

## ARTICLE I : GENERAL LAND USE PROVISIONS

### Sec. 16-1-10. - Title.

This Chapter shall be known and may be cited as the Milliken Land Use Code as it may be amended. Within this ordinance the Milliken Land Use Code shall simply be referred to as this Code or this Chapter.

### Sec. 16-1-20. – Jurisdiction.

- (a) The provisions of this Chapter pertain to all land, subdivision of property, buildings, structures, land uses, changes of land use and changes of structures, and development within the boundaries of the Town. No person shall use, develop, or subdivide any tract of land that is located within the Town except in conformity with the provisions of this Chapter.
- (b) A copy of a map showing the boundaries of the Town, the Official Zoning Map, and the area within the three-mile planning jurisdiction shall be available for public inspection in the Town [Clerk's offices](#).

### Sec. 16-1-30. - Authority.

- (a) This Chapter is adopted pursuant to the authority contained in the Colorado Revised Statutes (C.R.S.). Authority is granted to municipalities to establish a Planning Commission and to regulate subdivisions (Sections 31-23-202 and 31-23-214, C.R.S.); to regulate the division of land and buildings (Section 29-20-101, et. seq., C.R.S. and Section 29-20-104 C.R.S), to regulate land use and zoning (Section 31-23-301, et seq. C.R.S.); to provide for planned developments (Section 24-67-101, et seq., C.R.S.); to provide for vesting of property rights (Section 24-68-101, et. seq., C.R.S); to prohibit or regulate nuisances and to enforce its major street plan within three (3) miles of its boundaries (Sections 31-15-401—31-15-601, Section 31-23-212, and Section 31-23-213, C.R.S.); to adopt a comprehensive plan; and to generally plan for and regulate the use of land.
- (b) Pursuant to Section 31-23-227, C.R.S., the Board of Trustees assumes and reserves to itself the final authority over all acts, powers and duties assigned to a municipal planning commission under Part 2 of Article 23, Title 31, C.R.S.
- (c) Without limiting the generality of the forgoing, and notwithstanding anything to the contrary contained in this Chapter, the Board of Trustees reserves the final authority:
  - (1) To adopt and amend subdivision regulations;
  - (2) To authorize and accept public streets, parks and other public ways, grounds or open space, public buildings, and structures, and public or privately-owned public utilities; and
  - (3) To approve or disapprove subdivision plats.
- (d) The Planning Commission is delegated the authority to review and make recommendations to the Board of Trustees regarding such matters, but such recommendation shall not be binding on the Board of Trustees.

- (e) This Chapter is administered and enforced by the Town Administrator or a designee of the Town Administrator who shall be known as the enforcement official. ~~The designee is the Community Development Director unless otherwise indicated in this Code.~~

**Sec. 16-1-40. - Purpose.**

- (a) This Chapter of the Code is intended to establish zoning districts to classify the use of land, and to provide for uniform performance standards and criteria for the design and layout of land. This Chapter is designed to:
- (1) Promote the health, safety, order, and welfare of the present and future residents of the Town of Milliken Implement the Town's goals, policies, plans, and programs;
  - (2) Provide a diversity of housing types at various densities;
  - (3) Promote logical extensions of and efficient use of the Town's infrastructure;
  - (4) Protect and preserve agricultural and open lands;
  - (5) Provide a safe, efficient, and connected transportation network;
  - (6) Ensure that the fiscal impact of new development is borne by those parties who receive the benefits therefrom;
  - (7) Support programs and help provide facilities that meet the recreational, cultural, public safety and educational needs of the community;
  - (8) Promote cooperation and coordination in planning and growth management between the Town and neighboring jurisdictions;
  - (9) Manage hazard risks and provide protection from geologic, flood and fire hazards and other dangers; and
  - (10) Regulate such other matters as the Planning Commission and Town Board may deem necessary

**Sec. 16-1-50. - Interpretation, Rules of Construction and Commutation of Time.**

- (a) The interpretation and application of the provisions of this Chapter shall be held to be the minimum requirements for the promotion of public health, safety, morals, and general welfare. Where any provision of this Chapter imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by any other ordinance or by state statutes, the provisions of this Chapter shall govern.
- (b) These regulations are not intended to abrogate any private easement, covenant, agreement, or restriction. It is not the intent of these regulations, and it may not be implied or inferred, that the Town will enforce any private easement, covenant, agreement or restriction, such provisions being a function of the right of individual property owners to further or separately restrict the use of their property. These regulations shall not be interpreted to either enhance or diminish such private restrictions, and the existence of such private restrictions shall not affect the application or enforceability of these regulations.
- (c) Interpretation:
- (1) The words *shall* or *must* are mandatory and not discretionary.

- (2) The word *may* is optional and discretionary.
  - (3) A building or structure includes any part thereof.
  - (4) The word *person* includes a corporation, association, partnership, firm, or joint venture, as well as an individual.
  - (5) Singular words include the plural.
  - (6) Words *used* in the present tense include the future unless the context clearly indicates the contrary.
  - (7) The particular controls the general.
  - (8) In case of any difference of meaning or implication between the text of these regulations and the captions for each section, the text shall control.
- (d) Computation of time:
- (1) In computing a period of days, the first day is excluded and the last day is included.
  - (2) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.
  - (3) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

**Sec. 16-1-60. - Relationship to the Comprehensive Plan, and Other Plans.**

- (a) It is the intention of the Town that this Code implement the planning policies adopted in the Comprehensive Plan and other plans adopted for the Town and its extraterritorial planning area, as amended from time to time. While this relationship is reaffirmed, it is the intent of the Town that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan.
- (1) Requirement for Comprehensive Plan Amendment or Other Plan Amendment. Where a development proposal would be in substantial conflict with the Comprehensive Plan or other plan, an amendment to the Comprehensive Plan or other plan will be required prior to any zoning or subdivision approvals. A substantial conflict exists when a development proposal will result in changes from the designations of the Framework (Land Use) Plan Map, Transportation Plan Map, Parks and Open Space Plan, or other related Plans adopted by the Town.
  - (2) Criteria for Evaluating Amendment Proposals. Amendments to the Comprehensive Plan or other plan resulting from development proposals under this Code shall be evaluated according to the amendment process outlined in the Comprehensive Plan.

**Sec. 16-1-70. - Application to Developments in Progress.**

- (a) This Chapter is adopted by Ordinance No. [REDACTED] and is effective on [REDACTED], 2021.

- (b) All land use, changes in land use, and development applications initiated on and after [REDACTED], 2021, shall be reviewed pursuant to the review process and standards set forth in this Chapter, as adopted by Ordinance No. [REDACTED], and effective on that date. All land use applications submitted for review prior to [REDACTED] 2021, shall be reviewed pursuant to the process and under the criteria set forth in applicable portions of this chapter which were in force prior to that date. Such prior regulations are continued in force and effect for that limited purpose only. Upon approval or denial of all such remaining applications, the prior regulations shall be deemed repealed. In no event shall any resubmission of an application after its rejection or any development application filed after the effective date of these regulations be reviewed under any such prior regulations.

### **Sec. 16-1-80. - Vesting of Property Rights.**

- (a) Purpose. The purpose of this Section is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., which establishes a vested property right to undertake and complete development of real property under the terms and conditions of an approved site-specific development plan. Except as provided for in Section 24-68-106(3), No vested rights shall be created within the Town except through a site-specific development plan.
- (b) Request for Site Specific Development Plan Approval. For those developments for which the landowner wishes the creation of vested property rights pursuant to Article 68 of Title 24, C.R.S., the landowner shall request the approval in writing at least thirty (30) days prior to the date said approval is to be considered. Failure of the landowner to request such an approval renders the plan not a site-specific development plan, and no vested property rights shall be deemed to have been created.
- (c) Notice and Hearing. No site-specific development plan shall be approved until after a public hearing called for that purpose, preceded by notice of such hearing published as provided by law at least twenty-one (21) days before the hearing. Such notice may, at the Town's option, be combined with any other required notice. At such hearing, all interested persons shall have an opportunity to be heard.
- (d) Approvals, Effective Date, Amendments, Referendum, and Review.
- (1) A site-specific development plan shall be deemed approved upon the effective date of the ordinance granting final approval of the plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan, including any amendments thereto.
- (2) The Board of Trustees may approve a site-specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval will result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights.
- (3) In the event amendments to a ~~site-specific~~site-specific development plan are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the Board of Trustees specifically finds to the contrary and incorporates such findings in its approval of the amendment.

- (4) The approval of vested property rights shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the ~~site-specific~~site-specific development plan and creation of vested property rights.
- (e) Notice of Approval Creating a Vested Property Right.
- (1) Each map, plat or site plan or other document constituting a site-specific development plan shall contain the following notice: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right.
- (2) In addition, the Town shall publish a notice describing generally the type and intensity of the use approved and the specific parcel or parcels of property affected and stating that a vested property right has been created. The notice shall be published once, not more than fourteen (14) days after approval of the site-specific development plan, in a newspaper of general circulation within the Town.
- (f) Duration of Vested Property Right. A property right which has been vested as provided herein shall remain vested for a period of three (3) years. The vesting period shall not be extended by any amendments to a site-specific development plan unless expressly authorized by the Board of Trustees in the ordinance approving such amendments.
- (g) Vested Rights by Separate Agreement. The Board of Trustees may, at its sole discretion, enter into a development agreement with a landowner and provide for the vesting of property rights for a period exceeding three (3) years where warranted, including but not limited to:
- (1) The project will clearly and significantly reduce impacts on the existing infrastructure.
- (2) The project will construct public facilities, water, sanitary sewer, drainage facilities and/or public streets that are oversized or extended to be of obvious strategic value to the community.
- (3) The project will provide public open space and/or public parkland significantly greater than required and/or provide public recreational facilities that are of obvious strategic value to the community.
- (4) A commercial project or commercial component of a mixed-use project must result in clear benefits to the town as evidenced by new jobs and tax revenue.
- (5) The project will make special contributions that are clearly in the public interest.
- (6) Subsequent reviews. Such agreement shall provide for subsequent reviews and approvals by the Board of Trustees to ensure compliance with the terms and conditions of the original approval.
- (h) Other Provisions Unaffected. Approval of a site-specific development plan shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the development or use of property except as provided in the site-specific development plan.
- (i) Payment of Costs. In addition to any and all other fees and charges imposed by this Code, the application for a site-specific development plan shall pay all costs occasioned to the Town pertaining to such application, including but not limited to publication of notices, public hearing

and review costs, county recording fees and review costs. The site-specific development plan shall not be recorded until all fees have been paid.

- (j) Limitations. Nothing in this Article is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Article shall be deemed to be repealed, and the provisions hereof no longer effective.

~~(j)(k)~~ The Board of Trustees may consider approving vesting of property rights by separate agreement.

#### **Sec. 16-1-90. - Application Fees, and Cost Reimbursement Required.**

- (a) All applications submitted to the Town pursuant to this Chapter are subject to a nonrefundable fee as set forth in the Town of Milliken Fines and Fee Schedule, as the same may be amended from time to time by resolution of the Board of Trustees.
- (b) In addition to such fee, the applicant shall post a deposit as required by the adopted Fines and Fee Schedule and enter into a cost reimbursement agreement to reimburse all of the Town's actual costs of reviewing and processing any application filed pursuant to this Chapter. Unless exempted herein, no application submitted pursuant to this Chapter shall be processed unless the Town has received the applicable fee and a signed cost reimbursement agreement.
- (c) All incurred costs shall be paid in full prior to recording final documents and the issuance of permits.

#### **Sec. 16-1-100. - Correction of Obvious Errors.**

- (a) Nothing in this Chapter shall be construed as a limitation upon the power of the Board of Trustees or, Town Administrator, Community Development Director, or Town Attorney to correct obvious typographical or compositional errors, provided that:
- (1) Such corrections shall not change the legal effect of this Chapter or any part thereof.
- (2) Such corrections will be reported to the Planning Commission and the Board of Trustees.
- (3) An errata supplement shall be attached to all copies of this Chapter distributed subsequent to the making of such corrections.

#### **Sec. 16-1-110. - Administration and Enforcement.**

- (a) Enforcement Responsibilities.
- (1) It shall be the duty of the Community Development Director Town Administrator or designee to enforce the provisions of this Chapter pertaining to the use, maintenance, erection, construction, reconstruction, alteration, moving, conversion or addition to any building or structure.
- (2) No permits shall be issued by any officer of the Town for the construction of any building or other improvements requiring a permit, upon land that has not been legally subdivided and in compliance with the subdivision regulations in this Chapter.
- (3) No building or construction permit shall be issued prior to approval of the plot plan or site plan.



- (4) No land use application shall be approved by staff, the Planning Commission or Board of Trustees unless such property is classified in the appropriate zoning district as defined in this Chapter.
- (5) Any person engaging in development, change of use, modification or enlargement of use of any land, building or structure that is subject to this Chapter who does not obtain the necessary approvals prescribed by this Chapter, who does not comply with permit, approval or variance requirements, who acts outside the authority of this Chapter, may be enjoined by the Town from engaging in such activity and may be subject to the procedures and penalties described below.
- a. The Town shall not accept any land use application for property currently being used or occupied in violation of this Chapter unless said application seeks to obtain an approval by the Town that would cause the property to be in compliance with the regulations of the Town.
  - b. Appeals of enforcement actions. Appeals of any order, requirement, decision, or determination made by an administrative official in the enforcement of this Article shall be made to the Board of Adjustments in accordance with the provisions of Section 16-3-350 of this Chapter.
  - c. This Code shall not be construed to hold the Town responsible for any damages to persons or property by reason of the inspection or reinspection or failure to inspect or reinspect, or by reason of issuing a building permit or pursuing or failing to pursue an action for injunctive relief.

#### **Sec. 16-1-120. - Violation Penalties.**

Any person, including but not limited to the officers and agents of a corporation responsible for its actions or inaction, and the partners or members of a partnership, firm or joint venture, either as owner, lessee, occupant or otherwise, who violates or causes the violation of any of the provisions of this Code, shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, permitted or continues. An architect, builder, contractor, agent or other person who commits, participates in or assists in any such unlawful use of a building or land shall be guilty to the same extent as the owner or occupier of the land, and the owner shall be guilty whether or not he or she participates. Any person convicted of a violation shall be punished as set forth in Section 1-4-20 of this Code. No fine sentence shall be suspended except on the condition that the offender complies with this Code within a reasonable time.

#### **Sec. 16-1-130. - Severability.**

- (a) If any part, section, subsection, sentence, clause, or phrase of this Code is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of this Chapter.
- (b) If the application of any provision of these regulations to any lot or tract of land shall be judged invalid, the same shall not affect, impair or invalidate these regulations or the application of any provision thereof to any other tract of land.

## ARTICLE II: ZONING DISTRICTS AND USES

### Sec. 16-2-10. - Zoning Districts Established.

To carry out the provisions of this Code, the Town is divided into the following zoning districts:

Zone District	
A	Agricultural
AE	Agricultural Estates
CD	Conservation
P	Public
R-1E	Single-Family Estate Residential
R-1	Single-Family Residential
R-2	One and Two-Family Residential
R-3	Multi-Family Residential
R-M	Manufactured Home Community
MU-C-D	Mixed Use Commercial - Downtown
C-1	Neighborhood Commercial
C-4	Commercial Mixed Use
C-5	Special Business District
I-1	Light Industrial
I-2	Medium Industrial
I-3	Heavy Industrial



PUD	Planned Unit Development
HSP	Hillside/Ridgeline Protection Overlay

- (b) Intent. Each zone district includes a description of location, natural and built characteristics, and attributes applicable each zone district. Appropriate uses shall be located and designed to fulfill the desired characteristics and objectives of the zone district.
- (c) Use Regulations. Each zone district includes the following categories:
- (1) Uses by Right are permitted within the zone district subject to required permits and approval processes. Uses by right for single-family or two-family dwelling unit/structures, require plot plan and building permit approval. All multi-family, commercial and industrial uses require site plan approval and building permits.
  - (2) Accessory Uses are uses by right that are customarily incidental to the permitted principal use, provided they meet all applicable regulations. Permitted accessory uses require a plot plan where the principal use is a single dwelling unit or two-family dwelling and building permit approval. All other accessory uses require site plan approval and building permit approval.
  - (3) Conditional Uses are uses that may be allowed in the zone district provided the use supports the intent of the zone district, is compatible and harmonious with the surrounding properties and the Town's Comprehensive Plan. Conditional uses may be permitted subject to such conditions and limitations as may be set forth by the Board of Trustees. Conditional uses are approved by resolution after a duly noticed public hearing by both the Planning Commission and Board of Trustees.
- (d) Dimensional Requirements ~~(See Table 2-B)~~. Dimensional requirements are minimum requirements which apply to the siting and massing of buildings and structures on the lot. Dimensional requirements include:
- (1) Minimum Lot Area.
  - (2) Maximum Lot Coverage and/or Footprint.
  - (3) Maximum Gross Density.
  - (4) Minimum Lot Width.
  - (5) Setbacks: Front, Rear, Street-Side Yard, and Side Yard Setbacks.
  - (6) Minimum Distance Between Principal Buildings
  - (7) Maximum Building Height
- (e) Development Standards. Development standards are minimum standards that apply to development and uses within the zone district. Development standards specific to each zone district are listed within each zone district section. General standards pertaining to all zone districts are found in Article 3 of this Chapter and apply to residential, and nonresidential development.

**Sec. 16-2-20. - Minimum Size for New Districts.**

Unless contiguous to the same zone district, a proposed zoning change shall be greater than five (5) acres in size. Planned Unit Development (PUD) zone districts shall be a minimum of ten (10) acres. When the proposed zoning change is contiguous to an existing district of the same designation, the minimum dimensional requirements for the proposed zone change shall not apply.

**Sec. 16-2-30. - Official Zoning Map.**

- (a) The boundaries of the districts established by this Land Use Code (LUC) shall be shown on a map entitled "Official Zoning Map". A signed and up-to-date copy shall be maintained at the Milliken Town Hall. Original copies of the official map and all amendments thereto shall be maintained by the ~~Community Development Director~~Town Clerk. ~~In any dispute regarding the classification of property subject to this LUC, the original map maintained by the Community Development Director shall control. In the event of any other uncertainty not mentioned in this Section, the Community Development Director shall recommend the location of such boundaries to the Board of Adjustment and the Board of Adjustment shall make the final determination.~~
- (b) Amendments to Official Zoning Map. Changes in the boundaries of any zone district shall be made in accordance with Section 16-6-300 and shall promptly be entered on the Official Zoning Map with an entry on the map giving the number of the amending ordinance and the date with the signature of the Mayor, attested by the signature of the Town Clerk.
- (c) Criteria for Amendments to Official Zoning Map. The official zoning map shall be amended if any of the following apply:
- (1) To correct a manifest error in an ordinance establishing the zoning for a specific property;
  - (2) To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town;
  - (3) The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Comprehensive Plan;
  - (4) The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan;
  - (5) The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or
  - (6) A rezoning to a Planned Unit Development ~~overlay~~ district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.
  - (7) The criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map, nor shall such criteria necessarily apply with respect to a comprehensive reclassification of land into the zoning districts established by this Chapter or established by any later comprehensive revision of this Chapter.

**Sec. 16-2-40. - Unlisted Uses.**

- (a) Uses not specifically listed in a zone district which are listed in another zone district are prohibited. Approval of a conditional use permit [in accordance with Section 16-2-10\(c\)\(3\)](#) will be required for a new use provided such use is found to be compatible with the intent of the zone district, and consistent with other permitted or conditional uses in that zone district. The Community Development Director will consider new uses, not listed in any zone district, using the following criteria.
- (1) The characteristics of the use in relationship to the stated characteristics of each use category.
  - (2) The relative amount of site area or floor space and equipment devoted to the use.
  - (3) The relative number of employees in each proposed use.
  - (4) Hours of operation.
  - (5) Building and site arrangement.
  - (6) Vehicles used and parking requirements.
  - (7) The number of vehicle trips generated.
  - (8) The impact on surrounding properties.
  - (9) The use must be compatible with other uses on the same site.
  - (10) When considering appropriate districts for a use not listed in the use table, the district intent statements of the respective districts shall be taken into consideration.

**Sec. 16-2-50. - Dimensional Requirements: Density, Setback, Height, and Lot Coverage.**

- (a) General Requirements.
- (1) In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, comfort, prosperity, and general welfare.
  - (2) Uniformity of Regulations. The regulations established by this Article within each zone shall apply uniformly to each class or kind of building, structure, or land. Unless exceptions are specified in this Article, the following interpretations shall apply:
    - a. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Article, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building unless specific exception therefore is stated in this Article.
    - b. No yard or lot existing or approved at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.

- c. Easements. Buildings and permanent structures shall not be located within an easement. Utility service lines to a structure and utility lines, wires, and associated structures are permitted within a utility easement.
  - d. Setbacks shall be unoccupied and unobstructed by any structure or portion of a structure from thirty-six (36) inches above grade upward; provided, however, that fences, trellises, poles, posts, ornaments, furniture, and other removable yard accessories may be permitted in any setback subject to height limitations, building code requirements and visibility at intersections.
  - e. Height Exceptions. 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 one foot horizontally from the property line for each foot of building height. ~~In the MU-C-D along Broad Street, building height shall be similar to adjacent buildings, but shall not exceed forty feet in height.~~
  - f. All swimming pools, spas, and hot tubs, including aboveground and in-ground pools, having a depth greater than eighteen (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 street-side yard of any residential lot.~~
  - g. That portion of a lot that abuts a public street right-of-way, excluding public alleys, shall remain uncovered for a distance of ten (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.
- (3) Setback Exceptions. Permanent features and structures allowed within required setbacks shall include:
- a. Cornices, canopies, eaves, or similar architectural features may extend from the building into a required yard not more than ~~threewe~~ (32) feet. ~~Open, unenclosed, uncovered p~~ Porches at ground level may extend into a required rear yard not more than six (6) feet, excluding roof overhangs, but not beyond the property line.
  - a.b. 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 and not beyond the property line.
  - b.c. Landscaping;
  - d. Driveways, sidewalks, signs, retaining walls and fences are allowed in required front, side, and rear yards, subject to compliance with all other regulations of this Chapter;
  - e.e. Utility service lines to a structure and utility lines, wires and associated structures within a utility easement.
  - d.f. Fire escapes, provided that they do not extend more than six (6) feet into the required setback;

~~e.g.~~ 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

~~f.h.~~ Decks and patios attached to the primary structure, not covered by roofs, may extend into required front yards up to five (5) feet and into required rear yards up to ten (10) feet from the rear property line.

Table 2.A - Accessory Building AND Structure Dimensional Requirements						
District	Interior side setback	Corner side setback	Rear setback	Rear setback with alley	Maximum Height	Maximum Floor Area and Density
A: Agricultural	15 ft.	15 ft.	20 ft.	10 ft.	35 ft.	Accessory structures are included in the maximum site coverage and floor area listed in <a href="#">Table 2.B "Density and Dimensional Requirements, the respective zoning district" unless otherwise listed in that table.</a>
AE: Agricultural Estate	15 ft.	15 ft.	20 ft.	10 ft.	35 ft.	
R-1E: Single-Family Estate Residential	5 ft.	15 ft.	5 ft.	5 ft.	35 ft.	
R-1: Single-Family Residential	5 ft.	15 ft.	5 ft.	5 ft.	35 ft.	
R-2: Two-Family Residential	5 ft.	15 ft.	5 ft.	5 ft.	35 ft.	
R-3: Multi-Family Residential	5 ft.	15 ft.	5 ft.	5 ft.	24 ft.	
MU-C-D, when accessory to a residential use	5 ft.	15 ft.	5 ft.	5 ft.	24 ft.	

(b) Accessory buildings and structures.

(1) Setbacks. Accessory buildings and structures are not permitted in the front yard or street corner side yard.

~~(2) Principal Buildings. Table 2.B "Density and Dimensional Standards" lists dimensional requirements for principal building, except as otherwise noted in this section.~~

~~(3)~~(2) Lots in the Original Milliken Town Plat. For lots that are part of the Plat of the Town of Milliken, and which have not been re-platted since July 1909:

- a. The minimum lot area per dwelling shall be 6,250 square feet.
- b. The landowners in this area may combine multiple lots (typically 25' x 120' in size) to create a buildable lot through the Administrative Plat Amendment procedure as long as no~~t~~ new lots are created.
- c. The minimum lot width shall be fifty (50) feet.
- d. The minimum street-side yard setback is ten (10) feet.

~~(4)~~(3) Site Specific Requirements.

- a. Buffers are required in all zone districts along highways and with adjacent uses of difference intensities as specified in Sec. 16-3-315.
- b. Residential Zones. If a lot in an R-3 District is adjacent to one (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 thirty (30) feet in height.
- c. Downtown Area. 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 (40) foot height limit.
- d. Commercial Zone. The required side or rear yards in commercial zoning districts shall be increased if the lot is adjacent to one (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 twenty-five (25) feet, whichever is greater. The only improvements permitted in these side or rear yard areas are driveways, sidewalks, retaining walls and fences. Accessory buildings are not permitted in the increased side or rear yards.
- e. Industrial Zones. The required side or rear yards in industrial zoning districts shall be increased if the lot is adjacent to one (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 fifty (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 increased side or rear yards.

~~(5)~~(4) Yard Requirements.

- a. For purposes of setback calculations, a two-family dwelling shall be construed as one (1) building occupying one (1) lot.
- b. 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.
- c. 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.

~~(6)~~(5) Zero Lot Lines. Zero lot lines are permitted in the MU-C-D District along Broad Street. Zero lot lines are also permitted for party walls in two-family dwellings and townhomes in the R-2 and R-3 zone districts subject to the following:

- a. The side property line not abutting an adjacent two-family dwelling or townhome shall be equal to or greater than ten (10) feet.
- b. There shall be no openings in a party wall.

Table 2.B has been deleted



**Sec. 16-2-60. - Agricultural District (A).**

(a) Intent. The Agriculture District (A) is intended to protect and preserve the area's rich agricultural heritage, and to support and promote traditional agricultural operations as an essential feature of the Town. ~~This district is intended to support traditional agricultural operations and to maintain and promote agriculture as an essential feature of the Town. The A District provides areas for the conduct of agricultural activities and agricultural production without the interference of other incompatible land uses.~~

(b) Use Regulations

(1) Uses by Right.

- a. Agriculture
- b. Accessory buildings and structures 720 square feet or under per acre or 25% lot coverage, whichever is less.
- c. Accessory dwelling unit as a caretaker unit on parcels or lots over ten (10) acres.
- d. Agriculture including farming, ranching, and gardening.
- e. Animal boarding including daycare.
- f. Animal clinics and veterinary facilities with boarding on parcels or lots over ten (10) acres.
- g. Animal clinics and veterinary facilities without boarding.
- h. Bed and breakfasts.
- i. Campgrounds and RV Parks on parcels or lots over ten (10) acres and with approval of a site plan.
- j. Cemeteries.
- k. Home occupations in accordance with Section 16-4-210.
- l. Horse riding stables and grazing.
- m. Horse arenas.
- n. Outdoor storage of farm related products and workable equipment
- o. Parks and open space.
- p. Public and private schools
- q. Public buildings including police and fire stations or government facilities, and civic facilities.
- r. Public and private recreational facilities, within a structure or outside.
- s. Single-family detached dwelling.
- t. Solar energy systems – accessory.

~~u.a. Solar energy systems – small.~~

~~V-U.~~ Stables and barns.

~~W-V.~~ Wireless communication facility – ATS in right-of-way.

~~X-W.~~ Wireless communication facility – eligible facilities.

(2) Conditional Uses

- a. Agriculture – concentrated animal feeding operations (CAFO).
- b. Agricultural education and research.
- c. Airports and airstrips.
- a. Central farm distribution hub for agricultural products including without limitation a trucking operation, stockyard, auction house, or other processing facility – site plan required.
- b. Childcare centers.
- c. Disposal of domestic septic sludge.
- d. Commercial mineral extraction activities and sales, as restricted.
- e. Gas, oil, and other hydrocarbon well drilling and production (as permitted by state and local regulations).
- f. Group home, as defined in Section 31-23-303, C.R.S

g. Places of worship

h. Solar energy systems – small.

~~g-i.~~ Uses not listed as either uses by right or conditional uses that are similar to other uses in the district, and that are compatible with the intent of the Agricultural District.

(c) Dimensional Requirements.

- (1) Minimum Lot Area: 1.5 acres.
- (2) Maximum Lot Coverage: 25%.
- (3) Maximum Gross Density: 1 dwelling unit per 1.5 acres as part of a cluster development
- (4) Minimum Lot Width: Sixty (60) feet
- (5) Minimum Front Setback: Twenty-five (25) feet.
- (6) Minimum Side Street Setback: Fifteen (15) feet.
- (7) Minimum Side Setback: Fifteen (15) feet
- (8) Minimum Rear Setback: Twenty (20) feet.
- (9) Minimum Setback for Garage Door Facing Alley: Ten (10) feet.
- (10) Minimum Distance Between Buildings: Ten (10) feet.

(11) Maximum Building Height: Thirty-five (35) feet.

(d) Development Standards.

- (1) Development design and site layout shall protect and preserve wetlands and riparian areas, critical wildlife habitats and natural features, and landmarks.
- (2) Private and unpaved roads are permitted.
- (3) Impervious cover shall be minimized to reduce surface run-off.
- (4) Development must connect to pedestrian, bicycle and equestrian-friendly roads or trails as identified in the most recently adopted parks, trails, and open spaces master plan.
- (5) The development shall be subject to the applicable site and design standards found in this Chapter.

**Sec. 16-2-70. - Agricultural Estate District (AE).**

- (a) Intent. The Agricultural Estate District (AE) 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) Use Regulations.

(1) Uses by Right.

- a. Accessory buildings and structures not exceeding 25% lot coverage, only one may exceed 720 square feet.
- b. Agriculture including farming, ranching, and gardening.
- c. Bed and breakfast.
- d. Horse riding stable and grazing.
- e. Home occupations in accordance with Section 16-4-210.
- f. Parks and open space.
- g. Public buildings, including police and fire stations or government facilities, and civic facilities.
- h. Public and private schools.
- i. Single-family detached dwelling.
- j. Solar energy systems –accessory.
- ~~k. Solar energy systems –small.~~
- ~~l.k.~~ Utility facilities – minor.
- ~~m.l.~~ Wireless communication facility –ATS in ROW.
- ~~n.m.~~ Wireless communication facility – eligible facilities.

## (2) Conditional Uses.

- a. Accessory dwellings when associated with a use by right, including caretaker units.
- b. Accessory uses that are customarily incidental to the permitted principal use
- c. Animal boarding including daycare.
- d. Childcare centers.
- e. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
- f. Group homes, as defined in Section 31-23-303, C.R.S.

g. Places of worship.

g.h. Solar energy systems – small.

h.i. Utility facilities – major.

i.j. Vocational/technical schools and colleges.

j.k. Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of the Agricultural Estates District.

## (c) Dimensional Requirements.

- (1) Minimum Lot Area: 1.5 acres minimum, 2.5 acre maximum
- (2) Maximum Lot Coverage: 25%
- (3) Maximum Gross Density: 0.66 dwelling units per acre
- (4) Minimum Lot Width: Sixty (60) feet
- (5) Minimum Front Setback: Twenty-five (25) feet.
- (6) Minimum Side Street Setback: Fifteen (15) feet.
- (7) Minimum Side Setback: Fifteen (15) feet.
- (8) Minimum Rear Setback: Twenty (20) feet.
- (9) Minimum Setback for Garage Door Facing Alley: Ten (10) feet.
- (10) Minimum Distance Between Buildings: Ten (10) feet.
- (11) Maximum Building Height: Thirty-five (35) feet.

## (d) Development Standards.

- (1) Site layout shall protect and preserve wetlands and riparian areas, critical wildlife habitats and natural features, and landmarks.
- (2) Development shall be located, sited, and designed to blend in with the existing natural environment and minimize disruption to existing terrain, vegetation, drainage patterns, flood plain irrigation ditches and any other distinctive natural features.

- (3) The development shall be subject to the applicable site and design standards found in this Chapter.

**Sec. 16-2-80. - Conservation District (CD).**

- (a) Intent. The Conservation District (CD) is included as a zoning classification for land that lies within floodplains and for land containing commercial mineral deposits.
- (b) Use Regulations
- (1) Uses by Right.
- a. Agriculture
  - b. Campgrounds and RV Parks not located in the mapped floodway.
  - c. Holding ponds and other structures for flood control, water storage and/or retention for potable or non-potable use, and watershed protection.
  - d. Parks and open space.
  - e. Recreational fields, trails, picnic shelters and like outdoor amenities, not including permanent buildings or structures that require a foundation.
  - f. Single-family dwelling
  - g. Solar energy systems – accessory.
  - h. Utility facilities – minor.
  - i. Wireless communication facilities – ATS in the right-of-way.
  - j. Wireless communication facilities – eligible facilities.
- (2) Conditional Uses.
- a. Accessory buildings and structures 720 square feet or under per acre or 25% lot coverage, whichever is less.
  - b. Commercial mineral extraction activities, as restricted.
  - c. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
  - d. Sanitary landfills developed and maintained according to all standards and requirements of state law.
  - e. Transmission or radio tower over 40 feet in height.
  - f. Utility facilities – major.
  - g. Uses not listed as either uses by right or conditional uses that are similar to other uses in the district, and that are compatible with the intent of the Conservation District.
- (c) Dimensional Requirements.
- (1) Minimum Lot Area: 5 gross acres.

- (2) Maximum Lot Coverage: 20%.
- (3) Maximum Gross Density: ~~Not~~ applicable.
- (4) Minimum Lot Width: Two hundred (200) feet.
- (5) Minimum Front Setback: Twenty-five (25) feet.
- (6) Minimum Side Street Setback: Fifteen (15) feet.
- (7) Minimum Side Setback: Fifteen (15) feet.
- (8) Minimum Rear Setback: Twenty (20) feet.
- (9) Minimum Setback for Garage Door Facing Alley: Ten (10) feet.
- (10) Minimum Distance Between Buildings: Ten (10) feet.
- (11) Maximum Building Height: Thirty-five (35) feet.

(d) Development Standards.

- (1) Development shall comply with all Flood Plain requirements as set forth in Article 4, Division 1: Floodplain Areas.
- (2) Development design and site layout shall protect and preserve wetlands and riparian areas, critical wildlife habitats and natural features, and landmarks.
- (3) Adequate water service and adequate sewer or adequate septic sewer is required.
- (4) The development shall be subject to the applicable site and design standards found in this Chapter.

**Sec. 16-2-90. - Public District (P).**

- (a) Intent. The Public District (P) shall contain public buildings and land, public facilities, and land dedicated for public uses including parks and open space.
- (b) Use Regulations.
  - (1) Uses by Right.
    - a. Cemetery.
    - b. Parks and open space.
    - c. Public and private schools.
    - d. Public buildings including police and fire stations or government facilities, and civic facilities.
    - e. Solar energy systems – accessory.
    - f. Sporting courts, tennis courts, swimming pools and other similar structures provided they are located in the rear yard of the lot. Uses that are compatible or customarily incidental to any of the permitted principal uses and are located on the same lot.
    - g. Utility facilities – minor.

- h. Wireless communication facility – ATS in right-of-way.
- i. Wireless communication facility – eligible facility.

(2) Conditional Uses.

- a. Childcare centers.
- b. Places of worship.
- c. Utility facilities – major.
- d. Vocational/technical schools and colleges.
- e. Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of the Public District.

(c) Dimensional Requirements.

- (1) Minimum Lot Area: Not applicable.
- (2) Maximum Lot Coverage: As approved through the site plan.
- (3) Maximum Gross Density: ~~Not~~ applicable.
- (4) Minimum Lot Width: As approved through the site plan.
- (5) Minimum Front Setback: As approved through the site plan and consistent with adjacent buildings.
- (6) Minimum Street-Side Setback: As required by the sight distance triangle
- (7) Minimum Side Setback: As required by buffering from adjacent land uses and consistent with adjacent buildings.
- (8) Minimum Rear Setback: As required by buffering from adjacent land uses and consistent with adjacent buildings.
- (9) Minimum Setback for Garage Door Facing Alley: Not applicable.
- (10) Minimum Distance Between Buildings: Ten (10) feet.
- (11) Maximum Building Height: Thirty-five (35) feet.

(d) Development Standards.

- (1) The development shall be subject to the applicable site and design standards found in this Chapter.

**Sec. 16-2-100. - Residential Estate (R-1E).**

- (a) Intent. The Residential Estate District (R-1E) is a low-density housing district intended primarily for single-family uses on large lots. This zone is generally located away from the core community, in areas that transition to more rural, agricultural uses on the outskirts of the planning area.
- (b) Use Regulations.



## (1) Uses by Right.

- a. Accessory buildings and structures not exceeding 25% lot coverage, only one may exceed 720 square feet.
- b. Agriculture – farming, ranching, and gardening.
- c. Home occupations [in accordance with Section 16-4-210](#).
- d. Horse riding stable and grazing.
- e. Parks and open space.
- f. Public and private schools.
- g. Public buildings, including police and fire stations or government facilities, and civic facilities.
- h. Single-family detached dwellings.
- i. Solar energy systems – accessory.
- j. Solar energy systems - small.
- k. Sporting courts, tennis courts, swimming pools and other similar structures provided they are located in the rear yard of the lot.
- l. Utility facilities – minor.
- m. Wireless communication facility – ATS in right-of-way.
- n. Wireless communication facility - eligible facilities.

## (2) Conditional Uses.

- a. Accessory dwellings including caretaker units when associated with a use by right.
- b. Adult care, day care centers, and senior centers.
- c. Agriculture – other rural land uses associated with agricultural operations.
- d. Animal boarding including daycare.
- e. Any permanent accessory structure that exceeds seven hundred twenty (720) square feet per acre of land.
- f. Bed and breakfast.
- g. Childcare centers.
- h. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
- i. Group home as defined in Section 31-23-303, C.R.S.
- j. Places of worship.
- k. Public or private recreational facilities, within a building or outside.

- I. RV Parks
  - m. Solar energy systems – large.
  - n. Utility facilities – major.
  - o. Vocational/technical schools and colleges.
- (3) Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of the Residential Estates District.
- (c) Dimensional Requirements.
  - (1) Minimum Lot Area: Greater of 13,000 square feet or 4 times principal building floor area.
  - (2) Maximum Lot Coverage: 40%.
  - (3) Maximum Gross Density: Three (3) dwelling units per acre
  - (4) Minimum Lot Width: Seventy-five (75) feet.
  - (5) Minimum Front Setback: Twenty-five (25) feet.
  - (6) Minimum Side Street Setback: Fifteen (15) feet.
  - (7) Minimum Side Setback: Fifteen (15) feet.
  - (8) Minimum Rear Setback: Twenty (20) feet.
  - (9) Minimum Setback for Garage Door Facing Alley: Five (5) feet.
  - (10) Minimum Distance Between Buildings: Ten (10) feet.
  - (11) Maximum Building Height: Thirty-five (35) feet.
- (d) Development Standards.
  - (1) The development shall be subject to the applicable site and design standards found in this Chapter.

#### **Sec. 16-2-110. - Single-Family Residential (R-1).**

- (a) Intent. The Single-Family Residential District (R-1) is a low-density housing district intended primarily for single-family uses on individual lots. This zone is characterized by ~~tree-lined local streets~~, interconnected pedestrian circulation systems and proximity to schools and parks.
- (b) Use Regulations.
  - (1) Uses by Right.
    - a. Accessory buildings and structures not exceeding 40% lot coverage, only one may exceed 720 square feet.
    - b. Home occupations in accordance with Section 16-4-210.
    - c. Parks and open space.
    - d. Public and private schools.

- e. Public buildings, including police and fire stations or government facilities, and civic facilities.
- f. Single-family detached dwelling.
- g. Solar energy systems - accessory.
- ~~h. Solar energy system – small.~~
- ~~i.h.~~ Sporting courts, tennis courts, swimming pools and other similar structures provided they are located in the rear yard of the lot.
- ~~j.i.~~ Uses that are compatible or customarily incidental to any of the permitted principal uses and are located on the same lot.
- ~~k.j.~~ Utility facilities – minor.
- ~~l.k.~~ Wireless communication facility – ATS in right-of-way.
- ~~m.l.~~ Wireless communication facility – eligible facilities.

(2) Conditional Uses.

- a. Accessory dwelling including caretaker units when associated with a use by right.
- b. Adult care, day care centers, and senior centers.
- c. Any permanent accessory structure that exceeds 720 square feet.
- d. Bed and breakfast.
- e. Childcare centers.
- f. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
- g. Group home as defined in Section 31-23-303, C.R.S.
- h. Places of worship.
- i. Public and private recreational facilities, with a structure or outside.
- ~~j.~~ Public buildings, including police and fire stations or facilities, and civic facilities.
- ~~j.k.~~ Solar energy system – small.
- ~~k.l.~~ Utility facilities – major.
- ~~l.m.~~ Utility facilities – minor.
- ~~m.n.~~ Vocational/technical schools and colleges.
- ~~n.o.~~ Uses not listed as either uses by right or conditional uses that are similar to and compatible with the Single-Family Residential District.

(c) Dimensional Requirements.

- (1) Minimum Lot Area: Greater of 7,500 square feet or two (2) times principal building floor area.

- (2) Maximum Lot Coverage: 40%.
  - (3) Maximum Gross Density: ~~Five~~ (5) dwelling units per acre.
  - (4) Minimum Lot Width: Sixty (60) feet.
  - (5) Minimum Front Setback: Twenty (20) feet.
  - (6) Minimum Side Street Setback: Fifteen (15) feet.
  - (7) Minimum Side Setback: ~~Minimum Greater~~ of five (5) feet ~~plus~~ one (1) additional foot for every additional story. ~~three (3) feet of building height or fraction thereof.~~
  - (8) Minimum Rear Setback: Twenty (20) feet.
  - (9) Minimum Setback for Garage Door Facing Alley: Five (5) feet.
  - (10) Minimum Distance Between Buildings: Ten (10) feet.
  - (11) Maximum Building Height: Thirty-five (35) feet.
- (d) Development Standards.
- (1) The development shall be subject to the applicable site and design standards found in this Chapter.

### **Sec. 16-2-120. - One and Two-family Residential (R-2).**

- (a) Intent. The One and Two-Family Residential District (R-2) is intended to provide for two-family dwelling in addition to single-family detached dwelling units.
- (b) Use Regulations.
  - (1) Uses by Right.
    - a. Accessory buildings and structures not exceeding 40% total lot coverage, only one may exceed 720 square feet.
    - b. Bed and breakfast.
    - c. Home occupations in accordance with Section 16-4-210.
    - d. Parks and open space.
    - e. Public and private schools.
    - f. Public buildings, including police and fire stations or government facilities, and civic facilities.
    - g. Single-family detached dwellings.
    - h. Solar energy systems – accessory.
    - ~~i. Solar energy systems – small.~~
    - j.i. Two-family attached dwelling units
    - ~~k.i.~~ Vocational/technical schools and colleges.

~~l-k.~~ Wireless communication facility – ATS in right-of-way.

~~m-l.~~ Wireless communication facility – eligible facilities.

(2) Conditional Uses.

- a. Accessory dwelling unit or caretaker unit.
- b. Adult care, day care centers, and senior centers.
- c. Childcare centers.
- d. Cultural and educational facilities within a structure or outside.
- e. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
- f. Group home as defined by Section 31-23-303, C.R.S.
- g. Medical and dental office and medical clinics.
- h. Places of worship.
- i. Public and private recreation facilities, within a structure or outside. Sporting courts, tennis courts, swimming pools and other similar structures provided they are located in the rear yard of the lot.
- i-j. Solar energy systems – small.
- j-k. Utilities facilities - major.
- k-l. Uses not listed as either uses by right or conditional uses that are similar to other uses in the district, and that are compatible with the intent of the One and Two-Unit Residential District.

(c) Dimensional Requirements.

- (1) Minimum Lot Area: 6,250 square feet for single family dwelling, 6,000 square feet for a duplex.
- (2) Maximum Lot Coverage: 40%.
- (3) Maximum Gross Density: Seven (7) dwelling units per acre.
- (4) Minimum Lot Width: Sixty (60) feet.
- (5) Minimum Front Setback: Twenty-five (25) feet.
- (6) Minimum Side Street Setback: Fifteen (15) feet.
- (7) Minimum Side Setback: Minimum ~~Greater~~ of five (5) feet ~~plus~~ one (1) additional foot for additional story every three (3) feet of building height or fraction thereof.
- (8) Minimum Rear Setback: Twenty (20) feet.
- (9) Minimum Setback for Garage Door Facing Alley: Five (5) feet.
- (10) Minimum Distance Between Buildings: Ten (10) feet.

(11) Maximum Building Height: Thirty-five (35) feet.

(d) Development Standards.

(1) All development shall be designed to orient egress points, grading and other elements of the development to:

- a. Minimize adverse impacts on any existing or planned residential uses.
- b. Improve pedestrian or vehicle safety within the site and exiting from it.
- c. Reduce the visual intrusion of parking areas, screened storage areas, and similar accessory uses and structures.

(2) The development shall be subject to the applicable site and design standards found in the Chapter.

**Sec. 16-2-130. - Multi-Family Residential (R-3).**

(a) Intent. The Multi-Family Residential District (R-3) is intended to preserve the traditional building pattern of mixed residential development, which historically has been integrated to form a vibrant, active, and cohesive neighborhood unit. This district provides for multi-unit buildings and single family attached units with supporting accessory uses.

(b) Use Regulations.

(1) Uses by Right.

- a. Accessory buildings and structures 720 square feet or under per acre or 65% lot coverage, whichever is less.
- b. Bed and breakfast.
- c. Home occupations [in accordance with Section 16-4-210](#).
- d. Multi-family dwellings, with or without zero property lines.
- e. Parks and open space.
- f. Places of worship.
- g. Public and private schools.
- h. Public buildings, including police and fire stations or government facilities, and civic facilities.
- i. Solar energy systems – accessory.
- ~~j. Solar energy systems – small.~~
- ~~k. j.~~ Two family attached dwelling units.
- ~~l. k.~~ Utility facilities – minor.
- ~~m. l.~~ Wireless communication facility – ATS in right-of-way.
- ~~n. m.~~ Wireless communication facility – eligible facilities.

## (2) Conditional Review Uses.

- a. Adult care, day care centers, and senior centers.
- b. Childcare centers.
- c. Congregate living health facilities with no more than 6 beds.
- d. Cultural and educational facilities within a structure or outside.
- e. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
- f. Group homes as defined by Section 31-23-303, C.R.S.
- g. Medical and dental offices and medical clinics or similar medical use.
- h. Places of worship.
- h.i. Solar energy system – small.
- i.j. Sporting courts, tennis courts, swimming pools and other similar structures provided they are located in the rear yard of the lot.
- j.k. Utility facilities – major.
- k.l. Vocational/technical schools and Colleges.
- l.m. Wireless communication facility – towers.
- m.n. Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of the Multi-Family Residential District.

## (c) Dimensional Requirements.

- (1) Minimum Lot Area: 10,000 square feet.
- (2) Maximum Lot Coverage: 65%.
- (3) Maximum Gross Density: Eighteen (18) dwelling units per acre.
- (4) Minimum Lot Width: Sixty (60) feet.
- (5) Minimum Front Setback: Twenty-five (25) feet.
- (6) Minimum Side Street Setback: Greater–Minimum of fifteen (15) feet ~~plus~~ one (1) additional foot. for every additional story ~~three (3) feet of height or fraction thereof.~~
- (7) Minimum Side Setback: Minimum~~Greater~~ of five (5) feet ~~plus~~ one (1) additional foot for every additional story ~~three feet of building height or fraction thereof.~~
- (8) Minimum Rear Setback: Twenty (20) feet.
- (9) Minimum Setback for Garage Door Facing Alley: Five (5) feet.
- (10) Minimum Distance Between Buildings: Twenty (20) feet.
- (11) Maximum Building Height: Forty (40) feet.



(d) Development Standards.

- (1) All development shall be designed to orient egress points, grading and other elements of the development to:
  - a. Minimize adverse impacts on any existing or planned residential uses.
  - b. Improve pedestrian or vehicle safety within the site and exiting from it.
  - c. Reduce the visual intrusion of parking areas, screened storage areas and similar accessory uses and structures.
- (2) All improvements including buildings, walls and fences shall be so sited to complement existing development in scale and location.
- (3) The development shall be subject to the applicable site and design standards found in this Chapter.

**Sec. 16-2-140. - Manufactured Home Community District (R-M).**

- (a) Intent. The Manufactured Home Community District (R-M) is intended to be a residential district for manufactured homes including mobile homes parks and manufactured home communities, subject to the provisions of the Town's manufactured home requirements.
- (b) Use Regulations.
  - (1) Uses by Right.
    - a. Uses by Right in the R-M District are those that are authorized under a mobile home community license issued pursuant to the ordinances of the Town. The R-M District classification shall be assigned to all lands within the Town that are presently licensed.
    - b. Accessory buildings or structures 720 square feet or under per acre or 40% lot coverage, whichever is less.
    - c. Accessory structures less than one hundred twenty (120) gross square feet shall not be deemed an accessory structure within the meaning of this Article. All structures, regardless of size, must meet the dimensional requirements specified for this zone district and submit a plot plan for approval. Each manufactured home space is allowed one storage structure that shall be a minimum of one hundred and twenty (120) square feet for each manufactured home space.
    - d. Mobile homes, subject to Sec. 16-3-470. - Factory built, manufactured, and mobile homes standards
    - e. Parks and Open Space.
    - f. Single family detached dwelling.
    - g. Solar energy systems – accessory.
    - h. Wireless communication facility – ATS in right-of-way. Wireless communication facility – eligible facilities.
  - (2) Conditional Uses.

