draft Ordinance 728 "An Ordinance of the Town of Milliken Amending Section 16-3-225 of Chapter 16 of the Milliken Municipal Code Concerning Accessory Buildings" showing the proposed changes.			
Staff Recommendation: Staff recommends moving forward with the legal advertising of Ordinance 728 "An Ordinance of the Town of Milliken Amending Section 16-3-225 of Chapter 16 of the Milliken Municipal Code Concerning Accessory Buildings".			

**PURPOSE**

To consider the proposed text changes for Ordinance 728 "An Ordinance of the Town of Milliken Amending Section 16-3-225 of Chapter 16 of the Milliken Municipal Code Concerning Accessory Buildings".

**BACKGROUND**

After numerous meetings, staff has attempted to take all of the Commission's comments and incorporate them into a proposed text amendment with the draft of Ordinance 728. When this Ordinance actually comes before the Commission for approval it will not have all of the edits, but staff thinks it is important that the Commission review the proposed, final changes before staff moves forward with the formal text amendment approval process.

**RECOMMENDATION**

Staff recommends moving forward with the legal advertising of Ordinance 728 "An Ordinance of the Town of Milliken Amending Section 16-3-225 of Chapter 16 of the Milliken Municipal Code Concerning Accessory Buildings".

**WORKING DRAFT**

**ORDINANCE NO. 728**

**AN ORDINANCE OF THE TOWN OF MILLIKEN AMENDING SECTION 16-3-225 OF CHAPTER 16 OF THE MILLIKEN MUNICIPAL CODE CONCERNING ACCESSORY BUILDINGS**

**WHEREAS**, the Town of Milliken is a municipal corporation authorized under Article 23, Title 31 of the Colorado Revised Statutes to regulate the development of land within the Town for the purposes of promoting the public health, safety, convenience, and the general welfare of the community; and

**WHEREAS**, the Board of Trustees of the Town has the power to adopt and amend zoning regulations pursuant to Section 31-23-301, *et seq.*, C.R.S., and the general ordinance powers conferred by Section 31-15-103, C.R.S.; and

**WHEREAS**, the Town has adopted zoning regulations codified in Chapter 16 of the Municipal Code that, in relevant part, establish requirements for accessory buildings and structures; and

**WHEREAS**, the Planning Commission has initiated a text amendment to Chapter 16 to exclude attached garages from the definition of and regulations concerning accessory buildings; and

**WHEREAS**, the Planning Commission has considered the amendments at a duly noticed public hearing and has recommended approval of same to the Board of Trustees; and

**WHEREAS**, the Town Board of Trustees considered the proposed zoning changes as set forth in this Ordinance at a duly noticed public hearing.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, THAT:**

**Section 1:** Section 16-3-225, titled Accessory buildings, is hereby amended to read in full as follows:

**Sec. 16-3-225. Accessory buildings or structures.**

An accessory building or structure is a subordinate building or structure detached from the principal building, having both a roof and walls to provide weather protection. This includes detached garages, storage sheds, and similar structures. Accessory buildings and structures, except fences, in the residential districts, shall be subject to the following provisions:

- (1) **General statements.** An accessory building or structure shall ~~considered an integral part of not be attached to or have a common wall with the principal building if it is connected to the principal building; this includes being connected by a covered passageway.~~ Covered (but otherwise unenclosed) walkways shall not be considered attachments for the purposes of this subsection except that a **garage connected to** the principal building with a covered

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walkway shall be considered a detached accessory building subject to the provisions of this section.

- (2) Time of construction. No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory, unless otherwise approved by Town staff or the Planning Commission for a temporary use, such as storing tools and materials while building a house or some other use that does not allow for occupancy of the accessory structure. *(Need to check with the attorney)*
- (3) Location. No detached accessory building other than a private garage shall be located within a front or corner side yard.
- (4) Height. No accessory building in a residential district shall be taller than the principal building on the lot, with the exception of ~~the AE Agricultural Estate District~~ agricultural districts, in which the height may exceed the height of the principal building, ~~but it may not be greater than twenty-one (21) feet tall.~~ The building height shall be measured from the lowest point of the base of the building to the highest structural point of the building and shall not include nonstructural additions to the building which themselves are not more than five (5) feet in height, such as antennas, lightning rods or weather vanes.
- (5) Size. The square footage of accessory buildings in a residential district shall be less than square footage of the primary dwelling unit unless the accessory buildings is for an agricultural use on an agriculturally zoned property.
- (6) Setbacks and location.
  - a. Accessory building setbacks are as follows and differ from the primary dwelling or commercial building setback requirements:

<i>District</i>	<i>Side, Interior</i>	<i>Side, Corner</i>	<i>Rear</i>	<i>Rear With Alley</i>
A Agricultural	15 ft.	15 ft.	<del>20</del> 5 ft.	10 ft.
AE Agricultural Estate	15 ft.	15 ft.	<del>20</del> 5 ft.	10 ft.
E-1 Estate	15 ft.	15 ft.	<del>20</del> 5 ft.	10 ft.
R-1 Single-Family Residential	5 ft.	15 ft.	5 ft.	5 ft.
R-1E Single-Family Estate Residential	5 ft.	15 ft.	5 ft.	5 ft.
R-2 Two-Family Residential	5 ft.	15 ft.	5 ft.	5 ft.
R-3 Multi-Family Residential	5 ft.	15 ft.	5 ft.	5 ft.
MU-C-D, when accessory to a residential use	5 ft.	5 ft.	5 ft.	5 ft.

- b. Buildings shall not be located within a utility easement or a right of way.

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- (6) Number. The number of accessory buildings shall be limited as follows: to the two (2) accessory buildings, provided that the total floor area of the accessory buildings do not result in total lot coverage percentage, with a minimum of a 10 foot separation between buildings, over what is allowed per the chart below:
- a. In cases where a garage is part of the principal building, one (1) additional accessory building is allowed, provided that the total floor area of the accessory building does not result in total lot allowed per the chart below.
  - b. In cases where a garage is not part of the principal building, two (2) accessory buildings are allowed, provided that the total floor area of the accessory buildings do not result in a total lot coverage allowed per the chart below:
- a. Exemptions for agricultural buildings, structures, and accessory dwellings. Agricultural buildings and structures, when part of an agricultural use or limited agricultural use as defined in this Chapter, shall be allowed subject to the lot coverage and setback requirements set forth below.

<i>District</i>	<i>Attached Garage</i>	<i>Detached Garage</i>
A Agricultural	10%	10%
AE Agricultural Estate	10%	10%
<b>E-1 Estate</b>	25%	30%
R-1 Single-Family Residential	25%	35%
R-1E Single-Family Estate Residential	25%	30%
R-2 Two-Family Residential	30%	35%
R-3 Multi-Family Residential	30%	35%

<i>District</i>	<i>Buildings Total</i>
A Agricultural	215%
AE Agricultural Estate	215%
E-1 Estate	30%
R-1 Single-Family Residential	3545%
R-1E Single-Family Estate Residential	30%
R-2 Two-Family Residential	435%
R-3 Multi-Family Residential	535%
<b>MU-C-D Mixed Use Commercial – Downtown District</b>	<b>85%</b>

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Commercial and Industrial - <sup>7</sup> Coverage for commercial uses on commercial lots in the downtown area may exceed 85%.???	Limited by site plan
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- (7) ~~Use by Special Review. The Planning Commission may authorize additional accessory buildings, a greater lot coverage and/or a greater height as a use by special review in accordance with Section 16-3-500 of this Chapter. The following standards shall be considered:~~
- ~~a. The area and/or height of the accessory buildings is aesthetically appropriate in relation to the size of the lot and the corresponding uses in the neighborhood on which it is to be placed;~~
  - ~~b. The area and/or height of the accessory building is appropriate in relation to the principal building on the lot on which it is to be placed;~~
  - ~~c. The location of the accessory building is appropriate in relation to other buildings on the lot or adjoining lots and in relation to the principal building;~~
  - ~~d. Whether or not the accessory building will affect light and air circulation of the adjoining property;~~
  - ~~e. The building has been appropriately screened through fencing, berming and/or landscaping from adjacent properties and the public view; and~~
  - ~~f. Impacts to adjacent land uses have been satisfactorily mitigated.~~
- (7) Building design standards. The architectural design and appearance of all accessory buildings shall comply with the following standards:
- a. All accessory buildings of any size shall be constructed of durable, finished materials and shall be compatible in color to the principal building. All accessory buildings greater than one hundred twenty (120) square feet in area shall match as closely as possible the exterior finish, architectural style, roof style and roof pitch of the principal building on the lot. **Brick, stucco and stone dwellings justify an exemption for required matched building exteriors. Alternate materials shall only be allowed in such cases by approval of the Planning and Zoning Commission.**
  - b. All accessory buildings are to be securely anchored to prevent uplifting due to wind gusts of up to 95 mph (*Building Official states 90 but somewhere else in Code I read 95 mph*).
  - c. All storage buildings shall be sided or otherwise finished.
  - d. Temporary accessory buildings such as portable carports, shelters, tarped covers and similar structures as determined by the Community Development Department, shall be prohibited unless a temporary use permit has been obtained or **the temporary accessory buildings are located in a backyard behind a privacy fence.**
- (9) ~~Exemptions for agricultural buildings and structures. Agricultural buildings and structures, when part of an agricultural use or limited agricultural use as defined in this Chapter, shall only be subject to the lot coverage and setback requirements set forth in Paragraph (a)(5) of this Section.~~

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### **Sec. 16-3-230. Accessory uses and accessory buildings in residential zoning districts.**

Land in residential zoning districts may be used in ways and for purposes that are clearly incidental to the principal uses. Such incidental uses in residential districts include, by way of example, the cultivation of flowers, plants and vegetables and the maintenance and use of private swimming pools, hot tubs and tennis courts. In addition to the general types of accessory uses authorized above, the following specific accessory uses are authorized in any of the residential zoning districts (A, AE, E-1, R-1, R-1E, R-2, R-3, R-M, R-MH):

- (1) Home occupations that comply with the provisions of Section 16-3-620 of this Article.
- (2) Accessory buildings. Such buildings shall comply with the requirements set forth in Section 16-3-225 above.
- (3) Satellite dishes.
- (4) Fences. (Ord. 480 §3.4, 2003; Ord. 572, 2008)

*(The existing use table under Section 16-3-480 allows for accessory buildings not to exceed a height of 15 feet or an area of greater than 720 square feet. Accessory dwellings are also allowed with a maximum of 850 square feet in floor area with no more than 1 per lot in addition to the single-family dwelling. The use table is in conflict with existing and proposed code. Commission recommends removing use table until the Code is finalized and then we'll add one back in for quick reference.)*

### **Sec. 16-3-240. Accessory uses and accessory buildings in commercial districts.**

Land in commercial zoning districts may be used in ways and for purposes that are clearly incidental to the principal uses. **Accessory structures are allowed in commercial areas as long as they meet the code's architectural standards, parking, landscaping, lighting, drainage, traffic requirements and consist of less than a 10% modification to the overall commercial site plan. Changes that exceed the ten-percent of any measureable standard of the originally approved site plan including but not limited to changes to access points, parking, use, landscaping, lighting, drainage, building footprints, building alternations, and building additions shall require a new site plan with Planning Commission review and approval.** All commercial accessory buildings and structures require a building permit. Accessory uses and accessory buildings in commercial districts may include:

- (1) Garden areas.
- (2) Playground areas for the convenience of shoppers.
- (3) Parking spaces and structures for the use of employees and customers and for the loading and parking of delivery vehicles.
- (4) Accessory buildings for the storage of supplies and materials used by employees. External storage of supplies and/or materials is prohibited except within an approved accessory building. Fences are not considered accessory buildings. (Ord. 480 §3.4, 2003; Ord. 572, 2008)

### **Sec. 16-3-260. Accessory uses and accessory buildings in industrial districts.**

Land in any particular industrial district may be used in ways and purposes that are clearly incidental to the principal uses authorized in the district. Accessory uses and accessory buildings in industrial districts shall include:

- (1) Parking spaces and structures for the use of employees and customers and for the loading and parking of delivery vehicles.

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- (2) Accessory buildings for the storage of supplies and materials used by employees.
- (3) Accessory buildings (and thus for the housing of guards, night watchmen or maintenance personnel).
- (4) **Accessory buildings and structures accessory to any uses by right.**  
(Ord. 480 §3.4, 2003; Ord. 572, 2008)  
*(The existing use table under Section 16-3-480 allows for permanent buildings and structures accessory to any uses by right. The Commission recommends taking the entire use table out of the Code.)*

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**Sec. 16-3-480. Matrix of uses by right and uses by special review by zoning district. The following codes are used in the table below:**

P—Uses by Right (permitted uses) S—Uses by Special Review \*—Use Prohibited US—Unspecified Use

PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-FH	C-1	C-2	C-3	C-4	C-5	I-1	I-2	I-3
<b>Residential Uses</b>																			
Accessory buildings and accessory uses <sup>1</sup>	P	P	P	P	P	P	P	P	*	*	P	*	*	*	*	*	*	*	*
Accessory dwelling when associated with a use by right <sup>2</sup>	S <sup>4</sup>	S	S <sup>4</sup>	S	SP <sup>4</sup>	S	S	S	S <sup>4</sup>	*	S	*	*	*	*	*	*	*	*
Boarding and rooming houses	*	*	*	*	*	*	P	P	*	*	*	S	S	S	S	*	*	*	*
Cluster development	*	P	P	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Foster care home	*	*	*	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	*	P <sup>3</sup>	P <sup>3</sup>	*	*	*	*	*	*	*	*
Group homes	*	S	S	S	S	S	S	S	*	*	*	*	*	*	*	*	*	*	*
Factory built housing development	*	*	*	*	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*
Mobile home unit/mobile home park or community	*	*	*	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*	*
Multi-family dwellings, factory or site built	S <sub>5</sub>	*	*	*	*	*	P	*	*	*	*	S	S	S	S	*	*	*	*
Single-family detached dwellings, site built	P <sub>6</sub>	P <sup>7</sup>	P	P	P	P	P	P	*	*	*	S	S	S	S	*	*	*	*
Single-family detached dwellings,	P <sub>8</sub>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	*P <sup>8</sup>	*P <sup>8</sup>	*P <sup>8</sup>	P	S	S	S	S	*	*	*	*