- a. Bed and breakfast.
  - b. Congregate care.
  - c. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
  - d. Group homes as defined by Section 31-23-303, C.R.S.
  - e. Places of worship.
  - f. Public buildings, including police and fire stations or government facilities, and civic facilities.
- (c) Dimensional Requirements. See also Article IV, Division 4: Manufactured Home Parks
- (1) Minimum Lot Area: Five (5) acre district and 4,000 square feet per space.
  - (2) Maximum Lot Coverage: Ten (10%) percent common area.
  - (3) Maximum Gross Density: Ten (10) units per acre for platted lots.
  - (4) Minimum Lot Width: Fifty (50) feet minimum width, eighty (80) feet minimum length.
  - (5) Minimum Setbacks: Community property line twenty (20) feet for any building or manufactured home; rear spacing twenty (20) feet when units are end-to-side, and ten (10) feet when units are end-to-end.
  - (6) Minimum Setback for Garage Door Facing Alley: Not applicable.
  - (7) Minimum Distance Between Buildings: Ten (10) feet.
  - (8) Maximum Building Height: Thirty-five (35) feet.
- (d) Development Standards. See Article IV, Division 4: Manufactured Home Parks

**Sec. 16-2-150. - Mixed Use Commercial Downtown (MU-C-D).**

- (a) Intent. The Mixed-Use Commercial-Downtown District (MU-C-D) is intended to reflect the character of the original downtown and to provide for a mixture of uses that will strengthen the core "Downtown" area. The area identified for MU-C-D is one and one-half (1 1/2) blocks on either side of State Highway 60 (Broad Street) between Alice Avenue and Kathleen Avenue. Mixed use development may include residential development, above a ground floor retail use.
- (1) Provide convenient business and other services for area residents and visitors;
  - (2) Facilitate small business development and vitality;
  - (3) Limit direct approaches onto Highway 60 unless a permit is granted by CDOT.
  - (4) Build a clear identity for Downtown Milliken that is distinct from other parts of the community.
- (b) Use Regulations
- (1) Uses by Right.

## a. Residential and Residential Related Uses.

1. Accessory buildings and structures 720 square feet or under per acre or 40% of lot coverage, whichever is less.
2. Accessory dwellings including caretaker units.
3. Adult day care, day care centers, and senior centers.
4. Bed and breakfast.
5. Home occupations [in accordance with Section 16-4-210](#).
6. Live/work residences.
7. Single-family and multi-family dwellings.
8. Two-family dwellings.
9. Single-family detached dwellings.
10. Solar energy systems – accessory.
11. Wireless communication facility – ATS in right-of-way.
12. Wireless communication facility – eligible facilities.

## b. Institutional/Civic/Public Uses:

1. Clubs and lodges operated by and for their members.
2. Cultural and educational facilities within a structure or outside.
3. Parks and open space.
4. Places of worship.
5. Public and private schools
6. Public buildings, including police and fire stations or government facilities, and civic facilities.

## c. Commercial Uses:

1. Adult care, day care centers, and senior centers.
2. Animal boarding including daycare (see conditional uses).
3. Animal clinics and veterinary facilities with or without inside boarding.
4. Bars, taverns, brew pubs, micro-breweries, and liquor stores.
5. Childcare centers.
6. Eating and drinking establishment without drive-through facilities.
7. Entertainment facilities and theaters including meeting facilities.

8. Gas stations, with and without repair and servicing facilities or car wash capabilities.
9. Hotels motels and lodges with up to 35 rooms.
10. Medical and dental offices and medical clinics.
11. Places of worship.
13. Professional Services
14. Outdoor dining areas operated in conjunction with permitted eating and drinking establishments.
15. Retail sales.
16. Single-family and multi-family dwellings in conjunction with commercial uses.
17. Workshops and custom small trades enclosed within a building.

(2) Conditional Uses.

- a. Animal boarding including day care.
- b. Auto, recreational vehicle, boat, and truck sales.
- c. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
- d. Group home as defined by Section 31-23-303, C.R.S.
- e. Medical Clinics and long-term care facilities.
- f. Utility facilities – major.
- g. Utility facilities – minor.
- h. Vocational/technical schools and colleges.
- i. Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of the Mixed Use Commercial Downtown District.

(c) Dimensional Requirements.

- (1) Minimum Lot Area: Not applicable.
- (2) Maximum Lot Coverage: 40%, except commercial use may exceed 40%. Maximum 10,000 square feet for a building footprint.
- (3) Maximum Gross Density: 2:1 floor area ratio (total floor area to total lot area).
- (4) Minimum Lot Width: Fifty (50) feet.
- (5) Minimum Front Setback: Zero (0) feet minimum, Fifteen (15) feet maximum for commercial uses. Twenty (20) feet or the average front setback of the two adjacent legal nonconforming buildings for vacant lots for residential uses.

- (6) Minimum Side Street Setback: Minimum required for sight distance triangle for commercial uses. Ten (10) feet for residential uses.
- (7) Minimum Side Setback: Zero (0) for Commercial Uses. The greater of five (5) feet or one (1) foot for every three feet of building height or fraction thereof for residential uses.
- (8) Minimum Rear Setback: Zero (0) feet, unless parking is off the alley then twenty-five (25) feet for commercial uses. Twenty (20) feet for residential uses.
- (9) Minimum Distance Between Buildings: Not applicable.
- (10) Maximum Building Height: Forty (40) feet. See Section 16-2-50(c)(2) for exceptions.

(d) Development Standards

- (1) All development shall be designed so that for the given location, egress points, grading and other elements of the development, could not be reasonably altered to:
  - a. Minimize adverse impacts on any existing or planned residential uses.
  - b. Improve pedestrian or vehicle safety within the site and exiting from it.
  - c. Reduce the visual intrusion of parking areas, screened storage areas and similar accessory uses and structures.
- (2) The development shall be subject to the design standards for building form and siting set forth in Section 16-3-475 Commercial and Industrial Building Types and Locations; Section 16-3-480 General Provisions.
- (3) All improvements including buildings, walls and fences shall be so sited to:
  - 1. Complement existing development in scale and location.
  - 2. Provide sidewalks as specified in the Subdivision Standards or an off-road system of pedestrian and bicycle trails of greater than five (5) feet in width.
  - 3. Create pocket parks or green spaces that at a minimum provide seating and landscaping.
  - 4. Entrances to buildings shall be designed to ensure smooth and safe pedestrian circulation, and ease of snow removal.
  - 5. Loading and unloading facilities shall be located in the rear of buildings and shall be screened from public view.
  - 6. Buildings shall be designed to minimize snow shedding and runoff onto pedestrian areas and public ways.
  - 7. Driveways crossing sidewalks on arterial streets may serve parking and loading areas only, but shall not serve any drive-in, drive-through or auto service facility.
- (4) With respect to the mix of uses downtown, Milliken's historic buildings have established a pattern of development. Buildings are located close to the sidewalk, forming a continuous street facade. Pedestrian movement is the primary focus. Building height, architectural

details, front setbacks, parking location, wall articulation and sidewalks establish the architectural edge that defines this area as a walkable commercial corridor.

### **Sec. 16-2-160. - Neighborhood Commercial District (C-1).**

(a) Intent. The Neighborhood Commercial District (C-1) is a commercial zoning district intended to establish and preserve areas for office uses and related commercial goods and services.

(b) Use Regulations.

(1) Uses by Right.

a. Accessory buildings and structures 720 square feet or under per acre or 40% lot coverage whichever is less.

~~b. Clubs and lodges operated by and for their members.~~

~~c.b.~~ Contractor trades with no outside storage.

~~d.c.~~ Eating and drinking establishments without drive-up facilities.

~~e.d.~~ Offices.

~~f.e.~~ Professional Services.

~~g.f.~~ Parks and Open Space.

~~h.g.~~ Places of worship.

~~i.h.~~ Public and private schools

~~j.i.~~ Public buildings, including police and fire stations or government facilities, and civic facilities.

~~k.j.~~ Public or private recreational facilities, within a structure or outside.

~~l. Retail sales and services.~~

~~m.k.~~ Solar energy system – accessory.

~~n. Solar energy system – small.~~

~~o.l.~~ Uses that are compatible or customarily incidental to any of the permitted principal uses and are located on the same lot.

~~p.m.~~ Utility facilities – minor.

~~q.n.~~ Vocational/technical schools and colleges.

~~r.o.~~ Wireless communication facility – ATS in right-of-way.

~~s.p.~~ Wireless communication facility – eligible facilities. Workshops and custom small industry uses enclosed within a building or structure.

(2) Conditional Uses.

a. Bed and breakfast.

b. Clubs operated by and for their members.

- c. Commercial mineral extraction activities and sales, as restricted.
- d. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
- e. Group homes, as defined in Section 31-23-303, C.R.S.
- f. Hospitals and long-term care facilities including assisted living.
- g. Light manufacturing.
- h. Medical and dental offices and medical clinics or similar medical use.
- i. Outdoor storage of materials, no more than 10% of lot area.
- j. Retail sales and services.
- i.k. Solar energy systems – small.
- j.l. Utility facilities – major.
- k.m. Wireless communication facility – towers.
- l.n. Uses not listed as either uses by right or conditional uses that are similar to other uses in the district, and that are compatible with the intent of the Neighborhood Commercial District.

(c) Dimensional Requirements.

- (1) Minimum Lot Area: Two (2) times the combined ground floor level of all principal and accessory buildings.
- (2) Maximum Lot Coverage: 50~~85~~%.
- (3) Maximum Gross Density: 2:1 floor area ratio.
- (4) Minimum Lot Width: Sixty (60) feet.
- (5) Minimum Front Setback: Twenty-five (25) feet.
- (6) Minimum Side Street Setback: Fifteen (15) feet.
- (7) Minimum Side Setback: Ten (10) feet unless adjacent to a residential use.
- (8) Minimum Rear Setback: Ten (10) feet unless adjacent to a residential use.
- (9) Minimum Setback for Garage Door Facing Alley: Twenty-five (25) feet if alley loaded parking is provided.
- (10) Minimum Distance Between Buildings: Ten (10) feet unless adjacent to a residential use.
- (11) Maximum Building Height: Thirty-five (35) feet.

(d) Development Standards.



- (1) All development shall be designed so that for the given location, egress points, grading and other elements of the development, could not be reasonably altered to minimize adverse impacts on any existing or planned residential uses.
- (2) All development shall be designed to improve pedestrian or vehicle safety within the site and exiting from it.
- (3) The development shall be subject to the design standards for building form and siting set forth in Section 16-3-475. Commercial and Industrial Building Types and Locations; and Section 16-3-480 General Provisions.

**Sec. 16-2-170. - Service Business District (C-4).**

- (a) Intent. The Service Business District (C-4) is a commercial zone district intended to establish and preserve areas for more intense commercial and wholesale uses, including automobile-related service and sales.
- (b) Use Regulations.
  - (1) Uses by Right.
    - a. Accessory buildings or structures 720 square feet or under per acre or 40% of lot coverages whichever is less.
    - b. Adult care, day care center, and senior centers.
    - c. Animal clinics and veterinary facilities with no boarding.
    - d. Auto, recreational vehicle, boat, and truck sales.
    - e. Auto repair/service, and auto body and paint shops.
    - f. Bars, taverns, brew pubs, micro-breweries, and liquor stores.
    - g. Childcare centers.
    - h. Eating and drinking establishments
    - i. Cultural and educational facilities within a structure or outside.
    - j. Entertainment facilities and theaters including meeting facilities.
    - k. Gas stations, with or without repair and servicing facilities or car wash capabilities.
    - l. Hospitals and long-term care facilities including nursing homes and assisted living.
    - m. Hotels, motels, and lodges over thirty-five (35) rooms.
    - n. Light manufacturing and assembly.
    - o. Lumber yard and building supply facilities, including screened outdoor storage.
    - p. Manufacturing – light.
    - q. Medical and dental offices and medical clinics or similar medical use.
    - r. Mini-storage facilities.

- s. Parks and Open Space.
- t. Places of worship.
- u. Professional Services
- v. Professional trade, and contractor/trade services including the rental of tools, equipment, and vehicles.
- w. Public and private schools
- x. Public buildings, including police and fire stations or facilities, and civic facilities.
- y. Public or private recreational facilities, within a structure or outside.
- z. Congregate living health facilities with no more than 6 beds.
- aa. Restaurants, including drive-in or drive through.
- bb. Retail sales.
- cc. Solar energy systems – accessory.
- dd. Solar energy systems - small.
- ee. Utility facilities – major.
- ff. Utility facilities – minor.
- gg. Vocational/technical schools and Colleges.
- hh. Wireless communication facility – ATS in right-of-way.
- ii. Wireless communication facility – eligible facilities.
- jj. Workshops and custom small trades enclosed within a building or structure.
- kk. Uses that are compatible or customarily incidental to any of the permitted principal uses and are located on the same lot.

(2) Conditional Uses.

- a. Accessory dwelling unit or caretaker unit.
- b. Animal boarding including daycare.
- c. Congregate care.
- d. Commercial mineral extraction activities and sales, as restricted
- e. Food and beverage processing.
- f. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
- g. Group homes, as defined in Section 31-23-303, C.R.S.
- h. Horse riding stables and grazing.

- i. Horse arenas.
- j. Indoor gun ranges, public or private.
- k. Outdoor storage of materials, no more than ten (10%) percent of lot area.
- l. RV Parks
- m. Wholesale merchandise establishments.
- n. Wireless communication facility – towers.
- o. Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of the Service Business District.

(c) Dimensional Requirements.

- (1) Minimum Lot Area: As needed to support proposed development and required onsite improvements such as landscaping, parking, etc.

~~(2) Maximum Lot Coverage: 85%.~~

~~(3)(2)~~ Maximum Gross Density: Not applicable.

~~(4)(3)~~ Minimum Lot Width: Sixty (60) feet.

~~(5)(4)~~ Minimum Front Setback: Twenty-five (25) feet.

~~(6)(5)~~ Minimum Side Street Setback: Fifteen (15) feet.

~~(7)(6)~~ Minimum Side Setback: Ten (10) feet unless adjacent to a residential use.

~~(8)(7)~~ Minimum Rear Setback: Zero (0) feet unless adjacent to a residential use.

~~(9)(8)~~ Minimum Setback for Garage Door Facing Alley: Not applicable.

~~(10)(9)~~ Minimum Distance Between Buildings: Per building code.

~~(11)(10)~~ Maximum Building Height: Forty (40) feet.

(d) Development Standards.

- (1) Entrances to buildings shall be designed to ensure smooth and safe pedestrian circulation, and ease of snow removal.
- (2) Loading and unloading facilities shall be located in the rear of buildings and shall be screened from public view.
- (3) All activities shall be wholly contained within buildings, except for access, parking, loading and if screened by sight or plantings.
- (4) All development shall be designed so that for the given location, egress points, grading and other elements of the development could not be reasonably altered to:
  - a. Reduce the number of access points onto an arterial or collector street.
  - b. Minimize adverse impacts on any existing or planned residential uses.
  - c. Improve pedestrian or vehicle safety within the site and exiting from it.

- d. Reduce the visual intrusion of parking areas, screened outdoor storage areas and similar accessory areas and structures.
- e. The development shall be subject to the design standards for building form and siting set forth in Section 16-3-475 Commercial and Industrial Building Types and Locations; Section 16-3-480 General Provisions.

**Sec. 16-2-180. - Special Business District (C-5).**

(a) Intent. The Special Business District (C-5) is a special business zoning district intended to establish and preserve areas for adult-oriented uses and marijuana related business as defined in Section 16-7-150 within the Town of Milliken.

(b) Use Regulations.

(1) Uses by Right.

- a. Accessory buildings or structures under 720 square feet or 40% lot coverages whichever is less.
- b. Medical marijuana centers, medical marijuana optional premises cultivation operations, medical marijuana infused product manufacturers, and medical marijuana testing facilities.
- c. Parks and open space.
- d. Professional trade and contractor/trade services including related outdoor storage of equipment, materials, and vehicles.
- e. Public and private recreational facilities, within a structure or outside.
- f. Retail marijuana stores, retail marijuana cultivation facilities, retail marijuana product manufacturing facilities, and retail marijuana testing facilities.
- g. Solar energy systems – accessory.
- h. Solar energy systems – small.
- i. Uses that are compatible or customarily incidental to any of the permitted.
- j. Wireless communication facility – ATS in right-of-way.
- k. Wireless communication facility – base stations, ATS.
- l. Wireless communication facility – eligible facilities.

(2) Conditional Uses.

- a. Accessory dwelling unit or caretaker unit.
- b. Establishments which are operated for and open to the public in which persons who are engaged in adult-oriented uses defined in [Section 16-1-150 Article VIII](#) and include persons who are engaged in sexually related activities and/or who are partially nude or appear nude and/or products offered for sale as a substantial portion of the business (10% of gross sales or 10% of gross floor area) are for the purpose of providing sexually related entertainment to the patrons.

- c. Implementation of Adult Oriented Business. At such time as a petition requesting a change of zoning to the C-5 Zone District is submitted to the Town for processing, the Planning Commission shall recommend and the Board of Trustees shall review, revise and adopt as appropriate, regulations which are not tantamount to a complete prohibition of such operations. Such regulations may include addressing the following issues if not already completely pre-empted by the statutes and regulations adopted by the State:
  - 1. Minimum age requirements for admittance to, management and employees of such establishments;
  - 2. Limitations on the hours during which such establishments may be open for business;
  - 3. Restrictions on the location of such establishments with regard to schools, places of worship, and residential areas; and
  - 4. Regulations which ensure the health and safety of the employees and customers of the business.
- d. RV Parks
- e. Outdoor storage of materials, no more an 10% of lot area.
- f. Self-storage facilities.
- g. Wireless communication facility – towers.
- h. Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of the Special Business District.

(c) Dimensional Requirements.

(1) Minimum Lot Area: Must meet all other standards.

~~(2) Maximum Lot Coverage: 85%.~~

~~(3)(2)~~ Maximum Gross Density: Not applicable.

~~(4)(3)~~ Minimum Lot Width: Sixty (60) feet.

~~(5)(4)~~ Minimum Front Setback: Twenty-five (25) feet.

~~(6)(5)~~ Minimum Side Street Setback: Fifteen (15) feet.

~~(7)(6)~~ Minimum Side Setback: Ten (10) feet unless adjacent to a residential use. See (Sec. 16-3-315. - Amount of landscaping required and Table 16-2.C: Summary of Landscaping Requirements by Use Type.

~~(8)(7)~~ Minimum Rear Setback: Zero (0) feet unless adjacent to a residential use. See (Sec. 16-3-315. - Amount of landscaping required and Table 16-2.C: Summary of Landscaping Requirements by Use Type.

~~(9)(8)~~ Minimum Setback for Garage Door Facing Alley: Not applicable.

~~(10)(9)~~ Minimum Distance Between Buildings: Per building code.

~~(11)~~(10) Maximum Building Height: Forty (40) feet.

(d) Development Standards.

- (1) The development shall be subject to the design standards for building form and siting set forth in Section 16-3-475 Commercial and Industrial Building Types and Locations; Section 16-3-480 General Provisions.

**Sec. 16-2-190. - Light Industrial District (I-1).**

- (a) Intent. The Light Industrial District (I-1) is intended to provide locations for a variety of light industrial uses, research and development facilities, offices, and institutions.

(b) Use Regulations.

- (1) Uses by Right. The following uses by right are allowed in the I-1 district, provided that outside storage and activity areas, other than employee and visitor parking or loading areas, do not exceed fifty (50%) percent.

- a. Agriculture – education or research related to agriculture, horticulture, and animal sciences.
- b. Agriculture – keeping and grazing livestock.
- c. Animal boarding, including kennels.
- d. Animal clinics and veterinary facilities with boarding.
- e. Childcare centers, public or private spaces.
- f. Auto, recreational vehicle, boat, and truck sales including repair stations.
- g. Autobody and paint shops.
- h. Educational or research facilities.
- i. Food and beverage processing.
- j. Gas stations, with or without repair and servicing facilities or car wash capabilities.
- k. Light manufacturing and assembly.
- l. Lumberyards and building supply facilities, including outdoor storage.
- m. Mini-storage facilities.
- n. Nursery or tree farm.
- o. Outdoor storage of materials, screened from view~~no more than ten (10%) percent of lot area.~~
- p. Parks and Open Space.
- q. Places of worship.
- r. Production, fabrication, or assembly activities, including oil and gas services and repair facilities.

- s. Professional trade, and contractor/trade services including related outdoor storage of equipment, materials, and vehicles.
- t. Public buildings, including police and fire stations or facilities, and civic facilities.
- u. Public or private recreational facilities, within a structure or outside.
- v. Rental of tools, equipment, and vehicles.
- w. Research and development.
- x. RV Parks
- y. RV sales, service, and storage.
- z. Sale and repair of farm machinery and diesel trucks and buses.
- aa. Self-storage facilities.
- bb. Solar energy systems – accessory.
- cc. Solar energy systems - small.
- dd. Transportation terminals and trucking.
- ee. Uses that are compatible or customarily incidental to any of the permitted principal uses and are located on the same lot.
- ff. Utility facilities – minor.
- gg. Vocational/technical schools and Colleges.
- hh. Wholesale merchandise establishments.
- ii. Wireless communication facility – ATS in right-of-way.
- jj. Wireless communication facility – base stations, ATS.
- kk. Wireless communication facility - tower.
- ll. Workshops and custom small industry uses enclosed within a building or structure.
- mm. Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of this district.

(2) Conditional Uses.

- a. Accessory dwelling unit or caretaker unit.
- b. Cemetery.
- c. Congregate living health facilities with no more than six (6) beds.
- d. Commercial mineral extraction activities, as restricted.
- e. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
- f. Indoor gun ranges, public or private.

- g. Outdoor gun ranges, public or private.
- h. Public and private schools
- i. Solar energy systems – large.
- j. Wireless communication facility – towers.
- k. Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of the Light Industrial District.

(c) Dimensional Requirements.

- (1) Minimum Lot Area: As needed to support the proposed development and all required onsite improvements.
- (2) Maximum Lot Coverage: 85%.
- (3) Maximum Gross Density: Not applicable.
- (4) Minimum Lot Width: Sixty (60) feet.
- (5) Minimum Front Setback: Thirty (30) feet, unless adjacent to major arterial then fifty (50) feet.
- (6) Minimum Side Street Setback: Thirty (30) feet, unless adjacent to major arterial then fifty (50) feet.
- (7) Minimum Side and Rear Setback: Zero (0) feet unless adjacent to a residential use. When adjacent to a residential use or zoning district, the required side or rear yards shall be twice the height of the building on the lot, or twenty-five (25) feet, whichever is greater.
- (8) Minimum Setback for Garage Door Facing Alley: Not applicable.
- (9) Minimum Distance Between Buildings: Per building code.
- (10) Maximum Building Height: Not applicable.

(d) Development Standards.

- (1) Entrances to buildings shall be designed to ensure smooth and safe pedestrian circulation, and ease of snow removal.
- (2) Loading and unloading facilities shall be located in the rear of buildings and shall be screened from public view.
- (3) Buildings shall be designed to minimize snow shedding and runoff onto pedestrian areas and public ways.
- (4) Driveways crossing sidewalks on arterial streets may serve parking and loading only, but may not serve any drive-in, drive-through or auto service facility.
- (5) All activities shall be wholly contained within buildings except for access, parking, loading and if screened by sight impervious fencing or plantings, storage, and refuse containers.



- (6) 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:
- a. Parking spaces and structures for the use of employees and customers and for the loading and parking of delivery vehicles.
  - b. Accessory buildings for the storage of supplies and materials used by employees.
  - c. Accessory buildings for the housing of guards, night watchmen or maintenance personnel.
- (7) The development shall be subject to the design standards for building form and siting set forth in Section 16-3-475 Commercial and Industrial Building Types and Locations; Section 16-3-480 General Provisions.

**Sec. 16-2-200. - Medium Industrial District (I-2).**

- (a) Intent. The Medium Industrial District (I-2) is intended to provide a location for a variety of medium industrial uses, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations including close proximity to rail and major transportation corridors.
- (b) Use Regulations.
- (1) Uses by Right.
- a. Accessory buildings or structures 720 square feet or under per acre or 40% lot coverages whichever is less.
  - b. Agriculture – central farm distribution hub for agricultural products.
  - c. Agriculture including farming, ranching, and gardening.
  - d. Animal clinics and veterinary facilities with no boarding.
  - e. Auto, recreational vehicle, boat, and truck sales, with or without repair facilities.
  - ~~f. Auto, recreational vehicle, boat, and truck sales including repair stations.~~
  - ~~g.f.~~ Autobody and paint shops.
  - ~~h.g.~~ Bars, taverns, brew pubs, micro-breweries, and liquor stores.
  - ~~i.h.~~ Educational or research facilities.
  - ~~j. Food and beverage processing.~~
  - ~~k.i.~~ Farming, ranching, and gardening.
  - ~~l.j.~~ Food and beverage processing.
  - ~~m. Garage, private.~~
  - ~~n.k.~~ Gas stations, with or without repair and or car wash capabilities.
  - ~~o.l.~~ General services including repair.

- ~~p-m.~~ Light manufacturing.
- ~~q-n.~~ Lumberyards and building supply facilities including outdoor storage.
- ~~r-o.~~ Machine shops.
- ~~s-p.~~ Outdoor storage of materials, screened from view~~no more than ten (10%) percent of lot area.~~
- ~~t-g.~~ Parks and open space.
- ~~u-r.~~ Professional trade, and construction contractor services including related outdoor storage of equipment, materials, and vehicles.
- ~~v-s.~~ Public buildings, including police and fire stations or facilities, and civic facilities.
- ~~w-t.~~ Railroad yards and stations.
- ~~x-u.~~ Recreational facilities, dining facilities, and personal and professional services as an accessory use incidental to the primary use of the parcel.
- ~~y-v.~~ Recycling facilities.
- ~~z-w.~~ Rental of tools, equipment, and vehicles.
- ~~aa-x.~~ Restaurants, drive-in or drive through.
- ~~bb-y.~~ Eating and drinking establishments
- ~~cc-z.~~ RV sales, service, and storage.
- ~~dd-aa.~~ Sale and repair of farm machinery and diesel trucks and buses.
- ~~ee-bb.~~ Self-storage facilities.
- ~~ff-cc.~~ Storage facilities.
- ~~gg-dd.~~ Research and development.
- ~~hh-ee.~~ Solar energy systems – accessory
- ~~ii-ff.~~ Solar energy systems - small.
- ~~jj-gg.~~ Transportation headquarters, with incidental repair and servicing facilities.
- ~~kk-hh.~~ Transportation terminals and trucking.
- ~~ll-ii.~~ Truck stop.
- ~~mm-jj.~~ Utility Facilities – minor.
- ~~nn-kk.~~ Utility Facilities – major.
- ~~oo-ll.~~ Uses that are compatible or customarily incidental to any of the permitted principal uses and are located on the same lot.
- ~~pp-mm.~~ Warehousing and distribution facilities with outside storage.
- ~~qq-nn.~~ Wholesale merchandise establishments.

~~ff-oo.~~ Wireless communication facility – ATS in right-of-way.

~~ss-pp.~~ Wireless communication facility – base stations, ATS.

~~tt-qq.~~ Wireless communication facility – eligible facilities.

~~uu-rr.~~ Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of this district.

(2) Conditional Review Uses.

- a. Above ground storage tanks for liquefied petroleum gas.
- b. Accessory dwelling unit or caretaker unit.
- c. Agriculture – concentrated animal feeding operations (CAFO).
- d. Airports and airstrips.
- e. Animal boarding including daycare.
- f. Cemetery.
- g. Congregate care.
- h. Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).
- i. Grain feed elevators, Homeland Security inspection required.
- j. Indoor gun ranges, public or private.
- k. Outdoor gun ranges, public or private.
- l. Production, fabrication, or assembly activities including oil and gas services and repair facilities.
- m. RV Parks.
- n. Sanitary landfill/transfer stations.
- o. Solar energy systems – large.
- p. Wireless communication facility – tower.
- q. Uses not listed as either uses by right or conditional uses that are similar to and compatible to the intent of the Medium Industrial District.

(c) Dimensional Requirements.

- (1) Minimum Lot Area: As needed to support the proposed development and all required onsite improvements.
- (2) Maximum Lot Coverage: 85%.
- (3) Maximum Gross Density: Not applicable.
- (4) Minimum Lot Width: Sixty (60) feet.

(5) Minimum Front Setback: Thirty (30) feet, unless adjacent to major arterial then fifty (50) feet.

(6) Minimum Side Street Setback: Thirty (30) feet, unless adjacent to major arterial then fifty (50) feet.

(7) Minimum Side and Rear Setback: Zero (0) feet unless adjacent to a residential use. When adjacent to a residential use or zoning district, the required side or rear yards shall be twice the height of the building on the lot, or twenty-five (25) feet, whichever is greater.

(8) Minimum Distance Between Buildings: Per building code.

(9) Maximum Building Height: Not applicable.

(d) Development Standards

(1) Land in this 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:

- a. Parking spaces and structures for the use of employees and customers and for the loading and parking of delivery vehicles.
- b. Accessory buildings for the storage of supplies and materials used by employees.
- c. Accessory buildings for the housing of guards, night watchmen or maintenance personnel.

**Sec. 16-2-210. - Heavy Industrial District (I-3).**

(a) Intent. The Heavy Industrial District (I-3) is intended to provide a location for a variety of heavy industrial uses.

(b) Use Regulations

(1) Uses by Right.

- a. Agriculture – central farm distribution hub for agricultural products.
- b. Agriculture – education or research related to agriculture, horticulture, and animal sciences.
- c. Agriculture including farming, ranching, or gardening.
- d. Animal boarding, including kennels.
- e. Animal boarding, including kennels, as restricted and veterinary clinics.
- f. Animal clinics and veterinary facilities with no boarding.
- g. Auto, recreational vehicle, boat, and truck sales.
- h. Auto, recreational vehicle, boat, and truck sales including repair stations, including RV sales, service, and storage.
- i. Autobody and paint shops.

- j. Cemeteries.
- k. Food and beverage processing.
- l. Gas stations, with or without repair and servicing facilities or car wash capabilities.
- m. Indoor storage facilities.
- n. Lumberyards.
- o. Machine shops.
- p. Mini-storage facilities.
- q. Nursery or tree farm.
- ~~r. Processing, disposal, storage, or manufacture of any chemical or any other product requiring precautions.~~
- ~~s.r.~~ Production, fabrication, or assembly activities, including oil and gas services and repair facilities.
- ~~t.s.~~ Professional trade, and construction contractor services including related outdoor storage of equipment, materials, and vehicles.
- ~~u.t.~~ Public buildings, including police and fire stations or facilities, and civic facilities.
- ~~v.u.~~ Public or private recreational facilities, within a structure or outside.
- v. Public schools and public school extension classes.
- w. Outdoor storage if screened from street view.
- x. Railroad yards and stations.
- y. Recreational facilities, dining facilities, and personal and professional services as an accessory use incidental to the primary use of the parcel.
- z. Recycling facilities.
- aa. Rental of tools, equipment, and vehicles.
- bb. Research and development.
- cc. Restaurants, drive-in or drive through.
- dd. RV sales, service, and storage.
- ee. Retail marijuana stores, cultivation facilities, product manufacturing facilities, and testing facilities including a combination of such uses or dual operation with retail marijuana establishments.
- ff. Sale and repair of farm machinery and diesel trucks and buses.
- gg. Small equipment repair facilities.
- hh. Solar energy systems – accessory.
- ii. Solar energy systems – large.

- jj. Solar energy systems – small.
- kk. Transportation headquarters, with incidental repair and servicing facilities.
- ll. Transportation terminals and trucking.
- mm. Uses that are compatible or customarily incidental to any of the permitted principal uses and are located on the same lot.
- nn. Utility facilities – major.
- oo. Utility facilities – minor.
- pp. Veterinary facilities, large animal clinics.
- qq. Veterinary facilities, small animal clinics.
- rr. Vocational/technical schools and college.
- ss. Warehousing and distribution facilities with outside storage.
- tt. Wholesale merchandise establishments.
- uu. Wireless communication facility – ATS in right-of-way.
- vv. Wireless communication facility – base stations, ATS.
- ww. Wireless communication facility – eligible facilities.
- xx. Workshops and custom small industries.
- yy. Uses not listed as either uses by right or conditional uses that are similar to and compatible with the intent of this district.

(2) Conditional Review Uses.

- a. Above ground storage tanks for liquefied petroleum gas.
- b. Accessory dwelling unit or caretaker unit.
- c. Agriculture including farming, ranching, and gardening.
- d. Agriculture-Concentrated animal feeding operations (CAFO).
- e. Airports and airstrips.
- f. Animal boarding including day care.
- g. Veterinary facilities with boarding.
- ~~h. Above ground storage tanks for liquefied petroleum gas.~~
- ~~i-h.~~ Auto wrecking, junk yards, or salvage yards. Such uses shall be screened from view.
- ~~j-i.~~ Cemetery.
- ~~k-j.~~ Chemicals or any other product requiring precautions – processing, disposal, storage, or manufacture.

~~l.k.~~ Explosives, manufacturing, or storage.

~~m.l.~~ Commercial mineral extraction activities and sales, as restricted.

~~n.m.~~ Facilities for the manufacturing and storage of explosives.

~~o.n.~~ Foundries.

~~p.o.~~ Gas, oil, and other hydrocarbon well drilling and production (subject to state and local regulations).

~~q.p.~~ Grain feed elevators.

~~r.q.~~ Indoor gun ranges, public or private.

~~s.r.~~ Outdoor gun ranges, public or private.

~~t.~~ Outdoor storage if screened from street view and does not occupy more than 50% of the lot.

~~u.~~ Outdoor storage of materials, no more than 10% of lot area.

~~v.s.~~ Petroleum refining or processing and storage.

~~w.t.~~ Signs not meeting the requirements of Article VII of this Chapter.

~~x.u.~~ Sanitary landfills/transfer stations.

~~y.v.~~ Solar energy systems – large.

~~z.w.~~ Solar energy systems – small.

~~aa.x.~~ Transmission or Radio towers over forty (40) feet in height.

~~bb.y.~~ Wireless communication facility – towers.

~~cc.z.~~ Other uses as determined similar and compatible with the zoning district.

~~dd.aa.~~ Uses not listed as either uses by right or conditional uses that are similar to and compatible with other uses in the Heavy Industrial District.

(c) Dimensional Requirements.

(1) Minimum Lot Area: Must meet all other standards.

(2) Maximum Lot Coverage: 85%.

(3) Maximum Gross Density: Not applicable.

(4) Minimum Lot Width: Sixty (60) feet.

(5) Minimum Front Setback: Thirty (30) feet, unless adjacent to major arterial then fifty (50) feet.

(6) Minimum Side Street Setback: Thirty (30) feet, unless adjacent to major arterial then fifty (50) feet.

- (7) Minimum Side Setback: Zero (0) feet unless adjacent to a residential use. When adjacent to a residential use or zoning district, the required side or rear yards shall be twice the height of the building on the lot, or twenty-five (25) feet, whichever is greater.
- (8) Minimum Distance Between Buildings: Per building code.
- (9) Maximum Building Height: Not applicable.

(d) Development Standards.

- (1) 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 buildings and structures in industrial districts shall include:
  - a. Parking spaces and structures for the use of employees and customers and for the loading and parking of delivery vehicles.
  - b. Accessory buildings for the storage of supplies and materials used by employees.
  - c. Accessory buildings for the housing of guards, night watchmen or maintenance personnel.

**Sec. 16-2-220. - Planned Development or Planned Unit Development District (PUD).**

- (a) Intent. The Planned Development or Planned Unit Development District (PUD) is intended to permit and encourage the development of a unique and truly innovative project, constructed within a reasonable period of time in relation to the project's size and scope, and which benefits the Town economically. The PUD District is intended to:
  - (1) Allow and encourage compatible uses to be developed in accordance with an overall development plan in harmony with the environment and surrounding neighborhood;
  - (2) Permit a developer to propose a total development plan which can be considered as to its overall merits under a unified development plan;
  - (3) Allow for innovations in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety of types, design and layout of buildings and the conservation and more efficient use of open space ancillary to said buildings;
  - (4) Encourage a diversity of housing types while maintaining high quality living environments;
  - (5) Provide a mix of retail, office, employment, civic, and recreation uses conveniently located to housing;
  - (6) Lessen the burden of traffic on streets and highways by encouraging land uses which decrease trip length;
  - (7) Provide flexibility in land use regulations by allowing for the consolidation of the platting and rezoning procedures;
  - (8) Facilitate use of the most appropriate design and construction techniques in the development of land; and.
  - (9) Encourages integrated community planning and development.



- (b) The Planned Unit Development (PUD) is established as a zone district to provide greater flexibility in land development and use by allowing an applicant to propose specific use entitlements and development standards based upon a comprehensive, integrated, plan rather than upon development constraints as applicable to standard zone districts. The PUD involves a particular land area, and is a master planned development therefore development standards, dimensional requirements and permitted uses may be negotiated that are different from those set forth in this Chapter, and such different standards, dimensional requirements and uses, as negotiated, shall be allowed as set forth in the Master Development Plan (MDP) and Final Development Plan (FDP) pursuant to the Planned Unit Development Act of 1972, appearing as Article 67 of Title 24, C.R.S., as amended. Jurisdiction.
- (c) Each Master Development Plan shall include a minimum of fifteen percent (15%) open space.
- (d) This Chapter shall apply to and govern all PUD applications submitted after the effective date hereof which relate to and include lands located within the legal boundaries of the town. The provisions of this section may also be applied to PUD applications for lands which are located outside of the town but which are proposed to be annexed to the town, as permitted by Section 31-12-115, C.R.S.
- (e) Coordination with Other Codes, Regulations, and Plans.
- (1) ~~Approval of a PUD Master Development Plan (hereinafter referred to as "MDP") by the Board of Trustees shall constitute the zone designation. If the time limits, as spelled out in the development schedule expire and no time extensions for the Final Development Plan (hereinafter referred to as "FDP") are approved, then the Board of Trustees, in its sole discretion, may terminate the MDP and may record a resolution with the Weld County Clerk and Recorder evidencing such termination. Upon such termination, the MDP shall be deemed to have been expired and cease to exist as it relates to all lands within the development for which a final plat and FDP have not been approved (undeveloped lands). Despite such expiration, the zoning of undeveloped lands shall remain the same as it existed under the MDP, and except no further permits or approvals, including but not limited to FDP, final plat, or building permit approvals, shall be granted by the town in connection with the undeveloped lands unless and until the town has approved a new or amended development plan for the undeveloped lands or a portion thereof. The MDP shall continue to exist and apply to all parts of the development other than the undeveloped lands.~~
- (2) ~~Upon approval of the MDP, the PUD shall be given an ordinance number and its geographical area outlined on an overlay sheet constituting part of the Official Zoning Map of the town. This overlay designation and ordinance number shall continue until the development schedule in the MDP expires as provided above or is extended or amended or completed. Upon completion of any PUD project, the designation shall stand unless changed and all documents shall be kept on file for reference.~~
- (3)(2) Land use and development within any PUD approved pursuant to these regulations shall be controlled by the provisions of the approved PUD MDP and FDP. Specific maps and documents detailing negotiated items and other matters related to these approved plans shall be recorded with the Weld County Clerk and Recorder and duplicate files of said plans and documents kept ~~on file for ready reference~~ in the administrative offices of the Town Clerk.

~~(4)~~(3) Subdivision Regulations. The provisions of these regulations concerning PUD's are not intended to eliminate or replace the requirements applicable to the subdivision of land or airspace, as defined in state statutes and the codes and regulations of the Town. The uniqueness of each PUD may require that specifications for the width and surfacing of streets, public ways, public utility rights-of-way, curbs, and other standards may be subject to modifications from the specifications established in the Design Criteria and Construction Standards and subdivision regulations adopted by the town, if the reasons for such exceptions are well documented. Modifications ~~may be incorporated only with~~shall be the approved ~~by~~of the Planning Commission and the Board of Trustees as a part of its review of the FDP and development agreement ~~for a PUD~~ and shall conform to acceptable engineering, architectural and planning principles, and practices. It is the intent of this chapter that any subdivision review under the subdivision regulations be carried out either:

- a. Subsequent to the approval of an MDP; or
  - b. Simultaneously with the review of an FDP under this section; or
  - c. Within the time frame specified in the development schedule included in the approved MDP and FDP.
- (f) Permitted Uses.
- (1) No PUD shall be approved by the Planning Commission or the Board of Trustees unless the PUD is found to be in substantial conformance with the adopted Comprehensive Plan.
- (g) PUD Restrictions and General Requirements. Properties utilizing the PUD District shall be subject to the following:
- (1) All PUD applications shall include a gross land area of not less than 10 acres.
  - (2) The density and/or intensity of the proposed development shall be based on the capacity of the land ~~proposed for development~~ to support the PUD as well as the impact of the ~~proposed~~ development on Town services and facilities, and on neighboring property that reasonably could be impacted by the ~~proposed~~ development. Capacity of the land shall be determined based on the size, topography and geological and environmental limitations of the ~~land~~ proposed ~~for~~ development.
  - (3) The area of land for the PUD may be controlled by one (1) or more landowners and must be developed under unified control as outlined in the Master Development Plan.
- (h) Areas designated as private streets and/or common open space including land, an area of water or a combination of land and water within the site designated for a PUD shall be designed and intended primarily for the use or enjoyment of residents, occupants and owners of the PUD and provisions shall be made for the establishment of an organization for the ownership and maintenance of such private streets and/or common open space areas unless other adequate arrangements for the ownership and maintenance thereof are provided in a manner acceptable to the Town.
- (i) All requirements set forth in this Code otherwise applicable to the area of land proposed for a PUD shall govern, except to the extent that the Master Development Plan for residential, commercial, educational, recreational or industrial uses or any combination thereof may propose exceptions in lot size, bulk, type of use, density, lot coverage, open space or other

standards within the existing land use regulations, except those development standards that are not open to modification (see Section 16-4-520 of this Code).

- (j) Dimensional Requirements. As determined in the approved PUD.

**Sec. 16-2-230. - Hillside/Ridgeline Protection Overlay District (HSP).**

- (a) Intent and Purpose. The Hillside/Ridgeline Protection Overlay District (HSP) is intended to be an overlay zone district to allow low-intensity residential development that address concerns for public health and safety and conserves natural features.
- (b) Uses Permitted. Buildings, structures, and land shall be used, and buildings and structures shall hereafter be erected, designed, structurally altered or enlarged, within the HSP Overlay District as allowed in the underlying zone district, subject to compliance with the design criteria and standards contained in this Section. Appropriate uses include:
- (1) Residential dwelling units
  - (2) Low intensity agricultural uses.
  - (3) Passive recreational uses are also appropriate for this zone.
- (c) Environmental Conditions.
- (1) Existing Natural Characteristics. The area included in the hillside/ ridgeline protection zone encompasses a substantial amount of the Town's undeveloped hillsides and ridgelines that overlook the Thompson River valley. Not only does this land incorporate some of the most undisturbed physical environments in the Town, but it also supports many environmentally sensitive habitats. These include ridgelines and unique landforms such as rock outcroppings and bluffs. In addition, land within this zone contains physical conditions such as steep topography and geologically sensitive areas that increase the environmental concerns of this zoning district.
  - (2) Environmental Constraints. These environmental constraints include potential danger from fire, slope failure and erosion, as well as the difficulty of emergency evacuation. Protection of the physical environment, public views and aesthetic qualities associated with undeveloped lands is of critical concern in this zone.
- (d) Design Criteria. The following design criteria have been established to help ensure that future development proposals take the proper steps to avoid adverse impacts on these unique resources. In addition, all development proposals shall be subject to the zoning standards and design review procedures of this Code and shall be strictly evaluated for conformance with the Comprehensive Plan and the Johnstown/ Milliken Parks, Trails, Recreation and Open Space Master Plan. The Town may also require detailed environmental studies to identify specific impacts and the necessary mitigation measures. All development proposals shall be subject to the following criteria:
- (1) All new development in this zone shall be sensitive to the hillside terrain and to the environmental constraints and shall provide for the conservation of existing natural open space lands, unique landforms, scenic hillsides, and sensitive biological habitats.
  - (2) Building Site. Buildings and other improvements should be located on slopes of less than thirty (30%) percent, should be situated such that they do not adversely impact any

mapped environmentally sensitive areas and should minimize impacts to ridgelines, geologic hazard areas, unique landforms, and areas of high biological value.

- (3) Mass and Scale. The height and scale of the buildings should respect the natural surroundings and unique visual resources by incorporating designs that minimize bulk and mass, follow natural topography, and minimize visual intrusion on the natural landscape. Structures shall be limited to one-story buildings.
- (4) Building Size. In addition to the mass and scale of the residence, the total square footage shall also be maintained at a size compatible with the open space characteristics of the hillsides. Residential designs should blend in with the surroundings, while minimizing their prominence to public view. As such, larger lots shall not necessarily enable the development of correspondingly larger homes.
- (5) Architectural Style. The architectural style, including materials and colors, should be compatible with the natural setting by encouraging designs that blend in with the surroundings. Natural materials, such as stone, and natural colors are required.
- (6) Grading. Development proposals should minimize grading of hillside areas by encouraging designs that follow the natural grade while maintaining a building mass and scale that is sensitive to topography.
- (7) Landscaping. The proposal should maintain native vegetation to the greatest extent possible and should include the provision of additional native vegetation to mitigate potential visual impacts and erosion concerns associated with the development proposal.
- (8) Ridgelines. No development shall be permitted which, in any way, alters an existing ridgeline, including topographic changes, visual obstruction or other direct impacts on the natural profile of the ridgeline. If, during the initial development review, it is determined that a project could impact other ridgelines not identified in the general plan, the appropriate mitigation measures shall be required to protect the physical and aesthetic character of the ridgeline. Such measures may include, but are not limited to, a restriction on ridgeline development and specific design modifications as may be required. It is the responsibility of the applicant to demonstrate with a view analysis that the development will not adversely impact the ridgeline and will fit into the site's context and surroundings.
- (9) Setbacks for Ridgeline Development. Notwithstanding the dimensional standards for individual zoning districts, all structures shall be set back a minimum distance of two hundred (200) feet from the edge of a ridgeline.

## **ARTICLE III: GENERAL STANDARDS APPLICABLE TO ALL DISTRICTS**

### **DIVISION 1 : GENERAL**

#### **Sec. 16-3-100. - General Provisions.**

- (a) Applicability. All development applications and building permit applications must comply with the applicable standards contained in this Article, unless the standards are specifically modified through an approved PUD by the Board of Trustees.
- (b) Relation to Zone District Standards (Article II). In the event of a conflict between a standard or requirement contained in Article II and this Article, the standard in Article II shall prevail.
- (c) This Article includes all standards related to how development is sited, designed, and serviced in order to create a vital, cohesive, and well-designed community that enhances Milliken's small-town character and implements the goals of the adopted Comprehensive Plan.

#### **Sec. 16-3-105. - Address Numbering Requirement to Post.**

The owner, occupant, or lessee of any residence, commercial or industrial structure, to which has been assigned a street address by the Town and/or U.S. Postal Service, must ensure that those assigned numerals are clearly, conspicuously, and permanently displayed in a fashion that those passing by, including emergency services personnel, along the street frontage can readily view the correct address.

#### **Sec. 16-3-110. - Nonconforming Uses, Structures, Buildings, Lots, Sites and Parking.**

- (a) Purpose. The purpose of these provisions is to govern nonconforming uses, improvement of a nonconforming lot, and the modification, expansion, reconstruction, alteration, abandonment, and continued occupancy of a nonconforming structure or building including non-conforming parking.
- (b) Nonconforming Uses. A use that was allowed by the Code in effect when it was established, but which is no longer permitted in the district in which it is located, shall be permitted to continue after it became nonconforming so long as it complies with all of the following requirements:
  - (1) A nonconforming use shall not be physically enlarged, intensified, or extended, nor shall it displace a principal conforming use, except as provided in Subsection (c) below.
  - (2) A nonconforming use shall not be moved to any other portion of a lot, building or structure.
  - (3) A structure that does not conform to the requirements of this Code shall not be erected in connection with a nonconforming use.
  - (4) A nonconforming use may be changed to another nonconforming use subject to a determination by the Community Development Director that the new use does not constitute an increased impact, as determined by the following criteria:

- a. The parking meets current requirements for the new use and does not create any increased parking impact or new parking areas; and
  - b. The new use is not an expansion in size and the impact or effect upon the surrounding neighborhood is equal to or less than the existing impact or effect, including without limitation, glare, visual pollution, noise pollution, odor, air emissions, vehicular traffic, storage of equipment, materials and refuse, hours of operation, trips generated and number of employees and shall also conform to all other applicable provisions in this Title.
- (5) The decision of the Community Development Director shall be considered final unless appealed by the applicant or property owner to the Planning Commission or to the Board of Trustees under the provisions of Section 16-1-120(a)(b), "Appeals of enforcement actions."
- (6) If a lawful nonconforming use is reduced in intensity or abandoned for a continuous period of twelve (12) consecutive months, the property may not thereafter be used except at that lower intensity or as a conforming use.
- (7) (Single-family dwellings that are not in compliance with this Code may be enlarged or altered one (1) time by no more than twenty-five (25%) percent of the building footprint, including attached garage area, as long as it complies with the base standard setbacks in the R-1.
- (c) Nonconforming Lots/Sites, Buildings and Structures. A building or structure that was allowed by the Code in effect when it was established, but which is no longer permitted in the district in which it is located because it does not conform to existing height, setbacks, yard, coverage, area, architecture or signage requirements of the zoning district in which the land is located, or is on a site which is nonconforming, shall be permitted to continue so long as it complies with all of the following requirements:
- (1) The nonconforming building or structure is not enlarged, moved, or altered in a way that increases its nonconformity, but it may be altered to decrease its nonconformity.
  - (2) If a nonconforming building or structure or portion of a nonconforming building or structure is destroyed by any means to an extent of more than fifty (50%) percent of its replacement value, it cannot be reconstructed except in conformity with the provisions of this Code, except for single-family dwellings in the commercial and industrial zoning districts.
  - (3) On any nonconforming building or structure or portion of a building or structure containing a nonconforming use, ordinary repair is permitted if, in any consecutive twelve-month period, the work does not affect fifty (50%) percent or more of the replacement value of the nonconforming building or structure and is needed to maintain the building or structure in conformance with building codes.
  - (4) Single-family dwellings which are within nonconforming buildings or structures may be enlarged or altered one (1) time by no more than twenty-five (25%) percent of the building footprint, including attached garage area, as long as the base standard setbacks in the R-1 District. In no event shall an existing nonconforming single-family dwelling in an industrial zoning district be removed from a lot or site and be rep/laced with another single-family dwelling.

- (5) If changes are proposed to nonconforming sites, buildings and structures, the Community Development Director shall determine, after considering recommendations from the Technical Advisory Committee, if the nonconforming feature or features of the building or structure will be worsened by the modifications in terms of the impact of the building or structure on the neighborhood.
- (6) One-time expansions for single-family dwellings as provided in this Chapter shall be processed with submission of a plot plan.

## **DIVISION 2 : PARKING, LOADING, VEHICLE, AND PEDESTRIAN STANDARDS**

### **Sec. 16-3-200. - Intent.**

Off-street parking, stacking, and loading requirements lessen congestion upon the public streets of the Town by requiring the owners and operators of land, buildings, and uses to provide parking on their own premises in accordance with the demand generated by such land, building, or use.