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<b>PERMITTED USES</b>	<b>A</b>	<b>AE</b>	<b>E-1</b>	<b>R-1</b>	<b>R-1E</b>	<b>R-2</b>	<b>R-3</b>	<b>MU-C-D</b>	<b>CD</b>	<b>R-M</b>	<b>R-FH</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>C-5</b>	<b>I-1</b>	<b>I-2</b>	<b>I-3</b>		
<b>Institutional/Civic Public Uses</b>																					
Airports and airstrips	S	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Borrow pits	P <sub>9</sub>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Cemeteries	P	*	*	*	*	*	*	*	*	*	*	S	S	S	S	*	*	*	*	*	
Churches	S	S	S	S	S	S	S	S		S	S	P	P	P	P	*	P	P	P		
Community facilities	S	S <sup>-10</sup>	S	S	S	S	S	P	*	S	S	P	P	P	P	*	P	P	P		
Flood-control facilities	*	*	S	*	*	*	*	*	P <sup>+11</sup>	*	*	*	*	*	*	*	*	*	*	*	
Parks and open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	*	P	P	P	
Police and fire stations and facilities	P	P	S	S	S	S	S	P	*	*S	S	P	P	P	P	*	P	P	P		
Public and private schools for elementary, intermediate and high school education (K-12)	P <sub>12</sub>	P <sup>-12</sup>	P	P	P	P	P	P	*	*	*	P	P	P	P	*	S	*	*		
Public and private schools, including colleges (secondary education), vocational and technical training	*	S <sup>-13</sup>	S	S	S	S	S	S	*	S	S	P	P	P	P	*	*	*	*		
Public recreational facilities	P	P	P	P	P	P	P	P	P <sup>-14</sup>	*	*	P	P	P	P	*	S	*	*		
Transportation headquarters, without repair and servicing facilities or capability	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	*	P	P	P	
Transportation	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P



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PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-FH	C-1	C-2	C-3	C-4	C-5	I-1	I-2	I-3
<b>Business/Commercial/Retail Uses</b>																			
Accessory buildings and accessory uses <sup>-15</sup>	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	*	P	P	P
Adult uses including product sales and entertainment	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	*	*	S
Artisan and photography studios and galleries	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	*	*	*	*
Auto, recreational vehicle, boat and truck sales <sup>-16</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	*	P	P	P
Bars and taverns	*	*	*	*	*	*	*	S	*	*	*	*	*	P	P	*	*	*	*
Bed and breakfasts	*	*	*	*	S	S	S	P	*	*	*	*	*	P	P	*	*	*	*
Child care centers	S	S	S	S	S	S	S	P	*	S	S	P	P	P	P	*	*	*	*
Clubs and lodges	*	*	*	*	*	*	*	S	*	*	*	S	S	P	P	*	*	*	*
Commercial recreational facilities	*	*	*	*	*	*	*	P	*	*	*	*	*	P	P	*	P	P	P
Convenience retail stores	*	*	*	*	*	*	*	P	*	*	*	*	S	P	P	*	*	*	*
Drive-in theaters	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	*	*	*	*
Entertainment facilities and theaters, seating up to 1,000	*	*	*	*	*	*	*	S	*	*	*	*	*	P	P	*	P	P	P
Entertainment facilities and theaters, seating over 1,000	*	*	*	*	*	*	*	*	*	*	*	*	*	S	S	*	P	P	P
Establishments for rental of tools, equipment and	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	*	P	P	P

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vehicles																				
Financial services	*	*	*	*	*	*	*	p	*	*	*	p	p	p	p	*	*	*	*	
Funeral homes	*	*	*	*	*	*	*	*	*	*	*	p	p	p	p	*	*	*	*	
Gasoline stations without repair or servicing facilities or capabilities	*	*	*	*	*	*	*	*	*	*	*	*	s	s	*	*	*	*	*	
Gasoline service stations, repair garages and car washes	*	*	*	*	*	*	*	p	*	*	*	*	*	p	p	*	p	p	p	
Grocery stores	*	*	*	*	*	*	*	p	*	*	*	*	p	p	p	*	*	*	*	

<sup>15</sup> See Section 16-3-240.

<sup>16</sup> Includes establishments with incidental repair and service facilities.

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PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-FH	C-1	C-2	C-3	C-4	C-5	I-1	I-2	I-3
	<b>Business/Commercial/Retail Uses (Cont'd)</b>																		
Home occupations	P	P	P	P	P	P	P	*	*	P	P	*	*	*	*	*	*	*	*
Hospitals and long-term care facilities	*	*	*	*	*	*	S	S	*	*	*	P	P	P	P	*	*	*	*
Hotels and motels	*	*	*	*	*	*	*	S	*	*	*	*	*	P	P	*	*	*	*
Long-term care facilities	*	S	S	S	S	S	S	S	*	S	S	P	P	P	P	*	*	*	*
Lumberyards, not including outside storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	*	P	P
Lumberyards and builders supply facilities w/outside storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P
Medical and dental offices and clinics	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	*	S	*	*
Medical marijuana dispensaries	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	*	*	*
Mixed-use dwelling units	*	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*	*	*	*
Open-air farmers' markets	P	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*	*	*	*
Parking lots and parking garages	*	*	*	*	*	*	*	S	*	*	*	S <sup>17</sup>	*	P	P	*	P	P	
Personal and business service shops	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	*	*	*	
Private recreational facilities	S	S	S	S	S	S	S	P	*	S	S	S	S	P	P	*	P	P	
Print shops	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	*	P	P	
Professional offices	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	*	P	P	
Radio towers exceeding 60 ft. in height	*	*	*	*	*	*	*	*	S <sup>18</sup>	*	*	*	*	*	*	*	*	S	*
Restaurants/standard	*	*	*	*	*	*	*	P	*	*	*	*	P	P	P	*	*	*	



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PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-FH	C-1	C-2	C-3	C-4	C-5	I-1	I-2	I-3	
<b>Business/Commercial/Retail Uses (Cont'd)</b>																				
Small equipment repair facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	*	*	*	*
Supermarkets	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	*	*	*	*
Tourist facilities	*	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*	*	*	*	*
Veterinary facilities, small animal clinics	P	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	*	*	*	*
Veterinary facilities, large animal clinics	P	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Wholesale merchandise establishments	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	*	P	P	P	
<b>Industrial Uses</b>																				
Accessory buildings and accessory uses	*	*	*	*	*	*	*	*	S <sup>-20</sup>	*	*	*	*	*	*	*	P	P	P	
Commercial mineral extraction, processes and sales	S	*	*	*	*	*	*	*	S <sup>-21</sup>	*	*	*	*	*	*	*	*	*	*	
Commercial storage facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	*	P <sup>22</sup>	P <sup>21</sup>	P <sup>21</sup>	
Establishments for bulk storage of flammable liquids and gases	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	*	
Establishments for food and beverage processing	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	P	P	
Establishments for sale and repair of farm machinery, diesel trucks and buses	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	P	P	
Facilities for manufacturing and	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	

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storage of explosives																					
Foundries	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S
Gas, oil and other hydrocarbon well drilling and production (as permitted by state and local regulations)	S	S <sup>22</sup>	S <sup>23</sup>	S	S	S <sup>23</sup>	S <sup>23</sup>	S	S	S	S	*	S	S	S	S					

<sup>20</sup> Permanent buildings and structures accessory to any uses by right.  
<sup>21</sup> So long as all necessary local and State permits have been issued and all activities are in compliance with the conditions of the permits.  
<sup>22</sup> Not including outside storage.  
<sup>23</sup> No oil or gas wells shall be permitted on land zoned residential without written approval from the Board of Trustees.

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PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-FH	C-1	C-2	C-3	C-4	C-5	I-1	I-2	I-3	
<b>Industrial Uses (Cont'd)</b>																				
Grain feed elevators	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S
Junkyards and salvage operations <sup>24</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S
Livestock processing facility	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S
Machine shops	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P
Manufacturing, assembly or packaging of products from previously prepared materials	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P
Mini-storage facilities <sup>25</sup>	*	*	*	*	*	*	*	*	*	*	*	*	S	S	S	*	S	P	P	
Newspaper plants	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	*	P	P	P
Outside storage facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P
Railroad yards and stations <sup>26</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P
Research, experimental or testing laboratories	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P
Sanitary landfills <sup>27</sup>	S	*	*	*	*	*	*	*	S	*	*	*	*	*	*	*	*	*	*	*
Water treatment and wastewater treatment plants	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P
Wireless telecommunications facilities	S <sup>28</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P
Workshops and custom small industry uses	*	*	*	*	*	*	*	S	*	*	*	*	*	*	*	P	*	P	P	P

<sup>24</sup> Provided that the following shall apply, in addition to any other imposed pursuant to the special review process: the area shall be set back at least 1,000 feet from any State or Federal highway; the area must be arranged so that the salvage material does not exceed a height of 6 feet from ground level and so that fire lanes are provided.

<sup>25</sup> -No rentable unit of which shall have a gross floor area greater than 300 square feet, and all of which are

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intended for rental primarily for personal, family or household purposes.

<sup>26</sup> With related buildings, structures and facilities used for the operation and maintenance of trains and railroads.

<sup>27</sup> Developed and maintained according to all standards and requirements of State law.

<sup>28</sup> One (1) or more microwave, radio, television or other communication transmission or relay towers over 70 feet in height per lot.

PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-FH	C-1	C-2	C-3	C-4	C-5	I-1	I-2	I-3	
<b>Agricultural Uses</b>																				
Accessory buildings and accessory uses	P <sup>29</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P
Agricultural service establishments	S	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P
Animal boarding, including kennels	P <sup>30</sup>	S <sup>31</sup>	S <sup>32</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises	P	P	P	*	*	*	*	*	P <sup>32</sup>	*	*	*	*	*	*	*	*	P	P	P
Disposal of domestic sewage and septic sludge <sup>33</sup>	P	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Farming, ranching and gardening	P	P	P	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P
Grazing and keeping of livestock	P <sup>34</sup>	P <sup>33</sup>	P <sup>33</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P
Horseback riding, stables and arenas	P	S	P <sup>35</sup>	*	*	*	*	*	*	*	*	*	*	*	S	*	*	*	*	*
Livestock confinement	S	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

<sup>29</sup> Accessory buildings with gross floor area larger than 1,500 square feet per building on lots in an approved or recorded subdivision plat or lots part of a map or plan filed prior to adoption of any regulations controlling subdivisions require use by special review approval.

<sup>30</sup> Where maximum number of animal units is not exceeded and where the vehicular traffic generated by the boarding activity is less than 15 trips per day to and from the property. Keeping, raising and boarding of exotic animals, as defined, requires use by special review approval.

<sup>31</sup> Dog and cat breeding; no more than 2 litters per year.

<sup>32</sup> The cultivation of vegetables, trees, plants and flowers and the raising of livestock so long as no permanent structures are present and no restrictions now in force or hereafter enacted on the raising of livestock in the Town would be violated.

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~~<sup>32</sup> Subject to the additional requirements of Sections 48 and 49, respectively, of the Weld County Zoning Ordinance.~~

~~<sup>34</sup> Subject to animal unit restrictions. Livestock in excess of the bulk requirements for the Agricultural Zone District shall require a use by special review permit for a livestock confinement operation.~~

~~<sup>35</sup> Provided that the number of horses does not exceed 2 per acre and at least ½ acre of pasture is available for each horse.~~

~~(Ord. 480 §3.5, 2003; Ord. 612 §2, 2009; Ord. 623 §1, 2010; Ord. 629 §1, 2010; Ord. 659 §2, 2012; Ord. 666 §11, 2012)~~

### Sec. 16-3-280. A Agricultural District.

- (a) Intent. Agriculture in the Town is considered a valuable resource that must be protected from adverse impacts resulting from uncontrolled and undirected business, industrial and residential land uses. The A District is established to maintain and promote agriculture as an essential feature of the Town. The A District is intended to provide areas for the conduct of agricultural activities and activities related to agriculture and agricultural production without the interference of other incompatible land uses. The A District is also intended to provide areas for the conduct of uses by special review which have been determined to be more intense or to have a potentially greater impact than uses allowed by right. The A District regulations are established to promote the health, safety and general welfare of the present and future residents of the Town.
- (b) Uses by Right. Uses by right in the A District shall be as follows:
- (1) *Accessory buildings and accessory uses. (Allow the accessory dwellings if associated with agricultural uses for properties exceeding 10 acres?)*
  - (2) Animal boarding, including kennels, as restricted.
  - (3) Borrow pits used temporarily and exclusively for the completion of a public road improvement project.
  - (4) Cemeteries.
  - (5) Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.
  - (6) Disposal of domestic sewage sludge subject to the additional requirements of Section 48 of the Weld County Zoning Ordinance.
  - (7) Disposal of domestic septic sludge subject to the additional requirements of Section 49 of the Weld County Zoning Ordinance.
  - (8) Farming, ranching and gardening.
  - (9) Grazing and keeping of livestock, as restricted (animal units).
  - (10) Home occupations.
  - (11) Horseback riding stables and arenas.
  - (12) Open air farmers' markets.
  - (13) Police and fire stations or facilities.

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- (14) Public recreational facilities.
- (15) Public schools and public school extension classes.
- (16) Single-family detached dwelling, as restricted.
- (17) Utility service facilities.
- (18) Veterinary facilities, small animal clinics.
- (19) Veterinary facilities, large animal clinics.

(c) Uses by Special Review. Uses by special review in the A District shall be as follows:

- (1) *Accessory dwelling when associated with a use by right.*
- (2) Accessory buildings with gross floor area larger than one thousand five hundred (1,500) square feet per building on lots in an approved or recorded subdivision plat or lots part of a map or plan filed prior to adoption of any regulations controlling subdivisions.
- (3) Agricultural service establishments.
- (4) Airports and airstrips.
- (5) Child care centers.
- (6) Churches.
- (7) Commercial mineral extraction, processes and sales.
- (8) Community facilities.
- (9) Gas, oil and other hydrocarbon well drilling and production (as permitted by state and local regulations).
- (10) Home occupations.
- (11) Keeping, raising and boarding of exotic animals.
- (12) Livestock confinement operations.
- (13) *Multi-family dwellings, as restricted.*
- (14) Private recreational facilities.
- (15) Signs not meeting the requirements of Article VII of this Chapter.
- (16) Utility service facilities, with buildings or storage structures.
- (17) Wireless telecommunication facilities, as restricted.