### **Sec. 16-3-205. - General Provisions.**

- (a) Provide Off-Street Parking. In all zone districts, off-street parking facilities for the storage of vehicles for the use of occupants, employee, and patrons of the building or structure hereafter erected, altered or extended must be provided and maintained as herein prescribed.
- (b) Provide Adequate Parking. If the use contemplated is not described in the required parking tables, the applicant must demonstrate to the Community Development Director that the parking as planned will be adequate to serve the needs of the proposed development.
- (c) Provide Additional Parking. At the time a property changes use, the applicant must demonstrate that the existing parking is adequate to serve the proposed use. It shall be the responsibility of the new user to provide additional parking if the existing parking does not meet the needs of the proposed use.
- (d) Surface. All parking and driveway areas and primary access to parking facilities must be surfaced with asphalt, concrete, or similar materials. Except within the right-of-way, the [site plan may include](#) ~~Community Development Director may approve~~ grass-crete or similar pervious pavement that is similar to the other materials listed in this section in terms of function, durability, maintenance, and appearance, [as approved by the Planning Commission](#).
- (e) Integrate Parking Lots with Surroundings. Parking lots shall not dominate the frontage of pedestrian-oriented streets, interfere with designated pedestrian routes, or negatively impact surrounding neighborhoods. The pedestrian character of streets and buildings shall be maximized through continuity of buildings and landscape frontage.
- (f) Location. The required off-street parking area shall be located on the same legal lot as the principal use. The location of required off-street parking spaces for non-residential uses shall be within seven hundred (700) feet of the building they are intended to serve when measured from the nearest point of the building or structure.
- (g) Landscaping. Parking lots shall be landscaped, screened, and buffered as provided in Division 3 of this Article.

- (h) Shared Access. Where feasible, parking lots shall share access drives with adjacent property with similar land uses.
- (i) Parking Space Use. All off-street parking spaces shall be unobstructed and free of other uses.
- (j) Off-Street Parking Design. Any off-street parking area for commercial, industrial, or multi-family use must be designed so that vehicles may exist without backing onto a public street unless no other practical alternative is available. All off-street parking areas must be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way or sidewalks or strike against or damage any wall, vegetation, utility, or other structure.
- (k) Circulation Area Design. Circulation areas must be designed to facilitate the safe movement of vehicles without posing a danger to pedestrians or impeding the function of the parking area.
- (l) Lighting. All parking area lighting must be full cut-off type fixtures. Any light used to illuminate parking areas or for any other purpose shall be so arranged as to reflect the light away from nearby residential properties and away from the vision of passing motorists. For additional lighting requirements, see Division 5 of this Article.
- (m) Maintenance. Parking spaces shall be marked and maintained on the pavement, and any other directional markings or signs shall be installed as permitted or required by the Town to ensure the approved utilization of space, direction of traffic flow and general safety.
- (n) Loading and Unloading Facilities shall be located in the rear or side of buildings and shall be screened from public view.
- (o) Adjacent On-Street Parking. In order to promote a pedestrian scale and encourage a perception of safety for commercial and industrial uses in the MU-C-D district, parking may be satisfied using adjacent on-street parking or shared rear-lot parking areas. A parking study and shared parking agreement(s) must be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements as outlined in Section 16-3-2205(c) "Shared Use."
- (p) Vehicles parked on residential zoned property shall be parked within or upon a paved or graveled driveway. The parking of vehicles within required front or side yard setbacks, yards or grass is prohibited. This requirement shall apply to all residential zone districts of the Town.
- (q) In residential zones, off-street parking facilities shall be provided and located on the same lot as the building they are intended to serve. Detached garages shall not be located in the front yard setback.
- (r) Except within a garage or in conjunction with an approved affordable housing project, tandem parking is not allowed to meet required off-street parking requirements.

#### **Sec. 16-3-210. - Parking Lot Standards.**

~~(a) Parking Space and Access Drive Requirements. Parking space and access drives shall be in accordance with the Milliken Design Criteria and Construction Specifications. Except as may be provided for compact cars elsewhere in this Section, the minimum size of off-street parking space and parking lot drives shall be in accordance with the following:~~

~~(1) Minimum Stall Size: Ten (10) feet by twenty (20) feet.~~

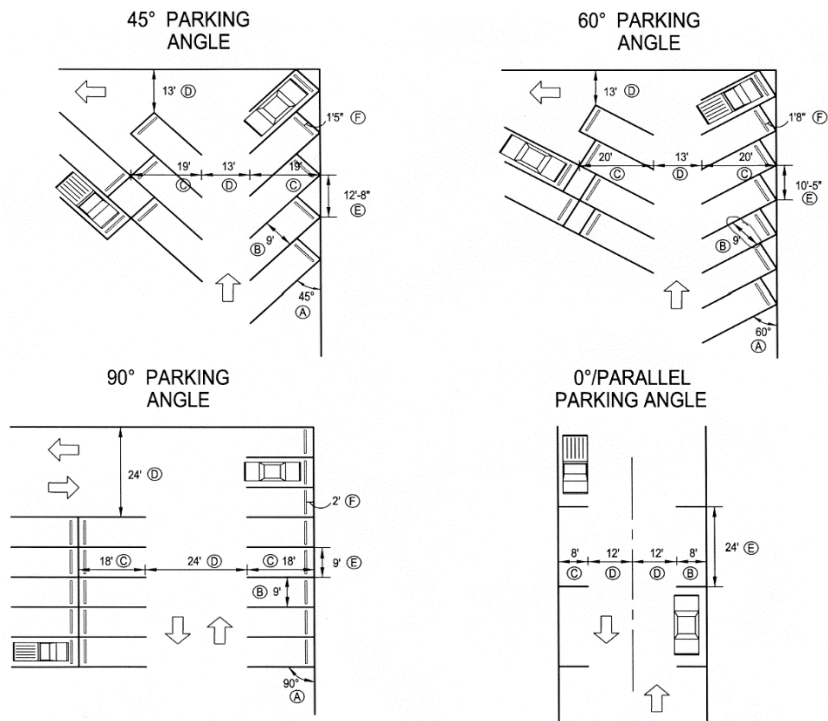


~~(2) Minimum Access Drive Aisle Width: Twelve (12) feet per lane.~~

~~(3) Minimum Backing Area Width: See Figure 3-2-1.~~

~~(b) The parking space length may be reduced to seventeen (17) feet if there is a landscaped area or sidewalk at least six (6) feet in width to provide a two-foot overhang, as long as a curb or wheel stop is provided and if the overhang does not negatively impact the adjacent landscaping or sidewalk. See Figure 3-2-1.~~

PARKING STALL DIMENSIONS					
Parking Angle (A)	Stall Width (B)	Stall to Curb (C)	Aisle Width (D)	Curb Length (E)	Overhang (F)
45°	10'	20'	13'	12'-8"	1'-5"
60°	10'	21'	13'	10'-5"	1'-8"
90°	10'	20'	24'	9'	2'
0°(parallel)	20'	10'	12'	24'	0'



~~(a) Figure 3-2-1~~

### ~~Sec. 16-3-215. -- Bicycle Parking Spaces.~~

~~Commercial, industrial, civic, employment, multi-family and recreational uses shall provide bicycle facilities to meet the following standards:~~

- ~~(a) Minimum number of bicycle parking spaces shall be provided, equal in number to two percent (2%) of the total number of automobile parking spaces provided by the development, but not less than one (1) space.~~
- ~~(a) For convenience and security, bicycle parking facilities shall be located near building entrances. Within downtown commercial areas, however, a grouping of spaces shall be utilized as directed by the Town.~~
- ~~(a) Bicycle parking facilities shall be designed to allow the bicycle frame and both wheels to be securely locked to a parking structure which is permanently attached to the pavement.~~
- ~~(a) Bicycle parking facilities shall be designed so that they do not obstruct the flow of pedestrian, bicycle, or vehicular traffic within the public way.~~

**Sec. 16-3-2~~1520~~. - Location and Design of Parking Areas.**

- (a) All parking areas shall comply with the standards set in Division 3 of this Article, "Landscaping".
- (b) In all nonresidential areas and multi-family residential developments, all off-street parking areas must be accessed by a defined access lane off of the main public right-of-way. When parallel to the front property line, this access lane must be separated from the traveled portion of the roadway by at least a forty (40) feet setback.
- (c) All parking areas shall be provided with adequate drainage in accordance with the Milliken Design Criteria and Construction Specifications. ~~to accommodate increased runoff from the site and shall be designed with catchment basins or other similar structures so as to prevent non-point-source pollution of the area rivers and its tributaries.~~
- (d) Access drives shall be perpendicular to the traveled right-of-way and shall not exceed a five percent (5%) grade within fifty (50) feet of their entrance to a public or private road right-of-way.
- (e) Up to fifteen percent (15%) of spaces in parking areas in commercial, cultural, and civic uses in any district may be for compact cars. These spaces shall be properly marked and grouped within the overall parking plan. Space size shall be a minimum of eight (8) feet by sixteen (16) feet.
- (f) All parking areas shall be maintained in accordance with the approved development, including but not limited to striping, landscaping, and repair of potholes.
- (g) Parking areas shall not be used for the dismantling of vehicles, storage of nonworking vehicles or storage of commodities.
- (h) Access and circulation. Curb cuts shall be in accordance with the Design Criteria and Construction Specifications of the town.
- (i) A concrete or otherwise permanent curb, bumper or wheel stop shall be installed to adequately protect public right-of-way, sidewalks and/or landscaped areas and islands.
- (j) Standard traffic control signs and devices shall be used to direct traffic where necessary within a parking lot.
- (k) Lighting.

- (1) All lights used to illuminate parking spaces, driveways or maneuvering areas shall be so designed, arranged, and screened so as to minimize light spillage on adjoining lots or streets.
- (2) All lighting fixtures, including security lighting facilities, shall be directed away from adjacent residential uses and public streets, shall not be of an intensity which unreasonably disturbs adjacent residential users or users of public streets and shall not be installed above a maximum height of sixteen (16) feet.
- (3) All lighting shall comply with Section 16-3-510 Lighting.

**Sec. 16-3-2205. - Requirements for Parking and Loading.**

- (a) Minimum Parking Requirements. The minimum off-street parking requirements are listed in the following table. In no instance shall a parking space be used for the storage of vehicles. All parking spaces must be used for vehicles that can be driven unless otherwise noted in this Article. Additional sStacking space requirements can be found in Section 16-3-2530 "Stacking of parking spaces" below.

- (b) Table of Parking Requirements.

<i><b>Use</b></i>	<i><b>Number of Spaces Required</b></i>
<b>Residential Dwelling units/structures</b>	
Studio or 1-bedroom	1.5 spaces per dwelling unit
2- or more bedrooms	2 spaces per dwelling unit For multifamily dwelling units, add 1 guest space per 5 dwelling units
<b>Group Living</b>	
Assisted living facilities for the care of the elderly or infirmed, includes nursing homes	1 space per 4 beds plus 1 space per 2 employees
Group homes (up to 8 residents)	2 spaces per group home, plus 2 spaces per 3 employees
College dormitories, sororities, fraternities	1 space per 2 beds
Congregate living facilities	1 space per bed
Commercial accommodations, including bed and breakfast, hotel/motel units regardless of how owned and managed, and	1 space per individual accommodations unit plus 1 space per employee on the largest shift plus 1

timeshare units. On-site services (restaurants, public meeting areas, etc.) require additional parking	space per 400 sq. ft. Gross Floor Area of public meeting area and restaurant
<b>Automobile Service, Repair and Sales</b>	
Gas station	2 spaces per service bay plus required stacking spaces
Service station, auto lube center	2 spaces per service bay plus required stacking spaces
Auto repair or body shop	2 spaces per service bay, spaces for each bay may park tandem
Auto, truck, boat, RV, motorcycle repair, sales, and rental	1 space per 400 sq. ft. Gross Floor Area of showroom, office, vehicle repair and parts sales areas, plus 1 space per 1,000 sq. ft. Gross Floor Area outdoor display
Car wash, self-service	2 stacking spaces in front of each bay, plus parking for employees if any
Car wash, full-service	3 stacking spaces per bay, plus parking spaces for greatest number of employees on a single shift
<b>Retail, Entertainment, Office, and Professional Service</b>	
Bank (including branch and drive-through)	1 space per 300 sq. ft. of Gross Floor Area plus required stacking space for drive-through
Bowling alley	5 spaces for each alley
Convenience store	1 space per 200 sq. ft. of Gross Floor Area plus stacking for drive-up window
Convenience store with gas sales	1 space per pump island, plus 1 space per 150 sq. ft. of Gross Floor Area, plus 2 spaces per 3 employees
Dining and drinking establishment (including private clubs, restaurants)	1 space per 75 sq. ft. of dining and waiting area (including private clubs, restaurants)

Entertainment facilities	1 space per 40 sq. ft. of Gross Floor Area in the main assembly area
Serving food and beverages for consumption outside of a building	1 space per 50 sq. ft. of building plus required stacking
Funeral home, mortuary, and crematorium	1 space per 300 sq. ft. of Gross Floor Area
General commercial and retail sales	1 space per 300 sq. ft. of Gross Floor Area, including storage areas
Health and athletic club, aerobics, recreational amusement, and entertainment facility	1 space per 125 sq. ft. of Gross Floor Area, excluding storage areas
Medical and dental office, medical clinic	1 space per 250 sq. ft. of Gross Floor Area
Professional Services	1 space per 300 sq. ft. of Gross Floor Area
Professional Trade and Construction Contractors (includes Rental service; equipment, small tools, and supplies)	1 space per 300 sq. ft. of Gross Floor Area
Warehouse with storage	1 space per 1,000 sq. ft. for the first 10,000 sq. ft., then 1 space per 10,000 sq. ft. for the remaining area
<b>Public, Quasi-Public, and Institutional</b>	
Civic Facilities (Library, museum, or gallery)	1 space per 300 sq. ft. of Gross Floor Area
College, public or private	1 space per 2 students
Community service facility (e.g., post office, courts, community health building). All other community service facilities shall be determined by the Town Manager based on an analysis of parking requirements for similar uses or on anticipated parking demands	1 space per 250 sq. ft. of Gross Floor Area
Childcare center, preschool	1 space per 8 students, plus 1 space per employee

Hospital	1 space per 2-bed capacity
Place of worship	1 space per 3 seats in primary meeting room or .33 per primary meeting room occupancy, whichever is greater
Public assembly and civic association hall (include all facilities used for receptions and conventions)	1 space per 40 sq. ft. of Gross Floor Area in the primary meeting room or assembly area
<b>Schools:</b>	
Through junior high	2 spaces per classroom
High schools and colleges	10 per classroom
School auditoriums	1 space per 3 seats in auditorium
Utilities	1 space per 300 sq. ft. of Gross Floor Area plus 1 for each company vehicle
<b>Repair, Manufacturing and Industrial</b>	
Contractor yard, business service	1 space per 500 sq. ft. of Gross Floor Area
Junk or salvage yard, recycling, or processing center	1 space per employee; minimum of 4 spaces for customers
Laboratory and research and development	The greater of 1 space per 300 sq. ft. of Gross Floor Area or 1 space per employee on maximum shift
<b>Manufacturing, processing, or assembly:</b>	
20,000 sq. ft. or less Gross Floor Area	1 space per 2,000 sq. ft. of Gross Floor Area
More than 20,000 sq. ft.	10 spaces plus 1 space per 4,000 sq. ft. of Gross Floor Area above 20,000 sq. ft.
Self-service storage facility	1 space per 5,000 sq. ft. of Gross Floor Area
Warehouse with freight movement	1 space per 1,000 sq. ft. of Gross Floor Area

<b>Wholesale Trade</b>	
Builders' supply office and yard - wholesale	2 spaces per 3 employees
Market showroom (furniture, apparel, etc.)	1 space per 2,000 sq. ft. of Gross Floor Area
<b>Wholesale uses:</b>	
10,000 sq. ft. or less of Gross Floor Area	1 space per 1,600 sq. ft. of Gross Floor Area
10,001 sq. ft. to 100,000 sq. ft.	16 spaces plus 1 space per 80 sq. ft. area between 10,000 sq. ft. and 100,000 sq. ft. of Gross Floor Area
More than 100,000 sq. ft.	128 spaces plus 1 space per 1,000 sq. ft. of Gross Floor Area above 100,000 sq. ft.

(c) Calculation of Parking Space Requirements.

(1) Number of Spaces. Separate off-site parking space shall be provided for each use.

- a. Where parking facilities are combined and shared by two (2) or more uses, the number of required off-street parking space shall be the sum of the required spaces for each use.
- b. Measurement of floor area. Floor areas used in calculating the required number of parking spaces shall as defined in Article 8, "Definitions."
- c. In mixed-use facilities calculations shall be based on gross square footage of each identifiable use within the building. Areas which serve more than one (1) of the uses, such as bathrooms, mechanical rooms, stairwells, circulation, airshafts, storage areas and elevators, shall be divided among each identifiable use.

(2) Shared Use of Parking Facilities. When two (2) or more businesses and/or uses are served by the same parking area, the applicant may apply for special parking approval. The off-street parking area or shared parking facilities shall not exceed twenty (20%) percent ( of the required parking. Applicants wishing to utilize shared parking facilities or areas shall provide satisfactory legal evidence to the Community Development ~~Department~~<sup>Director</sup> in the form of deeds, leases, or contracts to establish shared parking at the time of site plan application. Credit for shared parking shall be subject to the following criteria:

- a. The parking needs of the use will be adequately served.
- b. If a mix of residential uses with nonresidential is proposed, the parking needs of all uses will be accommodated through shared parking.
- c. If shared use of common parking areas is proposed, off-setting time periods of use will accommodate both parking needs.

(d) Determination of Requirements for Uses Not Listed. Requirements for types of buildings and uses not specifically listed in this Chapter shall be determined by the Community Development ~~Department~~<sup>Director</sup> and Town Engineer, after study and recommendation, which should include all relevant factors, including but not limited to:

- (1) Vehicle occupancy studies.
- (2) Requirements of comparable uses listed in this Chapter.
- (3) Suitable and adequate means for provision of public, community, group, or common facilities.
- (4) Provision of adequate loading facilities and for a system for distribution and pickup of goods.
- (5) The use is in the interest of the area to be affected and in the interests of the Town at large.
- (6) The use will not be detrimental to adjacent properties or improvements in the vicinity of the area.
- (7) The proposed use will not confer any special privilege or benefit on the properties or improvements in the area, which privilege or benefit is not conferred upon similarly situated properties elsewhere in the Town.

(e) Accessible Parking Requirements. The required number of parking spaces for the disabled for all land uses shall be provided in accordance with federal and state law. Each parking space for the disabled shall be in conformance with applicable requirements of the Americans with Disabilities Act (ADA).

~~(1) The required spaces shall be located to provide the least travel distance to accessible facilities served. They shall be located, where feasible, to allow those parking in the spaces to access the associated building without crossing vehicle traffic area. The distance between the most remote principal entrance of a building and any one (1) space shall not exceed two hundred (200) feet.~~

~~(1) Size. Required spaces shall be not less than eight (8) feet wide and shall have an adjacent access aisle not less than five (5) feet wide. Two (2) adjacent spaces may share a common access aisle. Such aisles shall provide an accessible route of travel to the building or facility entrance. Boundaries of the required parking spaces and aisles shall be marked to identify the use of such spaces.~~



~~(1) Identification Sign. Every parking space required by this Section shall be identified by a sign centered from three (3) feet to five (5) feet above the ground at the head of the required space. The sign shall be marked with the international symbol of access and shall bear the words, "Reserved, Tow Away Zone." Such signage shall not be less than twelve (12) inches in height. The lettering shall be not less than one (1) inch or more than two (2) inches in height and shall be on a background of contrasting value.~~

~~(1) Surface. Parking spaces and access aisles shall slope not more than one (1) inch in forty-eight (48) inches and shall be firm, stable, smooth and slip resistant.~~



### **Sec. 16-3-22530. - Stacking Space Requirements.**

- (a) Intent of Stacking Space. A stacking space is an area for motor vehicles to line up while waiting to go through a drive-through facility, or within a designated drop-off or pickup zone. The purpose of stacking space requirements is to promote public safety by alleviating on-site and off-site traffic congestion that might otherwise result from the operation of a facility.
- (b) Submittal of Plans. The applicant's site plan shall show the location, size and dimensions of all facilities listed in Paragraph (3) below. The site plan shall follow the stacking space schedule. The site plan shall demonstrate that such facilities will not result in the stacking of vehicles on public rights-of-way and that an adequate area is reserved for the safe transfer of the motor vehicle between drivers. In no event shall drive-throughs, parking attendants, paid parking collection devices or areas associated with such uses be located in a public street or right-of-way or interfere with vehicular or pedestrian traffic on a public street, sidewalk, or other right-of-way.
- (c) Stacking Space Schedule:

<i><b>Use</b></i>	<i><b>Minimum Stacking Space</b></i>	<i><b>Measured From</b></i>
Bank teller lane	4	Teller or window
Automated teller machine	3	Teller machine
Restaurant drive-through	8	Order box
Coffee shop	4	Order box
Car wash stall, automatic	6	Entrance
Car wash stall, self-service	3	Entrance

Liquor store	3	Order box
Dry cleaner	4	Order box
Pharmacy	4	Order box

### Sec. 16-3-2305. - Off-Street Loading Requirements.

- (a) Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this Section to accommodate the delivery or shipment operation in a safe and convenient manner.
- (b) Space requirements and standards for loading berths.
- (c) Width and clearance: Each loading berth shall not be less than ten (10) feet in width and shall provide not less than fourteen (14) feet of vertical clearance.
- (d) Length: Each loading berth shall be at least forty-five (45) feet in length and shall not extend beyond the property line.
- (e) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development.
- (f) Number of loading spaces required for nonresidential uses:

Gross Floor Area of Building	Number of Spaces
1,000—19,999	1
20,000—79,999	2
80,000—127,999	3
128,000—191,999	4
192,000—255,999	5
256,000—319,999	6
320,000—391,999	7
392,000 or more	7 plus 1 for every additional 72,000 sq. ft. or fraction thereof

- (g) Location. Loading and unloading areas shall be located and designed so vehicles intended to use them can maneuver safely and conveniently to and from the street right-of-way and

complete their operations without interfering with any public rights-of-way, parking space or parking lot aisle.

**~~Sec. 16-3-240. -- Parking of Recreational Vehicles, Boats, and Trailers.~~**

~~(a) In all residential and commercial districts, the parking or storage of a recreational vehicle, boat or trailer is permitted only in the following manner:~~

~~(1) Parking or storage is permitted inside any lawful enclosed structure.~~

~~(2) If there is no suitable enclosed structure, parking or storage is permitted outside in the driveway, in the side yard or in the rear yard as long as the recreational vehicle, boat or trailer does not impede safe entry to or exit from any house or inhibit emergency access to or from any structure or the side or rear yard. For purposes of this Section, access of less than two (2) feet in width shall be presumed unsafe. No recreational vehicle, boat or trailer shall be parked or stored in the front yard.~~

~~(3) All parts of the recreational vehicle, boat or trailer shall be located on a hard surfaced area. The entire surface area of the ground beneath the recreational vehicle, boat or trailer shall be hard surfaced. For purposes of this Section, hard surfaced areas shall include asphalt, stone, brick, concrete, gravel, and landscape rock. Hard surfaced areas shall not include grass, dirt, or wood chips.~~

~~(4) The recreational vehicle, boat or trailer must be a minimum of ten (10) feet from any street, curb or sidewalk and a minimum of five (5) feet from any alley.~~

~~(5) No part of the recreational vehicle, boat or trailer may extend over any portion of a public sidewalk or other public right-of-way.~~

~~(6) In any residential zone district, parking is permitted only for storage purposes. Recreational vehicles, boats or trailers shall not be:~~

~~a. Used for dwelling purposes, except that incidental overnight sleeping for periods not exceeding seven (7) consecutive nights and not more than twenty-one (21) nights in any one (1) calendar year is permitted when the recreational vehicle, boat or trailer is stored on the private property, with permission of the property owner;~~

~~b. Permanently connected to sewer lines, water lines or electric service, other than temporary connection to electric service for charging batteries and maintenance; or~~

~~c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or integral to the use of the recreational vehicle, boat or trailer as intended by the manufacturer.~~

~~(7) The owner of a recreational vehicle, boat or trailer may park the recreational vehicle, boat, or trailer on the street immediately in front of the owner's house for not more than seventy-two (72) consecutive hours. At least seventy-two (72) hours must pass before the recreational vehicle, boat or trailer may be parked in the same or similar location again.~~

**~~Sec. 16-3-250. -- Parking Restrictions for Commercial Vehicles.~~**

~~It is unlawful to park any vehicle with prominent commercial advertising, logos or insignia (more than half the vehicle's surface is fully covered with design) for longer than seventy-two (72) hours in any thirty-day period in a driveway or on private property, in any area zoned residential.~~

**~~Sec. 16-3-255. – Parking Restrictions for Vehicles Displaying a For Sale-Type Sign.~~**

~~It is unlawful to park a vehicle displaying a "For Sale" type sign on any public roadway, right-of-way, parking area or alley. It is similarly unlawful to park on private property any more than two (2) vehicles displaying "Vehicle for sale" signs.~~

**Sec. 16-3-23560. - Sidewalks, Multi-Use Pathways and Trails.**

(a) Intent. The intent of the standards for sidewalks, multi-use pathways and trails is to assure a safe, convenient, and attractive pedestrian/ bicycle system that minimizes conflicts between vehicles, bicycles, and pedestrians. All sidewalks, pathways and trails shall meet ADA requirements and standards set forth in the Milliken Design Criteria and Construction Specifications and Milliken Parks, Trails and Open Spaces Master Plan.

(1) Sidewalks Required. In all zone districts, except for the, A, AE, CD, and R-1E Districts, sidewalks are required along both sides of a street. Within the AE, and R-1E Districts, sidewalks are required along one (1) side of the street.

(2) Sidewalk Location. Sidewalks must be located within the right-of-way.

(3) Sidewalk Materials.

a. Sidewalks must be constructed to ADA requirements and in accordance with the Milliken Design Criteria and Construction Specifications~~of concrete, brick, slate, colored/textured concrete pavers, concrete containing accents of brick or some combination thereof that is compatible with the style, materials, colors, and details of the surrounding buildings. Asphalt shall not be used for sidewalks.~~

b. Sidewalks must be constructed of approved materials of sufficient strength to support light maintenance vehicles. If used as a secondary emergency access, sidewalks must also be able to support a fire truck (860,000 lbs.) as required by the latest adopted Fire Codes. Refer to the *Milliken Design Criteria and Construction Specifications* for additional sidewalk construction standards.

(4) Sidewalk Installation. Sidewalks and related improvements must be installed or constructed by the developer in accordance with plans and specifications approved by the Town and, after installation or construction, they are subject to inspection and approval by the Town. All required improvements must be completed in accordance with the officially established grades.

~~(5) Accessibility. Sidewalks and plazas shall be accessible to disabled individuals and comply with ADA.~~

~~(6)~~(5) Walkways. Walkways through a subdivision block must be as required in the Milliken Design Criteria and Construction Specifications.

~~(7)~~(6) Lighting. See the Milliken Design Criteria and Construction Specifications.

~~(8)~~(7) Multi-Use Pathways (Bikeways). Multi-use pathways shall be provided to link internal open space areas with peripheral open space areas and shall connect to multi-use pathway routes throughout the community. Multi-use pathway routes shall be designated between residential areas and commercial and employment centers and schools. Multi-use pathways on local streets may be delineated by painted "bicycle only" lanes. Sidewalks that may be used as a multi-use pathway are required on arterial and

collector streets. All other multi-use pathways shall be a minimum of ten (10) feet wide and shall be of concrete construction or, where approved by the Board of Trustees, compressed gravel or other approved material. ~~Asphalt paving is prohibited.~~ Bike racks shall be provided at the entry to internal and peripheral open space areas.

~~(9)(8)~~ Trails. Trails shall be provided within and surrounding open space areas and connecting open space areas. Trails shall be a minimum of ten (10) feet in width and shall be of concrete construction or other materials approved by the Board of Trustees. ~~A trail may be flanked on one (1) side by a soft surface path a minimum of four (4) feet in width. The soft surface path shall be constructed with a minimum depth of eight (8) inches of compressed gravel, crowned and compacted with edging to contain trail material. Also~~ Refer to the Milliken Parks, Trails and Open Spaces Master Plan.

### Division 3: Landscaping, Buffering, Fence, and Wall Standards

#### Sec. 16-3-300. - Purpose and Intent.

- (a) The purpose of this Division is to protect and enhance the community's environmental, economic, recreational, and aesthetic resources by promoting efficient use of water in the community's public and private landscape, reducing water waste and establishing procedures for the design, installation and maintenance of water-efficient landscapes throughout the jurisdiction.
- (b) Furthermore, these landscaping standards are intended to promote quality landscape design that:
  - (1) Reinforces the identity of the community and each neighborhood;
  - (2) Contributes to high-quality development by providing adequate site landscaping that ties into new and existing buildings;
  - (3) Provides adequate buffers between potentially incompatible uses;
  - (4) Reduces impervious coverage to improve water quality and reduce runoff;
  - (5) Preserves existing trees and provides tree-lined streets where appropriate;
  - (6) Improves air quality by preserving and providing adequate tree canopy;
  - (7) Promotes efficient use of water and reduces water waste;
  - (8) Conserves water resources by using sustainable design and maintenance techniques and plant species that are low water-use and regionally appropriate; and
  - (9) Enhances and restores valuable habitat.

#### Sec. 16-3-305. - Applicability.

- (a) The standards in this Division 3 apply to all new developments. New development includes construction of new structures on a currently vacant lot, reconstruction of structures that have been razed, and reconstruction of structures that have been damaged pursuant to Section 16-3-120(c).
- (b) Except for single-family and two-family dwellings, the standards in this Division 3 apply to

renovations, additions, and expansions of any use or structure requiring an amended or new site plan, approval of a use by special review, or an amendment of an existing Planned Unit Development.

- (c) Existing detached single unit dwellings and two-family dwellings shall be exempt from the standards in this Division 3, except that landscaping for such dwellings shall comply with the prohibited plant species provisions in Section 16-3-345(f), the maintenance requirements in Section 16-3-375(c), and the fence and wall standards in Section 16-3-390.

**Sec. 16-3-310. - Nonconforming Landscaping.**

- (h) Except for detached single-unit dwellings and two-family dwellings, any legal nonconforming landscaping must comply with these regulations if changes are made to more than twenty-five (25%) percent of the total landscaped area of the subject property. Such twenty-five (25%) percent total landscaped area will be measured from the most recently approved site plan for the property.
- (i) Any subsequent request, application, or permit for such improvements to landscaped area on the same commercial, industrial, or multifamily property shall be cumulative to any prior request, application, or permit. See Sec. 16-3-315. - Landscaping evaluation procedures.
- (j) Landscaping submittal requirements and evaluation procedures are listed in Article 6 "Types of Approval Required."

**Sec. 16-3-315. - Amount of Landscaping Required.**

- (a) Existing landscaped areas that conform to the landscaping standards in this Division may be counted towards satisfying the landscaping requirements, except that preservation of existing trees must comply with Section 16-3-350.
- (b) Landscaped areas may count toward minimum open space requirements.
- (c) In addition to compliance with other applicable sections of this Division, landscaping for development must be provided as follows:

**Table 16-3-3-1: Summary of Landscaping Requirements by Use Type**

	Single-Family and Two-family	Multifamily and Mixed-Use <sup>[1]</sup>	Nonresidential <sup>[1]</sup>	Rights-of-Way
<b>Landscaped area</b>	<b>Front yard:</b> Any part of the front yard not used for buildings, parking, driveways, walkways, utilities, or other site improvements must be landscaped. Front yard landscape must include a minimum of 50 percent live materials at maturity between the front of the principal building and the curb; additional landscape/xeriscape is encouraged; in the AE, E-1, and R-1E Districts, front yard landscaping may consist of a combination of irrigated and native species	Minimum 15 percent of the gross site area must be landscaped  75 percent live materials at maturity between the front of the principal building and the curb	Minimum 15 percent of the gross site area shall be landscaped  <b>Generally:</b> 75 percent live materials at maturity; 50 percent of which shall be between the front of the building and the curb  <b>For active recreation areas:</b> Establish irrigated turf grass  <b>Non-recreation areas:</b> Use native grasses where appropriate	See buffer requirements in Sec. 16-3-390  <b>General</b> <b>ly:</b> 75 percent live materials at maturity  <b>Arterials:</b> As appropriate for function and use
	<b>Side or rear yards adjacent to parks, open space, or public street:</b> Minimum of 50 percent live materials at maturity			
<b>Shrubs</b>	No minimum	One shrub per 150 square feet of landscaped area, grouped and distributed on the site.  <b>Tree substitution:</b> Up to one-half of the required shrubs may be substituted with trees at a rate of one tree per ten shrubs		One shrub per 150 square feet of landscaped area within required buffer  <b>Tree substitution:</b> Up to one-half of the required shrubs may be substituted with trees at a rate of one tree per ten shrubs
<b>Site trees</b>	Minimum one deciduous shade tree in front yard, unless a street tree is provided; Minimum one deciduous shade tree inside yard on corner lots, unless a street tree is provided	Minimum one tree per 1,000 square feet of landscaped area, distributed on the site		n/a
<b>Street trees</b>	<u>Along Arterial and Collector Streets, Minimum one deciduous shade tree per 40 feet (on-center)</u> <sup>[2]</sup> (See Figure 3-3-1.)			
<b>Soil amendment and mulch</b>	Soil amendment required for all new landscaping; mulch shall not exceed 30% of landscaped area unless live plant materials are provided within mulched area. See Sec. 16-3-325 "Soil Amendments and mulch" and Sec. 16-3-335 "Water efficiency in landscape design."			

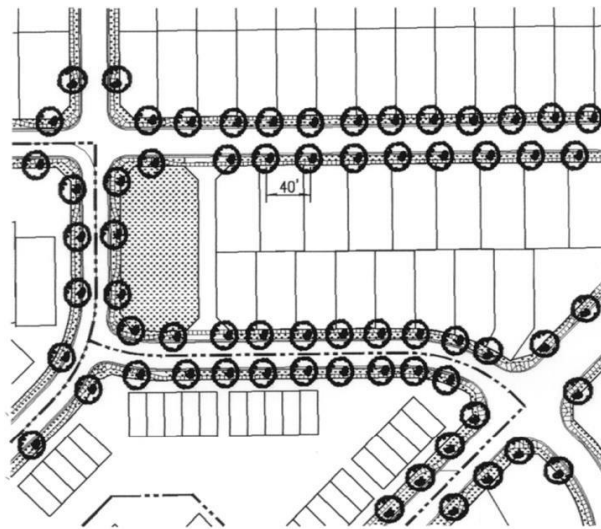
**Notes:**

- [1] The standards may be adjusted with approval by the Community Development Director to accommodate development in the MU-C-D District, where zero setbacks are allowed and there is no maximum hard-surfaced coverage area.
- [2] Where spacing would result in a tree location in conflict with utilities or driveways, the spacing may be adjusted to accommodate such conditions provided the total number of required trees is provided on the site. (Refer to Section 16-3-325.)



**Sec. 16-3-320. - Street Trees.**

- (a) Except within rural subdivisions or other rural areas and along local roads, landscape improvements along street frontages must create an orderly, irrigated, managed landscape that includes tree-lined streets. Street trees must include a mix of species and be aligned in straight rows. Street trees must be placed within a public right-of-way tree lawn as indicated in the Design Criteria and Construction Standards. The spacing of street trees must allow for mature spread according to the species. Street trees installed along streets that will be widened in the future, pursuant to the Milliken Transportation Plan, must take into account plans for future widening of streets to reduce damages to established trees during future construction.



**Figure 16-3-3-1.** Example of one street tree provided every 40 feet on-center.

**Sec. 16-3-325. - Soil Amendments and Mulch.**

- (a) Soil Amendments.

- (1) Addition of proper and adequate soil amendments is required for all plantings.
- (2) Prior to the installation of turf grass and/or other plant materials in areas to be landscaped, the areas shall be thoroughly loosened, and organic industry-accepted, certified weed-free soil amendment (such as compost, peat or aged manure) shall be thoroughly incorporated into the soil at a rate of at least four (4) cubic yards of soil amendment per one thousand (1,000) square feet of turf grass and/or area to be planted, to a depth of at least six (6) inches. In addition, prior to installation of any turf grass and/or other planted area, all foreign waste materials, including concrete, plastic, wire, and the like, along with rocks,

larger than three (3) inches, shall be removed from the top six (6) inches of soil. The developer or applicant shall affirm and certify in writing, prior to issuance of a certificate of occupancy, that the turf grass and/or planted areas have been installed according to these standards or that legally binding commitments have been made to install such soil amendments prior to installation of such turf grass and/or other plant materials.



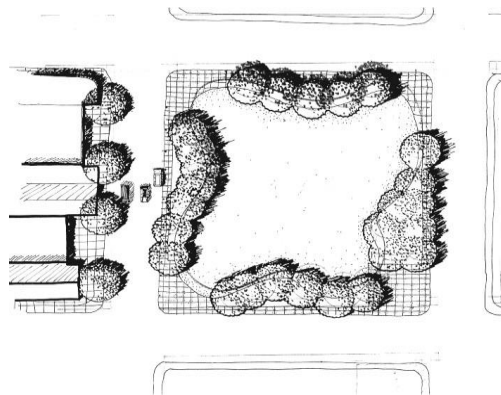
## (b) Mulch.

- (1) No more than thirty (30%) percent of the total required landscaped area shall be covered with mulch unless such mulched area includes live plant materials pursuant to Table 16-3-3-1.
- (2) All areas covered with mulch shall provide such mulch at a minimum depth of four (4) inches to retain water and inhibit weeds. Nonporous materials such as plastic shall not be placed under mulch.
- (3) Mulch materials may include wood-based materials ~~or rocks~~, but shall not include gravel, grass clippings, straw, hay, or leaves.

**Sec. 16-3-330. - Site Landscape Design.**

Landscape improvements shall be an integral part of the overall site design for each property. Landscape improvements shall be designed to complement and enhance the character of neighborhoods and shall follow these standards:

- (a) Landscaped areas shall be configured to *maximize their interconnectivity* within the site, to natural areas and to landscaped areas in adjacent developments. Small, isolated islands of landscaping should be avoided except as required in parking lots and for screening along roadways.
- (b) Landscaped areas shall enhance functional open space through the *creation of outdoor rooms* appropriate to the location and purpose of the open space within the development. This can be accomplished through a combination of plantings, fencing, and berms and by using natural features on the site. (See Figure 16-3-3-2 below.)



**Figure 16-3-3-2.** Example of plantings and berms used to create outdoor rooms within a common open space area.

- (c) Landscape improvements in all developments shall be *consistent with the character* of the surrounding area to reinforce neighborhood identity. For example, if the prevailing character of the surrounding area and neighborhood is prairie grassland, then fewer trees will be required while more shrubs and grasses will be required for the proposed development.

- (d) Landscape design shall enhance natural features, drainage ways, and environmental resources.
- (e) All landscape improvements shall be designed for mature landscapes and shall provide appropriate visibility for cars and pedestrians. Landscaping shall be no more than thirty (30) inches high when located in an Intersection Sight Distance area as defined in the Design Criteria and Construction Specifications Manual.
- (f) Preserve and frame views both into and out of the neighborhood.
- (g) Comply with the International Fire Code, as adopted by the Town, requirements, including but not limited to three (3) foot clear distance from fire hydrants.
- (h) Incorporate the elements of gateway, path, and destination into the design of landscapes. Gateways are entries that provide transitions from one (1) space to another. Pathways are routes that lead to a destination. Destinations are focal points that can include anything from a garden bench at the end of a path to a civic building at the end of a street.
- (i) Any part of a site not used for buildings, parking, driveways, walkways, utilities, or other site improvements shall be landscaped with appropriate materials pursuant to Table 16-2.C below. For single-family and two-family dwelling, this standard only applies to the front yard. Landscape improvements in environmentally sensitive areas, and lower-density rural developments shall be natural, using native species planted in irregular clusters.

#### **Sec. 16-3-335. - Water Efficiency in Landscape Design.**

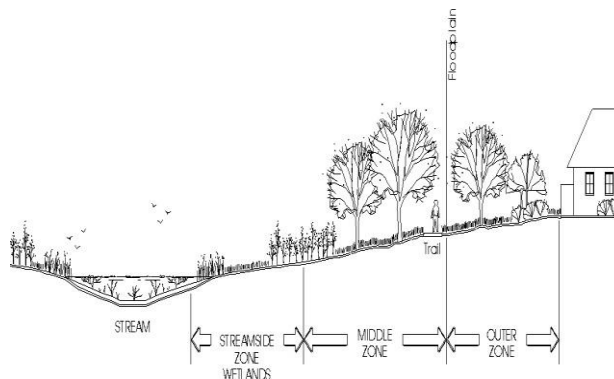
Landscape improvements shall be designed and installed with water efficiency as a primary goal. The following shall apply to the design of all landscaping subject to the standards in this Division.

- (a) Landscapes shall use the following xeriscape design principles to facilitate water conservation:
  - (1) Well-planned planting schemes.
  - (2) Use of mulch to maintain soil moisture and reduce evaporation.
  - (3) Grouping of plant materials according to their microclimatic needs and water requirements.
  - (4) Improvement of the soil with organic matter if needed.
  - (5) Efficient and well-maintained irrigation systems.
  - (6) Design of landscaping to help minimize steep grades and reduce water runoff.
  - (7) In medians, use of native plants that require low amounts of water and maintenance.
  - (8) (b) Plants shall be selected appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the site. Protection and preservation of native species and natural areas is encouraged. The planting of trees is encouraged wherever it is consistent with the other provisions of this Division.
- (b) Turf grass shall be limited as follows:
  - (1) Single-family and multifamily residential uses. The total amount of high-water turf grass shall not exceed more than fifty (50%) percent of the required landscaped area.

- (2) All other uses. The total amount of high-water turf grass shall not exceed more than twenty percent (20%) of the required landscaped area. Exemptions. Parks and open space shall be exempt from the turf grass limitations in paragraphs (1) and (2) above. High-water turf grass is discouraged in those areas.
- (c) Recirculating water shall be used for decorative water features.
- (d) Refer to Section 13-2-60 of this Code for the Town's watering restrictions.

### **Sec. 16-3-340 - Landscaping Environmental Standards.**

- (a) All landscapes shall maximize the use of native species, pursuant to the Town Plant Species List.
- (b) Landscapes shall include a variety of species. No one (1) species may make up more than twenty-five (25%) percent of the total non-turf plant materials on the site.
- (c) Buildings and parking areas shall be located to preserve and promote the health of existing trees, environmental resources, and natural drainage ways.
- (d) A combination of plantings, berms, walls, and fences shall be used as appropriate to buffer sensitive environmental features such as stream banks, riparian areas, natural features, and/or wildlife habitat. (See Figure 16-3-3-3 below.)



**Figure 16-3-3-3.** Use buffers to protect the physical integrity of riparian ecosystems. Try to preserve vegetation and trees in streamside zone and middle zone. Encourage native grasses and landscaping in outer zone to filter runoff from backyards, parking areas, roads, etc.

- (e) Plants shall be selected to blend with the native vegetation for projects at the interface between developed areas and non-irrigated and undeveloped land.

### **Sec. 16-3-345. - Plant Materials.**

- (a) Minimum tree and shrub planting sizes shall be as follows:
- (1) Ornamental Trees: One-and-One-Half (1 ½") Inch caliper.
  - (2) Deciduous Shade Trees: Two (2") Inch caliper.
  - (3) Evergreen Trees: Six (6) foot height.

(4) Shrubs: five-gallon.

(4)(5) Perennials: one-gallon

- (b) Shade trees shall be provided within and adjacent to paved areas.
- (c) Plant selection shall include those with low fuel volume and/or low flammability.
- (d) All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the *American Standard for Nursery Stock*, *American Association of Nurserymen, Inc. (AAN-ASNS)*, and the *Colorado Nursery Act of 1965 (CNA)*, as amended.
- (e) Native grass seed mixes shall be certified as weed-free.
- (f) The following species are prohibited:
  - (1) Russian Olive (an invasive species that threatens native trees in riparian ecosystems).
  - (2) Lombardy Poplar (susceptible to canker-forming fungi for which there are no available controls).
  - (3) Siberian Elm (can dominate native vegetation, especially in disturbed areas; is weak-wooded and subject to continuous dieback when large; can be devastated by the elm leaf beetle).
  - (4) Boxelder Maple (primary host plant of the Boxelder bug).
  - (5) Cotton-bearing Cottonwood. The Board of Trustees may consider cotton-bearing cottonwood on a case-by-case basis for restoration projects along riparian corridors (often considered a public nuisance).
  - (6) Locally recognized invasive plant species.
  - (7) All plant species on the Colorado State Invasive and Noxious Weed List.

#### **Sec. 16-3-350. - Tree Preservation.**

- (a) Purpose and Intent. The intent of these standards is to preserve the Town's mature trees and tree stands and to maintain an adequate tree canopy to reduce stormwater runoff, improve water quality, improve air quality, and reduce the potential of urban heat-island effects.
- (b) Existing trees may be credited toward required trees at a ratio of one-to-one unless the Community Development ~~Director~~ Department approves a higher ratio to encourage tree preservation on a particular site.
- (c) Trees eligible for credit shall comply with the materials standards in Section 16-3-345, above and the standards in the Milliken Municipal Code Chapter 7, Article IV "Trees."
- (d) Trees to be preserved shall be identified as such on the landscape plan, if applicable.
- (e) No grading shall occur within the tree canopy drip line of any tree intended to be preserved in a manner that would jeopardize the health or survival of the tree.
- (f) In the downtown, existing trees shall be preserved to the maximum extent practicable and when the trees are in good health and of a desirable species. Prior approval by the Community Development ~~Director~~ Department is required for tree removal downtown. When trees are

removed from a site, replacement shall be at a ratio of one tree for every tree that was removed from the site or as approved by the Community Development ~~Director~~Department.

**Sec. 16-3-355. - Additional Landscaping Standards within Downtown.**

Downtown landscaping is intended to provide an attractive environment for people to walk and shop. Refer to the streetscape in Figure 16-3-3-4 for illustrations of the character and quality of landscaping the Town is seeking. The following additional standards apply to landscaping in the downtown area:

- (a) All improvements within the downtown on properties fronting Highway 60 shall be subject to the approval of the Colorado Department of Transportation.
- (b) Landscaping downtown for single-family and two-family uses shall comply with the landscaping standards in Table 16-3-3-1.
- (c) For multifamily and nonresidential uses:
  - (1) Additional landscaping may be provided in the form of planters or window boxes which shall be constructed of the same or similar materials used in the adjacent building or of similar materials used in benches and trash receptacles and may be designed to include bench seating.
  - (2) Street furniture, including benches and trash receptacles, shall be provided to serve the public and shall be constructed of a combination of wood and wrought iron or other similar metal. Planters may be constructed of the same or similar materials used in the adjacent building or of similar materials used in benches and trash receptacles and may be designed to include bench seating. All street furnishings in the downtown area shall meet standards established by the Town.
  - (3) Street lighting fixtures shall not exceed twelve and one-half (12½) feet in height and shall be single-acorn Victorian style and design.

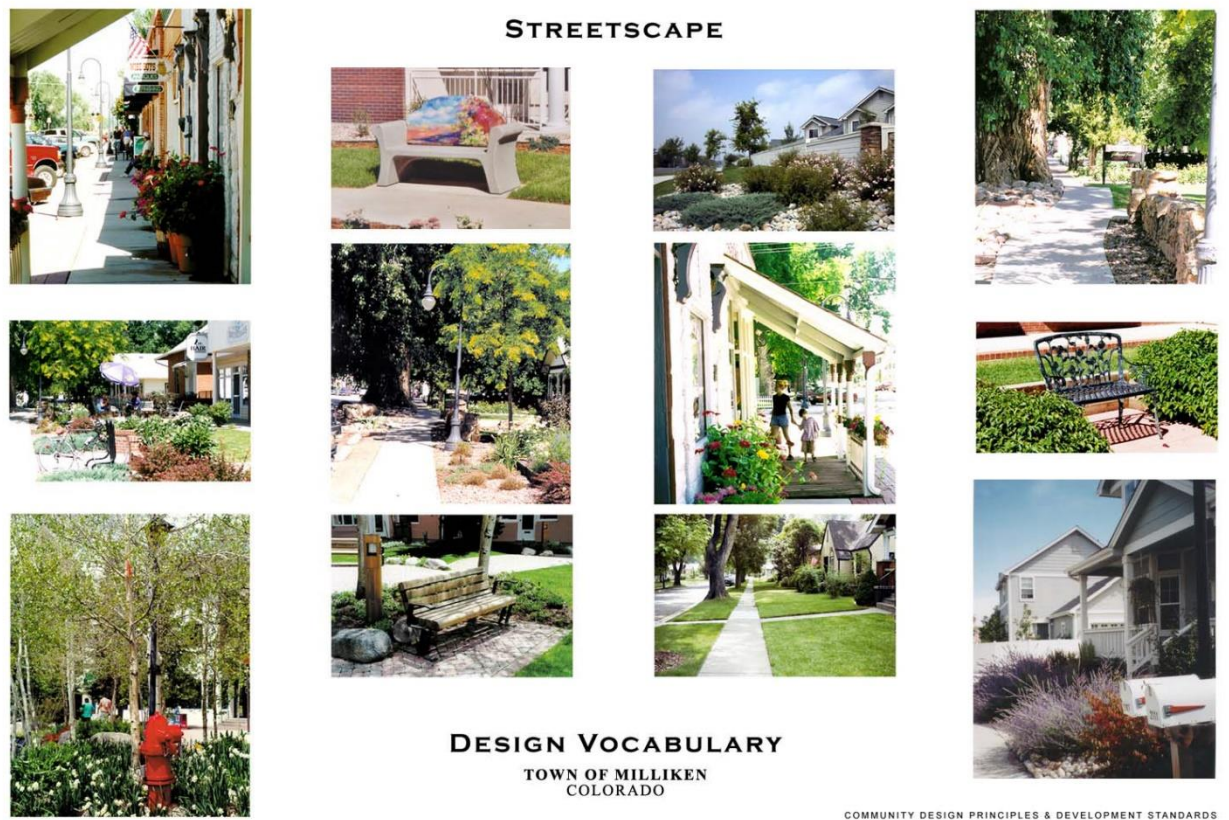


Figure 16-3-3-4

### Sec. 16-3-360. - Landscaping for Required Common Open Space.

Landscaping within new multifamily developments or other developments that have common open space shall be provided as specified in Table 16-3-3-1. Landscape areas shall include common open space elements such as gardens, courtyards, squares, plazas, playgrounds, parks, and other shared gathering spaces. Additional open space standards, including dedicated common open space, may be required pursuant to parks and open space requirements in this Division 3 of Article III, the PUD regulations in Article II, or subdivision standards in Article V of this Code.