(Ord. 480 §3.4, 2003)

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### Sec. 16-3-290. - AE Agricultural Estate District.

- (a) Intent. The AE Agricultural Estate District is intended to provide the present and future residents of the Town with areas in which to locate and establish residential land uses and land uses that are compatible with large lot residential areas and agriculturally related uses. The AE District is intended to be located, designed and developed in a manner that is compatible with the Comprehensive Plan.
- (b) Uses by Right. Uses by right in the AE District shall be as follows:
- (1) ~~Accessory buildings and accessory uses. Accessory structures shall not exceed a height greater than twenty-one (21) feet, which shall be measured from the lowest point of the base of the building to the highest structural point of the building, which shall not include nonstructural additions to the building which themselves are not more than five (5) feet in height, such as antennas, lightning rods or weather vanes. In addition, the combined total square footage of the primary residence and all accessory buildings shall not exceed ten percent (10%) of the total square footage of the lot.~~
  - (2) Cluster developments.
  - (3) Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.
  - (4) Farming, including but not limited to gardening, horticulture, fruit growing, growing of vegetables, trees, shrubs, plants, turf and sod.
  - (5) Home occupations.
  - (6) Keeping of livestock, as restricted (animal units).
  - (7) Police and fire stations or facilities.
  - (8) Public recreational facilities.
  - (9) Public schools and public school extension classes.
  - (10) ~~Single-family detached dwellings, as~~
  - (11) Utility service facilities.
- (c) Uses by Special Review. Uses by special review in the AE District shall be as follows:
- (1) *Accessory dwellings when associated with a use by right. (? Agricultural uses?) (how can it be by special review and by right?)*
  - (2) Child care centers.
  - (3) Churches.
  - (4) Gas, oil and other hydrocarbon well drilling and production (subject to state and local regulations).
  - (5) Group homes for up to eight (8) developmentally disabled persons, handicapped individuals, children or senior citizens.
  - (6) Horseback riding stables and arenas.
  - (7) Livestock confinement operations.

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- (8) Private recreational facilities.
- (9) Private schools.
- (10) Signs not meeting the requirements of Article VII of this Chapter.

(Ord. 480 §3.4, 2003; Ord. 507 §1, 2005; Ord. 548, 2006; Ord. 572, 2008; Ord. 666 §3, 2012)

**Sec. 16-3-300. - CD Conservation District.**

- (a) Intent. The Conservation District (CD) zone is provided for in this Article in order to include a zoning classification for land that lies within floodplains and for land containing commercial mineral deposits.
- (b) Uses by Right. Uses by right in the CD District that lie within the designated floodplain shall be as follows:
  - (1) Cultivation of vegetables, trees, plants and flowers and the raising of livestock so long as no permanent structures are present and so long as no restrictions now in force or hereafter enacted on the raising of livestock in the Town would be violated.
  - (2) Holding ponds and other structures for flood control, water storage and/or retention for potable or nonpotable use, and watershed protection.
  - (3) Public parks and golf courses, not including permanent buildings or structures.
- (c) Uses by Special Review. Uses by special review in the CD District shall be as follows:
  - (1) Commercial mineral extraction activities, as restricted.
  - (2) *Dwellings for caretakers.*
  - (3) Gas, oil and other hydrocarbon well drilling and production (subject to state and local regulations).
  - (4) Permanent buildings and structures accessory to any uses by right.
  - (5) Radio towers of any height.
  - (6) Sanitary landfills developed and maintained according to all standards and requirements of state law.
  - (7) Signs not meeting the requirements of Article VII of this Chapter.

(Ord. 480 §3.4, 2003)

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### **Sec. 16-3-310. - E-1 Estate District - Rural Subdivision.**

- (a) Intent. This is a very low-density residential district intended to encourage the preservation of open space, natural features and agricultural land in conjunction with the clustering of single-family detached dwellings; the maximum density is no more than one (1) single-family dwelling per twenty (20) acres, except that if the Town approves a conservation density bonus, the maximum density allowed shall be no more than one (1) single-family dwelling per five (5) acres, and the minimum lot size is eight thousand (8,000) square feet if adjacent to open space and ten thousand (10,000) square feet if not directly adjacent to open space.
- (b) Principal Uses. Permitted principal uses in the E-1 District shall be as follows:
- (1) Accessory buildings and accessory uses.
  - (2) Common equestrian stabling and grazing, provided that the number of horses does not exceed two (2) per acre and at least one-half (½) acre of pasture is available for each horse.
  - (3) Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.
  - (4) Home occupations.
  - (5) Parks and open space.
  - (6) Single-family detached dwellings.
  - (7) Utility service facilities.
- (c) Uses by Special Review. Uses by special review in the E-1 District shall be as follows:
- (1) Accessory dwellings when associated with a permitted use.
  - (2) Cemeteries.
  - (3) Community facilities.
  - (4) Gas, oil and other hydrocarbon well drilling and production (subject to state and local regulations).
  - (5) Golf courses.
  - (6) Group homes for up to eight (8) developmentally disabled, mentally ill or elderly persons.
  - (7) Limited outdoor recreation facilities.
  - (8) Public and private schools for elementary, intermediate and high school education.
  - (9) Public facilities, provided that business offices and repair and storage facilities are not included.

(Ord. 480 §3.4, 2003; Ord. 666 §4, 2012)

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Sec. 16-4-430. - Site plan.

- (a) Purpose. Site plan approval is needed for a building permit for all multi-family, commercial and industrial developments as well as parks, open space and trails. The only development a site plan is not needed for is a new single-family or duplex development. The site plan shows how the lot will be developed so that the Town can make sure that the site design will be in compliance with all Town regulations.
- (b) Site Plan Process.
  - (1) Step 1: Submit Site Plan Application.
    - a. Land Use Application Form.
    - b. Site Plan - Technical Criteria Form (from Workbook).
    - c. Application Fee and Fee Agreement. A nonrefundable fee is collected to cover the cost of review by the Town Staff and notice and publication expenses. A deposit and fee agreement is necessary to cover costs for review of any other expert whom the Town may wish to employ. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of the deposit. The Town shall provide the applicant with a copy of the most current fee schedule and fee agreement form.
    - d. Site Plan Map. The site plan map shall be a minimum of eighteen (18) inches by twenty-four (24) inches and shall provide the following information:
      - 1. Title of project.
      - 2. North arrow, scale (no greater than 1" = 50') and date of preparation.
      - 3. Vicinity map.
      - 4. Address of project.
      - 5. Legal description of property.
      - 6. Name, address and phone number of property owner.
      - 7. Name, address and phone number of person or firm responsible for plan.
      - 8. Lot size (square footage).
      - 9. Bearings and distances of all lot lines.
      - 10. Existing and proposed easements and rights-of-way.
      - 11. Existing and proposed paved areas and sidewalks on the site and in the adjacent rights-of-way, all dimensioned, showing how pedestrians will have access to the site and buildings.
      - 12. Gathering areas for people.
      - 13. Existing and proposed curb cuts on the site and in the adjacent rights-of-way (on both sides of perimeter streets), all dimensioned.
      - 14. Existing and proposed two-foot contours.
      - 15. Existing waterways on or adjacent to the site.