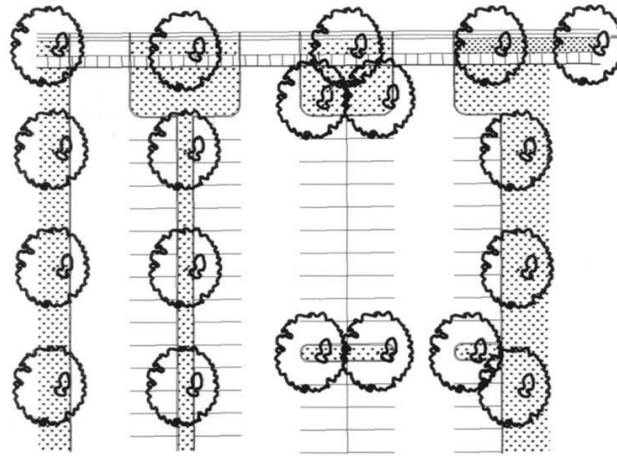
### Sec. 16-3-365. - Parking Lot Landscaping Standards.

Parking lot landscaping is intended to break up large expanses of pavement, create shade to reduce heat island effect, buffer views of parking lots from adjacent streets and development, and enhance the overall appearance of each project.

- (a) Applicability. All parking lots with twenty-five (25) spaces or more shall be subject to these requirements. The Community Development [Director-Department](#) may adjust parking lot landscaping standards for parking lots within the MU-C-D District provided that the applicant demonstrates that the additional parking is necessary and that additional alternative streetscape improvements will be provided to meet the intent of this Division.
- (b) Parking lots subject to these standards shall provide:



- (1) Site Trees: A minimum of one (1) tree per five (5) parking spaces. Trees shall be grouped in parking lot islands. (See Figure 16-3-3-5 below.)



**Figure 16-3-3-5.** Trees grouped in parking lot islands.

- (2) Landscaped Islands. Parking lot islands shall be a minimum of eight (8) feet wide and shall be a minimum size of one hundred twenty-five (125) square feet. Low-impact development options, as described in Section 16-3-370(d), shall be used to the maximum extent practicable.
- (3) Shrubs. A minimum of five (5) shrubs or five (5) ornamental grasses per one hundred fifty (125) square feet of landscaped area shall be provided. Plantings shall be grouped in landscape islands.
- (4) Ground Cover. Irrigated turf grass shall be limited. Turf grass is prohibited in areas less than eight (8) feet wide. Landscaped areas shall be installed around the perimeter of the parking lot to filter runoff and improve water quality.
- (5) Buffer and Screening. A minimum parking area buffer shall be provided between parking lots abutting a property line or public right-of-way. Such buffer shall be a minimum of five (5) feet wide and shall be landscaped according to the standards above. Required parking lot buffers may be counted toward compliance with the general buffer requirements in Section 16-3-390. Additionally, parking lots shall be screened through the use of dense shrubbery, low walls, berms or a combination of these methods a minimum of three (3) feet in height, so that light from headlights of vehicles in the parking lot is screened from view beyond the parking lot.

### **Sec. 16-3-370. - Storm Drainage Facilities.**

- (a) Intent. The intent of this Section is to promote innovative and effective land- and water-management techniques that protect and enhance water quality.
- (b) General Provisions:
- (1) Drainage improvements must comply with the Design Criteria and Construction Specifications.

- (2) Stormwater drainage facilities shall be designed, installed, and maintained to prevent erosion, minimize mosquito habitat, and improve water quality of stormwater runoff. (See Figure 16-3-3-6 below.)
- (3) Storm drainage facilities may be allowed to function as open space for active recreation, trail corridors, or habitat enhancement areas if they are designed appropriately pursuant to the Town Engineer and are approved through the applicable development review procedures. In making such determination, the decision maker of the applicable development review procedure shall consider the safety of end users of such facility, potential impacts to adjacent properties, and any recommendations provided by the Town Engineer.



**Figure 16-3-3-6.** *Develop storm drainage systems as landscape amenities.*

(c) Minimum Requirements.

- (1) All facilities shall be seeded with a type of grass appropriate to the function of the area. Areas to be used for active recreation shall be seeded to a turf-type grass and irrigated with a permanent irrigation system. Areas to be maintained for habitat enhancement shall be seeded with native grasses and wildflowers. The developer is responsible for establishment of a weed-free stand of grass. Trail corridors may be seeded to native grasses if appropriately integrated with adjacent on-site and off-site improvements.
- (2) Maximum slope on drainage facilities shall be 4:1 (25%), and the minimum slope of the bottom of a drainage facility shall be one-half (0.5%) percent.
- (3) Landscape improvements shall be designed to enhance the function of the facility. Areas designed for recreation shall include clusters of trees to provide shade, located so they do not impair the function of the facility or the tree.
- (4) Habitat and water quality enhancement, including wetland plantings in low wet areas, is encouraged.

(d) Low-Impact Development (LID) Practices:

(1) Purpose and Incentives.

- a. The Town encourages the use of low-impact development (LID) practices as part of an integrated water management strategy to promote infiltration, remove pollutants, regenerate groundwater supply, and encourage the use of native plants.
- b. **Figure 16-3-3-7.** *Example of a bioswale within a parking area.* Applicants proposing LID options as part of a development may be eligible for a reduction in the number of



required parking spaces by up to ten (10%) percent, following a case-by-case review by the Community Development ~~Director~~Department.

- (2) Disconnecting Drainage from Impervious Surface. Drainage from buildings (through gutters and downspouts) may be disconnected from piped infrastructure to prevent draining onto impervious surfaces without first passing through a green infrastructure option, as listed below.
- (3) Green Infrastructure Options.
- a. Bioswales. Bioswales are vegetated swales planted with wet tolerant species of plants or ornamental grasses. They transport, store, and allow infiltration of water, and can be designed as a landscape feature. Bioswales are not grassed but are planted with a variety of plant species that can withstand occasional water inundation for short periods of time. (See Figure 16-3-3-7 below.)
  - b. Grassed Swales. Grassed swales are designed conveyance devices used to transport water over the surface of the ground to a point of disposal that may be a catch basin, ditch, water body that will filter, infiltrate, evaporate, and clean water of total suspended solids, and other pollutants. Swales are often appropriate along property lines, public streets, and around buildings. (See Figure 16-3-3-8 below.)



**Figure 16-3-3-7.** Examples of Bioswales



**Figure 16-3-3-8.** Example of a grassed swale on a multifamily property.

- c. Rain Gardens. Rain gardens are small shallow depressions planted with a variety of native or ornamental plants that can treat small amounts of runoff to improve water quality. Rain gardens are generally small collections of water loving plants planted on a low site area to collect rainfall.
- (4) Sand filters.
- (5) Sand filters are filtering or infiltrating systems that consist of a surcharge zone underlain by a sand bed with an underdrain system (when necessary). Examples may include depressions, trenches, barriers, or sand lenses constructed of porous mineral matter that improve ground water recharge to filter, clean, and trap waterborne pollutants.
- (6) Other Options.
  - a. In addition, other LID standards include extended detention basins that may be used in open space tracts to treat the runoff from multiple lots, roads, trails, and pathways.
  - b. Other LID options may be allowed as approved by the Town.
- (e) Ownership and Maintenance. All on-site drainage facilities located outside public infrastructure such as municipal street right-of-ways shall be owned and maintained by the Homeowner's Association or Metro District, the landowner, or the occupant unless otherwise approved through an agreement executed by the Town.

#### **Sec. 16-3-375. - Installation and Maintenance.**

- (a) General Installation Standards.
  - (1) Required landscape improvements shall be installed prior to issuance of a certificate of occupancy. If required installation falls outside the planting season, the Community Development ~~Director~~ Department may authorize a deferred landscaping installation to the next planting season with posting of a sufficient financial security for the improvements. Such financial security shall be released upon installation, inspection, and approval of the landscaping. All required landscaping shall be installed within one (1) year of issuance of a certificate of occupancy and shall comply with Section 13-~~23-63~~20.
  - (2) All landscaping shall be installed and maintained pursuant to ~~the~~ an approved landscape plan submitted with a site plan, and the standards in this Division. Property owners of record shall be responsible for maintenance of landscaping within the portion of the public right-of-way between the back of the curb or street pavement and the adjacent property.
  - (3) All landscaping shall be installed to comply with required Intersection Sight Distance areas, as defined in the Milliken Design Criteria and Construction Specifications.
- (b) Irrigation Standards.
  - (1) All required landscaping shall be irrigated as required for plant establishment and maintenance. Irrigation shall be appropriate to the type and scope of the improvements.
    - a. Use of nontreated water for irrigation is encouraged if a permanent suitable supply is available. In the event that nontreated water is not continually available, an alternative supply of treated water shall be available by means of a separate line with an appropriate backflow prevention device to avoid any possibility of cross-contamination.

- b. Required landscaping shall be irrigated with a permanent irrigation system.
  - c. Irrigation for native grasses and vegetation shall be used for establishment and shall be available for maintenance, as necessary.
- (2) Irrigation system improvements shall be designed to achieve water efficiency as a goal. These standards shall apply to the irrigation system design for all regulated landscapes:
- a. Plant water requirements shall be considered in irrigation design schemes.
  - b. Hydraulic principles shall be employed when designing the irrigation system.
    - 1. Separate landscape meters shall be installed for all regulated landscapes.
    - 2. A reduced pressure backflow preventer shall be used on all dual systems. The backflow preventer may be waived if the irrigation system uses non-potable water that is in no way connected to a domestic system. All irrigation systems shall be installed with a pressure vacuum breaker.
    - 3. Turf and grass areas irrigation shall be designed using the following principles:
      - (a) No single zone shall mix head types, such as rotors and pop-up spray heads on the same zone.
      - (b) Sprinklers shall be spaced for "head-to-head" coverage where the spray pattern from one (1) head will reach to the next head.
      - (c) Check valves shall be included in heads or valves where low drainage will occur due to elevation changes.
    - 4. Shrub bed areas with plant material five (5) gallon in size or larger shall be irrigated with a drip or subsurface system.
    - 5. Where the water supplied will be from secondary or other non-potable water sources, the use of non-potable color indicators shall be used on the equipment. This includes purple handles on quick coupler valves and gate valves, caps for irrigation heads, valve box lids and marker tape buried above the mainline.
    - 6. All systems shall be equipped with an automatic rain shut-off device.
    - 7. All wire connections shall be made with watertight connectors and contained in a valve box.
    - 8. For common open space areas within residential developments, and for multifamily, mixed-use, and nonresidential developments:
      - (a) The irrigation system shall be designed to provide irrigation per Section 13-~~23~~-~~36~~80 of this Code.
      - (b) The tap size shall be based on the water demand of the site and shall take into consideration the areas of each plant type (i.e., turf, native seed, perennials, annuals, and shrubs), the evapotranspiration for the site, the water demand of each plant type at peak season and the water window.
      - (c) Irrigation control systems shall be employed that offer flexibility in

programming.

- (1) All irrigation systems shall include an electric automatic controller with multiple programs and multiple repeat and rest cycle capabilities and a flexible calendar program.
  - (2) The controller shall have the ability to adjust run times based on percentage of maximum evapotranspiration rate.
  - (3) Each zone/valve shall have its own station on the controller.
- (3) Additional standards for common open space areas within residential developments, and for multifamily, mixed-use, and nonresidential developments.
- a. Irrigation plans that are accurate and stamped shall be provided.
  - b. Installation of irrigation systems shall be per plan.
    1. Mainline shall be tested to ensure its ability to maintain required pressure for two (2) hours. Proof of test and compliance shall be submitted to the Town.
    2. Before acceptance, each zone shall be operated, and each valve box opened to verify accurate installation. Proof of test and compliance shall be submitted to the Town.
  - c. "As-built" drawings of irrigation system may be required after the installation, with dimensions shown for irrigation components depending on the development as designated by the Town.
    1. The "as-built" drawings shall show all points of connection, including tap size, line size and static water pressure of service. Dimensions that will be used to locate components shall be shown on plans. Components to be located include meters, backflow preventers, all valves, including quick coupler, control, gate and manual drain valves, and controller locations.
    2. The drawings shall also show zone number, valve size and gallons per minute.

(c) Maintenance and Replacement Standards.

- ~~(1) Regular maintenance schedule satisfying the following conditions shall be submitted as part of the Landscape Documentation Package. A regular maintenance schedule shall include, but not be limited to, checking, adjusting, and repairing irrigation equipment, resetting the automatic controller, aerating, and dethatching turf areas (only if needed), replenishing mulch, fertilizing, pruning and weeding in landscaped areas.~~
- (1) The property owner shall maintain the yard and landscaping within the adjacent road right-of-way in accordance with Town regulations.
  - (2) Replacement of dead or diseased plant material shall be of equivalent species or material as specified in the approved landscape plan or pursuant to this Division in the absence of an approved landscape plan. Replacement shall occur at the time of removal, unless such removal occurs outside the planting season, in which case the replacement shall occur during the next planting season.

- (3) All areas disturbed by construction shall be reseeded to *prevent erosion*. Erosion mats may be necessary under certain conditions. Native, noninvasive grasses shall be used for revegetation where practical. Weed control is the responsibility of the landowner on all reseeded areas and all preservation areas. See also the Design Criteria and Construction Specifications, Volume II, regarding erosion control.

#### **Sec. 16-3-380. - Environmental Conditions.**

- (a) Intent. The intent of this Section is to ensure that new development limits/mitigates its impact to wildlife and wildlife habitat and that it minimizes environmental impacts.
- (b) Protection of Wildlife and Natural Areas.
  - (1) To the maximum extent practical, development shall be designed to ensure that disturbances which occur to any natural area as a result of development shall be minimized through the use of natural buffer zones. If any development materially disturbs a natural area, the development project shall mitigate such lost natural resource either on- or off-site. Any such mitigation shall be roughly proportional to the loss suffered as a result of the disturbance.
  - (2) The natural areas shall include: floodplains and floodways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas, and any wetland greater than one-quarter (¼) acre in size.
  - (3) The natural area buffer zone shall be used between natural areas and proposed development to ensure that the proposed development does not degrade the natural area. The size of the buffer zone shall be determined in conjunction with the Colorado Division of Wildlife or a Town-approved wetland or wildlife ecologist. The Town may decrease this buffer when strict application of this Paragraph will impose an exceptional and undue hardship upon the property owner or developer.
  - (4) Exceptions. The Board of Trustees may allow disturbance or construction activity within the natural area or natural area buffer zone for the following limited purposes: mitigation of development activities, restoration of previously degraded areas, emergency public safety activities and utility installations when such activities and installations cannot reasonably be contained within other nearby develop areas, construction of a trail that will provide public access for educational or recreational purposes, or the enhancement of the habitat value and/or other natural resource values of a natural area.
  - (5) Wildlife Conflicts. ~~If wildlife that may create conflicts for the future occupants of the development (including, but not limited to, prairie dogs, beaver, deer and rattlesnakes) are known to exist in areas adjacent to or on the development site, then the development plan must, to the extent reasonably feasible, include provisions such as barriers, protection mechanisms for landscaping and other site features to minimize conflicts that might otherwise exist between such wildlife and the developed portion of the site.~~ Any impacts to wildlife must be referred to the Colorado Division of Wildlife and, in the case of threatened or endangered species, United States Fish and Wildlife Services.
  - (6) Wetlands. If wetlands are identified in the proposed area of development, the boundary of wetlands and a description of the ecological functions and characteristics provided by

those wetlands shall be provided to the Town. (See Section 16-6-450 and Article IV, Division 1 "Floodplain Areas.")

### **Sec. 16-3-385. - Buffering and Screening Techniques.**

- (a) Intent. The intent of this Section is to integrate adjacent land uses and provide seamless transitions through the use of appropriate buffers and screening.
- (b) Buffer Standards.
  - (1) Special consideration shall be given to adjacent land uses of different intensities. The responsibility for buffering shall rest with the proposed land use, rather than with existing land uses. The developer shall ensure that the transition from one use to another is functional and minimizes conflicts between existing and proposed uses.
  - (2) Buffers shall be provided according to the following table:

**Table 16-3-3-2: Minimum Buffer Width Requirements**

Buffer Width for Adjacent Street Frontages			Buffer Width for Adjacent Use Types			
Proposed (developing) use	Highways [1]	All other streets	Single-family residential	Other residential or mixed-use	Non-residential	Environmentally sensitive areas
Single-family residential	50 feet	No additional buffer required beyond building setback requirements	n/a	n/a	20 feet	Minimum 10 feet; May be increased based on a case-by-case review by the decision-making authority.[2]
Other residential	50 feet		10 feet	5 feet	10 feet	
Mixed-use	30 feet		20 feet	n/a	n/a	
Nonresidential	30 feet		30 feet	10 feet	n/a	

**Notes:**

[1] Does not apply in the MU-C-D District on Broad Street east of Highway 257 and west of Alice Drive.

[2] Determined by the application type – For example, administrative applications will be reviewed by the Community Development [Director/Department](#), in which case the Community Development [Director/Department](#) also designates appropriate buffer widths.

#### **(3) Buffer Design.**

- a. Buffers shall include a combination of landscaping, berms, fences, or walls. A fence shall not be the only screening material used to satisfy buffer requirements.
  - b. Opaque screening shall only be used when necessary to mitigate the impact of noise, light, unattractive aesthetics, and traffic.
  - c. Special consideration shall be given to the impact of aesthetics, noise, lighting, and traffic.
- (c) Screening of Loading and Service Areas.
- (1) Loading docks, solid waste facilities, recycling facilities and other service areas shall be placed to the rear or side of buildings in visually unobtrusive locations.
  - (2) Screening and landscaping shall prevent direct views of the loading areas (including vehicles being loaded) and their driveways from adjacent properties or from the public right-of-way. Screening and landscaping shall also prevent spill-over glare, noise, or



exhaust fumes. Screening and buffering shall be achieved through walls, architectural features, and landscaping and shall be opaque. Recesses in the building or depressed access ramps may be used.

(d) Screening of Dumpsters.

- (1) Every development that is required to provide one (1) or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:
  - a. Located to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way; and
  - b. Constructed to allow for collection without damage to the development site or the collection vehicle.
- (2) Dumpsters shall be screened to prevent them from being visible from:
- (3) The ground floor of any occupied building on site or on adjacent properties; and
- (4) Any public street, sidewalk, or other public ways.

**Sec. 16-3-390. - Fences and Walls.**

- (a) Intent. The intent of this Section is to ensure that walls and fences are attractive and in character with the neighborhood.

(b) General Requirements.

- (1) A fence permit is required prior to the start of construction.

(2) Compatibility.

- a. Walls and fences shall be architecturally compatible with the style, materials, and colors of the principal buildings on the same lot.

b. Perimeter F~~f~~ences and walls along collector and arterial streets shall be made visually interesting by integrating architectural elements such as brick or stone columns, varying the alignment or setback of the fence, softening the appearance of fence lines with plantings or through similar techniques. A fence or wall may not consist of a solid, unbroken expanse for more than fifty (50) feet for every seventy-five (75) feet of length, or portion thereof without approval of the Planning Commission. Fence support posts should be constructed inside the fence and should not be visible from the outside of the fence. ~~and all E~~ exterior fences made of wood shall be finished with a clear seal or left in their natural state or stained with natural wood stains. Decorative or ornamental fence support structures may be visible if approved by the Community Development Director~~Planning Commission~~.

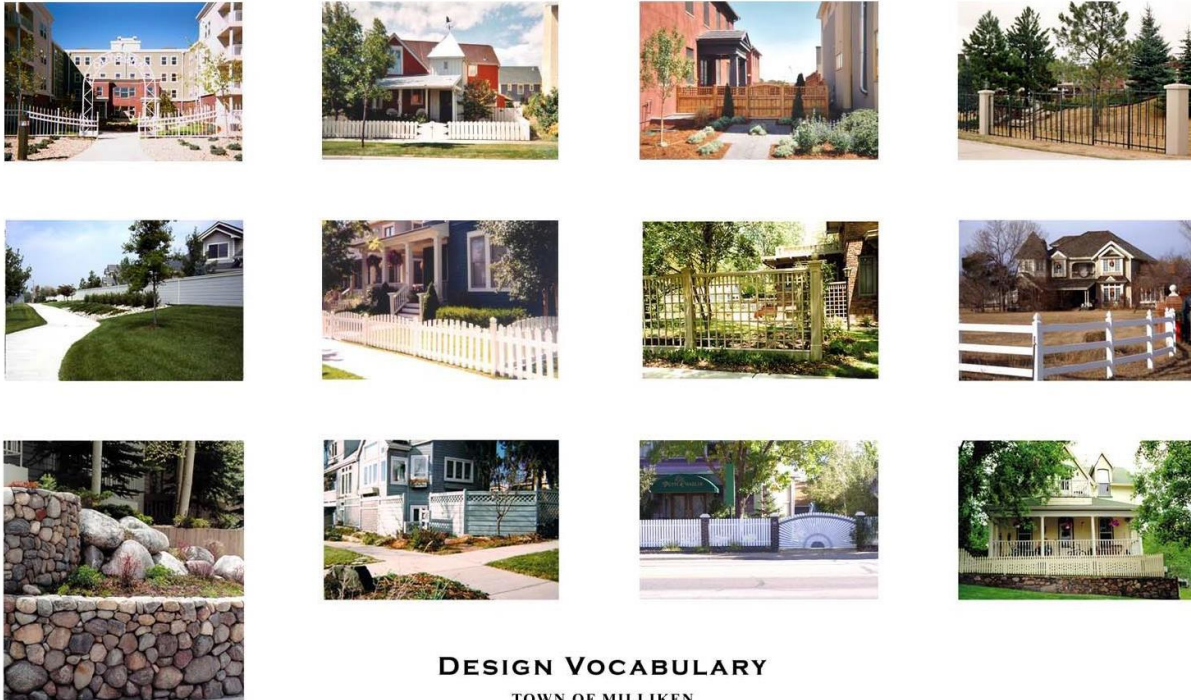
c. Fences and walls shall be located outside of the Intersection Sight Distance~~Distance~~ Triangle as defined in the Milliken Design Criteria and Construction Specifications.

(3) Materials.

- a. Stone walls, or brick walls with a stone or cast stone cap, treated wood cedar and vinyl fences, decorative metal, cast iron fences, stucco walls, and stone piers are encouraged. Solid walls and fences are permitted only in rear and side yards. Retaining

walls are permitted where required for landscaping and approved with a final drainage plan. Hedges may be used in the same manner and for the same purposes as a fence or wall. See Figure 16-3-3-9 below for illustrations of fence styles that the Town is encouraging.

### FENCES



### DESIGN VOCABULARY

TOWN OF MILLIKEN  
COLORADO

**Figure 16-3-3-9.** *Types of fences the Town of Milliken encourages.*

- b. Fences used in front yards and adjacent to public streets, open space, or parks along a side or rear yard shall be at least fifty (50%) percent open. Allowable fences are split rail, wrought iron, picket, or other standard residential fences of a similar nature approved by the Community Development ~~Director~~[Department](#).
  - c. Solid fences shall be constructed to meet the wind design criteria of the adopted Building Code, using a basic wind speed of ninety-five (95) miles per hour.
  - d. Other materials may be incorporated in fences and walls as may be approved by the Community Development ~~Director~~[Department](#).
- (4) **Prohibited Materials.** Security fencing such as concertina or razor wire, barbed wire, or electrically charged fences, is prohibited unless specifically allowed by the Board of Trustees. Chain-link fencing with or without slats shall be prohibited, except within an industrial zoning district pursuant to paragraph (6)(f) below, or as administratively approved for replacement or extension of existing chain-link fencing within the Plat of the Town of Milliken Subdivision on residential property in close proximity to existing chain-link fencing within the neighborhood. Chain-link fencing is prohibited in the Downtown area.
- (5) **Retaining Walls.** Retaining walls shall be designed to resist loads due to the lateral pressure of retained material in accordance with accepted engineering practice and shall



not be unsightly or detrimental to abutting property. Any retaining wall greater than forty-eight (48) inches in height shall be engineered and allowed only with prior approval from the Town Engineer and Building Official.

(6) Height Limitations. Fences or walls shall be:

- a. No more than forty-two (42) inches high between the front building line and the front ~~or side~~ property line. Walls shall not be solid except for retaining walls. For corner lots, front yard fence regulations shall apply to both street sides of the lot. The Community Development ~~Director~~ Department may approve an exception for demonstrated unique security purposes.
- b. No more than ~~sevensix~~ (76) feet high for an opaque privacy fence located on a rear property line or on a side yard line in the rear yard.
- c. No more than ~~sevenix~~ (76) feet high for opaque privacy fences that are located directly adjacent to and integrated with the architecture of the house or connected to a courtyard.
- d. No more than thirty (30) inches high when located within the ~~sight~~ distance triangle and fence shall not be solid. Properties with elevation changes from the right-of-way shall reduce the height of the fence or wall, as needed to remain clear of the sight distance triangle
- e. Within an ~~Industrial~~ Zoning district, a chain-link fence is permitted so long as it is not higher than six (6) feet anywhere on the premises, and the visibility at the intersection shall be in accordance with site triangle regulations. Additional landscaping must be installed to minimize the visual impact of the chain-link fence.
- f. Fences around a recreation court (e.g., tennis, squash racket, squash tennis or badminton) or around a publicly owned recreation area may exceed six (6) feet in height if the fence is at least fifty (50%) percent open.

(7) Maintenance. Fencing shall be maintained in an acceptable appearance. Missing and broken segments of fence shall be repaired in a timely manner. Dilapidated, unsightly or dangerous fences shall be removed or repaired when so ordered by the Town. Hedges shall be maintained in a healthy condition, trimmed, and pruned as appropriate for the plant type. Dead plant material in hedges shall be removed or replaced as appropriate when so ordered by the Town. Hedges shall not encroach upon sidewalks or street rights-of-way. The Town may repair and/or replace fencing or plants and bill the owner if the owner does not make repairs as ordered by the Community Development ~~Director~~ Department.

~~(8) Ornamental gates associated with fences will be allowed subject to approval by the Community Development Director.~~

~~(9)~~(8) Fences, walls, and hedges shall comply with International Fire Code requirements, as adopted by the Town, as they relate to maintaining unimpeded access to existing and proposed fire hydrants.

(c) Warranty Period. The warranty period for perimeter fences along arterial and collector streets shall be two (2) years. Provision for compliance shall be as outlined in the warranty section of the subdivision or site plan agreement.

## Division 4: Building Design Standards

### Sec. 16-3-400. - Applicability and Intent.

- (a) Applicability. The following properties are subject to these regulations: All single-family and two-family dwellings constructed and/or placed on land pursuant to issuance of a building permit subsequent to the effective date of the ordinance amending this Section.
- (b) Intent. This Division is intended to:
  - (1) Enhance the visual character of the Town.
  - (2) Strive to retain the Town's rural character as described in the Comprehensive Plan.
  - (3) Foster quality building design that reinforces the identity of the community and each neighborhood and zone district.
  - (4) Build upon the architectural traditions of the region yet allow for diversity of expression.
  - (5) Encourage a variety of housing types, sizes, and prices in each neighborhood to allow people to remain in their neighborhoods, as their housing needs change.
  - (6) Encourage single-household detached, single-household attached, and two-family dwellings that create diversity and variety along residential streets, and that reflect more modern designs.

### Sec. 16-3-405. - Building Materials.

Exterior materials for all residential buildings shall only be constructed of wood, rock, brick, stucco, textured concrete, or natural-appearing siding.

### Sec. 16-3-410. - Minimum Building Size.

- (a) The minimum floor area of a new single-family dwelling or two-family shall be one thousand one hundred (1,100) square feet per dwelling unit.

### Sec. 16-3-415. - Model Diversity Plan.

- (a) Single-family detached and two-family building requirements are intended to ensure that an adequate mix of models and styles are offered within a neighborhood and within each block face.
- (b) ~~Upon submittal of a Before the~~ building ~~permit foref~~ single-family and two-family dwellings, ~~may commence on a block and prior to the issuance of a building permit within the block~~, the applicant shall illustrate, through the use of a ~~model~~~~block~~ diversity plan, how the development will comply with the requirements set forth in this Division. Developments of three (3) dwelling units or less are exempted from this provision.
- (c) There must be at least three (3) units between models with the same architectural style.
- (d) The same model with the same architectural style shall not be placed adjacent to each other or directly across the street from one another.
- ~~(e) All housing shall have a street address clearly displayed and visible from the street.~~

**Sec. 16-3-420. - Enhancements at Corners.**

- (a) At corners, buildings shall address the side street or open space. Corner lots shall be wide enough to allow for side elevation enhancements. At least one (1) of the following enhancements are required:
- (1) A side or wrap-around porch, or a bay window.
  - (2) Windows or glazed doors that face the side street or open space.
  - (3) A change in the vertical or horizontal wall plane.

**Sec. 16-3-425. - Roof.**

- (a) All dwelling roofs shall have the following minimum characteristics:
- (1) A minimum of five (5) roof planes per building, to add articulation. One of the five roof planes may be a porch roof. ~~The predominant roof planes shall be a minimum pitch of six (6) inches in twelve (12) inches, and the remaining roof planes may have a pitch other than six (6) inches in twelve (12) inches. For the purposes of this Section, portions of roofs less than ten (10%) percent of the total plan view roof area shall not constitute a "roof plane."~~
  - ~~(2) Eighty (80%) percent of all eaves shall protrude from the exterior wall (not including the width of any gutter) no less than eighteen (18) inches. This minimum overhang shall apply to all roofs, irrespective of pitch.~~

**Sec. 16-3-430. - Front Door.**

Front doors shall face the street on which the address is designated by the address plat.

**Sec. 16-3-435. - Exterior Embellishments.**

Bays, projections, brackets, trim and material changes that are appropriate for the expression of the architectural style of a building are encouraged.

**Sec. 16-3-440. - Decks.**

All vertical elements (columns, beams, railing, stairs, supports), fascia's and overhead elements of elevated and walkout decks shall be painted or stained to match or complement the permanent colors of the main structure and not left to weather naturally.

**Sec. 16-3-445. - Setback Encroachments.**

Cornices, canopies, eaves, or similar architectural features may extend from the building into a required yard not more than two (2) feet. Open, unenclosed, uncovered porches at ground level may extend into a required yard setback not more than six (6) feet, excluding roof overhangs, but not beyond the property line.

**Sec. 16-3-450. - Garages.**

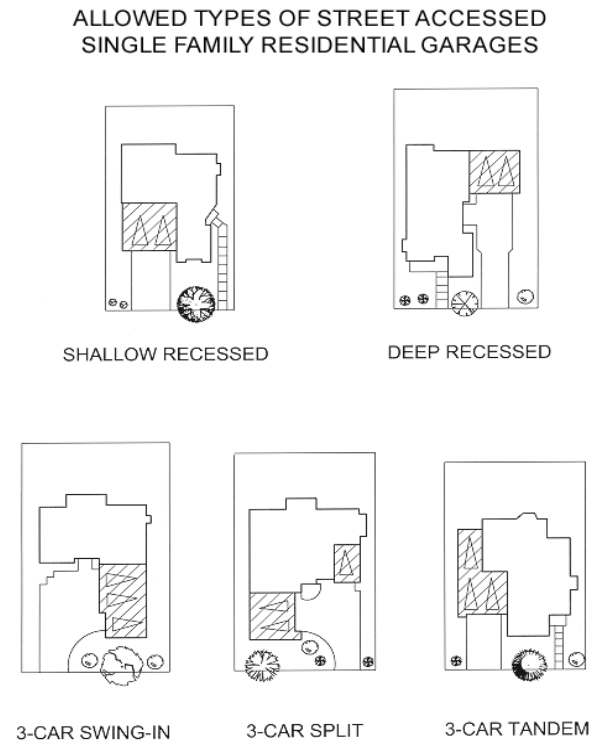
All single-family and two-family dwellings constructed or placed on land pursuant to issuance of a building permit subsequent to April 9, 2010, shall include a garage, one (1) car in size or larger, either attached or detached, as part of the new construction or placement and prior to the issuance of a certificate of occupancy or certificate of completion.

Requirements for Garages with Access from the Street (see Figure 16-3-3-10):

- (a) Variety of Garage Placement. Varying the placement of street-accessed garages on adjacent lots is encouraged to create diversity and avoid repetition.
- (b) Swing-In (Side-Loaded Garages). Swing-in garages are permitted. However, such garage projections shall not become a dominant feature of the streetscape.
- (c) Three-Car Street-Accessed Garages. Three-car, front-facing garages are ~~discouraged~~prohibited. Split garages and tandem garages are permitted.

#### Sec. 16-3-455. - Driveways.

- (a) Maximum Driveway Curb Cut Width. One (1) driveway with a maximum width of thirty-two (32) feet at the curb is permitted per single-family residential dwelling unit. The driveway may flare in width at a point behind the curb which is equal to at least one-third (1/3) of the driveway length (as measured from the curb) to provide an approach for one (1) additional parking area which shall not exceed ten (10) feet in width. Driveways must also conform to the Milliken Design Criteria and Construction Specifications for side setback from lot line, driveways on adjacent lots and Intersection Sight Distance.



**Figure 16-3-3-25**

#### Sec. 16-3-460. - Townhouses and Row Houses (Single-Family Dwelling and Attached Dwellings) Building Type.

- (a) Individual Dwelling Identity. Buildings shall have repeat principal architectural elements like entries, bays, cornices, and parapets, and vary other architectural elements such as the offsetting of building walls, choice of materials, parapet height and color to create visual interest and streetscape diversity.
- (b) Front Facade. Design the front facade of each row house so it is evident where the unit begins and ends.
- (c) Articulation. Row houses shall have front articulation through the use of such elements as changes in material, horizontal setback, projections or recesses, and architectural details.
  - (1) Side elevations of row houses facing a street are subject to the same articulation requirements as the primary facade.
  - (2) Row house groupings of six (6) units or more (or groupings over one hundred twenty (120) feet in length) require two (2) different articulation combinations.

**Sec. 16-3-465. - Multi-Family Stacked Units, Including Condominiums and Apartments.**

- (a) Each multi-unit dwelling building containing more than three (3) dwelling units shall feature a variety of massing proportions, wall plane proportions, roof proportions and other characteristics.
- (b) Individual Building Identity. For all developments of three (3) or more multi-family stacked buildings, a floor plan may be repeated; however, identical building facades must not be replicated more than twice within the development.
- (c) Articulation. Each multi-family dwelling or condominium shall be articulated with projections, recesses, covered doorways, balconies, box, or bay windows and/or other similar features, dividing large facades and walls into human-scaled proportions. Each multi-family building shall feature walls that are articulated by a least two (2) of any of the following elements within every thirty-six-foot length of the facade:
  - (1) Recesses, projections, or significant offsets in the wall plane;
  - (2) Distinct individualized entrances;
  - (3) Chimneys that project from the wall plane;
  - (4) Balconies and/or other outdoor living space; or
  - (5) Bay or box windows.
- (d) Roofs. Each multi-family building shall feature a combination of primary and secondary roofs. Primary pitched roofs shall be articulated by at least one (1) of the following elements:
  - (1) Changes in plane and elevations;
  - (2) Dormers, gables, or clerestories; or
  - (3) Transitions to secondary roofs over entrances, garages, porches, or bay windows.
- (e) Color. For all developments, there shall be no more than two (2) similarly colored structures placed next to each other along a street or major walkway spine.
- (f) Garages. No street-facing facade shall contain more than four (4) garage fronts.

**Sec. 16-3-470. - Factory Built, Manufactured, and Mobile Homes Standards.**

- (a) Factory built homes shall be constructed to the local wind and snow loads.
- (b) Mobile homes must be attached to natural or propane gas distribution piping, electrical distribution wiring and plumbing waste sewer lines on an approved mobile home site designed for such attachment points.
- (c) No factory-built home, manufactured home or mobile homes shall be converted or used, as a storage building.
- (d) Mobile homes constructed prior to June 15, 1976 which do not comply with the HUD Code are not allowed to be repaired beyond what is allowed through the non-conforming structure provisions of this Code, or to be brought into the Town of Milliken after adoption of this Code reference.

- (e) No **factory-built** home, manufactured home or mobile home shall be allowed to become in a dilapidated state which includes units that are partially or totally damaged by fire, earthquake, flood, wind or other natural causes, or is in a state of general dilapidation, deterioration or decay resulting from improper lack of maintenance, vandalism or infestation with insects or rodents. Any such dilapidated structure shall be returned to and maintained in the condition as originally established on site and as inspected by the Building Inspection Department, or it shall be removed from site. Repair of non-conforming structures or uses shall be in accordance with non-conforming structure provisions found in the Land Use Code.

**Sec. 16-3-475. - Commercial and Industrial Building Types and Locations.**

- (a) The Town has three (3) distinctly different commercial/industrial types of development within its Planning Area: mixed use; business/industrial; and business/commercial. They are different in character, purpose, and mixture of uses. The design considerations vary for each type, although there are many common design elements. Section 16-3-480 below outlines the common elements, and the specific design considerations are identified by type.
- (b) Business/Industrial. The business/industrial is a primary employment center for the community. This area is predominantly automobile accessible. Design should include pedestrian connections within the area and to the rest of the community.
- (c) Business/commercial. This type of area is intended to be integrated into the design of new neighborhoods to serve as focal points and meet convenience commercial needs of the residents.

**Sec. 16-3-480. - General Provisions.**

- (a) Connections. Commercial developments must be linked with surrounding areas by extending town streets, sidewalks and/or paths directly into and through the development to provide convenient, direct pedestrian, bicycle, and vehicle access to and from the development. Site plans shall equally emphasize the following:
- (1) Pedestrian access to the site and buildings;
  - (2) Gathering areas for people; and
  - (3) Auto access and parking lots.
- (b) Walkways. Walkways must be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination, and not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access.
- (c) On-Street Parking. Streets and other elements of the site plan shall be designed so that on-street parking is a functional part of the development (except along arterial streets).
- (d) Building Orientation. Buildings must front on and relate primarily to streets. Building setbacks from local and collector streets shall be minimized in order to establish a visually continuous, pedestrian-oriented street front. In the case of large buildings for employment, storage, or auto-related uses, where greater setbacks are needed, a minimum of thirty percent (30%) of the building shall be brought to the setback line. If a minimized setback is not maintained, the larger setback area shall have landscaping, low walls or fencing, a tree canopy and/or other site improvements along the sidewalk designed for pedestrian interest, scale, and comfort.

- (e) **Pedestrian Scale.** The establishment of buildings on isolated "pad sites" surrounded by parking lots and driveways, and that offer mainly auto-oriented signage to define entrances, is discouraged. Even relatively massive development can be configured into "blocks" or other spaces, proportioned on a human scale and city block scale; and need not be proportioned on a monolithic, auto-oriented scale.
- (f) **Thematic Architectural Styles.** Standardized "corporate" or strongly thematic architectural styles associated with chain-type restaurants and service stores are strongly discouraged unless they accommodate the desired image for the Town and are compatible with adjacent structures and uses.
- (g) **Location of Parking Lots.** Parking requirements shall be provided to the greatest extent possible by spaces at the rear or sides of the building. Refer to Division 3 "Parking, Loading, Vehicle, and Pedestrian Standards" and Division 4 "Landscaping, Buffering, Fences and Walls" of this Article for additional parking and landscaping requirements.
- (h) **Blank Walls.** Walls facing streets or pedestrian areas must contain door and/or window openings. Where the construction of a blank wall is necessary, the wall shall be articulated.
- (i) **Wall Articulation.**
  - (1) Walls shall not have an uninterrupted length exceeding fifty (50) feet. Pilasters, texture transitions, windows and stepping of the wall plane are required.
  - (2) All exterior elevations shall maintain the integrity of the adjacent dwellings architectural character and detailing.
  - (3) Continuous cornice lines or eaves are encouraged between adjacent buildings.
  - (4) Buildings with flat roofs shall provide a parapet with an articulated cornice.
- (j) **Facade Treatment.** The architectural treatment of the front facade shall be continued to all sides visible from the public right-of-way.
- (k) **Windows.** Windows shall be vertically proportioned wherever possible.
- (l) **Awnings.** Fixed or retractable awnings are permitted. Canvas is the preferred material, although other waterproofed fabrics may be used; metal or aluminum awnings shall not be used unless otherwise approved by the Board of Trustees. Awnings used as signage must conform to the Sign Code.
- (m) **Screening.** All building or ground mounted air-conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing, satellite dishes and other telecommunications receiving devices shall be fully screened from view from the public right-of-way and from adjacent properties by using walls, fencing (except chain-link), roof elements and landscaping.
- (n) **All trash facilities, loading and parking areas shall be properly screened.**
- (o) **Architectural Details.** All materials, colors and architectural details used on the exterior of a building shall be compatible with the building's style and with each other.

**Sec. 16-3-485. - Neighborhood Commercial Architectural Standards.**

- (a) Neighborhood Center. The design of the commercial center needs to function as a focal point or activity center for the neighborhood. The design should include, where possible, outdoor space for pedestrians, such as a plaza, outdoor cafe, or seating area.
- (b) Setbacks. Building setbacks from local and collector streets must be minimized in order to establish a visually continuous, pedestrian-oriented street front. In the case of large buildings for employment, storage, or auto-related uses where greater setbacks are needed, a minimum of thirty percent (30%) of the building shall be brought to the setback line. If a minimized setback is not maintained, the larger setback area shall have landscaping, low walls or fencing, a tree canopy and/or other site improvements along the sidewalk designed for pedestrian interest, scale, and comfort.
- (c) Driveway Crossings. Driveway crossings must place priority on the pedestrian access, and the material and layout of the pedestrian access must be continuous as it crosses the driveways, with a break in the continuity of the driveway paving and not in the pedestrian access way. Continuous driveway aisles located directly in front and parallel to the front of a building are prohibited. Driveway cuts onto Broad Street are prohibited.

**Sec. 16-3-490. - Community Commercial Architectural Standards.**

- (a) Design of developments with internal orientation. In multiple-building developments, where setbacks are increased to accommodate independent development with internal orientation, all primary building entrances must face walkways, plazas, or courtyards that have direct, continuous linkage to the street without making people walk through parking lots. However, it may be necessary for such direct pedestrian access ways to cross drive aisles. Driveway crossings must place priority on the pedestrian access.
- (b) Requirement for Four-Sided Design. All sides of a building open to view by the public, whether viewed from public or private property, shall display a similar level of quality and architectural interest.
- (c) Building Form. The design of all buildings shall employ textured surfaces, projections, recesses, shadow lines, color, window patterns, overhangs, reveals, changes in parapet heights and similar architectural features to avoid monolithic shapes and surfaces and to emphasize building entries. Designs shall not contain unbroken flat walls of fifty (50) feet or greater in length.
  - (1) Buildings having single walls exceeding fifty (50) feet in length shall incorporate one (1) or more of the following for every fifty (50) feet:
    - a. Changes in color, graphical patterning, changes in texture or changes in material;
    - b. Projections, recesses and reveals;
    - c. Windows and fenestration;
    - d. Arcades and pergolas;
    - e. Towers;
    - f. Gable projections;



- g. Horizontal/vertical breaks; and/or
  - h. Other similar techniques.
- (d) Exterior Building Materials and Colors. Intense, bright, or fluorescent colors shall not be used as the predominant color on any wall or roof of any primary or accessory structure. These colors may be used as building accent colors.
- (e) Roof Materials. All sloping roof areas with a pitch of 3:12 or greater, and visible from any public or private right-of-way, shall be surfaced with attractive and durable materials.
- (f) Orientation of Pedestrian Entries. All office, hotel and motel structures shall be oriented so that pedestrian entries face the nearest adjacent street.

**Sec. 16-3-495. - Industrial/business Park Architectural Standards.**

The intent of the Industrial/Business Park architectural standards is to ensure that the quality of industrial/business park development enhances the overall well-being and image of the community.

- (a) Subsections (c) through (g) of Section 16-3-490 of this Article shall apply.
- (b) Building Massing and Form:
- (1) Office and entry spaces shall be distinguished from the building mass.
  - (2) Large, square, "box-like" structures are not an acceptable form. Architectural elements with smaller forms stepping outwards and down shall be included.
  - (3) Loading areas shall not front any street or public right-of way.
  - (4) Parking requirements shall be provided to the extent possible at the rear or sides of the building.
- (c) Wall Articulation. Walls shall not have an uninterrupted length exceeding fifty (50) feet. Pilasters, texture transitions, windows and stepping of the wall plane are required.
- (d) Siting Structures.
- (1) Structures shall be sited to avoid a "wall" effect along public rights-of-way and along adjacent property lines. This can be achieved by varying the building setbacks and clustering buildings or enhanced landscape alternative.
  - (2) Where multiple buildings are proposed on a development parcel, buildings shall be oriented to allow views into the project and shall preserve high-quality views through the project (e.g., views of the mountains).

**Sec. 16-3-500. - Accessory Buildings and Structures.**

- (a) Accessory buildings and structures which are not any larger than one hundred twenty (120) square feet in area, as measured around the perimeter of the building shall be permitted without a building permit.
- (b) Accessory buildings and structures, except fences, in the residential districts, shall be subject to the following provisions:

- (1) Attachment to Principal Building. An accessory building or structure shall not be attached to or have a common wall with the principal building. 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 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 the Community Development ~~Director~~[Department](#).
- (3) Building Design Standards. The architectural design and appearance of all accessory buildings and structures shall comply with the following standards. Each of the following standards shall be met in order for the Planning Commission to approve a use by conditional review use related to accessory buildings:
  - a. All accessory buildings and structures of any size shall be constructed of durable, finished materials and shall be compatible in color to the principal building. All accessory buildings and structures 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 Commission.
  - b. All accessory buildings and structures are to be securely anchored to prevent uplifting due to wind.
  - c. All accessory buildings and structures shall be sided or otherwise finished.
- (4) Temporary accessory buildings and structures such as portable carports, shelters, tarped coverings, and similar structures, as determined by the Community Development Department, shall be prohibited.
- (5) 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 Article II "Zoning Districts and Uses."
- (6) Conditional Review Uses. The Planning Commission may authorize additional accessory buildings or structures, a greater lot coverage and/or a greater height as a conditional review use in accordance with Article 4 of this Chapter. The following standards shall be considered:
  - a. The area and/or height of the accessory buildings or structures 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 or structures 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 or structure 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 or structure will affect light and air circulation of the adjoining property;
- e. The building or structure has been appropriately screened through fencing, buffering, berming, and/or landscaping from adjacent properties and the public view; and
- f. Impacts to adjacent land uses have been satisfactorily mitigated.

## **DIVISION 5: SITE INFRASTRUCTURE STANDARDS**

### **Sec. 16-3-505. - Water, Sewer, and Drainage Improvements.**

Offsite and onsite water, sewer, and drainage improvements must comply with the Design Criteria and Construction Specifications ~~of the Public Works Department of the Town of Milliken.~~

### **Sec. 16-3-510. - Lighting.**

- (a) Intent. All new development shall utilize lighting techniques that minimize the impact of lighting on adjacent properties. Exterior lighting shall be used for purposes of identification, security, safety, and illumination in areas of pedestrian circulation and vehicular traffic. These standards apply to all development within the Town. The purposes of the lighting standards are as follows:
  - (1) Reduce the escalation of nighttime light pollution.
  - (2) Reduce glaring and offensive light sources.
  - (3) Provide clear guidance to builders and developers.
  - (4) Encourage the use of improved technologies for lighting.
  - (5) Conserve energy.
  - (6) Prevent inappropriate and poorly designed or installed exterior lighting.
  - (7) Minimize interference with use or enjoyment of property through unnecessary night-time illumination and the loss of scenic night sky views due to increased urban sky-glow.
- (b) General Standards.
  - (1) Direct or reflected light from any light source may not create a traffic hazard to operators of motor vehicles on public roads including use of colored lights in such a way as to be confused or construed as traffic control devices.
  - (2) Light sources shall be concealed or shielded to minimize glare and unnecessary diffusion onto adjacent property. Lighting shall be directed downward and equipped with “cut-off” devices that ensure ambient skyward light is eliminated.
  - (3) Maximum on-site lighting levels shall not exceed ten (10) foot-candles, except for loading and unloading platforms. For reasons of security, a maximum of one and one-half (1.5) foot-candles at entrances, stairways and loading docks is permitted unless required by any federal, state, or local jurisdiction.

- (4) Hours of Lighting Operation. All parking lot lighting fixtures and exterior building lights, except those required for security purposes, shall be extinguished within one (1) hour after the end of business hours and remain extinguished until one (1) hour prior to the beginning of business hours. If a portion of a parking lot is used after dark, only that portion shall be lighted.
- (5) Height and Material Standards for Lighting.
- a. Residential Zoning Districts. Light fixtures shall be mounted on concrete, fiberglass, or painted metal poles no higher than sixteen (16) feet from the ground. Lighting mounted on a building or structure shall not exceed the height of the building or structure. Bollard-type lighting fixtures shall be between three (3) and four (4) feet high.
  - b. Nonresidential Zoning Districts. Light fixtures shall be mounted on concrete, fiberglass or painted metal poles no higher than twenty-five (25) feet from the ground, unless a greater height, not to exceed the maximum building height in the applicable zone district, is approved by the Planning Commission or Board of Trustees through a development application review process. Lighting mounted on a building or structure shall not exceed the height of the building or structure. Bollard-type lighting fixtures shall be between three (3) and four (4) feet high.
- (6) Exemption for Outdoor Recreational Uses. Because of their limited hours of operation and their unique requirements for nighttime visibility, ball diamonds, playing fields, tennis courts and other similar outdoor recreational uses (both public and private), unless otherwise restricted by the Board of Trustees, shall be exempt from the general provisions of this Section. However, exterior lighting for such uses shall be extinguished no later than 11:00 p.m.
- (7) Blinking, flashing, or changing intensity lights are prohibited; except for temporary holiday displays or lighting required by the FAA.
- (8) Flagpole lighting shall be permitted to be directed upward as long as the light source is shielded.

#### **Sec. 16-3-515. - Sanitary Sewer.**

- (a) General **R**requirements. All residential, commercial, and industrial uses which have human occupancy shall have sanitary sewer. The sanitary sewer system shall be connected to an existing public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built. Sanitary sewer lines are to be of sufficient size and design to collect all sewage from all proposed or portable structures within the subdivision or development. On a case-by-case basis, upon recommendation from the Town Engineer, the Board of Trustees may approve individual sewage disposal systems that receive a permit from the Weld County Department of Public Health and Environment. However, no new addition, upgrade or major repair to an individual sewage disposal system will be permitted if the property is located within four hundred (400) feet of a municipal or sanitation district collection line, measured through existing sewer easements or utility rights-of-way, except where such connection is not feasible or has been denied by the Town or district.
- (b) Construction **S**standards. Sanitary sewer systems and improvements must be designed and constructed in compliance with the Design Criteria and Construction Specifications.

**Sec. 16-3-520. - Potable Water.**

- ~~(a) All residential, commercial, and industrial uses which have human occupancy shall have potable water served by the Town or appropriate water district. The water system shall be of sufficient size and design to supply potable water to each structure or lot upon which a structure is to be built.~~
- (a) Construction ~~S~~standards. Water systems and improvements must be designed and constructed in compliance with the Design Criteria and Construction Specifications and comply with requirements of Article II of Chapter 13 of this code.

**Sec. 16-3-525. - Fire Hydrants.**

- ~~(a) The subdivider or developer shall install fire hydrants at street intersections and at other points as per the requirements of the District. Fire hydrants shall have national standards threads, two and one-half inch outlets and four and one-half inch or six inch streamers.~~
- (a) ~~Fire hydrants must be~~ designed and constructed in compliance with the Design Criteria and Construction Specifications.

**Sec. 16-3-530. - Easement and Utility Standards.**

- (a) Utility Easement Width. ~~Utility easements shall measure ten (10) feet on each side of abutting rear lot lines. On subdivision perimeter rear lot lines adjacent to unsubdivided property, utility easements shall measure ten (10) feet in width. In the event that the location of utility easements adjacent to rear property lines is unsuitable for use by utility companies due to drainage, irrigation ditches or other obstructions, the subdivider or developer shall provide like width easements adjacent to said areas of obstruction. Side lot line easements, where necessary, shall measure ten (10) feet in full width; five (5) feet either side of a lot line is acceptable. In subdivisions, front lot line easements shall measure thirteen (13) feet in width.~~ Easements may be more or less than widths stated if the specific utility indicates in writing a width other than those required by this Code. Utility easements shall be subject to the approval of the Town or applicable utility company.
- (b) Multiple Installations Within Easements. Easements shall be designed so as to provide efficient installation of utilities. Public utility installations shall be located as to permit multiple installations within the easements. The developer will establish final utility grades prior to utility installations.
- (c) Underground Utilities. Telephone lines, electric lines, cable television lines and other like utility services shall be placed underground. Pedestals and transformers shall not be located in the front yard setback adjacent to public streets unless they are underground and/or not visible to the traveling public. The subdivider or developer shall be responsible for complying with the requirements of this Section and shall make the necessary arrangements, including any construction or installation charges, with each utility provider for the installation of such facilities. Transformers, switching boxes, meter cabinets, pedestals, ducts, and other facilities necessarily appurtenant to such underground utilities shall be placed underground. Screening or fencing is required to the satisfaction of the Board of Trustees. Electric transmission and distribution feeder lines and necessary appurtenances thereto may not be placed above ground unless they are carrying greater than 115 kV. Such facilities shall be placed within easements or public streets, as therein provided, or upon private easements or rights-of-way provided for particular facilities. (Refer to Design Criteria and Construction Specifications.)

Utility easements have been identified outside the right-of-way in order to accommodate the location of street trees.)

~~(d) Street Lighting. Street lighting and associated underground street lighting supply circuits shall be installed. The minimum requirement shall be two hundred fifty watt sodium vapor lamps at a maximum spacing of four hundred (400) feet for local streets. Arterial streets and commercial areas shall have a higher level of lighting as determined by the Board of Trustees. Street lighting shall also comply with Section 16-3-510 of this Article and be approved by the Town prior to installation.~~

## Division 6: Signs

### Sec. 16-3-600. - Purpose, Intent, and Interpretation.

- (a) Signs can obstruct views, distract motorists, displace alternative uses for land and pose other problems that legitimately call for regulation. The regulations in this Article are intended to coordinate the use, placement, physical dimensions, and design of all signs within the Town. The purpose of these regulations is to:
- (1) Recognize that signs are a necessary means of visual communication for the convenience of the public and provide flexibility within the sign review/approval process to allow for unique circumstances and creativity.
  - (2) Recognize and ensure the right of those concerned to identify businesses, services, and other activities by the use of signs, and limit commercial signs to those which are accessory and incidental to the use on the premises where such signs are located.
  - (3) Provide a reasonable balance between the right of an individual to identify his or her business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of commercial signs and similar devices.
  - (4) Protect the public from damage or injury caused by signs that are poorly designed or maintained and from distractions or hazards to pedestrians or motorists caused by the indiscriminate placement or use of signs.
  - (5) Ensure signs are well designed and contribute in a positive way to the Town's visual environment, express local character, and help develop a distinctive image for the Town.
  - (6) Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings and uses and the surrounding neighborhood and are compatible and integrated with the building's architectural design and with other signs on the property.
  - (7) Ensure signs are appropriate for the type of street on which they are located.
  - (8) Protect against signs detracting from the character of an architecturally significant or historic structure.
  - (9) Bring nonconforming signs into compliance with these regulations when the use of the property changes or is discontinued, when a new business license is issued or as a condition of approval of a land use action approved by the Town, such as a rezoning, variance or other land use action.

- (10) Assist in wayfinding.
  - (11) Regulate the size, color, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment on historic convenience to citizens and encouraging economic development.
  - (12) Promote efficient communication of messages.
  - (13) Promote public welfare by reducing visual clutter.
  - (14) Recognize that signs advertising discontinued commercial uses are misleading, unnecessarily contribute to visual clutter, and can unnecessarily obstruct views and distract motorists.
- (b) This Article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. This Article must be interpreted in a manner consistent with the First Amendment guarantee of free speech.
  - (c) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein must be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this Article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in this Article.
  - (d) This Article does not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the Town. Rather, it is intended to regulate those forms and instances that are most likely to meaningfully affect one (1) or more of the purposes set forth above.
  - (e) This Article does not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, it strikes an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.
  - (f) This Article is not intended to and does not apply to signs erected, maintained, or otherwise posted, owned, or leased by the state, the federal government, or the Town. The inclusion of "government" in describing some signs does not intend to subject the government to regulation, but instead helps illustrate the type of sign that falls within the immunities of the government from regulation.
  - (g) With respect to permitted hazard warning signs, the Board finds that the dispersed nature of utility, oil and gas lines and other potential hazards throughout all the community does not lend itself to the property by property regulation otherwise used in this Code, and that warning of the location of utilities and of their hazards so that persons will not be injured thereby, so that fire, police, and other public emergency services may be conducted all expeditiously and safely, and so that the essential public functions served by such utilities will not be impaired constitutes a compelling governmental interest and requires a different form of regulation;



- (h) Except as this Article expressly provides, the Board does not intend to regulate signs based upon the content of any sign's message.

**Sec. 16-3-605. - Sign Permits and Administration.**

- (a) Signs Permitted. Signs shall be permitted in the various zone districts as accessory uses in accordance with the regulations contained in this Section.
- (b) Sign Permit Required. To ensure compliance with the regulations of this Article, a sign permit shall be required in order to erect, move, alter, reconstruct or repair any permanent or temporary sign, except signs that are exempt from permits in compliance with Section 16-3-620 "Exempt signs" below. In multiple-occupant buildings, a separate permit shall be required for each business entity's sign. Separate building and electrical permits may be required for signs. Neither servicing and maintenance of existing signs nor changing or replacing the copy on an existing lawful sign shall require a permit.
- (c) Application for a Sign Permit.
  - (1) Sign Permit Application Requirements. Applications for sign permits shall be made in writing on forms furnished by Staff. The application shall contain:
    - a. Name, address, and telephone number of the applicant;
    - b. Written consent of the property owner;
    - c. Location of the building, structure, or lot where the sign is proposed or located;
    - d. Legible site plan indicating the proposed location of the sign on the building and/or lot in relation to nearby buildings and other structures, including dimensions showing setbacks to adjacent property lines and buildings;
    - e. A detailed drawing indicating the dimensions of the sign, materials, method of construction, support, weight, colors, and distance from doors, windows, fire escapes and driveways of the proposed sign structure. A certification by a structural engineer may be required by Staff for a freestanding or projecting sign;
    - f. A graphic drawing or photograph of the sign copy;
    - g. A description of the lighting to be used, if applicable;
    - h. If the sign is to be located off the applicant's own premises, a written lease or permission from the property owner of the site on which the sign will be located; and
    - i. Sign permit fee as established by the current fee schedule. The applicant shall pay all costs billed by the Town relative to the review of the application.
    - j. Sufficient information to determine whether the proposed sign is allowed under this Article and other applicable laws, regulations, and ordinances.
    - k. The date when the applicant intends to erect the sign.
    - l. For a temporary sign, the dates intended for the erection and removal of the sign.



- (d) Sign Permit Application Certification of Completion. Staff will review application for completeness and either certify the application is in compliance of all submittal requirements or reject it as incomplete and notify the applicant in writing of any deficiencies.
- (e) Staff Review and Approval. Within seven (7) business days of determination of a complete application, Staff shall review the sign permit in accordance with the established review criteria and shall, approve, approve with conditions, or deny the sign permit. Staff must approve any application that complies with all provisions of this Article and other applicable laws, regulations, and ordinances. Upon Staff's approval of the sign permit, the sign permit and any building or electrical permits required for the sign shall be issued to the applicant. Upon denying an application the Staff shall provide the applicant with a written statement of the reasons for that action in writing.
- (f) Sign Permit Review Criteria. The following review criteria will be used by the Town Staff to evaluate all sign permit applications:
  - (1) Sign meets the requirements of this Article;
  - (2) Sign conforms to the requirements of the Building and Electrical Code as adopted by the Town;
  - (3) Sign conforms to the size, height, material, and location requirements of the Zoning Code for the zoning district in which it is located;
  - (4) Sign would not interfere with pedestrian or vehicular safety, and is not located within the Intersection Sight Distance area as defined in the Milliken Design Criteria and Construction Specifications;
  - (5) Signs mounted on buildings would not obscure architecture;
  - (6) Electrical signs must be approved by an independent testing laboratory.
- (e) Appeal of Sign Permit Denial or Approval with Conditions. Any appeal of Staff's denial of a sign permit or approval with conditions shall be made to the Board of Adjustment as provided in the Zoning Code. Except for delay caused by or with the consent of the applicant, Staff and the Board of Adjustment shall promptly process the appeal. At the next available Board meeting after the applicant files its notice of appeal, the Board shall conduct a hearing and issue a decision on that appeal. The hearing may be held no less than ten (10) days from the date of advertising.

#### **Sec. 16-3-610. - Enforcement.**

- (a) Illegal Signs.
  - (1) Removal of Illegal Signs in the Public Right-of-Way. The Town may cause the removal of any sign within the public right-of-way or on property that is otherwise abandoned that has been placed there without first complying with the requirements of this Article.
  - (2) Storage of Removed Signs. Signs removed in compliance with this Section shall be stored by the Town for thirty (30) days, during which [time] they may be recovered by the owner only upon payment to the Town for costs of removal and storage. If not recovered within the thirty-day period, the sign and supporting structure shall be declared abandoned and title shall vest with the Town. The costs of removal and storage (up to thirty (30) days)

may be billed to the owner. If not paid, the applicable costs may be imposed as a tax lien against the property.

### **Sec. 16-3-615. - Authorized Signs.**

- (a) Although this Article does not apply to signs erected, maintained, or posted by the state, federal or local government, this Section clarifies that signs are allowed in every zoning district that form the expression of the government, including the signs described and regulated in the following paragraphs of this Section when erected and maintained pursuant to law. The following signs are authorized in every district:
- (1) Traffic control devices.
  - (2) Identification signs. Each property owner must identify their property using numerals that identify the address of the property so the public and public safety agencies can easily identify the address from the public street. Identification may be on an identification sign and, where required under this Code or other law, must also be on the curb.
  - (3) Legally required signs. Where federal, state, or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state, or local law to exercise that authority by posting a sign on the property.
  - (4) Government signs.

### **Sec. 16-3-620. - Exempt Signs.**

The following types of signs are exempt from permit requirements of this Article and may be placed in any zoning district subject to the provisions of this Article. Such signs shall otherwise be in conformance with all applicable requirements contained in this Article. All such signs (except government signs) shall be located outside a street right-of-way. Signs shall not interfere with traffic control devices or the Intersection Sight Distance area. Evidence of owner's permission to install the sign may be required. All other signs shall be allowed only with permit and upon proof of compliance with this Article.

- (a) Address. Non-illuminated identification signs not to exceed two (2) square feet in area.
- (b) A-frames. See sandwich board signs.
- (c) Architectural Features. Integral decorative or architectural features of buildings so long as such features do not contain moving parts or lights.
- (d) Art. Works of art including murals, so long as such works do not contain moving parts or lights and is an approved design by the ~~Community Development Director~~Planning Commission. Works of art and murals do not include graffiti tagging.
- (e) Banners. Banners, provided:
  - (1) The banners are displayed for a period not to exceed thirty (30) days in any ninety-day (90) period, or
  - (2) The banners are displayed no more than two (2) times per calendar year per lot or parcel.
  - (3) The banner shall be securely attached to a wall, freestanding signs, or light poles on private property.

- (4) Banners shall not exceed one (1) banner per street frontage per lot or parcel.
- (f) Historical Markers. Government signs identifying the name of a building, date of erection or other historical information.
- (g) Construction. Temporary signs on a lot or parcel where construction activities of any type are being actively performed, provided that:
  - (1) Signs on a residential use shall not exceed eight (8) square feet per face.
  - (2) Signs on the site of a subdivision sales office shall not exceed ten (10) square feet per face.
  - (3) All other temporary construction signs shall have a maximum area of sixty-four (64) square feet per face.
  - (4) Only one (1) such sign per street front per premises shall be erected.
  - (5) Such signs shall not be illuminated.
  - (6) Such signs shall be removed within seven (7) days after completion of the project.
- (h) Courtesy Signs. Non-illuminated or indirectly illuminated signs limited to one (1) such sign for each use, not to exceed four (4) square feet per face or eight (8) square feet in total area. Such signs may be attached to the building as projecting or wall signs, suspended from a canopy or included as an integral part of a freestanding sign.
- (i) Directional and instructional private signs not exceeding six (6) square feet in area per face.
- (j) Doors. Signs affixed to a door, which do not exceed two (2) square feet per door.
- (k) Farm Products. Temporary commercial signs on or within one (1) mile of a lot on which farm products are offered for sale provided that:
  - (1) One (1) on-premises sign may be used. Said sign shall be located off the street right-of-way and at least ten (10) feet away from any side lot line. Such sign shall have a maximum area of nine (9) square feet per face and may not be illuminated.
  - (2) A maximum of two (2) off-premises signs shall be permitted. Said off-premises signs may be no greater than four (4) square feet per face apiece and shall not be illuminated. No such sign shall be allowed in the street right-of-way nor within ten (10) feet of a side lot line.
- (l) Flags. Flags and flagpoles.
- (m) Garage, Estate, Yard Sale or Farm Auction. Signs on the lot or parcel where a private garage, estate or yard sale or farm auction occurs; provided such signs are displayed no more than twice per year per lot or parcel for a period not to exceed three (3) days for each sale. Signs shall be no larger than a total of six (6) square feet per side and shall not be placed in such a manner or location that impedes visibility or public safety. No such sign shall be allowed in the street right-of-way.
- (n) Hazards. Temporary or permanent signs erected by the Town, public utility companies, oil and gas companies, construction companies or others as applicable to warn of danger or

hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.

- (o) Plaques or markers, which are noncommercial in nature and incorporated into the building or paving surface, shall not exceed ten (10) square feet.
- (p) Merchandise. Merchandise, pictures or models of products or services, which are incorporated as an integral part of a window display.
- (q) Murals. See art.
- (r) Notice Boards. See sandwich boards.
- (s) Pedestal Flags (otherwise known as feather banners). Provided:
  - (1) Sign location must not interfere with or block pedestrian or vehicular traffic.
  - (2) Sign must be anchored to ground or weighted sufficiently to prevent movement by force of wind.



- (t) Election Season Signs. During an election season, as defined in this Article, temporary signs are allowed on an owner's private property in a number not exceeding the number of ballot issues and ballot candidates that will appear on a ballot of an election within the Town, provided:
  - (1) Such signs shall not exceed six (6) square feet per face and shall comply with applicable height and setback restrictions in this Article.
  - (2) Such signs shall be in addition to other temporary signs permitted under this Article.
  - (3) The property owner upon whose land the sign is placed shall give written permission for the placement of said signs and will be responsible for violations.
- (u) Portable Human Signs. See sandwich boards.
- (v) Real Estate Signs. Temporary signs on an individual real estate parcel currently offered for sale, lease or rent, provided:
  - (1) One (1) sign per street frontage not greater than eight (8) square feet in area in a residential district and thirty-two (32) square feet in area in nonresidential districts may be located on the offered property so long as said sign is located behind the street right-of-way line.
  - (2) In addition to on-site real estate sign, a maximum of three (3) off-site signs, each not exceeding four (4) square feet in area, shall be permitted with permission of the owner of

each such off-site location. Such signs must be placed outside all existing rights-of-way. All such temporary signs shall be removed within seven (7) days after the real estate closing or lease transaction for the subject parcel.

(3) No sign allowed under this Subsection shall be lighted internally or externally.

(w) Sandwich Board. Sandwich board signs (A-frame, sidewalk signs, notice signs, portable human signs), provided:

(1) Maximum size is twelve (12) square feet per side.

(2) Maximum height is five (5) feet.

(3) Placed on sidewalk only during hours of operation.

(4) Minimum separation of fifteen (15) feet between signs.

(5) Sign location must not interfere with or block pedestrian or vehicular traffic.

(6) Sign must be anchored to ground or weighted sufficiently to prevent movement by force of wind.



(x) Athletic Fields Signs. Signs, not exceeding forty-eight (48) square feet and oriented to be visible to athletes and spectators at athletic fields.

(y) Sidewalk Signs. See sandwich board signs.

(z) Special Events. Temporary signs and banners on property where a noncommercial special event, occurs provided that:

(1) Signs and banners shall be erected no sooner than thirty (30) days prior and removed no later than seven (7) days after the event.

(2) No such sign or banner shall exceed thirty-two (32) square feet per face.

(3) No such sign or banner shall be illuminated.

(4) All such signs and banners shall be located off the street right-of-way, unless otherwise granted permission for such location by the Town or the Colorado Department of Transportation (CDOT). In no case may any such sign or banner impede the view or travel of any motorists or pedestrians or be attached to any structure within the right-of-way (government signs, telephone poles, etc.).

(aa) Text. No permit shall be required for text or copy changes on conforming or legal nonconforming signs specifically designed to permit changes of the text or copy, provided that no structural changes are made to the sign.

- (bb) Traffic Control Devices and Government Signs. Traffic control devices and government signs.
- (cc) Vehicular Sales Signs. Signs on motor vehicles currently offered for sale provided there is only one (1) sign per vehicle, the sign does not exceed two (2) square feet.
- (dd) Vehicular Signs. Except as prohibited in Section 16-3-625, signs displayed on trucks, buses, trailers, or other motor vehicles which are regularly operated, provided the primary use of such vehicles is not the display of commercial signs.
- (ee) Vending Machine Signs. A sign permit shall not be required for a sign on a vending machine, provided that the sign does not extend beyond machine surface to which it is attached, advertisement upon the vending machine sign is limited to the product vended.

### **Sec. 16-3-625. - Prohibited Signs.**

The following signs are inconsistent with the purposes and standards in this Article and are prohibited in all zoning districts:

- (a) Distracting Signs.
  - (1) Flashing, rotating, blinking, or moving signs, animated signs, signs with moving, rotating, or flashing lights or signs that create the illusion of movement.
  - (2) Signs with optical illusion of movement by means of a design that presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy.
  - (3) Signs with mechanical or electrical appurtenances, such as "revolving beacons" and portable spotlights.
  - (4) Rotating signs.
  - (5) Searchlights.
  - (6) Electronic message boards except government signs and school signs.
  - (7) Roof signs and all other signs that project above the main roofline of a building.
- (b) Visual Obstructions.
  - (1) Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic, pedestrian traffic, or traffic-control devices, including any sign that obstructs clear vision in any direction from any street intersection or driveway.
  - (2) Any sign located in such a way as to substantially deny an adjoining property owner visual access to an existing sign.
- (c) Right-of-Way Signs.
  - (d) Any sign other than traffic control devices erected, constructed, or maintained within, over or upon the right-of-way of any public road, street, or highway, except in the case of a sign for which a permit has been issued in accordance with the requirements of this Article.
- (e) Off-Premises Signs. Off-premises signs also known as off-site signs, except as this Article specifically permits.

(f) Unsafe Signs.

- (1) Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air.
- (2) Any sign or sign structure which:
  - a. Is structurally unsafe;
  - b. Constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;
  - c. Is not kept in good repair;
  - d. Is not designed or constructed in a professional manner;
  - e. Is capable of causing electrical shocks to persons likely to come in contact with it; or
  - f. Presents a danger to the health, safety or welfare of the Town or its citizens.

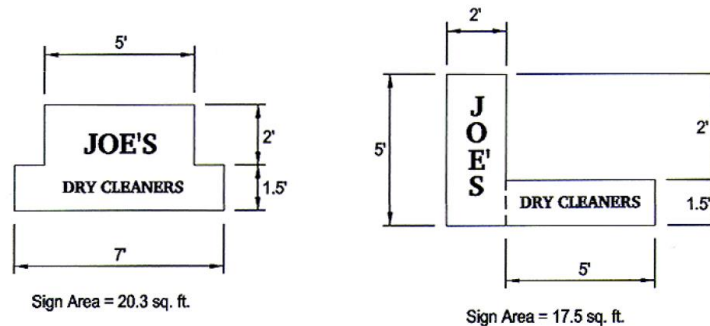
(g) Portable Signs.

- (1) Portable signs or signs not permanently affixed or attached to the ground or to any structure, except for real estate signs attached to posts driven into the ground, window signs and temporary barriers except as permitted in Section 16-3-615 above.
  - (2) Vehicle-mounted commercial signs, including but not limited to signs painted on or attached to semi-trailers or cargo containers, when exhibited on private property adjacent to public right-of-way and advertising business or services offered on the property. Vehicle-mounted commercial signs on property used for special events are exempt from the requirements of this Section during the special event only. Upon the conclusion of the special event, such signs must be dismantled.
- (h) Inflatable freestanding signs or tethered balloons, except on a property during sales or special events on the property but not more than five (5) days per month.
- (i) Discontinued Commercial Use Signs. Whenever a business, industry, service, or other commercial use is discontinued, all signs advertising the discontinued use shall be removed or obscured within ninety (90) days after the discontinuance of such use. Signs advertising discontinued commercial uses are misleading, unnecessarily contribute to visual clutter, and can obstruct views and distract motorists.
- (j) Billboards. A permanent sign structure in a fixed location which meets anyone (1) or more of the following criteria:
- (1) It is used for the display of off-site commercial messages;
  - (2) The message display area, or any part thereof, is made available to message sponsors other than the owner(s) or operator(s) of the sign, typically for a fee or other consideration, i.e., general advertising for hire;
  - (3) The sign is a principal or secondary use of the land, rather than an appurtenant, accessory, or auxiliary use serving some other principal use of the land.

### Sec. 16-3-630. - Measurement of Sign Area and Height.

- (a) **Sign Surface Area.** The area of a geometric shape enclosing any message, logo, symbol, name, photograph, or display face shall be measured using standard mathematical formulas. Regular geometric shapes shall include, but not be limited to, squares, rectangles, triangles, parallelograms, circles, ellipses, or combinations thereof. The total measured area of a sign shall include the area of all writing, representation, lines, emblems, or figures contained within all modules, together with any air space, material or color forming an integral part or background of the display if used to differentiate such sign from the backdrop or structure against which it is placed. The total surface area of all sign faces shall be counted and considered to be part of the maximum total sign area allowance.
- (b) **Sign Support.** Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.

**Back-to-Back (Double-Faced) Signs.** Back-to-back signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two (2) feet at any point.

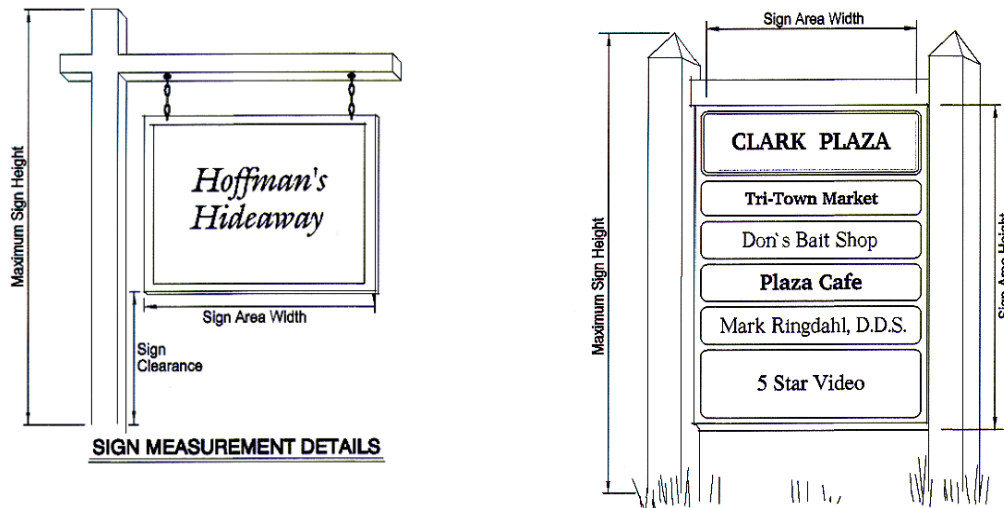


**Figure 16-3-3-11: Sign Area Measurement**

- (c) **Three-Dimensional Signs.** Where a sign consists of one (1) or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture), the sign area shall be measured as their maximum projection upon a vertical plane. Signs with three-dimensional objects that exceed a projection of six (6) inches from the sign face may be approved in compliance with Section 16-3-665 "Substitution" below.
- (d) **Wall Signs.** If a sign is attached to a wall, only that portion of the wall onto which the sign face or letters are placed shall be calculated in the sign area.



- (e) **Sign Height.** The height of a sign shall be measured from the highest point of a sign to the ground surface beneath it. The ground surface shall mean the average grade within five (5) feet of the base. When berms are used in conjunction with signage or there are significant changes in grade, the height of the sign shall be measured from the mean elevation of the fronting street.



**Figure 16-3-3-12: Sign Height**

### **Sec. 16-3-635. - Sign Design.**

- (a) **Sign Location and Placement.**

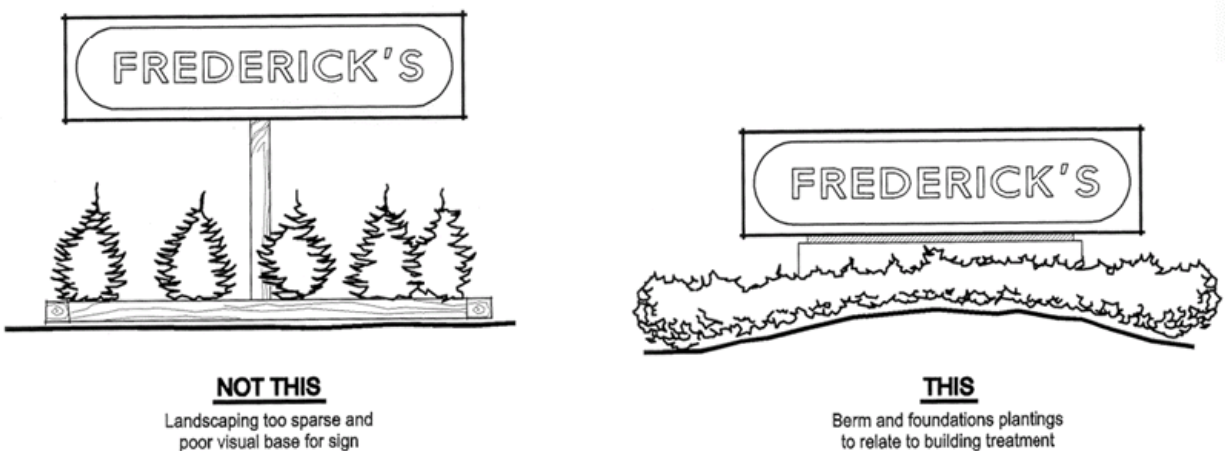
- (1) **Visibility.** Signs should not visually obscure architectural features. The following illustrations are examples of design that the Town is encouraging.



**Figure 16-3-3-13 Visibility**

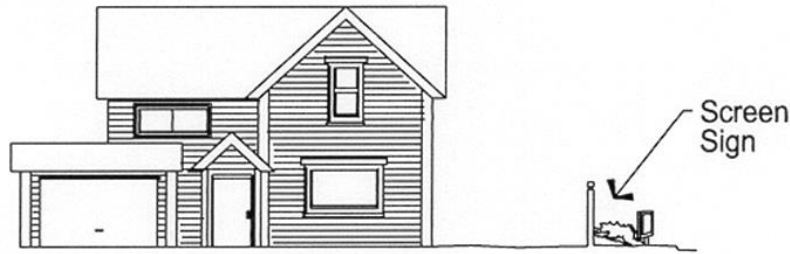
- (2) Integrate signs with the building and landscaping — Signs should be carefully coordinated with the architectural design, overall color scheme and landscaping. Signs should be designed to complement or enhance the other signs for a building.
- (3) Unified sign band — Whenever possible, signs located on buildings with the same block-face should be placed at the same height, in order to create a unified sign band. Wall signs should be located at the first-floor level only for retail commercial uses.

- (4) Monument signs — Monument signs should be located in a planter setting within a landscaped area at the primary entries to residential, commercial, and industrial subdivisions to provide an overall project identity. A maximum of one (1) monument sign per entry shall be permitted.
- (5) Pedestrian-oriented signs — Pedestrian-oriented signs are encouraged. It is desirable to include a pedestrian-oriented sign as one (1) of the signs for a business. These signs should be designed for and physically directed toward pedestrians so they can easily and comfortably read the sign as they stand adjacent to the business.
- (6) Road right-of-way — No sign shall be erected within the road right-of-way or near the intersection of any roads or driveways in such a manner as to obstruct free and clear vision of motorists or pedestrians or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device.
- (b) Landscaping. Freestanding signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer.



**Figure 16-3-3-14 Landscaping**

- (c) Reduce Sign Impact. Because residential and commercial uses generally exist in close proximity, signs shall be designed and located so that they have little or no impact on adjacent residential neighborhoods. Small-scale signs are encouraged.



**Figure 16-3-3-15: Sign Impact**

(d) Color.

- (1) Select Colors Carefully. Colors shall be selected to contribute to legibility and design integrity. Sign colors shall complement the colors used on the structures and the project as a whole. Colors or combinations of colors that are harsh and disrupt the visual harmony and order of the street are unacceptable.
- (2) Use Contrasting Colors. Signs shall provide a substantial contrast between the color and the material of the background and the letters or symbols to make the sign easier to read during both the day and night. Light letters on a dark background or dark letters on a light background are most legible.
- (3) Avoid Using Too Many Colors. Colors or color combinations that interfere with legibility of the sign copy or that interfere with viewer identification of other signs shall be avoided.

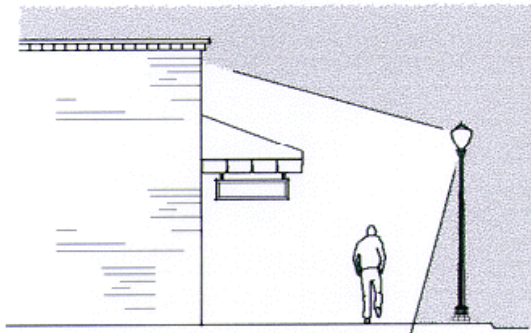
(e) Materials. Signs shall be constructed of durable, high quality architectural materials. The sign package must use materials, colors, and designs that are compatible with the building façade. Sign materials must be of proven durability. Treated wood, painted metal, stone, brick, and stucco are the preferred materials for signs.

(f) Legibility. Signs shall be adequately legible under the circumstances in which they are primarily seen. The legibility of signs is related to:

- (1) The speed at which they are viewed;
- (2) The context and surroundings in which they are seen; and
- (3) The design, colors and contrast of the sign copy and sign face.
- (4) The design of the sign including copy, lettering size and style and colors shall logically relate to the average speed of the traffic which will see it. Signs shall legibly convey their messages without being distracting or unsafe to motorists reading them. Symbols and logos can be used in place of words whenever appropriate.

**Sec. 16-3-640. - Sign Illumination.**

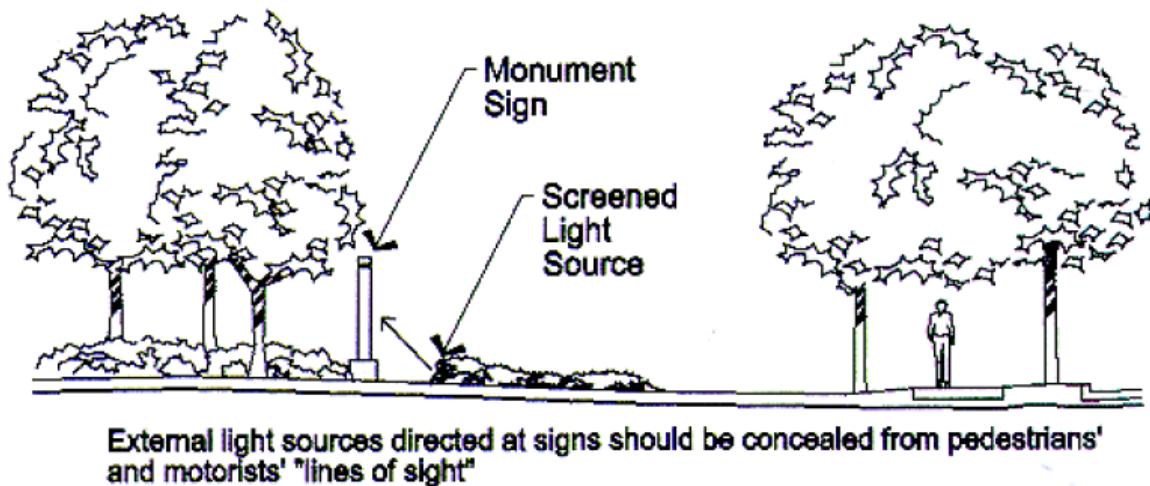
- (a) Signs shall have illumination only if necessary.
- (b) Sign illumination shall complement, not overpower, the overall composition of the site.



### **USE OF EXISTING ILLUMINATION**

**Figure 16-3-3-15:** Existing Illumination

- (c) Use a direct light source. All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign. When external light sources are directed at the sign surface, the light source must be concealed from pedestrians' and motorists' "lines of sight."



**Figure 16-3-3-16:** Direct Light Source

- (d) Signs must be illuminated in a way that does not cause glare onto the street and adjacent properties. Signs shall be lighted only to the intensity level of more than 0.3 foot-candles over ambient light as measured at a distance of one hundred fifty (150) feet and shall be equipped with a fully operational light sensor that automatically adjusts the intensity of the lighting according to the amount of ambient light;
- (e) Every electric sign shall have affixed thereon an approved Underwriters' Laboratories label. All lighted signs shall meet all applicable electrical codes and the electrical components used shall bear the label of an approval agency. Additionally, electrical permits shall be obtained for electric signs.
- (f) Flashing, moving, blinking, chasing or other animation effects shall be prohibited on all signs.

- (g) Neon tubing is an acceptable method of sign illumination for window signs in commercial districts.
- (h) The use of individually cut backlit letter signs is encouraged.
- (i) Lighting behind sign faces may only illuminate the symbol or message through a translucent material; the rest of the sign shall be opaque.
- (j) No commercial sign within three hundred (300) linear feet of any property which contains an existing or approved residential use or is zoned for residential use, may be illuminated between the hours of 11:00 p.m. and 6:00 a.m. This time limitation shall not apply to any lighting which is used primarily for the protection of the premises or for safety purposes or any signage which is separated from a residential use by an arterial street. For purposes of this Subsection, the term approved shall mean having final plat approval.

### **Sec. 16-3-645. - Sign Installation and Maintenance.**

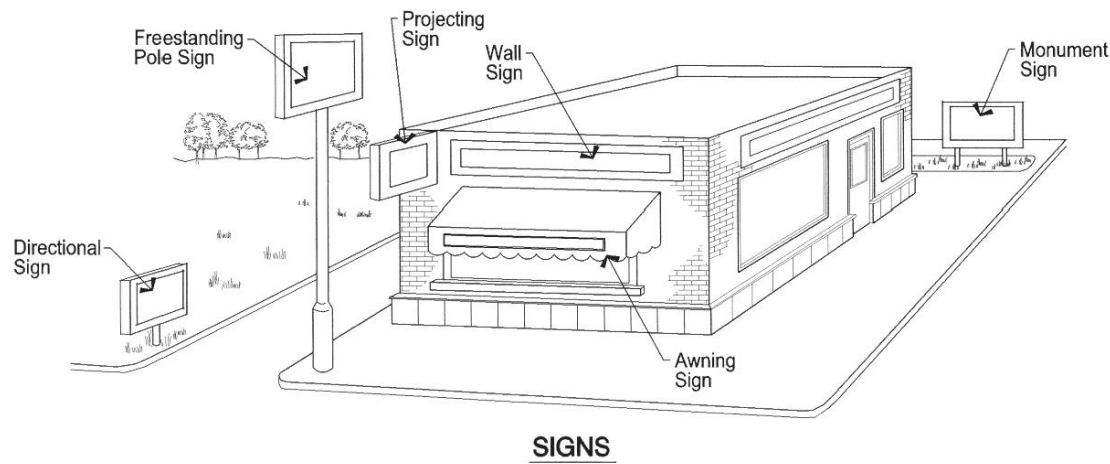
#### **(a) Installation.**

- (1) All signs shall be mounted so that the method of installation is concealed to the maximum extent possible.
- (2) Projecting signs shall be mounted so they generally align with others in the block.
- (3) All signs and all components thereof, including sign structures and sign faces, shall be kept neatly painted, in a good state of repair and in compliance with all building and electrical codes. The Town may inspect any sign governed by this Article and shall have the authority to order the painting, repair, alteration, or removal of a sign which constitutes a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence.
- (4) Owners of projecting signs extending over public right-of-way shall be required to maintain public liability insurance in an amount to be determined appropriate by the Town, in which the Town is named as an "other insured."

#### **(b) Maintenance.**

- (1) The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources, in neat and orderly condition and in a good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign. The sign must also be in compliance with all building and electrical codes.
- (2) The owner of any sign regulated by this Article shall be required to keep signs and supporting hardware, including temporary signs, structurally safe, clean, free of visible defects and functioning properly at all times. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.
- (3) The Town may inspect any sign governed by this Article and shall have the authority to order the painting, repair, alteration, or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.



**Sec. 16-3-650. - Standards for Specific Sign Structures.****Figure 16-3-3-17: Specific Sign Standards****(a) Awning Signs.**

Example of Awning Sign



- (1) Location. Signs may be placed only on awnings that are located on first story building frontages, including those fronting a parking lot or pedestrian way. No awning sign shall project beyond, above or below the face of an awning.
- (2) Maximum area and height. No structural element of an awning shall be located less than eight (8) feet above finished grade. Awnings on which awning signs are mounted may extend over a public right-of-way no more than seven (7) feet from the face of a supporting building. No awning, with or without signage, shall extend above the roofline of any building.
- (3) Maximum signage. The amount of signage on an awning shall be limited to the lesser of thirty-five (35) square feet per individual tenant space or twenty-five (25%) percent of the total area of the awning. Awning signs shall not be allowed above the first story of a building.

## (b) Canopy Signs.

**Examples of Canopy Signs**

- (1) Maximum area and height. Sign area shall comply with the requirements established by Section 16-3-660 "Sign standards by zoning district" below. No canopy, with or without signage, shall extend above the roofline of any building. No canopy sign shall project above the top of the canopy upon which it is mounted. However, such signs may project horizontally from the face of a canopy the distance necessary to accommodate the letter thickness and required electrical equipment but not more than twelve (12) inches (measured from the bottom of the sign). Under-canopy signs, which are perpendicular to the face of the building, shall be deemed to be projecting wall signs. Under-canopy signs that are parallel to the face of the building shall be a minimum of eight (8) feet above grade and shall be deemed to be flush wall signs.

## (c) Freestanding Signs.

**Example of Freestanding Sign**

- (1) Location. The sign may be located only on a site frontage adjoining a public street.
- a. When a freestanding sign is placed on a lot with two (2) or more street frontages, such sign shall be said to be adjacent to a particular street frontage when it is located closer to that street frontage than any other street frontage.



- b. If a lot has more than one (1) street frontage, the freestanding sign permitted for each frontage must be located adjacent to the street frontage that is the basis for the allotment of such sign.
  - c. No freestanding sign shall be built within fifteen (15) feet of any interior side lot line. The minimum horizontal distance between freestanding or monument signs located on the same lot shall be seventy-five (75) feet.
  - d. The sign face of a single face sign must be most nearly parallel to the street frontage to which it is adjacent. The sign faces of a multifaced sign must be most nearly perpendicular to the street frontage to which they are adjacent.
- (2) **Setback.** The setback of any freestanding sign shall be measured from the street right-of-way line of the street frontage that is the basis for the allotment of such sign. Any such setback shall be measured perpendicularly from the street right-of-way line to the nearest portion of the sign face or structure.
- (3) **Maximum Number of Signs.** No more than one (1) freestanding or monument sign per street frontage shall be permitted for any property. A drive-in restaurant, when located on a lot with frontage on only one (1) street, shall be permitted one (1) additional freestanding or monument sign. Such sign shall not exceed five (5) feet in height, thirty-five (35) square feet in area and shall be limited to one (1) face. Fifty percent (50%) of the square footage of such sign shall be exempted from the total allowed for the property.
- (4) **Maximum Area and Height.** The sign shall comply with the height and area requirements established in Section 16-3-665 "Sign standards by zoning district" below.
- a. The maximum size for freestanding signs shall be one and one-half (1½) square feet for every one (1) linear foot of building frontage. In no event shall the cumulative total allowable sign area exceed one hundred fifty (150) square feet per business.
  - b. The maximum height for freestanding signs shall be eighteen (18) feet above grade in accordance with the setbacks below.

<b><i>Distance from street right-of-way line (feet)</i></b>	<b><i>Maximum height above grade (feet)</i></b>	<b><i>Maximum size allowed per side (square feet)</i></b>
0	10	20
5	10	30
10	12	40
15	12	50
20	14	60

25	16	70
30	18	80
35 or more	18	90

- (5) Electrical service. When electrical service is provided to freestanding signs or monument signs, all such electrical service shall be underground.
- (6) Supporting structure materials. All supporting structures of monument signs shall be of the same or similar materials or colors of the associated buildings which house the businesses or activities advertised on the sign.
- (7) Sign mounting. The sign shall be mounted on one (1) or more posts or have a solid monument-type base. Posts shall not have a diameter greater than twelve (12) inches.
- (8) Sign pole signs. Pole signs should not be so large as to obscure the patterns of front façades and yards.
- (9) Intersection site distance triangle. This requirement applies to freestanding and monument signs.
  - a. Monument signs which exceed forty-two (42) inches in height, and freestanding signs which do not maintain free air space between a height of forty-two (42) inches and seventy-two (72) inches above the adjacent street elevation. A freestanding sign shall not be construed to have free air space if such sign has a base the width of which exceeds fifty percent (50%) of the width of its face or three (3) feet, whichever is smaller. In addition, freestanding and monument signs shall not be located closer to the right-of-way line than allowed in the tables below that apply to such signs.

(d) Monument Signs.

**Example of Monument Sign**



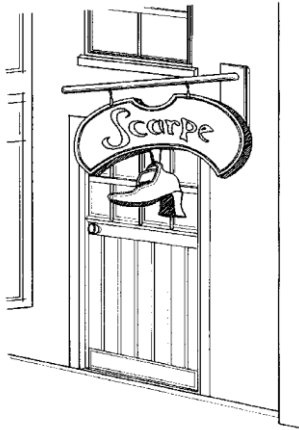
- (1) Location. The sign may be located only along a site frontage adjoining a public street. The sign may not be located in the site distance triangle (refer to Subparagraphs 16-3-660(c)(9) "Site distance triangle" above for details).
- (2) Design. The design of a monument sign should be consistent with the overall scale of the building. The design and placement of the sign shall not obstruct traffic safety sight distance areas.
- (3) Landscaping requirements. Landscaping shall be provided at the base of the supporting structure equal to twice the area of one (1) face of the sign and supporting structure. For example, twenty (20) square feet of sign area equals forty (40) square feet of landscaped area. The Planning Commission may reduce or waive this requirement if it is determined that the additional landscaping would not contribute significantly to the overall aesthetic character of the project.
- (4) Setback. The setback of any freestanding sign shall be measured from the street right-of-way line of the street frontage that is the basis for the allotment of such sign. Any such setback shall be measured perpendicularly from the street right-of-way line to the nearest portion of the sign face or structure.
- (5) Maximum number of signs. No more than one (1) freestanding or monument sign per street frontage shall be permitted for any property. A drive-in restaurant, when located on a lot with frontage on only one (1) street, shall be permitted one (1) additional freestanding or ground sign. Such sign shall not exceed five (5) feet in height, thirty-five (35) square feet in area and shall be limited to one (1) face. Fifty percent (50%) of the square footage of such sign shall be exempted from the total allowed for the property.
- (6) Maximum area and height. The sign shall comply with the height and area requirements below.

<b><i>Distance from street right-of-way (feet)</i></b>	<b><i>Maximum height above grade (feet)</i></b>	<b><i>Maximum size allowed per side (square feet)</i></b>
0	7	45
5	8.5	60
10	10	75

15 and more	12	90
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(e) Projecting Signs.

**Example of Projecting Sign**



- (1) Location. Projecting signs shall be placed only on a ground floor façade, except for businesses located above the ground level with direct exterior pedestrian access. Mount projecting signs so they generally align with others in the block. This helps to create a "canopy line" that gives scale to the sidewalk.
- (2) Maximum area and height. Projecting signs shall not be higher than the wall from which the sign projects if attached to a single-story building or the height of the bottom of any second-story window if attached to a multistory building. Projecting signs must have eight (8) feet clearance and may not extend more than four (4) feet from the building wall, except where the sign is an integral part of an approved canopy or awning. The size of projecting signs is limited to sixteen (16) square feet.
- (3) Sign structure. Sign supports and brackets shall be compatible with the design and scale of the sign.
- (4) Quantity. The number of projecting signs is limited to one (1) per business tenant, to a maximum of two (2). Projecting signs are not permitted in conjunction with pole signs.

(f) Wall Signs.

### Example of a Wall Sign



- (1) Location. The sign shall not be placed to obstruct any portion of a window, doorway, or other architectural detail. Locate wall signs on buildings at the first-floor level only for retail uses. No part of a wall sign shall be located more than twenty-five (25) feet above grade level.
  - (2) Maximum Area and Height. Wall signs shall not be higher than the eave line of the principal building. Wall signs shall not exceed one (1) square foot per linear foot of building frontage at ground level and three-quarters ( $\frac{3}{4}$ ) square foot per linear foot of second-story building frontage. The sign shall comply with the height and area requirements established in Section 16-3-660 "Sign standards by zoning district" below.
  - (3) Projection From Wall. No sign part, including cut-out letters, may project from the surface upon which it is attached more than required for construction purposes. Single-sided wall signs allowed when suspended from front porch.
- (g) Window Signs. A window sign is a sign that is painted on, applied, or attached to a window or that can be read through the window from the public right-of-way, placed at or below the second-floor level.
- (1) Maximum area. When a sign is displayed in a window and is visible beyond the boundaries of the lot upon which the sign is displayed, the total area of such sign shall not exceed forty percent (40%) of the window or door area at the ground floor level; and forty percent (40%) of the total allowable sign area for the premises.
  - (2) Lighting. All illuminated window signs shall be included in the total allowable sign area for the premises. Temporary posters announcing or advertising events sponsored by noncommercial organizations shall be exempt from limitations for window signs.

### **Sec. 16-3-655. - Sign Standards by Zoning District.**

- (a) Residential Zones. Signs for uses within residential zones, including A, AE, CD, E-1, R-1, R-2, R-3, R-M, R-MH, or for any residential use in a mixed-use district shall be limited to the following:

#### **Residential Zone Sign Standards**

<b>Type or Purpose of Sign</b>	<b>Permitted Sign Structure</b>	<b>Number of Signs Allowed per Use</b>	<b>Maximum Area per Sign</b>	<b>Maximum Height</b>	<b>Comments</b>
Identification sign	Freestanding or wall sign	1 per single-family, two-family, mobile home	2 sq. ft. per face	—	—
		1 per multi-family	20 sq. ft. per face	—	Only indirect illumination
		1 per public or semipublic use	35 sq. ft. per face	8 ft.	Only indirect illumination
		1 per subdivision entrance (monument sign or wall sign)	35 sq. ft. per face	6 ft.	Only direct illumination
		1 per childcare center	10 sq. ft. per area	—	Unlighted
		1 per subdivision sales office	10 sq. ft. per face	—	Unlighted
		1 per licensed home occupation	4 sq. ft. per face	5 ft.	—
		1 per bed and breakfast per street frontage	4 sq. ft.	Below edge of roof, 4 ft. freestanding	May be lighted; name and address of facility only
		1 per tenant space for a commercial use (legal use)	1 for each linear foot of building frontage; 25 sq. ft. maximum	6 ft.	Direct light source only; may not be illuminated between 11 p.m. and 6 a.m. if within 500 ft. of existing residential

(b) Nonresidential Zones. Signs for uses within nonresidential zones, including C-1, C-2, C-3, C-4, I-1, I-2 or I-3, or for any institutional/civic/public, business, commercial or industrial use in a mixed-use district shall be limited to the following:

- (1) Total Allowable Sign Area. The total area of all signs on a lot or, in the case of a permitted use or uses occupying two (2) or more adjacent lots, the total area of all signs on all such adjacent lots shall not exceed one and one-half (1½) square feet per linear foot of building frontage at ground level and three-quarters (¾) square foot per linear foot of second-story building frontage. In no event, however, shall the cumulative total allowable sign area exceed one hundred fifty (150) square feet per business.