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16. Finished floor elevations for all structures.
17. Footprint (including roof overhangs and eaves, decks, balconies, outside stairs and landings) of all proposed structures and their use with their dimensions and locations noted with respect to the property lines.
18. Existing structures and their use.
19. Square footage of the proposed building and the footprint of the proposed building.
20. Proposed structure height.
21. For commercial and industrial uses, the type of activity and number of employees.
22. For multi-family residential, the number of residential units and bedrooms per unit.
23. Location of proposed signs and lights.
24. Specifications for the signs and lights, including type, height and general conformance to the Code. For commercial and industrial uses, a photometric plan prepared by a qualified electrical or lighting engineer shall be submitted that depicts all lighting fixtures and the light spread (in foot-candles) of these fixtures across the site to all property boundaries.
25. Proposed traffic controls and striping for parking areas (all lanes, driveways and parking spaces must be dimensioned).
26. Trash disposal areas and enclosures including specifications for enclosures.
27. Location and size of existing and proposed water and sewer service connections and tap sizes (including those for irrigation systems).
28. Location and size of water and sewer lines to which the service connections will be or are made.
29. Location and size of water meters.
30. Location and size of backflow-prevention devices.
31. Indication of how and where perimeter drain will drain (if one exists).
32. Location of existing electrical lines and poles on or adjacent to the site.
33. Location of proposed electrical service connection and meter location.
34. Location of electric transformer.
35. Location of all fire hydrants. If none exist on-site, note distance and direction of the closest hydrant adjacent to the site within three hundred (300) feet.
36. Location of detention/retention areas and storm sewer infrastructure with the required drainage easements.
37. The distance from the proposed building or structure to adjacent lot lines, easements and adjacent structures.

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38. A land use chart (table).
39. Certificate blocks for signatures of owner, surveyor and Town approval, as applicable (see Workbook for samples).
- e. Community Design Principles and Development Standards Description. Demonstrate in written or graphic form how the proposed structure is consistent with the community design principles and development standards found in Article II of this Chapter.
- f. Certified Drainage Report. A certified drainage report, including an erosion control study and plan, as applicable, must be reviewed and approved by the appropriate sanitation district (if applicable) prior to submittal of the report to the Town as part of the site plan application.
- g. Final Landscape Plan. Refer to Article II, Division 5 of this Chapter for the final landscape plan requirements.
- h. Final Open Space and Ecological Characterization Plan. Refer to Article II, Division 5 of this Chapter for the final open space and ecological characterization plan requirements.
- i. Exterior Elevations of Proposed Structures/Graphic Visual Aids. Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure. In addition, Staff may require building floor plans, sectional drawings, perspective drawings, models and/or computer visualizations when the impacts of a proposal warrant such information.
- j. Mineral, Oil and Gas Rights Documentation. Evidence that the applicant has contacted all mineral rights owners and all lessees of mineral, oil and gas rights associated with the site by certified mail and is working towards resolution. Included in the evidence must be the name of the current contact person, his or her phone number and mailing address and a description of the issues. The mineral rights affidavit must be current and must be dated no more than thirty (30) days before the date of the sketch plan application submittal.
- k. Colorado Historical Society Records Search. At the discretion of the Staff or Board of Trustees, an applicant may be required to provide the Town with a Colorado Historical Society records listing of historically or archaeologically significant findings on the property being subdivided. If a listing shows a significant finding, a site-specific historic survey is required. The survey shall provide the following information:
  1. Site identification:
    - a) State site number;
    - b) Site address;
    - c) Site location/access;
    - d) Type and description of finding (what is historic); and
    - e) Owner's name and address.

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2. Eligibility assessment for historic designation.
3. Statement of significance.
4. Management and administrative data:
  - a) References;
  - b) Photographs of the site;
  - c) Maps of the site;
  - d) Name, address, phone number and qualifications of person completing survey; and
  - e) Date of completion of survey.

If, in coordination with the applicant, the Board of Trustees decides to protect an historic resource, a protection plan must be devised.

1. Rare species occurrence survey (from U.S. Fish and Wildlife Service).
  - m. Letter from U.S. Fish and Wildlife Service certifying either there are no endangered species on the property or the project has an approved Habitat Conservation Plan or Mitigation Plan in place.
- (2) Step 2: Application Certification of Completion. Within a reasonable period of time, Staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town. The original application and all documents requiring a signature shall be signed in blue ink.
- (3) Step 3: Staff Refers Application to Adjacent Municipalities and Other Agencies. Staff may refer the site plan materials to adjacent municipalities and other agencies and service providers for comments. The referral period shall be twenty-eight (28) days. Staff shall notify the applicant of any adjustment to the referral period.
- (4) Step 4: Staff Reviews Application and Prepares Comments. Staff will review the site plan map to ensure it is consistent with the site plan review criteria. Staff may consider comments received during the referral period in its review of the site plan. Following the review, Staff will prepare a written report outlining any changes that the applicant must make before the site plan can be approved. This report will be forwarded to the applicant.
- (5) Step 5: Applicant Addresses Staff Comments. The applicant shall address all of the Staff comments, then submit the following to the Town:
- a. Letter explaining how all of the comments have been addressed; and
  - b. Revised maps and other documents.
- (6) Step 6: Site Plan Agreement. Staff may require that the applicant execute a site plan agreement to assure the construction of on-site and off-site improvements as a condition of approval of the site plan. Guarantees in the site plan agreement may be secured by an

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irrevocable letter of credit, or by cash deposited in an escrow account in an amount determined appropriate by Staff.

- (7) Step 7: Schedule Site Plan for a Public Meeting and Complete Public Notification Process. The Planning Commission shall schedule a public meeting for the purpose of making a recommendation on the site plan. The Town Clerk shall publish notice in a newspaper of general circulation and send notice to neighboring property owners within three hundred (300) feet. The meeting may be held no less than twelve (12) days from the date of advertising.
- (8) Step 8: Planning Commission Public Meeting and Decision. The Planning Commission shall hold a public meeting to review the application based on the site plan review criteria. The Planning Commission shall then approve, deny or approve with conditions the application. If approved, the Town shall request two (2) original Mylars of the final plat ready for the Mayor and Clerk to sign and then record. Please note the Planning Commission may forward an application to the Town Board of Trustees if they deem it necessary. Notice of approval of the site plan shall be submitted to the Town Board of Trustees.
- (9) Step 9: Applicant Addresses Planning Commission Conditions. The applicant shall revise the site plan based on the Planning Commission's conditions of approval and submit it to the Town.
- (10) Step 10: Schedule Site Plan Public Meeting and Complete Public Notification Process. The Board of Trustees shall schedule a public meeting for the purpose of taking action on the site plan. The Town Clerk shall publish notice in a newspaper of general circulation. The meeting may be held no less than thirty (30) days from the date of advertising.
- (11) Step 11: Board of Trustees Action. The site plan shall be presented to the Board of Trustees for its review and action at a public meeting. The Board of Trustees may approve, conditionally approve or deny the minor subdivision plat based on the minor subdivision plat review criteria. All final decisions of the Board of Trustees approving, approving subject to conditions or denying an application shall be subject to review by the District Court in Weld County. Any applicant or other interested party may appeal such decisions in the manner provided by rules relating to civil proceedings before the District Court.
- (12) Step 12: Submit and Record Site Plan. Upon approval by the Planning Commission, the applicant shall have thirty (30) days to submit two (2) original Mylars. The Town shall submit the approved site plan to the County Clerk and Recorder's Office for recording. The recording fees shall be paid by the developer.
- (13) Step 13: Post - Approval Actions.
  - a. Building Permit. A building permit shall be issued only when a site plan has been approved. However, with the approval of the Town, an applicant may submit a building permit application concurrent with the site plan application. Building permits shall not be issued for any development that is not in conformance with the approved site plan.