### Nonresidential Zone Sign Standards

Type of Sign	Number of Signs	Maximum Area	Maximum Height of Freestanding Signs	Comments
Identification sign (freestanding, wall, window, awning, canopy, projecting)	Project entry monument sign: 1 per entrance	90 sq. ft.	12 ft. - refer to setback chart in Section 16-3-655(d)	Landscaping shall be provided at the base of the supporting structure equal to twice the area of 1 face of the sign
	Arterial street freestanding sign: 1 every 1,500 ft. of street frontage	1.5 sq. ft. of sign area for each linear foot of total building frontage up to 90 sq. ft. maximum	18 ft. - refer to setback chart in Section 16-3-655(c)	Freestanding sign shall be in place of project monument sign; not allowed on local or collector streets
	Wall sign: 1 per individual tenant building frontage. Two if suspended from a front porch, single-sided only.	1 sq. ft. of sign area for each linear foot of total building frontage	n/a	The total area of signs on the second story of a building shall not exceed 0.75 sq. ft. per lineal foot of building frontage
	Canopy or awning sign: 1 per individual building tenant. Maximum of 2 if solely on awning side perpendicular to street.	—	Minimum 8 ft. above finished grade	Allowed in place of a wall sign
	Window sign: unlimited. See Maximum Area.	25% of window or door area	n/a	May be placed on the window or door; cannot exceed 25% of the total allowable sign area for the premises

	Projecting sign. One per individual tenant, maximum of 2.	16 sq. ft.	No higher than first story of building	Must have 8 ft. clearance and extend no more than 4 ft.
	Information signs	5 sq. ft.	6 ft.	Permitted at rear and loading door entrances

**Sec. 16-3-660. - Substitution.**

Subject to the land owner's consent, a non-commercial message of any type may be substituted for any duly permitted or allowed commercial message or any duly permitted or allowed non-commercial message; provided, that the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval or permitting. This provision prevails over any more specific provision to the contrary within this Article. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular non-commercial message over any other non-commercial message. This provision does not create a right to increase the total amount of signage on a parcel, nor does it affect the requirement that a sign structure or mounting device be properly permitted.



## **ARTICLE IV: SPECIAL REQUIREMENTS**

### **Division 1 - Floodplain Areas**

#### **Sec. 16-4-10. - Statutory Authorization.**

The State Legislature has, in Section 31-23-301, C.R.S., delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

#### **Sec. 16-4-15. - Findings of Fact.**

- (a) The flood hazard areas of the Town are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

#### **Sec. 16-4-20. - Statement of Purpose.**

- (a) It is the purpose of this Article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:
  - (1) To protect human life and health;
  - (2) To minimize expenditure of public money for costly flood control projects;
  - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (4) To minimize prolonged business interruptions;
  - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
  - (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
  - (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
  - (8) To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

#### **Sec. 16-4-25. - Methods of Reducing Flood Losses.**

In order to accomplish its purposes, this Article includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
- (d) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (e) Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards in other areas.

#### **Sec. 16-4-30. - Definitions.**

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application:

*Appeal* means a request for a review of the Town Clerk's interpretation of any provision of this Article or a request for a variance.

*Area of special flood hazard* means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

*Base flood* means the flood having a one-percent chance of being equaled or exceeded in any given year.

*Critical feature* means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

*Development* means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard.

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the Town.

*Expansion to existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood Insurance Rate Map (FIRM)* means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood Insurance Study (FIS)* means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than six (6) inches. Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

*Levee* means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

*Levee system* means a flood protection system that consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Article.

*Manufactured home* means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *manufactured home* does not include a recreational vehicle. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. This definition is for the purpose of this Article only.

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Mean sea level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

*New construction* means structures for which the *start of construction* commenced on or after the effective date of Ordinance No. 137.

*Recreational vehicle* means a vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

*Remedy a violation* means to bring the structure or other development into compliance with state or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of

the Article, or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

*Start of construction* includes substantial improvement, and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The *actual start* means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. *Permanent construction* does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

*Structure* means a walled and roofed building or manufactured home that is principally above ground.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

*Substantial improvement* means any repair, reconstruction, addition or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been substantially damaged and is being restored before the damage occurred. For the purpose of this definition, *substantial improvement* is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

*Variance* means a grant of relief from the requirements of this Article that permits construction in a manner that would otherwise be prohibited by this Article.

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in NFIP Standards § 603(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the NAVD of 1988 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Sec. 16-4-35. - Purpose and Lands to Which this Article Applies.**

- (a) This Article shall apply to all special flood hazard areas and areas removed from the floodplain by the issuance of a Federal Emergency Management Agency (FEMA) Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the Town.
- (b) It is the purpose of this Article to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
  - (1) Protect human life and health;
  - (2) Minimize expenditure of public money for costly flood control projects;
  - (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (4) Minimize prolonged business interruptions;
  - (5) Minimize damage to critical facilities, infrastructure, and other public facilities such as water, sewer, and gas mains; electric and communication stations; and streets and bridges located in floodplains;
  - (6) (Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
  - (7) Ensure that potential buyers are notified that property is located in a flood hazard area.

**Sec. 16-4-40. - Basis for Establishing Special Flood Hazard Area.**

- (a) The special flood hazard areas identified by FEMA in a scientific and engineering report entitled, "Flood Insurance Study for Weld County," (FIS) with accompanying flood insurance rate maps (DFIRM) with an effective date of January 20, 2016 and any revisions thereto are hereby adopted by reference and declared to be a part of this Article. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this Article and may be supplemented by studies designated and approved by the Town. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.
- (b) The study prepared by ICON Engineering and the Milliken Flood Boundary Map dated February 5, 2014 is adopted by the Town of Milliken and shall constitute the special flood hazard area within the Town.

**Sec. 16-4-45. - Establishment of Floodplain Development Permit.**

A floodplain development permit shall be required to ensure conformance with the provisions of this Article.

**Sec. 16-4-50. - Compliance.**

No structure or land shall hereafter be located, altered, or have its use changed within the special flood hazard area without full compliance with the terms of this Article and other applicable state or local regulations. Nothing herein shall prevent the Town from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements

as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

**Sec. 16-4-55. - Abrogation and Greater Restrictions.**

This Article is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions; however, where this Article and another article, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Sec. 16-4-60. - Interpretation.**

In the interpretation and application of this Article, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

**Sec. 16-4-65. - Warning and Disclaimer of Liability.**

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the special flood hazard area or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town or any official or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

**Sec. 16-4-70. - Designation of Floodplain Administrator.**

The engineer designated by the Town is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this Article and other appropriate sections of 44 C.F.R., Volume 1, Part 60 of the National Flood Insurance Program Regulations pertaining to floodplain management, which is incorporated herein by reference.

**Sec. 16-4-75. - Duties and Responsibilities of Floodplain Administrator.**

Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to, the following:

- (a) Maintain and hold open for public inspection all records pertaining to the provisions of this Article, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Section 16-4-120 below.
- (b) Review, approve or deny all applications for floodplain development permits required by adoption of this Article.
- (c) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (d) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including Section 404 of

the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required.

- (e) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Article, including proper elevation of the structure.
- (f) Where interpretation is needed as to the exact location of the boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
- (g) When base flood elevation data has not been provided in accordance with Section 16-4-45 of this Article, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source in order to administer the provisions of Sections 16-4-120 through 16-4-230 of this Article.
- (h) For waterways with base flood elevations for which a regulatory floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the Town's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half ( $\frac{1}{2}$ ) foot at any point within the Town.
- (i) Under the provisions of 44 C.F.R., Chapter 1, Section 65.12 of the National Flood Insurance Program Regulations, which is incorporated herein by reference, the Town may approve certain development in Zones A1-30, AE and AH on the Town's FIRM which increases the water surface elevation of the base flood by more than one-half ( $\frac{1}{2}$ ) foot, provided that the Town first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
- (j) Notify, in riverine<sup>(3)</sup> situations, adjacent communities and the state coordinating agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
- (k) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

Footnotes: --- (3) --- Note— Riverine, as defined in Chapter 2 of FEMA's Homeowner's Guide to Retrofitting, is anything pertaining to a river or stream, as its name suggests.

#### **Sec. 16-4-80. - Permit Procedures.**

Application for a floodplain development permit shall be presented to the Floodplain Administrator on forms furnished by the Town and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to the special flood hazard area. Additionally, the following information is required:

- (a) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.

- (b) Elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed.
- (c) A certificate from a registered Colorado professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Paragraph 16-4-180(2) of this Article.
- (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- (e) Compilation and maintenance of a record of all information required in accordance with this Section. Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all of the provisions of this Article and the following relevant factors.
  - (1) The danger to life and property due to flooding or erosion damage;
  - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (3) The danger that materials may be swept onto other lands to the injury of others;
  - (4) The compatibility of the proposed use with existing and anticipated development;
  - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities, such as sewer, gas, electrical and water systems;
  - (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  - (8) The necessity to the facility of a waterfront location, where applicable;
  - (9) The availability of alternative locations, not subject to flooding or erosion damage for the proposed use;
  - (10) The relationship of the proposed use to the comprehensive plan for that area.

**Sec. 16-4-85. - Floodplain Variance Procedures.**

- (a) The Board of Adjustment, as established by this Code, shall serve as the Appeal Board in order to hear and render judgment on requests for variances from the requirements of this Article.
- (b) The Appeal Board shall hear and render judgment on an appeal only when it is alleged that there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this Article.
- (c) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (d) The Town Clerk and Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.



- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Article.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ( $\frac{1}{2}$ ) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the relevant factors in Section 16-4-120 above have been fully considered. As the lot size increases beyond the one-half ( $\frac{1}{2}$ ) acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted above and the intent of this Article, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Article.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (j) Prerequisites for granting variances:
  - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (2) Variances shall only be issued upon a finding of all of the following factors:
    - a. Showing of a good and sufficient cause;
    - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or Articles.
  - (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
  - (4) Variances may be issued by the Town for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
    - a. The criteria outlined in Subsections (a) through (j) above are met; and
    - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

**Sec. 16-4-90. - Penalties for Noncompliance.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Article and other applicable regulations. Violation of the provisions of this Article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be fined or imprisoned as provided by the laws of the Town. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

**Sec. 16-4-95. - General Flood Hazard Area Standards.**

- (a) In all special flood hazard areas, the following provisions are required for all new construction and substantial improvements:
- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
  - (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
  - (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - (5) All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
  - (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
  - (8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**Sec. 16-4-100. - Specific Flood Hazard Areas Standards.**

In all special flood hazard areas where base flood elevation data has been provided as set forth in Section 16-4-45 or Subsection 16-4-170 of this Article, the following provisions are required:

- (a) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one (1) foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
- (b) Nonresidential construction. With the exception of critical facilities outlined in Section 16-4-230 of this Article, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one (1) foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered Colorado professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. Such certification shall be maintained by the Floodplain Administrator as proposed in Section 16-4-120 above.
- (c) Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or architect or meet or exceed the following minimum criteria:
- (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (2) The bottom of all openings shall be no higher than one (1) foot above grade.
  - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (d) Manufactured homes. All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the Town's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which any manufactured home has incurred substantial damage as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are elevated to one (1) foot above the base flood elevation and must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. All manufactured homes placed or substantially improved on sites in an existing manufactured

home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of Paragraph (3) above shall be elevated so that either:

- (1) The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are one (1) foot above the base flood elevation, or
  - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (e) Recreational vehicles. All recreational vehicles placed on sites within Zones A1-30, AH and AE on the Town's FIRM map must either:
- (1) Be on the site for fewer than one hundred eighty (180) consecutive days; or
  - (2) Be fully licensed and ready for highway use; or
  - (3) Meet the permit requirements of Section 16-4-120 above and the elevation and anchoring requirements for manufactured homes in Paragraph (4) of this Section.
  - (4) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

#### **Sec. 16-4-105. - Standards for Areas of Shallow Flooding (AO/AH Zones).**

Located within the special flood hazard area established in Section 16-4-45 of this Article are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions are applicable to all areas of shallow flooding:

- (1) Residential construction. All new construction and substantial improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the Town's FIRM (or at least three [3] feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor (including basement) shall be certified by a registered Colorado professional engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
- (2) Nonresidential construction. With the exception of critical facilities outlined in Section 16-4-230 of this Article, all new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the Town's FIRM (at least three [3] feet if no depth number is specified) or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one (1) foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of

resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 16-4-95 of this Article, are satisfied. Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

#### **Sec. 16-4-110. - Floodways.**

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State and the Town have adopted floodway standards that are more stringent than the FEMA minimum standard. Areas located within a special flood hazard area as established in Section 16-4-45 of this Article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply to floodways:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway, unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge (requires a no-rise certification).
- (2) If Paragraph (1)(a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.
- (3) Under the provisions of 44 C.F.R., Chapter 1, Section 65.12 of the National Flood Insurance Regulations, the Town may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a Conditional Letter of Map Revision (CLOMR) and floodway revision through FEMA.

#### **Sec. 16-4-120. - Alteration of Watercourse.**

For all proposed developments that alter a watercourse within a special flood hazard area, the following standards shall apply:

- (1) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project, as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- (2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable federal, state, and local floodplain rules, regulations, and articles.
- (4) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (5) All activities within the regulatory floodplain shall meet all applicable federal, state, and local floodplain requirements and regulations.

- (6) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report that there is not more than a 0.00-foot rise in the proposed conditions resulting from the project as compared to existing conditions, unless the Town first applies for a CLOMR and floodway revision in accordance with Section 16-4150 of this Article. This is also known as a no-rise certification. The analysis and report must be certified by a registered Colorado professional engineer.
- (7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

**Sec. 16-4-125. - Properties Removed from Floodplain by Fill.**

A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following requirements:

- (1) Residential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to one (1) foot above the base flood elevation that existed prior to the placement of fill.
- (2) Nonresidential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to one (1) foot above the base flood elevation that existed prior to the placement of fill or, together with attendant utility and sanitary facilities, be designed so that the structure or addition is watertight to at least one (1) foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

**Sec. 16-4-130. - Standards for Subdivision Proposals.**

- (a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
- (b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of Section 16-4-50, Section 16-4-120 and the provisions of Sections 16-4-170 through 16-4-230 of this Article.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which are greater than fifty (50) lots or five (5) acres, whichever is less, if not otherwise provided pursuant to Section 16-4-45 or Section 16-4-105 of this Article.
- (d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

**Sec. 16-4-135. - Standards for Critical Facilities.**

A critical facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

- (a) Classification of critical facilities. It is the responsibility of the Board of Trustees to identify and confirm that specific structures in its community meet the following criteria. Critical facilities are classified under the following categories: (a) essential services; (b) hazardous materials; (c) at-risk populations; and (d) vital to restoring normal services.
- (b) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and transportation lifelines. These facilities consist of:
  - (1) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage and emergency operation centers);
  - (2) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions and non-ambulatory surgical structures, but excluding clinics, doctors' offices and nonurgent care medical structures that do not provide these functions);
  - (3) Designated emergency shelters;
  - (4) Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
  - (5) Public facility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power, and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines and service lines); and
  - (6) Air transportation lifelines (airports [municipal and larger], helicopter pads and structures serving emergency functions and associated infrastructure [aviation control towers, air traffic control centers and emergency equipment aircraft hangars]). Specific exemptions to this category include wastewater treatment plants (WWTP), nonpotable water treatment and distribution systems and hydroelectric power-generating plants and related appurtenances. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Board of Trustees that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Board of Trustees on an as-needed basis upon request.
- (c) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:

- (1) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
  - (2) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
  - (3) Refineries;
  - (4) Hazardous waste storage and disposal sites; and
  - (5) Above ground gasoline or propane storage or sales centers.
- (d) Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place and the chemical is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation of this Article, but exclude later amendments to or editions of the regulations.

Specific exemptions to this category include:

- (1) Finished consumer products within retail centers and households containing hazardous materials intended for household use and agricultural products intended for agricultural use.
  - (2) Buildings and other structures containing hazardous materials for which it can be demonstrated, to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority), that a release of the subject hazardous material does not pose a major threat to the public.
  - (3) Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products. These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this Article.
- (e) At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
- (1) Elder care (nursing homes);
  - (2) Congregate care serving twelve (12) or more individuals (day care and assisted living);
  - (3) Public and private schools (preschools, K-12 schools, before-school, and after-school care serving twelve [12] or more children);



- (f) Facilities vital to restoring normal services, including government operations. These facilities consist of:
- (1) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance, and equipment centers);
  - (2) Essential structures for public colleges and universities (dormitories, offices, and classrooms only).
  - (3) These facilities may be exempted if it is demonstrated to the Board of Trustees that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Article, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Board of Trustees on an as-needed basis upon request.
- (g) Protection for critical facilities. All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this Article, protection shall include one (1) of the following:
- (1) Location outside the special flood hazard area; or
  - (2) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two (2) feet above the base flood elevation.
- (h) Ingress and egress for new critical facilities. New critical facilities shall, when practicable as determined by the Board of Trustees, have continuous noninundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

## Division 2: Special Uses

### Sec. 16-4-200. - Animal Raising and Keeping.

- (a) Location Requirements. The housing, keeping, or sheltering of any animal or livestock, excluding household pets and ~~fowl~~~~chicken~~~~hens~~, shall only be allowed in the A and AE Zoning Districts. Animals shall be limited to domestic livestock, farm animals and barnyard fowl as listed below. Other similar animals may be allowed with approval of a Conditional Use Permit.
- (b) Purpose. It is the purpose of these regulations to limit, under specific circumstances, the number of animals allowed and the methods by which animals are kept on private property. It is the intent of this Section to minimize potential adverse impacts on adjoining properties, the neighborhood, and persons in the vicinity from improper management of such animals as per Article V, Animal Control of Chapter 7 of this Code.

### Sec. 16-4-205. - Specific Animal Standards.

- (a) Application of Standards. The following requirements shall apply to the keeping or raising of specific types of animals, in addition to all other applicable standards of this chapter.

- (b) More than one (1) type of animal may be kept on a single lot, subject to the provisions of this Article. Where this Article limits the number of animals allowed on such a lot, such limitations shall not apply to offspring that are not weaned.
- (c) Number of Animals. Domestic livestock and farm animal are allowed at a maximum animal density according to the following chart of animal units. Animal unit is a common animal denominator based on feed consumption. Animal units establish an equivalency for various species of livestock.
- (d) Animal Units. The following schedule lists animal units by type of domestic livestock and farm animals. When any animal unit calculation results in a fraction, fractional values less than .5 shall be rounded down to the nearest whole number and fractional values .5 and greater shall be rounded up to the next whole number.
- (e) The number of livestock allowed by right is dependent upon bulk requirements of the Agricultural or Agricultural Estate Districts. Livestock in excess of the bulk requirements for the Agricultural District shall require a conditional use permit for a livestock confinement operation. All livestock shall have the following animal unit equivalents and bulk requirements:

**Animal Allowed in the Agricultural District (A District)**

Animal	Animal Unit Equivalents	Number of Animals	Maximum Number <u>of</u> <u>animals</u> per Acre A Zone
Cow	1	1	4
Horse	1	1	4
<u>Yak</u>	<u>1</u>	<u>1</u>	<u>4</u>
Mule	1	1	4
Burro	1	1	4
Ostrich	1	1	4
Swine	.2	5	20
Llama	.1	10	40

Animal	Animal Unit Equivalents	Number of Animals	Maximum Number <u>of</u> <u>animals</u> per Acre A Zone
Sheep	.1	10	40
Goat	.1	10	40
Poultry	.02	50	200
Rabbit	.02	50	200

**Animal Allowed in the Agricultural Estate District (AE District)**

Animal	Animal Unit Equivalents	Number of Animals	Maximum Number <u>of</u> <u>animals</u> per Acre AE Zone
Cow	1	1	2
Horse	1	1	2
Swine	1	1	2
Llama	1	1	2
Mule	1	1	2
Burro	1	1	2
Ostrich	1	1	2

Animal	Animal Unit Equivalents	Number of Animals	Maximum Number <u>of</u> <u>animals</u> per Acre AE Zone
Sheep	.25	4	8
Goat	.5	2	2
Poultry	.04	25	25
Rabbit	.04	25	25
<u>Yak</u>	<u>1</u>	<u>1</u>	<u>2</u>

#### **Sec. 16-4-210. - Home Occupations.**

- (a) A "home occupation" is any business or service of limited scope, conducted entirely within the walls of the dwelling, or residential garage. Home occupations must meet the following standards:
- (1) Such uses must be clearly incidental and secondary to the primary use of the premises for residential purposes.
  - (2) The exterior of the property cannot be altered for the purpose of operating a home occupation, nor can the existence of a home occupation affect the residential character of the neighborhood.
  - (3) The home occupation shall not employ equipment or a process that creates dust, smoke glare, smoke, traffic not normally experienced in a residential district, or excessive noise.
  - (4) The home occupation is prohibited from using any outside storage and display of merchandise, or any activity involving any external building alteration, window display, construction equipment, machinery or outside storage, ~~or parking of commercial vehicles.~~
  - (5) In addition to the residents occupying the dwelling containing the home occupation, there shall not be more than one (1) outside employee in the home occupation.
  - (6) The home occupation shall not exceed one thousand (1,000) square feet or thirty (30) percent of the total square footage of the dwelling, whichever is less, or can be located in an accessory building not to exceed seven hundred twenty (720) square feet. Accessory buildings may be used for storage associated with the home occupation up to a maximum of seven hundred (720) square feet. The home occupation must be a subordination use to the primary use of a single-family residence.

- (7) All aspects of the home occupation operation shall not disrupt the residential character of the neighborhood or create noise or environmental hazards.
- (8) A maximum of ten (10) clients may visit the home occupation per day.
- (9) Home occupations may include state-licensed family childcare homes (residential day care facilities) that have received zoning approval from the Town.
- (10) Home Occupations shall obtain a business license as required by the town prior to commencement of operation.
- (11) Home occupations that cannot meet the above standards are not permitted unless a conditional use permit [in accordance with Section 16-6-360](#) is applied for and granted.
- (12) If an oral or written complaint is filed with the [Community Development Director/Town Clerk](#), and the home occupation shall be subject to revocation of the business license as set forth in Section 6-1-160 of this code.

#### **Sec. 16-4-215. - Temporary Uses.**

- (a) Intent. The intent of this section is to allow for the administrative approval of temporary uses that will not be detrimental to the health, safety, or general welfare of persons residing or working within the vicinity of the proposed use.
- (b) General Provisions: Temporary uses are uses or activities that are temporary in nature with a specific function, location, specific dates, hours of operation, end date and do not involve the construction or alteration of any permanent structure. ~~Examples of temporary uses include weddings, concerts, festivals, celebrations, special events, sidewalk sales, arts and crafts fairs, farmers' markets, firewood sales, Christmas tree sales, food trucks, food carts, special sporting events and races, and temporary dwelling quarters.~~
- (c) Permit ~~R~~required. No temporary use shall be operated in the Town without a temporary ~~use~~ permit. Permits shall be issued administratively by the ~~Town Clerk~~[Community Development Director](#) authorizing a temporary use. Permit authorizes a temporary use for a maximum of ninety (90) days within a six-month period. Notwithstanding anything in this Chapter to the contrary, if the temporary use is to allow temporary occupancy of a recreational vehicle (RV) during the active construction of a residential dwelling as evidenced by a valid building permit, or for a temporary caretaker/foreman's/sales building associated with a new commercial project, the durational limit is a maximum of one hundred eighty (180) days. Upon a permit holder's written request, the Community Development ~~Director~~[Department](#) is authorized to renew a permit that has not expired for up to two (2) additional ninety-day periods not to exceed an additional six-month period. In no event shall a temporary use permit be valid for a period in excess of three hundred sixty-five (365) days.
- (d) Application. At least thirty (30) days prior to the commencement of the temporary use, an application shall be submitted to the Town Clerk for a temporary use permit containing the following information, unless waived by the Town Clerk as inapplicable:
  - (1) A signed lease, contract, or other legal document with the property owner allowing the vendor, entity, or person(s) requesting a temporary use permit to use their property for a temporary use. If another person other than the applicant or corporation is managing or supervising the applicant's business during the proposed period of operation then their

name, address and telephone number shall be provided and, if a corporation, the state under which it is incorporated;

- (2) Description of the type of temporary use desired, ~~including the particular type of service, goods, wares, or merchandise to be sold or vended~~ with the following type of information, as applicable:

- a) The days and proposed period of operation;
- b) The proposed hours and days of operation;
- c) The location for which the application is made with the property owner's signed approval to conduct the temporary use;
- d) A Milliken business registration and evidence of payment of local and state sales taxes;

~~e) Approval from Larimer or Weld County Health Department for vendors with food or other merchandise that needs to be inspected and/or other goods that must be inspected or approval obtained from other regional, state, or federal entities;~~

~~f)e~~ Proof of general liability, property and/or worker's compensation insurance (if deemed appropriate by the Town Attorney to the type of event);

~~g)f~~ A description of how the proposed use will not adversely impact residential properties within three hundred (300) feet with noise, fumes, waste, debris, storm water, light, unsightly signage or structures, and other nuisances.

~~h) A description of the services and goods that will be vended with hours of operation; documented approval from the property owner and other local, county, state, and federal agencies, and insurance and indemnity provisions sufficient to protect the Town from liability claims as approved by the Town Attorney.~~

~~h)g~~ A clean-up and damage deposit to cover any damage or required clean-up to Town property or right-of-way as set forth in the Town's fee and fine schedule; and

~~h)h~~ A signed consent and acknowledgement that background checks may be conducted for all occupants or uses~~vendors and event personnel~~.

- (3) Site plan layout for the temporary use location, including but not limited to:

- a. The placement of any temporary structure(s) or buildings~~or mobile vehicle truck~~;
- b. Traffic ingress and egress, passable area for emergency personnel and ADA accommodations;
- c. Parking locations and setback from residential properties;
- d. Identification of residential properties within three hundred (300) feet of proposed use;
- e. ~~Tables or chairs, tents, t~~Trash receptacles, portable bathrooms/sanitary stations, garbage cans, fencing or other structures, etc.;
- f. Lighting, noise or music, fumes, traffic, and waste that may be generated with hours of duration;

~~g. Crowd control or medical personnel if required by Town;~~

~~h.g.~~ The layout of electrical cables, ~~speakers, stage(s), booths,~~ and other temporary utilities~~electricity being used;~~ and

- i. Proposed signage in conformance with this Chapter.
- (4) Approval. Upon receipt of a complete application, the Town Clerk and Community Development ~~Director~~ Department shall schedule a meeting with the applicant and any affected agencies, if appropriate based on the nature of the proposed temporary use. Within thirty (30) days of receipt of a complete application, and following the meeting with the applicant, the Town Clerk shall either approve or deny a temporary use permit application. A temporary use permit shall be approved and issued administratively with or without conditions only if the Town Clerk determines that the following have been satisfied:
- a. A temporary use permit application was timely filed with the Town Clerk.
  - b. A meeting occurred between the applicant, the Town Clerk and appropriate Town staff to review the application, and the following criteria are satisfied:
    - 1. Compliance with the adopted regulations, policies, and all the provisions of the Town's Municipal Code;
    - 2. That the proposed use will not adversely impact properties within three hundred (300) feet with noise, fumes, waste, debris, storm water, light, unsightly signage or structures, and other nuisances.
    - 3. Written approval from the property owner and other local, county, state, and federal agencies, and insurance and indemnity provisions sufficient to protect the Town from liability claims; and
    - 4. A site plan that meets all of the requirements ~~in 16-6-340 Site Plan~~ listed in subsection (3) above.
    - 5. Conditions of approval. Conditions of approval may be imposed if deemed necessary to ensure land use compatibility or minimize potential adverse impacts on neighboring properties, public streets, or other Town property. These may include but are not limited to modification or restrictions on hours of operation, posting of a clean-up or damage deposit; arrangements satisfactory to the Town for the provision of special or extraordinary services or equipment, such as traffic control ~~or medical personnel~~.
- (e) Enforcement. Violations under this Section, including a failure to comply with any conditions of the temporary use permit, shall be enforced in accordance with Sec. 16-1-120 Administration and Enforcement this Chapter 16. Nothing herein shall preclude the Town from taking any other enforcement action authorized under law.

#### **Sec. 16-4-220. - Wireless Communication Facilities.**

- (a) Intent and purpose. In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the Town Board finds that these regulations are necessary to:
  - (1) Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the Town with the fewest number of

Wireless Communications Facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;

- (2) Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to Camouflage Design Techniques and undergrounding of WCFs and the equipment associated therewith;
- (3) Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs;
- (4) Encourage the use of wall-mounted panel antennas;
- (5) Encourage roof-mounted antennas only when wall-mounted antennas will not provide adequate service or are not otherwise feasible;
- (6) Encourage the location of towers in non-residential areas, in a manner that minimizes the total number of towers needed throughout the community;
- (7) Encourage the collocation of WCFs on new and existing sites;
- (8) Encourage owners and users of antennas and towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimized;
- (9) Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently; and
- (10) Effectively manage WCFs in the public right-of-way.

(b) Applicability.

- (1) The requirements set forth in this Section 16-4-220 shall apply to all WCF applications for base stations, alternative tower structures, alternative tower structures located within right-of-way, and towers as defined in section 16-1-150 and modifications to such facilities.
- (2) The requirements set forth in this Section 16-4-220 shall not apply to:
  - a. Amateur Radio Antennas. Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the property line is met.
  - b. Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to September 1, 2017, shall not be required to meet the requirements of this Chapter 16, other than the requirements of Section 16-4-220(d). Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of this section 16-4-220. Notwithstanding the foregoing, any modifications qualifying as an eligible facilities requests shall be evaluated under Sections 16-4-220(e)(2) and (e)(5).
  - c. Miscellaneous Antennas. Antennas used for reception of television, multi-channel video programming and radio such as [over-the-air reception device \(otard\)](#) antennas, television broadcast band antennas, and broadcast radio antennas, provided that any



requirements related to accessory uses contained in chapter 16 of this code and the requirement that the height be no more than the distance from the base to the property line are met. The Community Development ~~Director~~ Department has the authority to approve modifications to the height restriction related to otard antennas and otard antenna structures, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.

(c) Operational Standards.

- (1) Federal Requirements. All WCFs shall meet the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF governed by this section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.
- (2) Radio Frequency Standards. All WCFs shall comply with federal standards for radio frequency emissions. If concerns regarding compliance with radio frequency emissions standards for a WCF have been made to the Town, the Town may request that the owner or operator of the WCF to provide information demonstrating compliance. If such information suggests, in the reasonable discretion of the Town, that the WCF may not be in compliance, the Town may request and the owner or operator of the WCF shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established federal standards. If, upon review, the Town finds that the facility does not meet federal standards, the Town may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF in accordance with Section 16-4-220(c)(6). Any reasonable costs incurred by the Town, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.
- (3) Signal Interference. All WCFs shall be designed and sited, consistent with applicable federal regulations, so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The applicant shall provide a written statement from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems and shall allow the Town to monitor interference levels with public safety communications during this process ("Signal Interference Letter"). Additionally, the applicant shall notify the Town at least ten (10) calendar days prior to the introduction of new service or changes in existing service and shall allow the Town to monitor interference levels with public safety communications during the applicant's testing process.
- (4) Legal Access. In all applications for WCFs outside of the right-of-way, an applicant shall demonstrate that it owns or has lease rights to the site.
- (5) Operation and Maintenance. To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable Town building and safety codes. If upon inspection, the Town concludes that a

WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the Town's chief building official may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's expense.

- (6) Abandonment and Removal. If a WCF has not been in use for a period of three (3) months, the owner of the WCF shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing three (3) months. Any WCF that is not operated for a continuous period of six (6) months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within thirty (30) days of receipt of written notice from the Town. If such WCF is not removed within said thirty (30) days, the Town may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired.

(d) Design Standards.

- (1) The requirements set forth in this section shall apply to the location and design of all WCFs governed by this section as specified below; provided, however, that the Town may waive one (1) or more of these requirements if it determines that the goals of this section are better served thereby. WCFs shall be designed and located to minimize the impact on surrounding properties and residential neighborhoods and to maintain the character and appearance of the Town, consistent with other provisions of this Code.
- (2) Camouflage/Concealment. All WCFs, transmission equipment and related accessory equipment shall, to the extent possible, use camouflage design techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF into the surrounding natural setting and built environment. Design, materials, and colors of WCFs shall be compatible with the surrounding environment. Designs shall be compatible with structures and vegetation on the same parcel and adjacent parcels.
- (3) Camouflage design shall be required where the Community Development ~~Director~~ Department determines the WCF will be located in close proximity to historic or aesthetically significant structures, views, and/or community features. Camouflage may include placement of WCFs underground or concealed behind earth berms to minimize their profile.
- (4) The camouflage design may include the use of alternative tower structures should the Community Development ~~Director~~ Department determine that such design meets the intent of this code and the community is better served thereby.
- (5) All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and Tower structures shall be constructed of non-reflective materials (visible exterior surfaces only).
- (6) Hazardous Materials. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.

(e) Siting.

- (1) No portion of any WCF may extend beyond the property line.
  - (2) Collocation. WCFs shall be required to be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF unless the Community Development ~~Director~~ Department approves an alternative design. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or location.
  - (3) WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below code standards.
- (f) Lighting. WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible to minimize the amount of glare and light falling onto nearby properties, particularly residences.
- (g) Landscaping and Fencing Requirements.
- (1) WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel, below code standards.
  - (2) WCFs shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site.
  - (3) In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived in whole or in part by the Community Development ~~Director~~ Department or assigned designee.
  - (4) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
- (h) Noise. Noise generated on the site must not exceed the levels permitted in the Town code, except that a WCF owner or operator shall be permitted to exceed any applicable Town code noise standards for a reasonable period of time during repairs, not to exceed two (2) hours without prior authorization from the Town.
- (i) Specific Design Standards. Additional design requirements shall be applicable to the types of WCFs as specified below:
- (1) Base Stations. If an antenna is installed on a structure other than a tower, such as a base station (including, but not limited to the antennas and accessory equipment) it shall be of a neutral, non-reflective color that is identical to, or closely compatible with, the color of the supporting structure, or uses other camouflage/concealment design techniques so as to make the antenna and related facilities as visually unobtrusive as possible, including for example, without limitation, painting the antennas and equipment to match the structure.
  - (2) Alternative tower structures including small cell facilities. Alternative tower structures shall be designed and constructed to look like a building, facility, or structure typically found in the area and shall:

- a. With respect to its pole-mounted components, be located on or within an existing utility pole serving another utility; or
  - b. Be camouflaged/concealed consistent with other existing natural or man-made features in the right-of-way near the location where the alternative tower structure will be located; or
  - c. With respect to its pole components, be located on or within a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives, and the applicant is authorized to construct the new utility pole; or
  - d. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the alternative tower structure;
  - e. Be sized to minimize the negative aesthetic impacts to the right-of-way;
  - f. Be designed such that antenna installations on traffic signal standards are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered;
  - g. Require that any ground-mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns in the reasonable discretion of the [Planning Commission](#)~~Director~~, and may, where appropriate, require a flush-to-grade underground equipment vault; and
  - h. Not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way. The alternative tower structure must comply with the Americans with Disabilities Act and all applicable local, state, and federal laws and regulations. No alternative tower structure may be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the right-of-way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.
- (j) Alternative tower structures and small cell facilities located in the right-of-way shall comply with the following requirements:
- (1) No ATS pole shall be higher than thirty-five (35) feet;
  - (2) The pole or structure for ATS or small cell facilities is not more than ten (10) feet higher (as measured from the ground to the top of the pole) than any existing utility or traffic signal within five hundred (500) feet of the pole or structure;
  - (3) Any new pole for ATS or small cell facilities shall be separated from any other existing WCF by a distance of at least six hundred (600) feet, unless the new pole replaces an existing traffic signal, street light pole, or similar structure determined by the [Community Development Director](#)~~Planning Commission~~.

- (4) With respect to its pole-mounted components, the ATS or small cell facility shall be located on an existing utility pole serving another utility; or be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives;
  - (5) The ATS shall be camouflaged/concealed consistent with other existing natural or manmade features in the right-of-way near the location where the ATS will be located;
  - (6) To the extent reasonably feasible, the facility shall be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS;
  - (7) When placed near a residential property, the facility is placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility must be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two (2) intersecting streets;
  - (8) Any antenna installations on traffic signals shall be placed in a manner so that the size, appearance, and function of the signal will not be considerably altered;
  - (9) Any ground mounted equipment shall be installed in an underground or partially underground equipment vault (projecting not more than thirty six (36) inches above grade), or co-located within a traffic cabinet of a design approved by the [Community Development Director/Planning Commission](#), unless a Conditional Use Permit is obtained subject to the requirements of Section Sec. 16-6-350. – Conditional Use applications and
  - (10) No ATS or small cell facility shall alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way. The ATS must comply with the federal Americans With Disabilities Act and all applicable local, state, and federal law and regulations. No ATS may be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the right-of-way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.
- (k) Towers. Towers shall meet the following requirements:
- (1) Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color to reduce visual obtrusiveness as determined by the Town;
  - (2) Tower structures should use existing landforms, vegetation, and structures to aid in screening the facility from view or blending in with the surrounding built and natural environment;
  - (3) Monopole support structures shall taper from the base to the tip; and
  - (4) All towers, excluding alternative tower structures in the right-of-way, shall be enclosed by security fencing or wall at least six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.

(5) Related accessory equipment. Accessory equipment for all WCFs shall meet the following requirements:

- a. All buildings, shelter, cabinets, and other accessory components shall be grouped as closely as technically possible;
- b. The total footprint coverage area of a WCF's accessory equipment shall not exceed three hundred fifty (350) square feet; and
- c. No related accessory equipment or accessory structure shall exceed twelve (12) feet in height;
- d. Accessory equipment, including but not limited to remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the accessory equipment shall be camouflaged or concealed.

(6) Setbacks and separation. The following minimum setbacks and separation requirements shall apply to all WCFs for which a use by special review approval is required; provided, however, that the Town may reduce standard setbacks and separation requirements if the applicant demonstrates that the goals of this section can be better met by reduced setback and separation requirements that protect the public health and safety, view corridors, or minimize adverse impact. A tower shall meet the greater of the following minimum setbacks from all property lines:

- a. The setback for a principal building within the applicable zoning district or planned development;
- b. Twenty-five percent (25%) of the facility height, including WCFs and related accessory equipment;
- c. The tower height, including antennas, if the tower is in or adjacent to a residential district; and
- d. Towers over ninety (90) feet in height shall not be located within one-quarter ( $\frac{1}{4}$ ) mile from any existing tower that is over ninety (90) feet in height, unless the applicant has shown to the satisfaction of the Town that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.

(I) Review Procedures and Requirements.

(1) No new WCF shall be constructed and no collocation or modification to any WCF may occur except after a written request from an applicant, reviewed and approved by the Town in accordance with this section. All WCFs except eligible facilities requests which are reviewed under subsection (e)(2) of this section, shall be reviewed pursuant to the following procedures:

- a. Submittal requirements. Each applicant for a WCF shall be required to submit a Site Plan prepared in accordance with Section 16-6-340. In addition to the submittal requirements set forth in Section 16-6-340, each applicant shall submit the following information, which may be waived by the Community Development [Director Department](#) if deemed inapplicable to the WCF SIP application.
  1. Signal Interference Letter (Section 16-4-220(c)(3));
  2. Inventory of Existing Sites (Section 16-4-220(e)(1)(b)); and
  3. Any other information deemed necessary by the Town Administrator to determine compliance with this section.



(e) Inventory of Existing Sites. Each applicant for a WCF shall provide to the Community Development Director a narrative and map description of the applicant's existing or then currently proposed WCFs within the Town, and outside of the Town within one (1) mile of its boundaries. In addition, the applicant shall inform the Town generally of the areas of the Town in which it believes WCFs may need to be located within the next three (3) years. The inventory list should identify the site name, site address, and a general description of the facility (i.e., rooftop antennas and ground mounted equipment). This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the Town. Rather, it is a mechanism for the Town and all applicants for WCFs to share general information, assist in the Town's comprehensive planning process, and promote collocation by identifying areas in which WCFs might be appropriately constructed for multiple users.

(1) The Community Development Director may share such information with other applicants applying for administrative approvals or use by special review permits under this section or other organizations seeking to locate WCFs within the Town, provided however, the Community Development Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(2) In all zoning districts and planned developments, applications for base stations, alternative tower structures and alternative tower structures within right-of-way, shall be reviewed by the Community Development Director for conformance to this section and the site plan review procedures set forth in Section -16-6-340. of this Code.

(3) In all zoning districts and planned developments, all Towers may be permitted only as conditional review use. WCFs shall be reviewed for conformance to this section and code using the Conditional Use procedures set forth in section 16-3-500 of this Chapter. All applications for towers shall demonstrate that other alternative design options such as base stations or alternative tower structures are not viable options as determined by the Town. Notwithstanding anything in this section to the contrary, no tower located in the right-of-way shall exceed thirty-five (35) feet in height.

(4) Administrative review procedures for eligible facilities requests.

a. Application. In all zoning districts and planned developments, eligible facilities requests for collocation on or modification of an existing tower or base station shall be considered a use by right subject to administrative review. The Town shall prepare and, from time to time, revise and make publicly available, an application form which shall be limited to the information necessary for the Town to consider whether an application is an eligible facilities request. Such information may include, without limitation, whether the project:

1. Would result in a substantial change; and
2. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

The applicant shall not be required to demonstrate a need or business case for the proposed modification or collocation.

b. Type of review. Upon receipt of an application for an eligible facilities request pursuant to this section; the Community Development ~~Director~~ Department shall review such

application to determine whether the application so qualifies.

- c. Timeframe for review. Subject to the tolling provisions of subparagraph d. below, within sixty (60) days of the date on which an applicant submits an application seeking approval under this section, the Town shall approve the application unless it determines that the application is not covered by this subsection.
  - d. Tolling of the timeframe for review. The sixty-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the Town and the applicant, or in cases where the Community Development ~~Director~~Department determines that the application is incomplete:
    - 1. To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application;
    - 2. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and
    - 3. Following a supplemental submission, the Town will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subsection d.1. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing information or documents that were not delineated in the original notice of incompleteness.
  - e. Failure to act. In the event the Town fails to act on a request seeking approval for an eligible facilities request under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant becomes effective when the applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.
  - f. Interaction with the Telecommunications Act of 1996. If the Town determines that the applicant's request is not an eligible facilities request as delineated in this Section, the presumptively reasonable timeframe under section 332(c)(7) of the Telecommunications Act of 1996, as prescribed by the FCC's shot clock order, will begin to run from the issuance of the Town's decision that the application is not a covered request. To the extent such information is necessary, the Town may request additional information from the applicant to evaluate the application under section 332(c)(7) review.
- (5) Abandonment and removal. Prior to approval, affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.
- (6) Decision. Any decision to approve, approve with conditions, or deny an application for a WCF, shall be in writing and supported by substantial evidence in a written record. The applicant shall receive a copy of the decision.
- (7) Compliance with applicable law. Notwithstanding the approval of an application for new



WCFs or collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building structural, electrical and safety requirements as set forth in Town code and any other applicable laws or regulations. In addition, all WCF applications shall comply with the following:

- a. Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
  - b. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
  - c. Be maintained in good working condition and to the standards established at the time of application approval; and
  - d. Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten (10) calendar days from the time of notification by the Town or after discovery by the owner or operator of the site. Notwithstanding the foregoing, any graffiti on WCFs located in the rights-of-way or on other Town-owned property may be removed by the Town at its discretion, and the owner and/or operator of the WCF shall pay all costs of such removal within thirty (30) days after receipt of an invoice from the Town.
- (8) Compliance report. Upon request by the Town, the applicant shall provide a compliance report within forty-five (45) days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable code requirements and standard regulations.
- (f) Standards for Approval.
- (1) Eligible Facilities Requests. It is the intent of the Town to approve WCFs administratively in cases where visual impacts are minimized, view corridors are protected, WCFs utilize appropriate camouflage/concealment design techniques to avoid adverse impacts on the surrounding area, and WCFs are designed, maintained, and operated at all times to comply with the provisions of this title and all applicable law. Notwithstanding the approval of an application for collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in Town code and any other applicable regulations.
  - (2) Except eligible facilities requests, no WCF, including related accessory equipment, shall be approved unless it meets the following approval criteria:
    - a. Visual impacts are minimized and view corridors and protected to the greatest extent feasible.
    - b. WCFs utilize camouflage/concealment design techniques to avoid adverse impacts on the surrounding area;
    - e. WCFs meet the applicable design standards for the type of WCF in accordance with Section 16-4-220(d), Design Standards, of this section; and
    - f. WCFs are and will be operated at all times in accordance with Section 16-4-220(c).

## **Division 3: RV Parks**

### **Sec. 16-4-300. - Review Process.**

- (a) All new recreational vehicle parks or development on any recreational vehicle park, new or pre-existing, must comply with site plan requirements in accordance with Section 16-6-340. Where a recreational vehicle park development is proposed for construction in a series of stages, a master plan for the development of the entire tract of land shall be submitted along with the detailed plans and specifications for the initial stage, as well as any subsequent stages. A Site Plan Agreement is required. No construction or development shall be commenced until reviewed by the Planning Commission and approved by the Board of Trustees and a building permit issued.
- (b) Permits for development of recreational vehicle parks shall be granted according to the conditional review process of this Code.
- (c) Recreational Parks shall comply the applicable site and design standards found in this Chapter.

### **Sec. 16-4-305. - Location of Recreational Vehicle Parks.**

- (a) Recreational vehicle parks are a conditional use in the following Zone Districts:
  - (1) Agricultural District (A);
  - (2) Service Business District (C-4)
  - (3) Special Business District (C-5)
  - (4) Light Industrial District (I-1)
  - (5) Medium Industrial District (I-2)
- (b) Recreational vehicle parks will not be permitted in any area zoned residential or in floodplain areas.

### **Sec. 16-4-310 - Park Development Standards.**

- (a) Park Size. The minimum gross area for a recreational vehicle park is five (5) acres. The maximum gross area allowed is ten (10) acres.
- (b) Park Density. The maximum density shall not exceed twelve (12) recreational vehicles per gross acre.
- (c) Minimum Site Size. Each recreational vehicle site shall contain a minimum of one thousand five hundred (1,500) square feet and shall have a minimum width of twenty-five (25) feet.
- (d) Site Pads. Each site shall contain a vehicle parking pad of concrete or asphalt paving. Minimum length of the parking pad shall be thirty-five (35) feet. No part of a recreational vehicle or other unit placed on the lot pad shall be closer than five (5) feet to the edge of the lot.
- (e) Required Separation Between RV Vehicles. Recreation vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structure such as

attached awnings or carports for purposes of this separation requirement shall be considered to be part of the recreational vehicle.

- (f) Site Identification. Each site for the parking of the recreational vehicle shall be identified by numbers, a minimum of three (3) inches in height, posted in a conspicuous place at the front of the site.

- (g) Roadways and Parking.

- (1) Interior Roads. All interior two-way roads shall be twenty-eight (28) feet minimum width and all interior one-way roads shall be twenty (20) feet minimum width. All roads shall be paved with asphalt and crowned to facilitate drainage. Roadways shall be designed for the safe and convenient movement of vehicles and meet circulation requirements for emergency vehicles.

- (2) Parking Requirements. At least one and one-half (1½) off-road parking spaces shall be provided in the park per recreation vehicle site. At least one (1) off-road parking space shall be provided at each site. No on-street parking will be permitted.

- (h) Entrances and Exits.

- (1) Locations and Access. No entrance or exit from a recreational vehicle park shall be permitted through a residential district nor require movement of traffic from the park through a residential district.

- (2) Park Access.

- a. Entrances and exits to recreational vehicle parks shall be designed for the safe and convenient movement of traffic into and out of the park and shall comply with the Milliken Design Criteria and Construction Specifications manual.
    - b. Each recreational vehicle park shall have a separate entrance and exit roadway, each of which shall not be less than twenty-eight (28) feet wide from flow line to flow line, shall be hard-surfaced with asphalt or concrete and shall connect to a dedicated public right-of-way not less than forty (40) feet in width.
    - c. Access onto State Highways. Access onto state-controlled highways or roads will require a permit from the Colorado Department of Transportation. The design of the access will be according to Department of Transportation requirements.

#### **Sec. 16-4-315. - Accessory Uses.**

- (a) Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities and other uses and structures customarily incidental to operation of a recreational vehicle park and campground are permitted as accessory uses to the park.

- (b) In addition, stores, restaurants, and other convenience establishments shall be permitted as accessory uses in recreational vehicle parks in districts where such uses are not allowed as principal uses, subject to the following restrictions:

- (1) Such establishments and the parking areas primarily related to their operations shall not occupy more than five percent (5%) of the gross area of the park.
  - (2) Such establishments shall be restricted in their uses to occupants of the park, unless approved otherwise as part of the Conditional Use Permit.

- (3) Such establishments shall present no visible evidence from any street outside the park of their commercial character which would attract customers other than occupants of the park.
- (4) The structure housing such facilities shall not be located closer than one hundred (100) feet to any public street but shall be accessible only from a street within the park.

**Sec. 16-4-320. - Open Space and Recreational Areas.**

- (a) A general area amounting to not less than ten percent (10%) of the gross area of the recreational vehicle park, excluding any area dedicated as public right-of-way, shall be provided for recreation and open space use.
- (b) Such area shall not include any area designated as a recreational vehicle space, storage area, required yard, service building or sanitary facility or waste station area.
- (c) Recreational facilities shall be included in the ten-percent requirement for open space.

**Sec. 16-4-325. – Buffering, Setbacks, Screening, and Landscaping.**

- (a) Yards and Setbacks. Each recreational vehicle park shall set aside along the perimeter of the park the following areas which shall be landscaped and used for no other purpose:
  - (1) Minimum front setback: twenty-five (25) feet, except when the recreational vehicle park fronts on a state highway; then the minimum shall be fifty (50) feet.
  - (2) Minimum side setback: when abutting residential districts, the side setback shall be fifty (50) feet; when abutting a dedicated public right-of-way, the side setback shall be twenty-five (25) feet on the side street; when abutting any other zone district, the side setback shall be fifteen (15) feet along the interior lot line.
  - (3) Minimum rear setback: if the rear yard abuts a dedicated public right-of-way, the minimum setback shall be twenty-five (25) feet. If the rear yard abuts any other zoning district, the setback shall be fifteen (15) feet.

Summary of Yard Setbacks				
If yard abuts a:	Residential District	Other District	Public Right-of-Way	State Highway
Front yard	Not allowed	Not allowed	25'	50'
Side yard	50'	15'	25'	50'
Rear yard	50'	15'	25'	50'

- (b) Landscaping. A landscaping plan that complies with the requirements for commercial uses in Division 5 of Article III.
- (c) Boundary Fencing. Except for the front boundary, each recreational vehicle park shall be enclosed by a solid fence of wood or wall of concrete block or brick not less than six (6) feet in height.

**Sec. 16-4-330. - Utilities and Services.**

- (a) All Utilities Underground. All public utilities within the recreational vehicle park shall be underground.
- (b) Water Supply. The water supply for the recreational vehicle park shall be provided by a delivery system that is owned and operated by the property owner or a legal political subdivision. The system shall be designed by a Professional Engineer licensed in the state of Colorado and submitted with the site plan application.
- (c) Sewage Disposal. Facilities shall be provided and properly maintained for the collection and disposal or treatment and disposal of sewage.
  - (1) Where a public sewer system is available, the recreational vehicle park shall be provided by a collection system that is owned and operated by the property owner or a legal political subdivision. The system shall be designed by a Professional Engineer licensed in the state of Colorado and submitted with the site plan application...
  - (2) Solid and liquid wastes shall not be discharged or otherwise disposed of on the surface of the ground or into any well, cave, open ditch, stream, lake, or reservoir.
- (d) Electricity and Natural Gas.
  - (1) An electric outlet approved by an electric utility shall be provided for each recreational vehicle space. The installation shall comply with all state and local electrical codes. Such electrical outlets shall be weatherproof.
  - (2) Street and yard lights shall be provided in such number and intensity as to ensure safe movement of vehicles and pedestrians at night. A light shall be located at each outside entrance of the service buildings, which shall be kept lighted during hours of darkness.
  - (3) Where natural gas is provided, the installation will comply with all applicable state and Town building code regulations.
- (e) Utility Plans. Plans for water, sewer, electricity, and natural gas must be submitted for approval with the site plan application.
- (f) Refuse Disposal.
  - (1) The storage, collection and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents, or other nuisance conditions.
  - (2) Refuse shall be collected and removed from the premises as often as necessary, but not less than once weekly, and disposed of at a lawful disposal site.
  - (3) No burning of refuse will be permitted at the recreational vehicle park.
- (g) Fire Prevention and Protection.

- (1) All recreational vehicle parks shall comply with the current Fire Code of the Town.
- (2) Hand fire extinguishers of a type approved by the Fire District shall be maintained in effective working order and located in convenient places in the ratio of one (1) to eight (8) recreational vehicle spaces. The location of fire extinguishers must be approved by the Fire District.
- (3) No outdoor fires will be allowed except in grills, ovens, stoves, or park-provided fire boxes. Park-provided boxes must be approved by the Fire District. No open fires are allowed.
- (4) Fire hydrants shall be located as required by the latest adopted fire codes.

**Sec. 16-4-335. - Sanitary Facilities.**

- (a) Required toilet, lavatory and bathing facilities shall be provided in the following minimum numbers:

Campsites	Toilets		Urinals	Lavatories		Showers	
	M	F	M	M	F	M	F
15	1	1	1	1	1	1	1
16 - 30	1	2	1	2	2	1	1
31 - 45	2	2	1	3	3	1	1
46 - 60	2	3	2	3	3	2	2
61 - 80	3	4	2	4	4	2	2
81 - 100	3	4	2	4	4	3	3
101 - 120	4	5	3	5	5	4	4

M = Male F = Female

- (b) At least one (1) toilet and shower facility shall be provided to accommodate handicapped persons.
- (c) No portable toilets will be allowed in recreational vehicle parks.

**Sec. 16-4-340- Miscellaneous RV Park Regulations.**

- (a) L.P. tanks shall be limited to one-hundred-pound size.
- (b) Storage buildings, lean-tos, bins, or other outside storage facilities shall not be allowed at recreational vehicle sites.

**Sec. 16-4-345. - Permanent Occupancy Prohibited.**

- (a) No recreational vehicle shall be used as a permanent place of residence or business for indefinite periods of time. Continuous occupancy extending beyond three (3) months in any twelve-month period shall be presumed to be permanent occupancy.
- (b) Any action toward removal of wheels of a recreational vehicle except for temporary purposes of repair or to attach the trailer to the ground for stabilizing purposes is hereby prohibited.

**Sec. 16-4-350. - Responsibilities of Management.**

- (a) Enforcement of Regulations. The owner or operator of any recreational vehicle park shall arrange for the management and supervision of such recreational vehicle park so as to enforce or cause compliance with the provisions of this Article.
- (b) Maintenance. The owner, operator or attendant of every recreational vehicle park shall assume full responsibility for maintaining in good repair and condition all facilities of the recreational vehicle park as required herein.
- (c) Office. In every recreational vehicle park, there shall be a designated office building in which shall be located the office of the person in charge of said park. A copy of all required Town and state licenses and permits shall at all times be kept in said office.
- (d) Management Duties. It shall be the duty of the attendant or person in charge, together with the owner or operator, to:
  - (1) Keep at all times a register of all tenants (which shall be open at all times to inspections by state, county and federal officers and officers of the Town) showing for all tenants:
  - (2) Dates of entrances and departures.
  - (3) License numbers of all recreational vehicles and towing vehicles or automobiles.
  - (4) States issuing such licenses.
  - (5) Maintain the park in a clean, orderly, and sanitary condition at all times.
  - (6) See that provisions of this Article are complied with and enforced and report promptly to the proper authorities any violations of law which may come to his or her attention.
  - (7) Report to local health authorities all cases known to the owner to be infected with any communicable diseases.
  - (8) Pay promptly to the Town all license fees required by Town ordinances or other laws.
  - (9) (Prohibit the use of any recreational vehicle by a greater number of occupants than that which it is designed to accommodate.

**Division 4: Manufactured Home Parks****Sec. 16-4-400. – General Requirements.**

In order to provide uniform administrative procedures and quality development standards, Manufactured Home Parks in R-M Districts shall conform to all Site Plan requirements in 16-6-340 of this Code.

- (1) A zoning amendment to the official zoning map to R-M District shall not occur until a final plat is approved and recorded as provided in Article V "Subdivision Requirements" of this Chapter.
- (2) Vesting of property rights in a R-M District accrue only for that portion of the property granted a final plat approval.
- (3) All public utility distribution lines shall be placed underground.
- (4) The minimum number of acres which may constitute a R-M District for the purpose of Manufactured Home Communities shall be five (5) acres.
- (5) Building and occupancy permits for manufactured homes shall comply with the following requirements:
  - (1) It shall be unlawful to erect, move or place any manufactured home onto any site, lot, or tract without first obtaining a building permit.
  - (2) It shall be unlawful to erect, move or place any manufactured home onto any site, lot or tract that does not meet the standards contained in this Division or Article III of this Chapter.
  - (3) Application for a building permit shall be made in accordance with the requirements of the Building Code and is subject to applicable fees as set forth on the last ed adopted Fee Schedule.
  - (4) No building permit for the installation of a manufactured home shall be issued unless the manufactured home meets applicable Town codes and the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.), or the 1976 National Construction Standards (HUD Standard 24 CFR Part 3280 as identified by a metal HUD label attached to the exterior of the home.
- (6) Only one (1) family may occupy a single manufactured home.

**Sec. 16-4-405. - Manufactured Home Design Standards/Building Requirements.**

- (a) All manufactured homes must be certified and be installed in accordance with the State of Colorado Division of Housing "Manufacture Housing Installation Program" and adopted building codes.
- (b) The manufactured home must have brick, wood or cosmetically equivalent exterior siding on all exterior walls which provides a consistent, continuous facade from the bottom of the soffit (top of the wall section) downward to the top of the exposed perimeter foundation. The exterior siding of the manufactured home must have the same appearance as materials commonly used on residential dwellings. Metal siding must be painted or anodized.
- (c) The manufactured home must have a pitched roof with a pitch of at least a nominal 3/12. The roof must be covered with shingles, shakes or tile. Eaves of the roof must extend at least one (1) foot from the intersection of the roof and the exterior walls.
- ~~(d) The manufactured home must have windows that are wood, vinyl-coated, or anodized aluminum.~~
- ~~(e)~~(d) The manufactured home must have color-coordinated body and trim. Colors of both the factory components and the site-built components shall be the same.



~~(f)~~(e) The main entrance to the manufactured home must face or be oriented toward an adjacent street.

~~(g)~~(f) The transportation mechanisms, including the wheels, ~~axles~~, and hitch, must be removed.

~~(h)~~(g) No manufactured home shall be occupied for dwelling purposes unless it is properly placed in a manufactured home space and connected to water, sewerage, electric and gas utilities, as appropriate.

~~(i)~~(h) Additions to increase the floor area of manufactured home shall not be permitted except for patios, porches, garages, decks, or carports. Garages may be detached or attached.

~~(j)~~(i) Prior to occupancy, the Building Inspector shall inspect each manufactured home to determine compliance with the Town Code. No occupancy shall be permitted, or certificate of occupancy issued until said inspection and all connections to public utilities have been made. The owner or home builder shall pay to the Town a building permit fee for each residential structure as may be required by the Town Code.

~~(k)~~(j) All additions shall comply with minimum yard requirements, and a building permit shall be required in advance for any such addition.

~~(l)~~(k) No factory-built home, manufactured home or mobile home shall be allowed to be in a dilapidated state. This includes units that are partially or totally damaged by fire, earthquake, flood, wind or other natural causes, or is in a state of general dilapidation, deterioration or decay resulting from improper lack of maintenance, vandalism or infestation with insects or rodents. Any such dilapidated structure shall be returned to and maintained in the condition as originally established on site and as inspected by the Building Inspection Department, or it shall be removed from site. Repair of non-conforming structures or uses shall be in accordance with non-conforming structure provisions found in the Land Use Code.

## **Sec. 16-4-410. - Manufactured Home Park Design Standards.**

### **(a) Street Design Standards.**

- (1) Interior Roads. All interior two-way roads shall be twenty-eight (28) feet minimum width and all interior one-way roads shall be twenty (20) feet minimum width. All roads shall be paved with asphalt and crowned to facilitate drainage. Roadways shall be designed for the safe and convenient movement of vehicles and meet circulation requirements for emergency vehicles.
- (2) Primary through streets shall be thirty-four (34) feet from back of curb to back of curb, with a four-foot ~~detached~~ sidewalk on one (1) side being located six (6) feet from the back of curb.

### **(b) Parking.**

- (1) Every manufactured home space shall have two (2) off-street parking spaces adjacent to the manufactured home. There shall be one (1) additional parking space for each manufactured home space within one hundred (100) feet for use of occupants and guests.
- (2) Off-street Vehicle Parking for Recreation Facilities. Off-street vehicle parking shall be provided for recreation facilities located within a manufactured home community. One (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per

employee at the maximum shift, shall be provided for enclosed recreation facilities. Twenty (20) spaces are to be provided for every diamond or athletic field, or one (1) space for every four (4) spectator seats, whichever is greater. (One [1] seat is equal to two [2] feet of bench seating length.) Handicapped parking spaces shall be provided in conformance with the Americans With Disabilities Act, as may be amended from time to time.

- (c) Pedestrian Circulation. The developer shall provide for a system of pedestrian circulation within the development. The system shall connect with existing sidewalks if any are adjacent to the property. The system shall be designed to link residential units with recreation facilities, school bus stops and existing sidewalks in the neighborhoods. Sidewalks shall be constructed as specified in the Design Criteria and Construction Specification manual.
- (d) Street and Sidewalk Lighting. All streets and sidewalks shall be lighted in accordance with the standards contained in the Design Criteria and Construction Specification manual.
- (e) Access and Circulation. A manufactured home community development shall have two (2) means of access to public streets at the perimeter of the site. Internal circulation may be provided by public or private streets, driveways, and alleys. Each manufactured home space shall be provided access to the internal circulation system. No manufactured home space shall have direct access to a public street on the perimeter of the site.
- (f) Sidewalk Between Street and Manufactured Home. Concrete sidewalks shall be provided between the manufactured home and the adjacent street sidewalk; except that the paved parking area may satisfy this requirement provided a sidewalk is provided from the parking area to the manufactured home.
- (g) Traffic Control.
  - (1) Pursuant to Section 42-4-1102, C.R.S., the Town elects to impose and enforce stop sign regulations, speed limits and parking restrictions posted in accordance with the Manual of Uniform Traffic Control Devices upon all highways and streets which are privately maintained in manufactured home communities. The owner of the manufactured home community shall provide such signs as may be required by the Town Engineer and agrees to erect and maintain such signs in conformity with the Model Traffic Code.
  - (2) The stop sign placement, speed limits and parking restrictions shall be determined by the Town Engineer, but shall be consistent with the provisions of Sections 42-4-1101 et seq., 42-4-1204 and 42-4-1208, C.R.S.
- (h) Utility Design Requirement.
  - (1) A utility plan prepared by an engineer licensed in the state of Colorado shall be provided as part of the Site Plan application.
  - (2) Utilities shall comply with the standards in the Design Criteria and Construction Specifications manual.
- (i) Manufactured Home Community Landscaping. The developer shall landscape the perimeter and common open space of the manufactured home community in accordance with landscaping and buffering requirements in Article III of this Chapter. The developer shall provide front landscaping for each manufactured home space in accordance with site plan approval.

(j) Outdoor Living Area.

- (1) No less than eight (8%) percent of the gross site area shall be reserved for and devoted to improved recreation areas and facilities provided in locations convenient to all manufactured home spaces.
- (2) An outdoor living area shall be provided on each space equal to at least ten (10%) percent of its area, provided that in no case shall such area be less than three hundred (300) square feet or required to be more than five hundred (500) square feet. The minimum horizontal dimension of such area shall be not less than fifteen (15) feet.
- (3) Such outdoor living area shall be properly drained, located for convenience and optimum use and walled, fenced, or landscaped to provide reasonable privacy.

(k) Tenant Storage.

- (1) A separate uniform tenant storage structure may be provided for each space, located on each space.
- (2) Each manufactured home space is allowed one storage structure that shall be a minimum of one hundred and twenty (120) square feet for each manufactured home space.
- (3) Design and location of tenant storage shall enhance the appearance of the park, and the exterior siding of the structure shall have the same appearance as materials commonly used on residential dwellings.

(l) Street Names, Addressing, Mail Delivery.

- (1) Street names, addressing and mail delivery shall be included in the Site Plan materials and shall comply with the requirements of the Town's Design Criteria and Construction Specifications, addressing requirements and the US Postal Service's mail delivery requirements.

(m) Solid Waste Disposal.

- (1) The owner of the manufactured home community shall be responsible for the promulgation and enforcement of rules and regulations governing solid waste storage and handling that meet or exceed state or federal regulations.
- (2) The owner shall provide containers for the storage of solid wastes awaiting collection for each manufactured home space. Containers shall be sized to completely contain all solid waste that is generated on the premises. Containers are to be fly-tight, watertight, and rodent proof and are to be kept off the street, curb, sidewalk, and all other public ways, and concealed from public view, except on collection day.

**Sec. 16-4-415. - Miscellaneous Provisions.**

- (a) Resident's Council. A manufactured home community development shall establish a Resident's Council. The Resident's Council shall be established from residents living within the community and from different sectors of the community. The purpose of the Resident's Council shall be to foster communication between residents and management. The Resident's Council shall serve as a method for residents of a manufactured home community development to direct questions and concerns to management and to assist in the social programs of the community. The Resident's Council shall meet with management on a regular

basis established by the Resident's Council, but not less than quarterly. The meeting shall be noticed and be open to all residents of the manufactured home community. The Resident's Council shall be subject to popular election.

- (b) Single Ownership of a manufactured home community development. A manufactured home community development may not be converted to another use other than such uses provided for in the approved Site Plan. Changes to the approved Site Plan or proposed changes of use shall follow the processes outline in Article VI of this Chapter.
  - (1) The land within a manufactured home community development shall remain in a unified ownership and the individual ownership of lots or portions of lots shall not be transferred.
  - (2) No dwelling unit other than a manufactured home shall be located within a manufactured home community development.

## **Division 5: Oil and Gas Drilling and Production**

### **Sec. 16-4-500. - Purpose.**

- (a) These regulations are enacted to protect and promote the health, safety, and general welfare of the present and future residents of the Town. It is the Town's intent by enacting these regulations to facilitate and mitigate potential land use conflicts between such development and existing, as well as planned, land uses. It is recognized that under Colorado law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of oil and gas interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface oil and gas interests, subject to compliance with the provisions of these regulations and any other applicable statutory and regulatory requirements. The State has a recognized interest in the fostering of efficient development, production and utilization of oil and gas resources and particularly in the prevention of waste and protection of the correlative rights of common surface owners and producers to a fair and equitable share of production therefrom. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed with reasonable accommodation and to have adverse land use impacts upon their property, associated with the development of the mineral estate, mitigated through compliance with these regulations so long as these regulations do not create operational conflict with the State's authority to regulate oil and gas development.
- (b) Local governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction, including use for oil and gas drilling. These regulations are intended as exercise of this land use authority to the extent that they do not create an operational conflict.
- (c) The Town recognizes that this Article does not supersede or preempt the regulations of the Colorado Oil and Gas Conservation Commission or any other State regulations nor is this Article intended to conflict with those regulations. The Town acknowledges the authority of the COGCC and the application of its rules to oil and gas drilling and production operations within the Town's boundaries, confirms that the COGCC's regulations govern oil and gas drilling and production operations in the Town and, therefore, adopts the COGCC's regulations as of passage of this Article. To the extent the COGCC's regulations change in the future, the Town will use the provisions in this Code as a default for oil and gas operations

within the Town's jurisdiction. The Town further acknowledges that a Permit to Drill issued by the COGCC shall be binding with respect to any operationally conflicting requirement under this Article.

**Sec. 16-4-505. - General provisions.**

- (a) The provisions of this Article shall apply to all oil and gas exploration and production operations proposed on or beneath property within the Town limits.
- (b) Oil and gas facilities within Town limits and in place prior to March 11, 1983, will be considered legal nonconforming uses, however, such facilities must be registered with the Town. The operator must supply the Town with copies of the site plan, operating plan, reclamation plan, as-builts and fire and emergency response plans pursuant to this Article.
- (c) Where provisions in this Chapter are in conflict with other provisions of this Code or other applicable regulations, the more restrictive, or that provision which results in the higher standard, shall apply unless the application of the Code results in an operational conflict with the State regulation of oil and gas development.
- (d) Exceptions to the provisions of this Article may be granted by the Planning Commission. If such exception is part of the approval process of the Special Use Permit, then the exception shall only be approved if the applicant demonstrates that the exception or waiver is necessary to prevent waste or protect correlative rights and can provide adequate mitigation measures for the Town standards waived. Decisions of the Planning Commission may be appealed to the Board of Trustees as provided for in Section 16-3-350 Appeals must be filed within one (1) month of the Planning Commission's written decision.
- (e) Use tax. All operators must conform to applicable provisions of this Code relating to taxation.

**Sec. 16-4-510. - Oil and Gas Definitions.**

All terms used in this Article have the definitions given by the Oil and Gas Conservation Act of the State of Colorado ("Act") or in the Colorado Oil and Gas Conservation Commission ("COGCC") regulations. All other words used in this Article are defined in this Section of the Article or are given their usual, customary and accepted meaning and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in said oil and gas industry. The following words and phrases used in this Article have the following meanings:

*Act* means the Oil and Gas Conservation Act of the State.

*Applicant* means the person making an application for a special use permit (or Existing Use Site Plan Order) on behalf of the operator or owner of a well.

*Blowout* means the uncontrolled discharge of gas, liquid or solids, or a mixture thereof, from a well into the atmosphere.

*Blowout preventor* means a mechanical, hydraulic, or pneumatic or other device, or a combination of such devices, secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith designed to prevent and capable of preventing a blowout.

*Bottomhole* means the final underground location and depth of the well.

*COGCC* means Colorado Oil and Gas Conservation Commission.

*Commission* means Town of Milliken Planning Commission.

*Drill pad site* means the areas that are directly disturbed during the drilling and subsequent operation of or affected by production facilities directly associated with one (1) or more oil well, gas well or injection well.

*Drill site or platform* means the premises used during the drilling and subsequent life of a well or wells, which is necessary for the safe operation thereof.

*Drilling envelope or window* means the area designated by the COGCC in which wells can be drilled.

*Exploration* means the search for natural accumulations of oil, gas, or other hydrocarbons.

*Injection well* means any hole drilled into the earth into which fluids are injected for the purposes of secondary recovery, storage, or disposal, pursuant to authorizations granted by the COGCC.

*Mineral owner* means any person having title or right of ownership in subsurface oil, gas, or other hydrocarbons and/or a leasehold interest therein.

*Multiple oil and gas operations permit* means a permit issued by the Town if more than one (1) well or production facility is being applied for and approved at the same time by the same applicant.

*Multiwell site* means a common well pad from which multiple wells may be drilled to various bottomhole locations.

*New well site* means any oil or gas well location that is approved by the Commission pursuant to this Article, but does not include any deepened, sidetracked, rebored, recharged, redrilled, refraced, reentered, reworked, or twinned well.

*Operating plan* means a general description of the facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure, any mitigation plans and any other information related to regular functioning of that facility.

*Reboring, recharging, predrilling or refracing* means the deepening of an existing oil or gas well or otherwise drilling beyond the extremities of the existing well casing.

*Reentering* means accessing an existing well bore for either the original or amended purpose, provided that such well has not been abandoned.

*Sidetracking* means entering the same well head from the surface, but not necessarily following the same well bore, throughout its subsurface extent when deviation from such well bore is necessary to reach the objective depth.

*Structure* means that which is built or constructed on the surface estate including a tank, edifice or building of any kind, except temporary structures used in the actual drilling, development, or rework operations.

*Surface owner* means any person having the title or right of ownership in the surface estate of real property or leasehold interest therein.

*Town* means Town of Milliken, Weld County, Colorado.

*Twinning* means the drilling of wells within fifty (50) feet of each other.

*Wellhead* means the mouth of the well at which oil or gas is produced.

**Sec. 16-4-515. - Special Use Permit Requirements.**

(a) New Well Sites.

- (1) It shall be unlawful for any person to drill a new well, construct a new facility or install new accessory equipment or pumping system that has not been previously permitted under this Article, unless a special use permit has been obtained in accordance with the procedures defined in this Article.
- (2) The granting of such a special use permit shall not relieve the operator from otherwise complying with all applicable Town, State and Federal regulatory requirements.
- (3) One (1) special use permit may be issued for multiple drill pad sites containing one (1) or more wells if the drill pad sites are located within a half section area or area of equivalent size or the drill pad sites are in a single section or area of equivalent size and under one (1) property ownership.
- (4) Any such permit issued pursuant to this Article shall encompass within its authorization the right for the operator, his or her agent, employee, subcontractor or independent contractor or any other persons to perform that work necessary in the drilling, completion or maintenance operations.
- (5) For the purpose of this Article, the installation of tanks, heaters, separators, and other accessory equipment shall be construed as extensions to oil and gas wells and shall accordingly be subject to the same applications, review, permit, regulations, and standards. The application for these accessories when intended to be installed at the same time as the oil or gas well may be merged with an application for an oil or gas well special use permit and shall not require an additional permit fee.
- (6) Town Staff may make exceptions to this Section provided that such exceptions are reasonable and relate to the current development plan.

(b) Modifications to Existing Well Sites.

- (1) When a well or well site is existing with an approved special use permit any twinning, sidetracking, connecting, deepening, recompleting, refracing or reworking of a well and relocation of accessory equipment or gathering and transmission lines does not require a new permit so long as all applicable regulations of this jurisdiction and the State are met and the Town is notified.
- (2) If any changes are made to a legally nonconforming well during twinning, sidetracking, deepening, recompleting, refracing or reworking of a well, or relocation of accessory equipment or gathering and transmission lines occurs, the operator shall submit a revised site and operating plan to the Town depicting any changes from the approved by the State or other granted right to proceed.

(c) Waiver Requests.

- (1) During the review of the State permit by the Town, a waiver may be requested by the owner/operator under the following conditions:

- a. Drill pad site is located in an area with little or no impact to developed areas of Town.
  - b. There are no conditions of approval or impact concerns from the Town discovered during the referral review process by Town Staff.
- (2) Waiver requests will be presented to the Planning Commission for approval or denial at a regularly scheduled meeting.

**Sec. 16-4-520. - Special Use Permit Application Fees and Deposits.**

- (a) Application fee and deposit. 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. The application fee for a special use permit application shall be as set forth in the Town Adopted Fee Schedule for:
- (1) An individual well or oil and gas facility; or
  - (2) Multiple drill pad sites as described in Section 16-4-515(a)(4) fees shall be: one hundred (100%) percent for the first drill pad site, fifty percent (50%) for the second drill pad site and twenty-five (25%) percent for any subsequent drill pad sites.
- (b) Town Staff may make exceptions to this Section provided that such exceptions are reasonable and related to the current development plan.
- (c) Waiver Fee. A nonrefundable fee is collected to cover the costs of review by Town Staff and the Planning Commission. The waiver fee shall be as set forth in the Town Adopted Fee Schedule.

**Sec. 16-4-525. - Special Use Permit Process for New Oil and Gas Operations.**

- (a) The special use permit process for new oil and gas ~~operationsecompanies~~ is as follows:
- (3) Step 1: Optional Preapplication Conference. The applicant may attend a preapplication conference with a representative from the Town. This preapplication conference is preferred, though not required. The purpose of the conference is to discuss the special use permit submittal requirements and review process.
  - (4) Step 2: Application Submittal. See Section 16-4-530 for Application Submittal Requirements.
  - (5) Step 3: Staff Reviews and Certifies the Application is Complete. Within two (2) weeks of the submittal, 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.
  - (6) Step 4: Staff Refers Application to Referral Agencies. Not less than twenty-eight (28) days before the date scheduled for the Planning Commission public hearing, the Town shall send information about the application by regular mail to the necessary referral agencies. The referral information shall include the time and place of the public hearing, the nature



of the hearing, the location of the subject property and the applicant's name. If no response is received from the necessary referral agencies as of the time of the hearing, then such referral agencies shall be deemed to have approved the application.

- (7) Step 5: Staff Reviews Application and Prepares Comments. Staff shall review the application for compliance with this Article and all other applicable Federal, State and Town regulations and standards. A summary of this review including deficiencies shall be sent to the applicant.
- (8) Step 6: Applicant Addresses Staff and Referral Agencies 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.
- (9) Step 7: Town Schedules Public Hearing and Completes Notification Process. The Town shall:
  - a. Publish notice of the public hearing in the newspaper not later than twelve (12) days prior to the public hearing date.
  - b. Mail notice to all parties entitled to notice of the application not later than twelve (12) days prior to the public hearing date.
  - c. The applicant shall:
  - d. Post the property not later than twelve (12) days prior to the public hearing date.
- (10) Step 8: Final Staff Review and Report to Planning Commission. Staff will complete a final review of the resubmitted materials and then prepare a report to the Planning Commission explaining how the application is or is not consistent with the review criteria and applicable Town codes, regulations, and standards.
- (11) Step 9: Planning Commission Public Hearing and Action. The Planning Commission shall hold a public hearing for the purpose of taking action on the special use permit application.

(b) Conditions of Approval:

- (1) Following the public hearing, the Planning Commission may approve, conditionally approve, or deny the Conditional Use application based on the use by special review application review criteria. A use by special review permit may be revocable, may be granted for a limited time period or may be granted subject to conditions as the Planning Commission may prescribe, so long as such conditions do not conflict with State law or COGCC regulations.
- (2) A special use permit for oil and gas facilities shall become null and void three (3) years after approval of the special use permit if development of the site does not commence.

**Sec. 16-4-530. - Application Submittal Requirements.**

An application for a special use permit pertaining to wells and oil and gas facilities shall include the following unless waived as per Subsection 16-4-515(c):

- (a) Completed special use permit application.
- (b) Application fee and deposit as set forth in Section 16-4-520.
- (c) Certification from applicant that it has the legal right to develop the subject property and that it has provided notice to those persons requiring notice under State law, persons specifically requesting notice and those persons required to receive notice under COGCC regulations.
- (d) The operator's and surface owner's names and addresses, copies of any required COGCC Form 2 and 2A and designation of agent, if applicable.
- (e) List of all necessary State permits.
- (f) Vicinity map. The vicinity map shall show the proposed development and the surrounding area (with a maximum illustration of a one-and-one-half-mile radius around the property). The map shall be twenty-four (24) inches high by thirty-six (36) inches wide using an aerial map as the basis and provide the following information:
  - (1) Title of project.
  - (2) North arrow, scale (not greater than 1" = 1,000') and date of preparation.
  - (3) Boundary of proposed project.
  - (4) Existing (for developed land) and proposed (for vacant/agricultural land) land uses for the properties shown on the map (i.e., residential, commercial, industrial, park, etc.); label land use and whether it is existing or proposed.
  - (5) Location of existing oil and gas wells as reflected in COGCC records.
  - (6) Location of drill site. The information to be submitted shall be COGCC Form 2 and shall include the Parcel Tax Identification Number.
  - (7) Major streets, if any (show and label street names).
  - (8) Existing public water and sewer lines and proposed connections, if any.
  - (9) Regional open space/trail networks per the Comprehensive Plan, if any.
  - (10) Major ditches, rivers, and bodies of water, including floodplains.
  - (11) Adjacent properties identified by subdivision name or zoning district.
- (g) Site Plan. The site plans for a well site submitted with an application for a special use permit shall be submitted on one (1) or more plats or maps, at a scale not less than 1" = 50', showing the following information:
  - (1) The proposed location of the well site or oil and gas facilities associated with the well. Existing tank batteries and transmission and gathering lines within six hundred sixty (660) feet of the well site shall be shown.
  - (2) The location of layout, including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.
  - (3) True north arrow.

- (4) Existing improvements, if any, within a radius of six hundred sixty (660) feet of the proposed well.
  - (5) Existing utility easements and other rights-of-way of record, if any, within a radius of six hundred sixty (660) feet of the proposed well.
  - (6) Existing irrigation or drainage ditches within four hundred (400) feet of the well site or production site, if any.
  - (7) Location of access roads.
  - (8) Well site boundaries and existing lease boundaries.
  - (9) The names of abutting subdivisions or the names of owners of abutting, unplatted property within three hundred (300) feet of the well site or production site.
  - (10) The name and address of the operator and the name of the person preparing the site plan or map.
  - (11) Typical rig layout.
- (h) Fire and Emergency Response Plan. An emergency response plan that is mutually acceptable to the operator, the appropriate fire protection district and the police department that includes a list of local telephone numbers of public and private entities and individuals to be notified in the event of an emergency, the location of the well and provisions for access by emergency response.
  - (i) Operating Plan. An operating plan, including site preparation, maintenance and restoration details for the drilling, completion and production phases, and abandonment and reclamation. This plan should include information on inspections and maintenance, emergency response, recordkeeping, site security, hours of operation and final disposition of waste.
  - (j) If acceptable by the Town, an applicant may submit a copy of the applicable application for permit to drill or Form 2A in lieu of the foregoing application requirements.

**Sec. 16-4-535. - Special Use Permit Approval and Review Criteria.**

The Planning Commission shall approve an application for a special use permit for oil and gas facilities if the application submitted by the applicant conforms to the requirements set forth in this Article and the Colorado Oil and Gas Conservation Regulations (e.g., impact mitigation and setbacks

**Sec. 16-4-540. - Security Inspections and Fee.**

- (a) All wells, accessory equipment and structures may be inspected by Town inspectors at reasonable times to determine compliance with applicable safety and security provisions of this Article, the adopted Fire and Building Codes, and all other applicable Town security standards and regulations including any conditions of a special use permit. For the purpose of "implementing and enforcing the provisions of this Article, Town personnel have the right to enter upon private property after reasonable notification to the operator, and the operator shall have the opportunity to be present during such inspection.
- (b) Fee.

- (1) The Town has established an annual security fee as set forth in the adopted fee schedule, payable to the Town on a facility basis, due to the Town for all oil and/or gas well sites which are not classified as shut-in by the COGCC and are presently located within the corporate limits of the Town.
- (2) The security fee shall be paid for wells or oil and gas facilities on a facility basis for each year or part of a year during which such well has not been plugged or abandoned.
- (3) This security fee shall be payable in advance on or before January 31st of the year in which the new well or oil and gas facility are completed and continuing on the 31st day of January each year thereafter.
- (4) Failure of any owner of an oil or gas well or oil or gas facility to make payment of this safety and security fee by January 31 of each calendar year shall subject the owner to a ten (10%) percent administrative surcharge fee. Interest on the unpaid fee shall be one (1%) percent per month for each month that this fee remains unpaid.
- (5) No security fee shall be due for the calendar year in which any special use permit was approved.

**Sec. 16-4-545. - Notice to Proceed.**

- (a) Prior to commencement of operations for which a use permitted by conditional review has been approved, a notice to proceed shall be obtained from the Town Clerk. The Town Clerk shall issue the notice to proceed upon receipt of the following:
  - (1) A copy of the resolution approving a use permitted by conditional review for a well or wells or waiver approval of the requirements for a special use permit.
  - (2) A copy of the approved site plan.
  - (3) A copy of an approved extra-legal vehicle or load permit issued by the Town Clerk pursuant to this Code, if applicable.
  - (4) Copies of any necessary State or Federal permits issued for the operation, if not previously submitted.
- (b) The Town will supply the notice to proceed within three (3) working days of receiving the information listed above.
- (c) A conditional notice to proceed may be issued contingent upon the Town's receipt of the documents described above. This documentation shall be supplied within ten (10) business days after receipt by the applicant. The conditional notice to proceed shall expire in one (1) month or such additional time as granted by the Town's staff where special circumstances are presented by the applicant. The termination of the conditional notice to proceed shall not terminate or invalidate an applicant's approved special use permit or approved waiver.

**Sec. 16-4-550. - Contact Information.**

- (a) The intent of this Section is to ensure that the Town has the correct contact information in case of an emergency, code violation or security concern.
  - (1) Service of Notice. As required by the COGCC, every operator shall designate an agent who is a resident of the State upon whom all orders and notices provided in this Article

may be served and shall specify in writing a mailing address for such agent. Every operator so designating such agent shall, within ten (10) calendar days, notify the Town, in writing, of any change in such agent or such mailing address unless operations in the Town are discontinued. The Town may serve any notice provided in this Article upon the operator by mailing the same, postage prepaid, to the operator's designated agent at his or her designated address. Service shall be complete upon such mailing. The operator shall give the Town written notice of any change in the designated agent or their contact information.

- (2) Transfer of Operator or New Operator. As required by COGCC, the operator shall notify the Town, in writing, of any sale, assignment, transfer, conveyance or exchange by said operator of a well's property and equipment within ten (10) calendar days after such sale, assignment, transfer, conveyance or exchange. The notice shall provide a map indicating the location of the properties and equipment involved in the transaction.

#### **Sec. 16-4-555. - Flood Plain Restrictions.**

- (a) Violation of any Federal, State, or local laws or regulations applicable to flood plains shall be a violation of this Article.
- (b) The well and tank battery shall comply with all applicable Federal, State, and local laws and regulations when located in a flood way or a one-hundred-year flood plain area.
  - (1) All equipment at production sites located within a one-hundred-year flood plain shall be anchored as necessary to prevent flotation, lateral movement or collapse or shall be surrounded by a berm with a top elevation at least one (1) foot above the level of a one-hundred-year flood, if such anchoring is operationally and economically feasible.
  - (2) Any activity or equipment at any well site within a one-hundred-year flood plain shall comply with the Federal Emergency Management Act.

#### **Sec. 16-4-560. - Access Roads.**

- (a) All private access roads used to provide or maintain access to the well site or oil and gas facilities shall be improved and maintained according to the following standards so long as such standards are consistent with a private landowner's requests or the terms of a private surface use agreement with a landowner:
  - (1) Oil and gas facility access roads. Access roads to tank batteries shall be subject to review by the Town in accordance with the following minimum standards:
    - a. A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of six (6) inches thick compacted to a minimum density of ninety-five percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures. The aggregate material, at a minimum, shall meet the requirements for Class 3, Aggregate Base Course, as specified in the Milliken Design Criteria and Construction Specifications manual.
    - b. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (such as roadside swales, gulches, rivers, creeks, and the like) by means of an adequate culvert pipe. Adequacy of the pipe is subject to approval of the Town.
    - c. Maintained so as to provide a passable roadway free of ruts at all times.

d. Wellhead access roads. Access roads to wellheads shall be subject to review by the Town in accordance with the following minimum standards:

e. A graded, dirt roadway compacted to a minimum density of ninety-five percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures and approved by the Town.

~~f. Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval by the Town.~~

~~g.f.~~ Maintained so as to provide a passable roadway generally free of ruts.

(2) Oversize or overweight vehicle or load permit. An oversize or overweight vehicle or load permit shall be required for all oversize or overweight vehicles or loads as defined in Sections 42-4-501 through 42-4-511, C.R.S., which use Town streets. Said permit, if required, shall be obtained from the Town prior to such use. The applicant shall comply with all Town and State regulations regarding weight limitations on streets within the Town, and the applicant shall minimize oversize or overweight vehicle traffic on streets within the Town.

#### **Sec. 16-4-565. - Compliance with State Environmental and Noise Requirements.**

Violation of any Federal, State, or local laws or regulations shall be a violation of this Article. The approval of a special use permit shall not relieve the operator from complying with all current applicable local, State and Federal regulations and standards concerning air quality, water quality and waste disposal. State law and regulations concerning noise abatement (Title 24, Article 12, C.R.S., and COGCC, Series 800 Rules) shall apply to all operations, together with applicable local government ordinances, rules, or regulations.

#### **Sec. 16-4-570. - Waste and Storage Requirements.**

The operator shall comply with all Town, county, State and Federal laws regarding waste and storage requirements. Violation of any Federal, State, or local laws or regulations shall be a violation of this Article.

#### **Sec. 16-4-575. - Building Permit.**

Building permits must be obtained if applicable for any aboveground structures pursuant to which the adopted International Building Code applies.

#### **Sec. 16-4-580. - Emergency Response Costs.**

The applicant for a special use permit or existing use site plan order shall provide the telephone number of a contact person who may be reached twenty-four (24) hours a day for purposes of being notified of any proposed Town emergency inspection under this Section. Any site for which a special use permit or existing use site plan order has been granted may be inspected by the Town at any time, to ensure compliance with the requirements of the approved special use permit or existing use site plan order, or to address any emergencies that may arise. By accepting an approved special use permit or existing use site plan order, the applicant grants its consent to such emergency inspections. The operator shall reimburse the Town or the applicable fire district for any emergency response costs incurred by the Town or the fire district in connection with activity at the well site or production site, except that the operator shall not be required to pay for

emergency response costs where the response was precipitated by a mistake of the Town or fire district.

**Sec. 16-4-585. - Injunctive Relief and Penalty Clause.**

- (a) Injunctive Relief. The Town may seek injunctive relief from any act or acts which are in violation of this Chapter, and the penalties in this Code shall be in addition to such injunctive relief.
- (b) Penalty Clause. Any person, firm, corporation or legal entity that constructs, installs or uses, or which causes to be constructed, installed or used, any oil, gas or injection well, well site or production site or commits any act or omission in violation of any provision of this Article or of the conditions and requirements of the special use permit may be punished by a fine not exceeding three hundred dollars (\$300.00) or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment. If the Municipal Court becomes a qualified court of record, such maximum fine shall not exceed one thousand dollars (\$1,000.00) and such period of imprisonment shall not exceed one (1) year. Each day of such unlawful operation constitutes a separate violation.

**Sec. 16-4-590. - Severability.**

If any part or parts of this Article are invalidated by operation of the legislative or judicial branch of the State government, it is the intention of the Town that such parts be severed from this Article and the remaining parts of the Article continue in full force and effect.

**Sec. 16-4-595. - Colorado Oil and Gas Conservation Commission.**

- (a) The Town recognizes and acknowledges that the following matters are governed by the COGCC and the applicable COGCC regulations:
  - (1) Well and Production Facility Setback Requirements (300 and 600 Series Rules);
  - (2) Exploration and Production Waste Disposal (900 Series Rules);
  - (3) Seismic Operations (300 Series Rules);
  - (4) Signage (200 Series Rules);
  - (5) Noise Impacts, Visual Impacts, and Environmental Impacts (600, 800, and 1200 Series Rules);
  - (6) Flow Lines and Pipeline Operations (1100 Series Rules);
  - (7) Reclamation (1000 Series Rules); and
  - (8) Abandonment and Plugging of Wells (300 Series Rules).

**Sec. 16-4-600. Development Setbacks to Existing Oil or Gas Wells and Facilities.**

- (a) When oil or gas wells are existing, buildings with occupancy classifications listed as Groups A, B, E, F, H, I, M or R in Section 302.1 (as amended) of the Town's adopted International Building Code codified in Article II of Chapter 18 of this Code shall not be constructed within the following distances:

- (1) On any property zoned or used for agricultural, commercial or industrial uses, no building or structure shall be constructed within one hundred fifty (150) feet of any wellhead, two hundred (200) feet from tank batteries, and twenty-five (25) feet from plugged or abandoned wells;
  - (2) )In any zoning district, no building or structure used as a place of assembly or school shall be constructed within three hundred fifty (350) feet of any wellhead, tank battery, and/or associated oil production equipment, and twenty-five (25) feet from any plugged or abandoned wells;
  - (3) On any property zoned or used for residential uses, no structure or building shall be constructed within three hundred fifty (350) feet of an oil and gas production facility which includes any wellhead, tank battery, or associated oil production equipment or within twenty-five (25) feet from plugged or abandoned wells; and
  - (4) Buildings or structures necessary to the operation of the oil and gas production facility or not included in the occupancies in Section 302.1 of the International Building Code may be allowed pursuant to the issuance of a building permit.
- (b) When oil or gas wells are existing, lots and streets shall not be platted within the following distances:
- (1) Lots shall not be platted within one hundred fifty (150) feet of an existing oil or gas well, tank battery or its production facilities.
  - (2) Lots intended to be used as a place of assembly or school shall not be platted to allow a building site within three hundred fifty (350) feet of an existing oil or gas well, tank battery or its production facilities.
  - (3) Streets shall not be platted within fifty (50) feet of an existing oil or gas well or its production facilities; provided, however, that streets may intersect collection pipes or flowlines at right angles.
  - (4) Lots and streets may be platted over oil or gas wells and production sites that have been abandoned and reclaimed. Such platting shall only occur after the completion of the abandonment and reclamation process.

## **Division 6: Historic Landmarks and Historic Districts**

### **Sec. 16-4-605. Designation of Historic Landmarks and Historic Districts.**

- (a) Pursuant to the procedures hereinafter set forth, the Board of Trustees may by ordinance subsequently adopted make the following designations of landmarks and historic districts:
- (1) Designate as a landmark, individual structure or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value, and designate a landmark site for each landmark; and/or
  - (2) Designate as an historic district an area containing a number of structures having a special historical or architectural value.
- (b) Each such designating ordinance shall include a description of the characteristics of the landmark or historic district which justify its designation and a description of the particular



features that should be preserved, and shall include a legal description of the location and boundaries of the landmark site or historic district. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this Article.

- (c) The property included in any such designation shall be subject to the controls and standards set forth in this Article.

**Sec. 16-4-610. - Procedures for Designating Structures and Districts for Preservation.**

- (a) A nomination for designation may be made by any member of the Board of Trustees or by any citizen by filing an application with the Town. The Town Clerk shall contact the owner of such landmark or property within a landmark district, outlining the reasons and effects of designation before the nomination is accepted for review.

(1) Board Review with Owner's Consent. The Board of Trustees shall hold a public hearing on any proposal not more than sixty (60) days after the filing of an application for designation. The Board of Trustees shall review the application for conformance with the established criteria for designation. Within thirty (30) days after the conclusion of the public hearing, but in no event more than sixty (60) days after said hearing, the Board of Trustees shall either approve, modify, and approve or disapprove the proposal.

(2) Board Review without Owner's Consent.

- a. If the owner of the property nominated for designation does not consent to the review, the Board of Trustees shall hold a public hearing on the proposal not more than sixty (60) days after the filing of the application.
- b. Notice of the time, date and place of such hearing, and a brief summary or explanation of the subject matter of the hearing, shall be given by at least one (1) publication in a newspaper of general circulation within the Town not less than twenty-one (21) days prior to the date of the hearing. In addition, at least twenty-one (21) days prior to the hearing date, the Town shall:

Post the property in the application so as to indicate that a landmark or historic district designation has been applied for; and

Mail written notice of the hearing to record owners, as reflected by the records of the County Assessor, of all property included in the proposed designation.

- c. Failure to send notice by mail to any such property owner where the address of such owner is unknown and not a matter of public record shall not invalidate any proceedings in connection with the proposed designation.
- d. The Board of Trustees shall review the application for conformance with the established criteria for designation. Within thirty (30) days after the conclusion of the public hearing, but in no event more than sixty (60) days after that date, the Board of Trustees shall either approve, modify, and approve or disapprove the proposal. In this instance, approval shall require an affirmative vote of three-quarters ( $\frac{3}{4}$ ) of the members of the Board of Trustees.

**Sec. 16-4-615. - Criteria for Designation.**

The Board of Trustees shall consider the following criteria in reviewing nominations of properties for designation:

- (a) Landmarks. Landmarks must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, social, or geographic/environmental significance hereinafter described. A landmark could be exempt from the age standard if it is found to be exceptionally important in other significant criteria. Historic sites shall meet one (1) or more of the criteria listed below.
- (b) Architecture.
  - (1) Exemplifies specific elements of an architectural style or period;
  - (2) Is an example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally, or locally;
  - (3) Demonstrates superior craftsmanship or high artistic value;
  - (4) Represents an innovation in construction, materials, or design;
  - (5) The style is particularly associated with the Milliken/Colorado area;
  - (6) Represents a built environment of a group of people in an era of history;
  - (7) Is a pattern or grouping of elements representing at least one (1) of the above criteria; and
  - (8) Significant historic remodel.
- (c) Social.
  - (1) The site is of an historic event that had an effect upon society;
  - (2) Exemplifies cultural, political, economic, or social heritage of the community; and
  - (3) Has an association with a notable person or the work of a notable person.
- (d) Geographic/Environmental.
  - (1) Enhances sense of identity of the community; and
  - (2) Is an established and familiar natural setting or visual feature of the community.
- (e) Prehistoric and historic archaeological sites in consultation with the Colorado State Historic Preservation Office.
- (f) Historic Districts. For the purposes of this Article, a district is a geographically definable area including a concentration, linkage or continuity of subsurface sites, buildings, structures and/or objects. A district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria to the patterns and unifying elements. Nominations will not be considered unless the application contains written approval of sixty percent (60%) of the property owners within the district boundaries. Properties that do not contribute to the significance of the historic district may be included within the boundaries, as long as the noncontributing elements do not noticeably detract from the district's sense of time, place, and historical development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location and/or information

potential. District boundaries will be defined by visual changes, historical documentation of different association or patterns of development, or evidence of changes in site type or site density as established through testing or survey. In addition to meeting at least one (1) of the criteria outlined in Subsections a through d below, the district must be at least fifty (50) years old. The district could be exempt from the age standard if the resources are found to be exceptionally important in other significant criteria. Historic districts shall meet criteria established by the Colorado State Historic Preservation Office.

**Sec. 16-4-620. - Revocation of Designation.**

- (a) If a building or special feature on a designated landmark site was lawfully removed or demolished, the owner may apply to the Board of Trustees for a revocation of the designation.
- (b) The Board of Trustees shall revoke a landmark designation upon determination that, without the demolished building or feature, the site as a whole no longer meets the purposes and standards for designation.

**Sec. 16-4-625. - Amendment of Designation.**

Designation of a landmark or historic district may be amended to add features or property to the site or district. Whenever a designation has been amended, the Town shall promptly notify the owners of the property included therein and shall record a copy of the amending ordinance with the County Clerk and Recorder.

**Sec. 16-4-630. - Landmark Alteration Certificate Required.**

- (a) No person shall carry out or permit to be carried out on a designated landmark site or in a designated historic district any new construction, alteration, removal or demolition of a building or other designated feature without first obtaining a landmark alteration certificate for the proposed work under this Article, as well as any other permits required by this Code.
- (b) The Town shall maintain a current record of all designated landmark sites and historic districts and pending designations. If the Building Department receives an application for a permit to carry out any new construction, alteration, removal or demolition of a building or other designated feature on a landmark site or in an historic district or in an area for which designation proceedings are pending, the Building Department shall promptly forward such application to the Town Clerk and Board of Trustees.

**Sec. 16-4-635. - Construction on Proposed Landmark Sites or in Proposed Districts.**

No person shall receive a permit to construct, alter, remove or demolish any structure or other feature on a proposed landmark site or in a proposed historic district after the date an application has been filed to initiate the designation of such landmark site or district.

**Sec. 16-4-640. - Landmark Alteration Application and Review.**

- (a) An owner of property designated as a landmark or located in an historic district may apply for a landmark alteration certificate, including all information which the Planning Commission determines is necessary to consider the application, including without limitation plans and specifications showing the proposed exterior appearance, with texture, materials and architectural design and detail, and the names and addresses of the abutting property owners.

- (b) Upon receipt of an application for an alteration certificate, the Planning Commission shall submit that application, together with a recommendation thereon, to the Board of Trustees for final approval.

**Sec. 16-4-645. - Criteria for Review of an Alteration Certificate.**

- (a) The Board of Trustees shall issue an alteration certificate for any proposed work on a designated historical site or district only if the Board of Trustees determines that the proposed work would not detrimentally alter, destroy or adversely affect any architectural or landscape feature which contributes to the original historical designation. The Board of Trustees must find that a proposed development is visually compatible with designated historic structures located on the property in terms of design, finish, material, scale, mass, and height. When the subject site is an historic district, the Board of Trustees must also find that the proposed development is visually compatible with the development on adjacent properties. For purposes of this Article, the term *compatible* shall mean consistent with, harmonious with and/or enhancing the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures.
- (b) The Board of Trustees will use the following criteria to determine compatibility:
  - (1) The effect upon the general historical and architectural character of the structure and property.
  - (2) The architectural style, arrangement, texture, and material used on the existing and proposed structures and their relation and compatibility with other structures.
  - (3) The size of the structure, its setbacks, site, location, and the appropriateness thereof when compared to existing structures and the site.
  - (4) The compatibility of accessory structures and fences with the main structure on the site, and with other structures.
  - (5) The effects of the proposed work in creating, changing, destroying, or otherwise impacting the exterior architectural features of the structure upon which such work is done.
  - (6) The condition of existing improvements and whether they are a hazard to public health and safety.
  - (7) The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property.
  - (8) Compliance with the Secretary of the Interior's Standards for Rehabilitation as listed below:
    - a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
    - b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
    - c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding

conjectural features or architectural elements from other buildings, shall not be undertaken.