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- b. Certificate of Occupancy. When building construction and site development are completed in accordance with the approved site plan and building permit, a Certificate of Occupancy may be issued.
  - c. Phasing and Expiration of Approval. The site plan shall be effective for a period of three (3) years from the date of approval, unless stated otherwise in the written site plan approval. Building permits shall not be issued based on site plans that have an approval date more than three (3) years old. For multiphased plans, building permits shall not be issued based on an approval date more than three (3) years from the date of Phase I approval.
- (c) Site Plan Review Criteria. The site plan must meet the following review criteria:
- (1) All of the information required on a site plan is shown.
  - (2) The lot size and lot dimensions are consistent with what is shown on the approved final plat.
  - (3) No buildings or structures infringe on any easements.
  - (4) The proposed site grading is consistent with the requirements of the current Town Master Drainage Plan, on file at the Town Hall.
  - (5) The density and dimensions shown conform to the density and dimensional standards at Section 16-3-490 of this Chapter or to the approved PUD requirements.
  - (6) The applicable community design principles and development standards have been adequately addressed and the proposed improvements conform with Article II of this Chapter.
- ~~(d) Amendments to Approved Site Plans.~~
- ~~(1) Minor variations in the location of structures, improvements or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town Staff. Such changes shall not exceed ten percent (10%) of any measurable standard or modify the use, character or density of an approved site plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.~~
  - ~~(2) Changes to approved site plans that exceed the ten percent threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new site plan application. Such amendments shall require Planning Commission review and approval to become effective. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Section.~~

(Ord. 480 §4.12, 2003; Ord. 620 §1, 2010)

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**Sec. 16-3-490. - Density and dimensional standards.**

The following specifications shall be required in the zones identified:

(1) Residential and Agricultural - Density and Dimensional Standards:

Residential Density and Dimensional Standards									
Zones Standards	A	AE	E-1	R-1	R-1E	R-2	R-3	R-M	R- MH
Minimum lot area per dwelling (square feet, unless otherwise noted) <sup>1</sup>	1.5 acres	1.5 acre min. lot size and 2.5 acre max. lot size	20 acres <sup>2</sup>	7,500 or 2 times the ground floor area of the principal building, whichever is greater	13,000, or 4 times the ground floor area of the principal bldg., whichever is greater	6,000, or 2 times the ground floor area of principal bldg., whichever is greater	6,000 for apts. and condos 2,000 for town homes	As required by mobile home ordinance	7,500
Maximum gross density (units per acre)		.66		5	3	7	20		5
Minimum lot frontage(feet) <sup>3</sup>	60	60	60	60	75	60	60		60
Minimum front yard setback (feet) <sup>4</sup>	25	25	25	20	25	25	25	See mobile home ordinance	20

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Minimum side yard setback (feet) (on street) <sup>5</sup>	15	15	15	15	15	15	15, or 1 ft. for every 3 ft. or fraction thereof building height, whichever is greater	15
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<sup>1</sup> If the property is part of the Plat of the Town of Milliken, and it has not been replatted since July 1909, the minimum lot area per dwelling shall be 6,250 square feet. *In addition, landowners in this area may combine multiple lots (typically 25' x 120' in size) to create a buildable lot without going through the minor subdivision process as long as the lot lines do not change.*

<sup>2</sup> If the Town approves a conservation density bonus, the maximum density is 1 unit per 5 acres.

<sup>3</sup> If the property is part of the Plat of the Town of Milliken, and it has not been replatted since July 1909, the *minimum lot frontage shall be 50 feet.*

<sup>4</sup> Swimming pools, spas and hot tubs; rear yard requirements. All swimming pools, spas and hot tubs, including aboveground and in-ground pools, having a depth greater than 18 inches shall only be placed or constructed in the rear yard of a residential lot. No swimming pools, spas or hot tubs shall be placed or constructed in the front yard or side yard of any residential lot.

<sup>5</sup> *If the property is part of the Plat of the Town of Milliken, and it has not been replatted since July 1909, the minimum side yard setback on a street may be 10 feet.*

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Residential Density and Dimensional Standards (Cont'd)									
Zones Standards	Zones			R-1	R-1E	R-2	R-3	R-M	R-MH
	A	AE	E-1						
Minimum side yard setback (feet) (interior)		15	15	5 ft. or 1 ft. for every 3 ft. or fraction thereof of building height, whichever is greater	15	5 ft. or 1 ft. for 3 ft. or fraction thereof of building height, whichever is greater	10 ft. or 1 ft. for 3 ft. or fraction thereof of building height, whichever is greater		6
Minimum distance between buildings (feet)	40	10	10	10	10	Subject to building codes	Subject to building codes	20	10
Minimum rear yard setback (feet)	20	20	20	20	20	20	20	10 or 20 <sup>6</sup>	20
Garage with entrance facing an alley	10	10	10	5	10	5	5	5	5
Maximum building height (feet)	35	35	35	35	35	35	40 <sup>7</sup>	35	35

<sup>6</sup> Rear spacing shall be 20 feet when units are side to end and 10 feet when units are end to end.

<sup>7</sup> If a lot in an R-3 District is adjacent to 1 or more lots in an R-1, R-1E or R-2 District, a building on the lot in the R-3 District shall not exceed 30 feet in height unless the building is set back at least 150 feet from the adjacent lot or lots in the R-1, R-1E or R-2 District.

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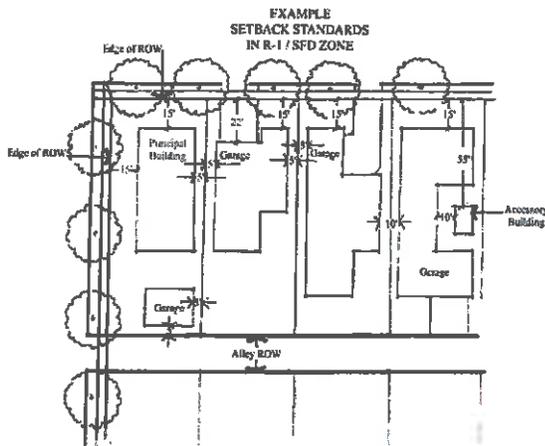


Figure 3-1

(2) Commercial and Industrial Density and Dimensional Standards. The following codes are used in the table below:

— = No specific requirement

Commercial and Industrial Density and Dimensional Standards								
Zones Standards	I-1	I-2	I-3	MU- C-D	C-1	C-2	C-3	C-4
Minimum front yard setback (feet) <sup>1</sup>	30, or 50 if adjacent to a major arterial street	See I-1	See I-1	0	As provided in any applicable building code <sup>2</sup>	See C-1	See C-1	See C-1
Maximum front yard setback (feet)				15				

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Zones Standards	I-1	I-2	I-3	MU- C-D	C-1	C-2	C-3	C-4
Minimum rear yard setback (feet)	As provided in any applicable building code <sup>3</sup>	See I-1	See I-1	0 <sup>4</sup>	As provided in any applicable building code <sup>2</sup>	See C-1	See C-1	See C-1
Required side yard setback (on-street) <sup>2</sup>	30, or 50 if the adjacent to a major arterial street <sup>3</sup>	See I-1	See I-1	—	As provided in any applicable building code <sup>2</sup>	See C-1	See C-1	See C-1
Required side yard (interior)	As provided in any applicable building code <sup>3</sup>	See I-1	See I-1	—	As provided in any applicable building code <sup>2</sup>	See C-1	See C-1	See C-1
Maximum floor area ratio (ratio of total floor area to total lot area)				2:1				

<sup>1</sup> That portion of a lot that abuts a public street right-of-way, excluding public alleys, shall remain uncovered for a distance of 10 feet, measured at a right angle from the lot line towards the interior of the lot. This shall apply to lots in all zoning districts, except the MU-C-D District. Sidewalks and driveways may pass through the ten-foot strip.

<sup>2</sup> The required side or rear yards in industrial zoning districts shall be increased if the lot is adjacent to 1 or more residential or commercial zoning districts. In such cases the required yard shall be twice the height of the building on the lot in the industrial zoning district, or 50 feet, whichever is greater. The only structures permitted in these side or rear yard areas are driveways, sidewalks, signs, retaining walls and fences. *Accessory buildings are not permitted in these special side or rear yards.*

<sup>3</sup> The required side or rear yards in commercial zoning districts shall be increased if the lot is adjacent to 1 or more residential zoning districts. In such cases the required yard shall be twice the height of the building on the lot in the commercial zoning district, or 25 feet, whichever is greater. The only structures permitted in these side or rear yard areas are driveways, sidewalks, signs, retaining walls and fences. *Accessory buildings are not permitted in these special side or rear yards.*

<sup>4</sup> *If alley-loaded parking is provided, minimum rear yard setback shall be 25 feet.*

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Commercial and Industrial Density and Dimensional Standards (Cont'd)								
Zones Standards	I-1	I-2	I-3	MU- C-D	C-1	C-2	C-3	C-4
Maximum building height (feet) <sup>5</sup>				40	40 <sup>6</sup>	40 <sup>6</sup>	40 <sup>6</sup>	40 <sup>6</sup>
Maximum ground level footprint (square feet)				5000				
Maximum coverage of hard-surfaced area for commercial uses on commercial lots				—	85% <sup>7</sup>	85% <sup>7</sup>	85% <sup>7</sup>	85% <sup>7</sup>
Minimum lot area	See C-2	See C-2	See C-2	—	2 times the combined ground floor area of all principal and accessory buildings	No specified minimum but must be of sufficient size to allow for compliance with other requirements	No specified minimum but must be of sufficient size to allow for compliance with other requirements	No specified minimum but must be of sufficient size to allow for compliance with other requirements
Required Linear Footage Front Yard (feet)	60	60	60	—	60	60	60	60

<sup>5</sup> The building height limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks, silos, nor to public building or structures located more than 1 foot horizontally from the property line for each foot of building height.

<sup>6</sup> For the downtown area, building height shall be of a similar height to existing adjacent buildings, but in no event shall it exceed the forty-foot height limit.

<sup>7</sup> Coverage for commercial uses on commercial lots in the downtown area may exceed 85%. ??? Do we really want to limit the square footage footprint of a building and have a 0 foot setback from the front of the lot? We already have a max FAR of 2 to 1 gross floor area to the site of land it's built on.

**(3) Yard Requirements.**

- a. On double-frontage lots (see Figure 2-5 of this Chapter), both streets shall be considered street frontages for purposes of calculating front yard setbacks.

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- b. On corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback.
- c. For purposes of setback calculations, a two-family dwelling shall be construed as one (1) building occupying one (1) lot.
- d. On a vacant lot bordered on two (2) sides by previously constructed legal nonconforming buildings which do not meet the required front yard setback for the zoning district, the required front yard setback for the vacant lot shall be calculated as the average front yard setback of the two (2) adjacent buildings. Where a vacant lot is bordered on only one (1) side by such a legal nonconforming building, the required front yard setback shall be calculated as the average of the front yard setback of the adjacent building and the minimum front yard setback for the zoning district.
- e. That portion of a side yard that is overlapped by a front or rear yard shall be deemed a side yard for purposes of limitations applicable to side yards; and that portion of a front or rear yard overlapped by a side yard shall be deemed a front or rear yard, as the case may be, for purposes of limitations applicable to front or rear yards.
- f. Permanent features and structures allowed within required yards shall include:
  - 1. Cornices, canopies, eaves, chimneys or other similar architectural features if they extend no more than three (3) feet into a required setback and if they do not encroach into or overhang an easement;
  - 2. Steps or ramps to the principal entrance and necessary landings, provided that they do not extend more than six (6) feet into the required setback;
  - 3. Landscaping;
  - 4. Driveways, sidewalks, signs, retaining walls and fences are allowed in required front, side and rear yards, provided that all other regulations of this Chapter pertaining to these items are complied with;
  - 5. Utility service lines to a structure and utility lines, wires and associated structures within a utility easement;
  - 6. Fire escapes, provided that they do not extend more than six (6) feet into the required setback;
  - 7. Parking slabs, tennis courts and swimming pools may be extended into required rear yards and interior side yards up to five (5) feet of the required rear or side lot lines; and
  - 8. Porches and patios attached to the primary structure, whether or not covered by roofs, may extend into required front yards up to ten (10) feet and into required interior side or rear yards up to five (5) feet from the side lot line or rear property line, respectively, provided that such porches or patios remain at least sixty-five percent (65%) open and unobstructed on three (3) sides.

(Ord. 480 §3.6, 2003; Ord. 572, 2008; Ord. 562 §1, 2008)

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**Section 2: Codification.**

The Town Clerk is hereby directed to work with the Town's Municipal Code codifier to ensure that the provisions of this Ordinance are included in the next codification of the Milliken Municipal Code.

**Section 3: Severability.**

If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

**Section 4: Repeal.**

Existing or parts of ordinances covering the same matters as embraced in this Ordinance of the Milliken Municipal Code are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

**Section 5: Effective Date.**

This Ordinance shall take effect and be in force thirty (30) days after publication following final adoption.

Introduced, read, adopted, signed and ordered published in full by the Board of Trustees of the Town of Milliken this \_\_\_ day of \_\_\_\_\_, 2016.

**TOWN OF MILLIKEN**

\_\_\_\_\_  
Beau Woodcock, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Cheryl Powell, Town Clerk

\_\_\_\_\_  
Linda Michow, Town Attorney

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Published: \_\_\_\_\_