- d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- e. Distinctive features finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- f. Deteriorated historic features shall be repaired rather than replaced. When the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures if appropriate, shall be undertaken using the gentlest means possible.
- h. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- i. New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property. To protect the historic integrity of the property and its environment, the new work shall be differentiated from the old and shall be compatible with the massing, size scale and architectural features.
- j. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

#### **Sec. 16-~~6-4~~-650. - Relocation Criteria.**

The Board of Trustees shall use the following criteria in considering alteration certificate applications for relocating a landmark, a structure on an historic site, a building or structure within an historic district, a structure onto a landmark site, or a structure to property in an historic district:

- (a) For consideration of the original site, the Board of Trustees will review for compliance with all of the following criteria:
  - (1) Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property.
  - (2) The contribution the structure makes to its present setting.
  - (3) Whether plans are specifically defined for the site to be vacated and have been approved by Staff.
  - (4) If the structure can be moved without significant damage to its physical integrity and the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure.

- (5) Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting; and
  - (6) Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.
- (b) For consideration of the new location, the Board of Trustees will review for compliance with all of the following criteria:
- (1) Whether the building or structure is compatible with its proposed site and adjacent properties, and if the receiving site is compatible in nature with the structure proposed to be moved.
  - (2) The structure's architectural integrity and its consistency with the character of the neighborhood.
  - (3) Whether the relocation of the historic structure would diminish the integrity or character of the neighborhood of the receiving site; and
  - (4) If a relocation plan has been submitted and approved by Staff, including posting a bond, to ensure the safe relocation, preservation, and repair (if required) of the structure, site preparation and infrastructure connections as described in this Code.

**Sec. 16-4-655. - Exemptions from Alteration Certificate Requirements.**

- (a) An applicant may request an exemption from the alteration certificate requirements for one (1) of the following exemptions:
- (1) Economic hardship exemption. Exemptions are granted only to the specific owner and use and are not transferable.
    - a. For investment or income-producing properties: The owner's inability to obtain a reasonable rate of return in its present condition or if rehabilitated.
    - b. For non-income-producing properties consisting of owner-occupied single-family dwellings and/or non-income-producing institutional properties not solely operating for profit: The owner's inability to convert the property to institutional use in its present condition or if rehabilitated.
    - c. The consideration for economic hardship shall not include willful or negligent acts by the owner, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.
  - (2) Undue hardship. An applicant requesting an exemption based on undue hardship must show that the application of the criteria creates a situation substantially inadequate to meet the applicant's need needs because of specific health and/or safety issues.

**Sec. 16-~~6-4~~-660. - Enforcement and Penalties.**

- (a) No person shall violate or permit to be violated any of the requirements of this Article or the terms of a landmark certificate.

(b) Violations. Violations of this Article are punishable as is otherwise provided in this Code and, in addition, are subject to the following penalties:

- (1) Alterations to a designated landmark or district without an approved landmark alteration certificate will result in a one-year moratorium on all building permits for the subject property; and ~~m~~Moving or demolishing a designated structure without an approved landmark alteration certificate will result in a five-year moratorium on all moving, demolition or building permits for the structure and for the property at the structure's original location.

## ARTICLE V: SUBDIVISION REGULATIONS

### Division 1: General

#### **Sec. 16-5-100. - Applicability of Regulations.**

- (a) The provisions of this Article, in conjunction with all other provisions of this Chapter, shall apply to any and all development of land within the municipal boundaries of the Town. All development shall comply with the applicable terms, conditions, requirements, standards, and procedures established in these Regulations in conjunction with the Zoning Code and the Milliken Design Criteria and Construction Specifications.
- (b) Jurisdiction. These regulations are applicable to and shall include the subdivision of all land located within the legal boundaries of the Town and limited only to control with reference to a major street plan
- (c) Specific Exemptions from These Regulations. Due to the nominal impact upon the residents of the Town, the following divisions of property, even though included within the definition of subdivision, are hereby determined by the Planning Commission and Board of Trustees not to be within the purpose of this Code and are hereby exempted from compliance with this Article.
  - (1) A survey map which does not in fact create any new parcel or tract of land, but is a survey of metes and bounds parcels and tracts which were in existence at the time of the original adoption of this title shall be exempted from these regulations; provided, however, that said tracts and parcels must be under separate ownership at the time of the original passage of this title.
  - (2) Any division of property shall be exempted from the terms of these regulations that is necessitated by the existence of a prescriptive easement or encroachment of a building or fence in existence at the time of the original adoption of these regulations, and which does not create a new building site., The division of land by conveyance of real property to or from the Town in satisfaction of land dedication, subdivision, condemnation, annexation or other Town requirements is exempt from these regulations.

#### **Sec. 16-5-105. - Intent.**

- (a) This Article is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants of the Town by:
  - (1) Encouraging new subdivision developments to relate to the Town's historic development pattern.
  - (2) Promoting compact, well-defined, sustainable neighborhoods that enhance the Town's character.
  - (3) Facilitating good planning practices by ensuring the most effective utilization of land within the Town.



- (4) Creating livable neighborhoods that foster a sense of community and reduce dependency on private vehicles.
- (5) Encouraging the proper arrangement of streets in relation to existing or planned streets and ensuring streets are safe, efficient, and pleasant for walking, biking, and driving.
- (6) Providing a variety of lot sizes and housing types within the Town.
- (7) Protecting sensitive natural and historic areas and the Town's environmental quality.
- (8) Providing for adequate and convenient open space for traffic, utilities, access of fire apparatus, recreation, light, air and for the avoidance of congestion of population.
- (9) Providing open spaces for adequate storm water management.
- (10) Providing adequate spaces for educational facilities.
- (11) Providing protection from geologic hazards and flood-prone areas.
- (12) Ensuring compliance with the Comprehensive Plan, and all other adopted plans, codes, and regulations of the Town.
- (13) Encouraging development to utilize green building techniques and ideas and alternative sources of energy.
- (14) Regulating such other matters as the Board of Trustees may deem necessary in order to protect the best interest of the public.

#### **Sec. 16-5-110. - Administration.**

- (a) Plat Required. An approved plat shall be required for every subdivision within the municipal limits of the Town. It is unlawful to file or record a plat of a subdivision of land with the Weld County Clerk and Recorder, or to use any plat of a subdivision of land for purposes of sale or building development until such plat is approved by the Town.
- (b) All ~~plans of~~ streets or highways proposed for public use, and all ~~plans and plats of land laid out in proposed for~~ subdivision or building lots, ~~shall be and the streets, highways, alleys or other portions of the same intended to be~~ platted and dedicated to a public use or ~~to the~~ use of purchasers or owners of lots fronting thereon or adjacent thereto. Said plat and, shall be submitted to the Planning Commission and Board of Trustees for review and subsequent approval, conditional approval or disapproval. No plat shall be recorded in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the Planning Commission and/or Board of Trustees. Acceptance of proposed dedications by the public shall be given by separate action of the Board of Trustees.
- (c) In their interpretation and application, the provisions of this Article shall be held to be minimum requirements for the promotion of the public health, safety, and welfare. If any provision of this Article conflicts with the requirements of any other applicable and lawfully adopted rules, regulations, or ordinances, the more restrictive or that imposing the higher standards shall govern.

**Sec. 16-5-115. – Acceptance of Property and Improvements**

Approval of a subdivision shall not constitute an acceptance by the Town of the roads, streets, alleys, bicycle paths, water and sewer facilities or other public lands or facilities indicated on the plat for dedication to the Town for maintenance. The dedication of any of these lands or facilities indicated for public use shall be accepted only by the express act of the [Board of Trustees, Town](#).

**Division 2: Subdivisions and Plats****Sec. 16-5-200. - Types of Subdivision.**

The division of land into separate parcels, lots, sites, tracts, or interests is a subdivision and is regulated by the provisions of this Article. The following types of subdivision are regulated by this Article:

- (a) Major Subdivisions. The major subdivision process shall consist of two (2) separate phases, preliminary and final plat.
- (b) Minor Subdivisions. The minor subdivision process shall consist of one (1) phase, final plat.
- (c) Administrative Plat Amendment. The plat amendment process shall consist of one (1) phase, final plat and is an administrative process. Plat amendments do not create additional lots or interests in property but are subdivision actions to the extent that: lot lines may be relocated as part of a boundary line adjustment; lots may be merged as part of a lot consolidation; or plat amendments may be used to correct errors on an existing approved subdivision plat.

**Sec. 16-5-205. - Procedure for Submittal of the Preliminary Plat, and Final Plat and Accompanying Materials.**

Approval Requested	Staff	Preliminary		Final	
		PC	BOT	PC	BOT
Major Subdivision		H	H	H	H
Minor Subdivision	A	N/A	N/A	M	M
Administrative Plat Amendment	A	N/A	N/A	N/A	N/A
A= Administrative M= Public Meeting H= Public Hearing					

**Sec. 16-5-210. - Major Subdivision.**

- (a) Major Subdivisions. A new subdivision shall be classified as a major subdivision when it would create six (6) or more new lots, parcels, tracts, outlots, parcels or interests or when public

infrastructure is proposed or required by this Chapter to be constructed in association with the subdivision.

- (b) Planning Commission Hearing. The Planning Commission shall hold a properly noticed public hearing on the application, and following such hearing, may recommend to the Board of Trustees the approval, approval with conditions, or deny the application.
- (c) The Board of Trustees shall hold a properly noticed public hearing on the application and shall approve, approve with conditions, or deny the application. The Board of Trustees' decision shall be final, subject only to judicial review pursuant to C.R.C.P. 106(a)(4).

#### **Sec. 16-5-215. - Minor Subdivision.**

- (a) Minor subdivision shall meet the following criteria.

- (1) A minor subdivision is permitted under the following criteria.

- a. The property has previously been platted within the Town;
    - b. There is no public right-of-way dedication;
    - c. The resulting subdivision will produce five (5) or fewer lots,
    - d. There will be no exceptions to the Subdivision Design Standards.

- (2) Required Process.

- a. A preapplication conference shall be conducted with the applicant and Town staff to discuss Town regulations and standards, the review process, submittal requirements and the schedule.
    - b. Upon receipt of a minor subdivision application, the Community Development ~~Director~~ Department shall make a written recommendation to the Town Administrator, as to the approval or denial of the minor subdivision.
    - c. Within ten (10) business days, the Town Administrator shall accept or reject the recommendation of the Community Development ~~Director~~ Department. In order to ensure creation of minor subdivisions is public knowledge, property owners within a 300' radius of the area to be subdivided shall be notified of the application by first class mail upon receipt of a complete application to the Town.
    - d. Mineral interest owners, mineral and oil and gas lessees, utility providers and appropriate referral agencies shall be notified of the application by first class mail upon receipt of a complete application to the Town.
    - e. The recommendation of the Community Development ~~Director~~ Department and the Town Administrator shall ~~be provided~~ in summary form to both the Board of Trustees and the Planning Commission within five (5) business days after approval or rejection. Each of these bodies shall have twenty (20) business days in which to provide any written objection to the determination made by the Town Administrator.
    - f. If neither the Board of Trustees nor the Planning Commission makes any written objection to staff's approval or denial, the minor subdivision plat shall be recorded with the Weld County Clerk and Records Office.

**Sec. 16-5-220. - Administrative Plat Amendment.**

- (a) Administrative Plat amendments are intended to provide a prompt, efficient process to correct clerical and other non-material errors in approved plats, and to approve minor lot line adjustments in cases meeting the requirements of Subsection (b) below.
- (b) For the purposes of this Section, administrative plat amendment means a subdivision of lands already in an approved plat which meets one or more of the following criteria:
  - (1) The amendment involves minor lot line adjustments, including the consolidation of contiguous lots under common ownership, which do not increase the number of lots previously included within the area involved in the amendment, and which meet the requirements of zoning district in which the lots are located.
  - (2) The amendment effects minor adjustments in the boundaries of street right of way or utility easements.
  - (3) The amendment corrects minor errors on a plat including, but not limited to:
    - a. Typographical and spelling errors or transpositions,
    - b. Incorrect seal,
    - c. Incorrect dates,
    - d. Monumentation incorrectly noted or drawn,
    - e. Missing or incorrectly displayed arrows or symbols.
  - (4) The plat amendment does not result in any lot or lots that cannot be built upon in accordance with requirements of this Code;
  - (5) The requirements of any utility companies serving the property have been satisfied.
  - (6) The plat amendment does not require any new utility easements unless such easements are duly recorded with the Weld County Clerk and Records Office through separate instrument prior to the recordation of the plat amendment. Such new easements of record shall be noted on the plat amendment by the reception number of the recorded instrument.
- (c) Minor Subdivision Plat Review Criteria. The Town shall use the following criteria to evaluate the applicant's request:
  - (1) The land use mix within the project conforms to the zoning district map and furthers the goals and policies of the Comprehensive Plan, including:
    - a. The proposed development promotes the Town's small-town rural character;
    - b. Proposed residential development adds diversity to the Town's housing supply;
    - c. Proposed commercial development will benefit the Town's economic base;
    - d. Parks and open space are incorporated into the site design;
    - e. The proposed project protects the Town's environmental quality; and
    - f. The development enhances cultural, historical, and/or educational, opportunities.

- (2) The minor subdivision plat represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code, the Milliken Comprehensive Plan, the Transportation Plan, the Johnstown/Milliken Parks, Trails, Recreation and Open Space Master Plan and the Community Design Principles and Development Standards in Division 2 of the Milliken Land Use Code.
- (3) The utility and transportation design is adequate, given existing and planned capacities of those systems.
- (4) Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
- (5) There is a need or desirability within the community for the applicant's development and the development will help achieve a balance of land use and/or housing types within the Town, according to the Town's goals.

#### **Sec. 16-5-225. - Resubdivision.**

The resubdivision of any lots, tracts or parcels, or the relocation or addition of streets within a subdivision, shall be considered a resubdivision (also known as a "replat") and shall be prepared and submitted in compliance with the requirements for a final subdivision plat as set forth in this Article. In the event that any dedicated streets are relocated as a result of a resubdivision, it is necessary for the Town to first vacate those existing streets, with said vacation to be effective prior to, or as part of the approval of the final plat.

### **Division 3: Subdivision Procedures**

#### **Sec. 16-5-300. - Preliminary Plat Application Process.**

##### **(a) Preliminary Plat Application Process**

- (1) Step 1: Preapplication Conference. The applicant may request a preapplication conference with a representative from the Town before the applicant submits a preliminary plat application.
- (2) Step 2: Preliminary Plat Application Submittal. The applicant shall submit one (1) copy of the complete preliminary plat application to the Town. The application must be submitted a minimum of forty-five (45) days prior to the Planning Commission meeting at which the application will be reviewed. The preliminary plat application package shall include the following items:
  - a. Land Use Application Form.
  - b. A signed waiver stating that the 30-day requirement pursuant to C.R.S. 31-23-215 as amended, shall not apply.
  - c. Application Fee and Fee Agreement. A nonrefundable fee is collected to cover the cost of review by 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. Title Commitment. The title commitment must be current and dated no more than thirty (30) days from the date of preliminary plat application submittal.

- e. Mineral Rights Affidavit. The mineral rights affidavit must be current and must be dated no more than thirty (30) days prior to application submittal.
- f. Preliminary Plat. Two copies of the preliminary plat which shall be twenty-four (24) inches high by thirty-six (36) inches wide and provide the following information:
  - 1. Title of project.
  - 2. North arrow, scale (not greater than 1" = 100') and date of preparation.
  - 3. Vicinity map.
  - 4. Names and addresses of owners, applicant, designers, engineers, and surveyors.
  - 5. Legal description.
  - 6. Total acreage of property.
  - 7. Existing contours at two-foot intervals (contours shall be based on USGS datum).
  - 8. Name and location of abutting subdivisions or owners of abutting property (if land is not platted).
  - 9. Lots, blocks, and street layout with approximate dimensions and square footage for each lot.
  - 10. Consecutive numbering of all lots and blocks.
  - 11. Existing and proposed rights-of-way and easements on and adjacent to the property.
  - 12. Existing and proposed street names for all streets on and adjacent to the property.
  - 13. Existing and proposed zoning on and adjacent to property.
  - 14. Location and size of existing and proposed sewer lines, water lines and fire hydrants. *(Note: The applicant must consult with the appropriate utility service providers regarding the design of all utilities within and through the subdivision.)*
  - 15. Existing and proposed curb cuts on and adjacent to subject property.
  - 16. Location by field survey or aerial photography of existing and proposed water courses and bodies of water such as irrigation ditches and lakes. Water courses shall include direction of flow.
  - 17. Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plan).
  - 18. General location of existing surface improvements such as buildings, fences or other structures which will remain on the property as part of the subdivision.
  - 19. Location and acreage of sites, if any, to be dedicated for parks, playgrounds, schools, or other public uses.

20. Location, function, ownership, and manner of maintenance of any private open space.
21. Land use table. The table shall include land uses, approximate acreage of each land use and percentage of each land use (including how the public/ semipublic requirement will be met (per Article II, Division 4 of this Chapter).
22. Total number of lots.
23. Number of each type of dwelling unit proposed.
  - (a) General Development Information. Provide a written description of the existing conditions on the site and explain how the proposed plat is consistent with the Land Use Code and Comprehensive Plan.
  - (b) Preliminary Grading and Drainage Plan and Report. This plan and report must be certified by a Colorado registered professional engineer, including storm drainage concepts such as locations for on-site detention or downstream structural improvements and soil erosion and sedimentation control plans and specifications. It must also discuss the impacts on and to any existing floodways and/or floodplains on and adjacent to the site as well as any FEMA applications required.
  - (c) Master Utility Plan. This plan shall be prepared by a Colorado registered professional engineer. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through and within the subdivision.
  - (d) Preliminary Landscape Plan. Refer to Article III, Division 3 Landscaping, Buffering, Fence, and Wall Standards of this Code for the preliminary landscape plan requirements.
  - (e) Preliminary Open Space and Ecological Characterization Plan. If required by the Community Development ~~Director~~ Department to be submitted, refer to Article III, Division 5 of this Chapter for the preliminary open space plan and ecological characterization requirements.
  - (f) Traffic Study. This study must be prepared by a professional traffic engineer.
  - (g) Draft of Proposed Covenants and Architectural Design Guidelines.
  - (h) 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.
  - (i) Soils Report and Map. A copy of the soils report and map provided at the time of preliminary plat must be provided.
  - (j) 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: Site address; and Site location/access;
- (2) Type and description of finding (what is historic); and
- (3) Owner's name and address.
- (4) Eligibility assessment for historic designation.
- (5) Statement of significance.
- (6) Management and administrative data:
- (7) References;
- (8) Photographs of the site;
- (9) Maps of the site;
- (10) Name, address, phone number and qualifications of person completing survey; and
- (11) Date of completion of survey.
- (12) If, in coordination with the applicant, the Board of Trustees decides to protect an historic resource, a protection plan must be devised.

k. Draft Development Agreement.

l. 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.

n. Digital copy of all submittal documents submitted as a PDF or other readable format.

(3) Step 3: 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. If incomplete, 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.

(4) Step 4: Refer Application to Parties of Interest. Staff shall send information about the application by regular mail to: adjacent municipalities, Weld County, mineral interest owners of record, mineral and oil and gas lessees for the property, appropriate referral agencies, neighboring property owners within 300 feet, and other parties of interest. Parties receiving a copy of the application and accompanying materials may, within twenty-one (21) days after receipt, forward written reports of its findings and



recommendations to the Town. Failure of any reviewing agency or department to respond within the allotted time may be deemed as a response that the agency or department has no comment on the application and submission documents. Failure to submit a written report to the Town shall not be deemed as approval or acceptance of the proposed preliminary plat by such agency. Reports received by the Town after the allotted referral time may, but need not be, accepted by the Commission or the Board of Trustees at any time prior to the Commission's or the Board of Trustees action on the preliminary plat.

- (5) Step 5: Staff Reviews Application and Prepares Comments. Staff will complete a review of the preliminary plat based on the preliminary plat review criteria and referral comments received. Staff will then prepare a report identifying issues of concern for the applicant to address and forward this report to the applicant.
- (6) Step 6: Applicant Addresses Staff Comments. The applicant shall submit the following to the Town:
  - a. Letter explaining how all of the comments have been addressed;
  - b. Revised maps and other documents, including a digital copy of all resubmitted maps and documents as a PDF or other readable format.
- (7) Step 7: Staff Review. Staff will complete a review of all submitted materials and prepare a report to the Planning Commission explaining how the application is or is not consistent with the preliminary plat review criteria.
- (8) Step 8: Schedule Preliminary Plat Public Hearing and Complete Public Notification Process. The Town Clerk~~Community Development Director~~ shall schedule a public hearing before the Planning Commission for the purpose of taking action on the preliminary plat. The Town shall publish notice in a newspaper of general circulation and send notice to neighboring property owners within three hundred (300) feet. The hearing may be held no less than fifteen (15) days from the date of advertising.
- (9) Step 9: Planning Commission Public Hearing and Recommendation. The Planning Commission shall hold a public hearing to review the application based on the preliminary plat review criteria. The Planning Commission shall then make a recommendation to the Board of Trustees to approve, conditionally approve or deny the application.
- (10) Step 10: Applicant Addresses Planning Commission Conditions. The applicant shall revise the preliminary plat based on the Planning Commission's conditions of approval and submit it to the Town.
- (11) Step 11: Final Staff Review. Staff will complete a final review of the resubmitted materials and then prepare a report to the Board of Trustees explaining how the application is or is not consistent with the preliminary plat review criteria.
- (12) Step 12: Board of Trustees Public Hearing. The preliminary plat shall be presented to the Board of Trustees for its review and action. The Board of Trustees may approve, conditionally approve, or deny the preliminary plat based on the preliminary plat review criteria. Approval and conditional approval of a preliminary plat shall be effective for one (1) year unless otherwise approved by the Board of Trustees. If the plat is denied, the request or one that is substantially similar may not be heard by the

Planning Commission for a period of one (1) year from the date of denial unless otherwise approved by the Planning Commission. If a final plat is not submitted within said time limit or an extension has not been granted, a preliminary plat must again be submitted before action may be taken on a final plat.

- (b) Preliminary Plat Review Criteria. The Town shall use the following criteria to evaluate the applicant's request:
- (1) The preliminary plat represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code and the Comprehensive Plan.
  - (2) The land use mix within the project conforms to the zoning district map and furthers the goals and policies of both the Comprehensive Plan, the Transportation Plan and the Milliken Parks, Open Spaces and Trails, including:
    - a. The proposed development promotes the Town's small-town character;
    - b. Proposed residential development adds diversity to the Town's housing supply;
    - c. Proposed commercial development will benefit the Town's economic base;
    - d. Functional parks and open space are incorporated into the site design;
    - e. The proposed project protects the Town's environmental quality; and
    - f. The development enhances cultural, historical, and/or educational opportunities.
    - g. The utility and transportation design is adequate, given existing and planned capacities of those systems.
  - a. Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
  - b. There is a need or desirability within the community for the applicant's development and the development will help achieve a balance of land use and/or housing types within the Town, according to the Town's goals.

**Sec. 16-5-305. - Final Plat Application Process.**

- (a) A final plat shall be required for all subdivisions.
- (b) Final plat application process. A final plat application packet shall be submitted within 12 months after approval of the preliminary plat.
  - (1) Step 1: A preapplication conference with the Town is required before the applicant may submit a final plat application.
  - (2) Step 2: The final plat application shall conform to the preliminary plat as approved at the public hearing and shall address all conditions of approval required by the Board of Trustees. The final plat application for the first phase of development must be submitted not more than twelve (12) months after approval of the preliminary plat unless otherwise approved by the Board of Trustees. The application must be submitted a minimum of forty-five (45) days prior to the Planning Commission meeting at which the application will be reviewed. The applicant shall submit one (1) copy of the complete final plat application

package to the town including a digital copy in PDF or other readable format. The final plat application shall include:

- a. Land Use Application Form.
- b. A signed waiver stating that the 30-day requirement pursuant to C.R.S. 31-23-215 as amended, shall not apply.
- c. Legal Description. An electronic copy of the legal description in MS Word™ Format.
- d. 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.
- e. Title Commitment. The title commitment must be current and dated no more than thirty (30) days from the date of final plat application submittal.
- f. Mineral Rights Affidavit. The mineral rights affidavit must be current and must be dated no more than thirty (30) days before the date of the final plat application submittal.
- g. Final Plat. The final plat drawing shall comply with the following standards:
  1. The plat shall be prepared by a registered land surveyor and meet applicable State requirements.
  2. Parcels not contiguous shall not be included in one (1) plat, nor shall more than one (1) plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one (1) plat, provided that all owners join in the dedication and acknowledgment.
  3. Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes, and seconds.
  4. The perimeter survey description of the proposed subdivision shall include at least one (1) tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one (1) part in ten thousand (10,000).
  5. Bearings, distances, and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
  6. All signatures shall be made in black drawing ink.
- h. Two copies of the final plat which shall be twenty-four (24) inches high by thirty-six (36) inches wide and shall provide the following information:
  1. Title of project.
  2. North arrow, scale (not greater than 1" = 100') and date of preparation.
  3. Vicinity map.

4. Legal description.
5. Basis for establishing bearing.
6. Names and addresses of owners, applicant, designers, engineers, and surveyors.
7. Total acreage of subdivision.
8. Bearings, distances, chords, radii, central angles and tangent links for the perimeter and all lots, blocks, rights-of-way, and easements.
9. Lot and block numbers, numbered in consecutive order, and square footage of each lot or tract.
10. Excepted parcels from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.
11. Existing and proposed rights-of-way in and adjacent to the subject property (labeled and dimensioned).
12. Existing and proposed street names for all streets on and adjacent to the property.
13. Existing and proposed easements and their type in and adjacent to the subject property (labeled and dimensioned).
14. Location and description of monuments.
15. Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plat).
16. Signature block for the registered land surveyor certifying to accuracy of boundary survey and plat. Town will provide format.
17. Signature blocks for certification of approval by the Chairperson of the Planning Commission and the Board of Trustees with a signature for the Mayor and Town Clerk. Town will provide format.
18. Signature blocks for utility providers. Town will provide format.
19. Certification of ownership and dedication of streets, rights-of-way, easements, and public sites. Town will provide format.
- i. General Development Information. Provide a written description confirming that the final plat conforms with the preliminary plat. In addition, the description shall address how the proposed development conforms with the community design principles and development standards of this Code.
- j. Complete Engineering Plans and Specifications.
  1. Construction Plans and Profiles. The plans and profiles shall be prepared by a registered professional engineer licensed in the State, shall be twenty-four (24) inches high by thirty-six (36) inches wide and provide the following information:

- a. The horizontal to vertical scales shall be chosen to best depict the aspects of the design.
- b. Minimum horizontal scale: 1" = 100'.
- c. Minimum vertical scale: 1" = 10'.
- d. The typical road geometric and structural cross-section is to be shown on each plan sheet.
- e. The plan must show right-of-way lines and widths, road names, lot lines, tangent lengths and bearings, curve radii, delta angles, curve lengths, chord lengths and bearings, stationing at all beginnings of curves and ends of curves, intersections, structures, angles, curb lines, cross pans, traffic control devices (islands, striping, signs, etc.), drive cuts, curb returns and radii and all other features to enable construction in accordance with approved standards and standard engineering practice. Construction plans shall also include water, sewer, sanitary sewer, and any other utilities such as irrigation ditches. (Note: The developer/owner is responsible for coordinating with the appropriate dry utility companies [i.e., gas, electric, telephone, cable]).
- f. The profiles shall include ground lines, grade lines of curb and gutter or centerline of street elevation at point of intersection of vertical curves, intersections and other critical points, structures and all other features required to enable construction in accordance with approved standards.
- g. Signature blocks for all utility providers unless otherwise provided in agreement form.
- h. Structure Details. Sufficient data shall be given to construction of major structures and road appurtenances such as bridges, culverts, gutters, drives, walks, cross pans, etc.; detail shall include orientation line and grade, cross-sections, dimensions, reinforcement schedules, materials, quality specification, etc.
- i. Sewage Collection and Water Supply Distribution Plans, Profiles and Specifications. The plans, profiles and specifications shall be prepared by a registered professional engineer and shall be accompanied by written approvals from the applicable water and sanitation district.
- j. Final Drainage Plans and Reports. Based upon the approved preliminary drainage plan, a final report is to be submitted in accordance with applicable storm drainage design criteria as determined at the initial preapplication conference. The plan and report must provide:
  - 1. Cross-sections of each water carrier showing high water elevations for one-hundred-year run-off and adjacent features that may be affected thereby.
  - 2. Written approvals, as may be required, from other agencies or parties that may be affected by the drainage proposals (i.e., FEMA, Weld County, ditch companies).

3. Supporting calculations for run-offs, times of concentration and flow capacity with all assumptions clearly stated with proper jurisdiction when needed or requested.
4. Erosion control plans, when required to be submitted as a result of preliminary plan review.
- k. Final Grading Plan. The final grading plan shall be twenty-four (24) inches high by thirty-six (36) inches wide and illustrate existing and proposed contours and lot and block grading details (per FHA requirements if FHA insured).
- l. Soils Reports. The soils reports shall detail special foundation requirements (shall be submitted after over lot grading is complete) and pavement design (may be submitted prior to building permit).
- m. Final Street Lighting Plan. A final street lighting plan shall be prepared in conjunction with electric utility and the Town. The plan must specify the number, kind, and approximate location of streetlights.
- n. Final Landscape Plan. Refer to Article III, Division 3 of this Chapter for the final landscape plan requirements.
- o. Final Open Space and Ecological Characterization Plan. Refer to Sec. 16-6-4240. -Open Space and Ecological Characterization (OSEC) Plans.
- p. Special Documents (as needed):
  1. Special improvement district documents.
  2. Maintenance bonds.
  3. Special agreements (as may be required by the Town).
  4. Work in right-of-way permit (from Town).
  5. Floodplain development permit (from Town).
  6. Grading permit (from Town).
  7. State Highway utility permit (from Colorado Department of Transportation).
  8. State Highway access permit (from Colorado Department of Transportation).
  9. Construction dewatering permit (from Colorado Department of Public Health and Environment).
  10. 404 permit (from U.S. Army Corps of Engineers) or letter from the U.S. Army Corps of Engineers stating no permit is required for this project.
  11. Air Pollution Emission Notice (APEN) (from Colorado Department of Public Health and Environment).
  12. Work in ditch right-of-way permit (from individual ditch companies).

13. Rare species occurrence survey (from U.S. Fish and Wildlife Service).
  14. 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.
  15. Subdivision agreement for public improvements. This agreement assures construction of the required improvements. This document shall be signed by the developer and the Town, the signatures shall be notarized, and the document shall be recorded by the Town Clerk with the County Clerk and Recorder.
  16. General warranty deed. This deed conveys to the Town all public lands other than streets shown on the plat or, in lieu of a deed, a check in an amount to be determined by the Town.
  17. Improvements guarantee. Cash, certified check or a letter of credit from a bank in Colorado or other collateral acceptable to the Town Attorney in the amount stipulated to in the subdivision agreement or other agreements or contracts, posted in favor of the Town in an amount sufficient to assure construction of public improvements for either part or all of the plat, as the Board of Trustees shall determine.
  18. Approved adjudication of water rights and a plan of augmentation (if applicable).
  19. Protective covenants, homeowner's association (HOA) documents, articles of incorporation for HOA and architectural design guidelines finalized and in a form for recording. If there are open space areas to remain in private ownership within the subdivision, the HOA documents must have in place a mechanism which will assure maintenance will be funded in perpetuity.
  20. FEMA approved applications (i.e., Conditional Letter of Map Revisions [CLOMR] or Letter of Map Revisions [LOMR]).
  21. Documentation showing who will own and maintain the open space.
  22. Documentation for dedication of public sites for open space or other civic purposes.
- q. "Clean" Final Plat for Addressing.
1. Title of project.
  2. North arrow, scale (not greater than 1" = 100') and date of preparation.
  3. Vicinity map.
  4. Lot and block numbers numbered in consecutive order.
  5. Rights-of-way and street names.
  6. Property boundary.



- r. Block Diversity Plan. Refer to Section 16-3-415 of this Chapter for the plan requirements.
  - s. Digital copy of all documents as a PDF or other readable format.
- (3) Step 3: 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. If incomplete, 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.
- (4) Step 4: Refer Application to Parties of Interest. Not less than twenty-one (21) days before the date scheduled for the initial Planning Commission public hearing, staff shall send information about the application by regular mail to adjacent municipalities, Weld County, mineral interest owners of record, mineral and oil and gas lessees for the property, appropriate referral agencies and other parties of interest.
- (5) Step 5: Staff Reviews Application and Prepares Comments. Staff will complete a technical review of the final plat based on the Town's final plat review criteria and referral comments received. Staff will then prepare a report identifying any issues of concern that the applicant will need to address and forward this report to the applicant.
- (6) Step 6: 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;
  - b. Revised plats and other documents, including a digital copy of all resubmitted plats and documents as a PDF or other readable format.
- (7) Step 7: Staff Review. Staff will complete a review of all submitted materials and then prepare a report to the Planning Commission explaining how the application is or is not consistent with the final plat review criteria.
- (8) Step 8: Schedule Final Plat Public Hearing and Complete Public Notification Process. The ~~Town Clerk~~Community Development Director shall schedule a public hearing before the Planning Commission for the purpose of taking action on the final plat. The Town shall publish notice in a newspaper of general circulation and send notices to neighboring property owners within three hundred (300) feet. The hearing may be no less than fifteen (15) days from the date of advertising.
- (9) Step 9: Planning Commission Public Hearing and Recommendation. The Planning Commission shall review the Final Plat application and shall make a recommendation to the Board of Trustees to approve, conditionally approve or deny the application.
- (10) Step 10: Applicant Addresses Planning Commission Conditions. The applicant shall revise the final plat based on Planning Commission's conditions of approval and submit it to the Town Clerk.
- (11) Step 11: Final Staff Review. Staff will complete a final review of all submitted materials and prepare a report to the Board of Trustees explaining how the application is or is not consistent with the final plat review criteria.



- (12) Step 12: Board of Trustees Action. The final plat shall be presented to the Board of Trustees for its review and action. The Board of Trustees may approve, conditionally approve, or deny the final plat based on the final plat review criteria.
- (13) Step 13: Record Final Plat. The subdivider shall provide to the Town Clerk two (2) original Mylar copies and one (1) reproducible copy of the final plat, fully executed and ready for execution by the Town. The appropriate officers of the Town shall execute the plat and file it with the County Clerk and Recorder. The recording fee shall be paid by the developer. The Final Plat shall be recorded at the same time as the approved Subdivision Improvement or Development Agreement.
- (14) Step 14: Post-Approval Actions. Prior to recording the final plat, the applicant shall submit the following documentation to the Community Development ~~Director~~Department:
- Open Space Deed Restriction. Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and will remain as open space in perpetuity.
  - Other Certificates, Affidavits, Enforcements or Deductions as required by the Planning Commission or Board of Trustees.
  - Evidence that all conditions of approval have been met.
  - Two (2) sets of stamped final engineering drawings for the public improvements, 24"x36" and one digital copy in PDF or other readable format.
- (c) Final Plat Review Criteria. The Town shall use the following criteria to evaluate the applicant's request:
- The final plat conforms to the approved preliminary plat if applicable, and incorporates recommended changes, modifications and conditions attached to the approval of the preliminary plat unless otherwise approved by the Board of Trustees.
  - The development will substantially comply with the community design principles and development standards as set forth in Article III of this Chapter, including the requirements for block diversity.
  - All applicable technical standards have been met.

(620 §1, 2010)

#### **Sec. 16-5-310. - Resubdivision (Replat) Application Process.**

(a) Application Process.

- Step 1: Preapplication Conference. The applicant may request a preapplication conference with a representative from the prior to submitting a resubdivision plat application. Topics to be discussed will include:
  - Town regulations and standards.
  - The application and review process.
  - Submittal requirements.
  - Schedule.

- (2) Step 2: A ~~re~~ssubdivision application and plat shall be processed in accordance with 16-5-305 (Final Plats) of this Chapter.

**Sec. 16-5-315.—Vacation of Rights-of-Way, Easements, or Plats.**

- (a) Any plat (or portion thereof), public right-of-way, or easement may be vacated upon petition by the owner of the property and approval by the Board of Trustees.
- (1) Public right-of-way and easement vacation proceedings shall be in compliance with Sections 43-2-302 and 43-2-303, C.R.S.
- (2) A plat vacation may occur at any time before the sale of any lots. Once lots have been sold, all lot owners must consent to the proposed vacation.
- (b) The applicant for a vacation of rights-of-way, easements, or plat shall comply with application process outlined below. Comments from the public and utility companies shall be provided by written response to the public notice.
- (c) Vacation of Right-of-Way/Easement or Plat Application Process.
- (1) Step 1: Preapplication Conference. A preapplication conference with the Community Development ~~Director~~ Department is required before the applicant submits a vacation of right-of-way/easement application. Topics to be discussed will include:
- a. Town regulations and standards.
  - b. The application and review process.
  - c. Submittal requirements.
  - d. Schedule.
- (2) Step 2: Vacation of Right-of-Way/Easement or Plat Application Submittal. The applicant shall submit one (1) complete copy of the vacation of right-of-way/easement application package to the Community Development ~~Director~~ Department and shall request that the application be reviewed and approved by the Board of Trustees by ordinance. The vacation of right-of-way/easement application shall include:
- a. Land Use Application Form.
  - b. Application Fee and Fee Agreement. A nonrefundable fee is collected to cover the cost of review by Staff, and a deposit collected to cover the cost of review by the Town Attorney, Town Engineer, and any other expert whom the Town may wish to employ; and recording fees. 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.
  - c. Petition for Vacation of Right-of-Way/Easement or Plat. A blank petition for vacation of right-of-way, vacation of easement or plat is available from the Community Development Department.
  - d. Title Commitment. The title commitment must be current and dated no more than thirty (30) days from the date of vacation of right-of-way/easement submittal.

- e. Vacation of Right-of-Way/Easement or Plat Map. The vacation of right-of-way/easement map shall be a minimum of eleven (11) inches by seventeen (17) inches and provide the following information:
    1. Title of map.
    2. North arrow, scale (whatever is appropriate) and date of preparation.
    3. Vicinity map.
    4. Legal description of right-of-way/easement to be vacated.
    5. Graphic representation of property to be vacated.
    6. Acreage of property to be vacated.
    7. Names and boundaries of adjacent subdivisions and streets.
    8. Lot and block numbers of adjacent lots and blocks.
    9. Existing and proposed rights-of-way in and adjacent to the subject property.
    10. Existing and proposed easements in and adjacent to the subject property.
    11. Existing and proposed utility lines and/or facilities in and adjacent to the subject property.
    12. All waterways and ditches in and adjacent to the subject property.
    13. Type and location of existing structures and paved areas on the subject property.
  - f. Vacation of Right-of-Way/Easement and Plat Review Criteria Statement. Provide a written description of how the vacation request addresses the four (4) vacation of right-of-way/easement review criteria.
  - g. Digital copy. Provide a digital copy as a PDF or other readable format for all documents in the application packet.
- (3) Step 3: 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 Community Development [Director/Department](#). The original application and all documents requiring a signature shall be signed in blue ink.
- (4) Step 4: Letters of Support from Utility Providers and Other Affected Agencies. Within thirty (30) days from the date the application is deemed complete, the applicant shall provide to the Town letters from all utility providers or other agencies affected by the vacation, if any.
- (5) Step 5: Staff Reviews Application and Prepares Comments. Staff will complete a review of the vacation of right-of-way/easement or plat based on the vacation of right-of-way/easement or plat review criteria. Staff will then prepare a report identifying any issues of concern that the applicant will need to address and forward it to the applicant.

- (6) Step 6: Applicant Addresses Staff Comments. The applicant shall address Town Staff's comments then submit the following to the Community Development ~~Director~~Department:
- Letter explaining how all of the comments have been addressed; and
  - Revised maps and other documents.
- (7) Step 7: Final Staff Review and Report to Board of Trustees. Staff shall complete a final review of the resubmitted materials and prepare a report to the Board of Trustees explaining how the application is or is not consistent with the vacation of right-of-way/easement review criteria.
- (8) Step 9: Board of Trustees Action. Following a public hearing, the Board of Trustees may approve, conditionally approve, or deny the vacation of ROW, easement or plat ordinance based on the review criteria. All approved ordinances must be recorded with the County Clerk and Recorder. If the ordinance is conditionally approved, all conditions of approval must be satisfied by the applicant and certified by the Community Development ~~Director~~Department within a time specified by the Board of Trustees before the ordinance can be recorded.
- (d) Vacation of Right-of-Way/Easement and Plat Review Criteria.
- (1) The right-of-way, easement or plat being vacated is not needed in the short- or long-term.
  - (2) The right-of-way, easement or plat will be replaced. To replace the right-of-way easement or plat, the vacation application shall be accompanied by a development application that proposes a new right-of-way, easement, or plat.
  - (3) The applicant is relocating all public facilities or utilities within the right-of-way or easement.
  - (4) The public and surrounding properties will not be negatively impacted by the vacation.

## Division 4: Land Dedication

### Sec. 16-5-400. - Parks, Open Space and Trails.

- (a) Each subdivision shall include land for parks, open space, and trails dedicated to the Town, HOA, or a District.
- (b) Public Access. All areas reserved or dedicated pursuant to this Section shall be served by public vehicular, pedestrian or bicycle access.

### Sec. 16-5-405. – Park, Open space, and Trail Requirements.

- (a) Open Space Includes:
  - (1) Areas within the community designated for the common use of the residents of an individual development and/or the community at-large;
  - (2) Areas designated for preservation and protection of environmental resources, including floodplains, natural drainage ways, wildlife habitat and wetland areas;
  - (3) Areas designated for agricultural preservation; and

- (4) Areas of archeological and historic significance.
- (b) Open Space Shall not Include the Following:
  - (1) Required setback areas around oil and gas production facilities;
  - (2) Disconnected remnants of land created by division of sites into lots or parcels that do not qualify as functional open space or that preserve environmental resources, unless approved by the Board of Trustees;
  - (3) Private yards;
  - (4) Tree lawns in street rights-of-way; or
  - (5) Required parking lot landscaping associated with all uses including commercial/industrial projects, except parking specifically designated for access to open space areas
- (c) Amount of Open Space Required. The amount of functional open space required in each development will be based on the density of the development, the recreational requirements of the anticipated users and the anticipated opportunities for public recreation within walking distance of the site (one-half [ $\frac{1}{2}$ ] mile).
  - (1) All residential subdivisions shall dedicate a minimum of twelve percent (12%) of the gross land area for public parks, trails, open space, or other civic purposes at the time of subdivision.
  - (2) Nonresidential subdivisions shall dedicate seven percent (7%) of the gross land area for public parks, trails, open space, and other civic purposes at the time of subdivision.
  - (3) As determined by the Board of Trustees, the subdivider shall pay a fee-in-lieu of land dedication in those cases where dedication of land is not the Town's preferred alternative. Such payment shall be based on the fair market value of the entire property and the value of the improved open space, to be determined after completion of the platting process. Such payment shall be held by the Board of Trustees for the acquisition of sites and land areas by the Town. At the option of the Board of Trustees, the subdivider may meet the dedication requirements through a combination of fee-in-lieu and land dedication.
- (d) For PUD's approved prior to XX 2021, the required amount of open space shall remain twenty-five (25%) percent.
- (e) Type of Open Space Required. Open space shall include one or more of the following types of spaces.
  - (1) Developers must provide the land and develop a one-acre pocket park for every two hundred fifty (250) residential units. At a minimum, a pocket park shall include live ground cover, trees, and irrigation plus one (1) of the following: playground equipment, contemplative garden or other active or passive recreation opportunities for the neighborhood, as approved by the Town.
  - (2) Projects with less than two hundred fifty (250) units must provide a pocket park or demonstrate that they are within one-half ( $\frac{1}{2}$ ) mile of a neighborhood park. If credit is taken for proximity to a neighborhood park, the developer must provide a cash-in-lieu equivalent for its pro rata share of the cost of land and improvements for a pocket park (i.e., provide twenty-five percent [25%] of a pocket park for fifty [50] dwelling units), as approved by the Town.

- (3) The land and amenities of a pocket park may be added to a centrally located neighborhood park. The pocket park amenities placed in a neighborhood park must be within one-half (½) mile of the sub-neighborhood's two hundred fifty (250) residences served.
- (4) Every residential development shall either provide land for a neighborhood park or provide a fair share, cash-in-lieu contribution for the park that will serve the neighborhood. This can be credited toward the twelve percent land dedication required at the time of subdivision. Developers providing land shall submit a conceptual design for the park to demonstrate that it meets the intent of the Johnstown/Milliken Parks, Trails, Recreation and Open Space Master Plan.
- (5) Community Park. Community parks are to be located on or near arterial streets, at the edge of residential areas, or in nonresidential areas to minimize the impact of organized recreational activities such as lighted ball fields.
- (6) District Park. District parks serve the residents of the entire Town as well as people who live outside of the community. These parks are located to take advantage of special natural settings.
- (7) Trails. The trail system shall link neighborhoods, parks, schools, open spaces, employment centers, community facilities, and neighboring communities and thus provide important transportation connections, as well as recreational opportunities and access. Developers must provide trail connections in all areas designated "Parks and Trails" in the Milliken Parks, Open Spaces and Trails Master Plan, as well as connections to the Town's trail system and destinations within the neighborhood.
- (8) Storm Drainage Facilities. Storm drainage facilities, including stormwater detention and stormwater retention ponds, may function as open space for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately. Credit toward the open space dedication requirements will be considered on a case-by-case basis by the Community Development ~~Director~~ Department and upon approval by the Board of Trustees at the time of platting.
- (9) Pocket parks, landscaped outlots and private recreational facilities shall be owned and maintained by a homeowners' association or the landowner.
- (10) Conservation areas set aside as part of a conservation subdivision shall be owned and maintained by the homeowners' association.
- (11) Stormwater detention and retention areas that function as open space shall be owned and maintained by a homeowners' association or the landowner, unless otherwise recommended by the Town Engineer and approved by the Board of Trustees.
- (g) Open Space Protection. Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and remain open in perpetuity. They may be dedicated to the public or held in private ownership. Appropriate ownership will be determined through the review process in cooperation with the landowner. Future use may include recreational or agricultural activities if approved by the Town.

**Sec. 16-5-410. - Fees-in-Lieu of Park, Open Space, or Trail Dedication.**

- (a) In lieu of any dedication of land as required by this Division, the Town may request that the applicant make a payment to the Town if:
  - (1) The Town determines that the amount or quality of land to be dedicated by the applicant would not be of adequate size or quality to achieve the purpose of the dedication; or
  - (2) The Town determines that the dedication of land would not serve the health, safety, or welfare of the public.
- (b) The amount of the payment in lieu of any land dedication shall be determined as follows: multiply the fair market per acre of the entire property proposed for subdivision, as of the date immediately prior to approval of the final plat, by the total acreage of land that is required for dedication.
- (c) The fair market acre value of land, for purposes of determining the amount of a payment in lieu of land dedication, shall be determined by mutual agreement between the Town and the applicant. In the event of inability of the above parties to agree on the fair market acre value of the subject land, an independent real estate appraisal shall be obtained by the Town at the applicant's cost. The value determined by the appraisal shall be binding upon the Town and the applicant.
- (d) Payments made under the requirements of this Section shall be made payable to the Town. All moneys collected by the Town shall be deposited in an interest-bearing account which clearly identifies the category, amount, or fund of capital expenditure for which the moneys were collected. Each such category, account or fund shall be accounted for separately. Any interest or other income earned on such moneys shall be credited to the account. The Town shall receive such funds either upon annexation of the land area to the Town or at the time of final plat approval.
- (e) Funds may be withdrawn from the interest-bearing account only for the acquisition of reasonably necessary sites and land areas or for capital outlay purposes for parks, trails, recreational facilities or development of sites for those purposes, or, as appropriate, for transfer to the School District for growth-related site acquisition and planning functions by the School District for educational purposes.

**Division 5: Public Improvements****Sec. 16-5-500. - Scope.**

Every public improvement required to be dedicated to the Town, whether associated with a subdivision or otherwise, shall be conveyed to and accepted by the Town in accordance with the provisions of this Article.

**Sec. 16-5-505. - Subdivision Improvements and Development Agreements.**

- (a) A subdivision improvement and development agreement will be required. The Agreement shall state that the developer agrees to construct any required public improvements shown in the final plat documents, together with collateral which is sufficient, in the judgment of the Board of Trustees, to make reasonable provision for the completion of said improvements in accordance with design and time specifications, will be required. No subdivision plat shall be signed by the Town or recorded at the office of the County Clerk and Recorder, and no building permit shall be issued for development until a subdivision improvement agreement between

the Town and the developer has been executed. Such agreement shall include a list of all agreed-upon improvements, an estimate of the cost of such improvements, the form of guarantee for the improvements and any other provisions or conditions deemed necessary by the Board of Trustees to ensure that all improvements will be completed in a timely, quality and cost-effective manner. A subdivision improvement agreement shall run with and be a burden upon the land described in the agreement.

- (b) Other agreements or contracts setting forth the plan, method, and parties responsible for the construction of any required public improvements shown in the final plat documents may also be required.
- (c) Time for Completion. The required time for the completion of all required improvements shall be two (2) years from the recording date of the final plat. However, the Board of Trustees may extend such time for completion upon request from the subdivider.
- (d) Guarantee of Completion/Warranty Period.
  - (1) The applicant shall sign a subdivision improvement agreement agreeing to construct any required public improvement shown in the final plat documents, together with collateral which is sufficient, in the judgment of the Board, to make reasonable provision for the completion of said improvements in accordance with design and time specifications; or
  - (2) Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the final plat documents, which in the judgment of the Board, will make reasonable provision for completion of said improvements in accordance with design and time specifications.
  - (3) As improvements are completed as approved by the Board of Trustees, the subdivider shall apply to the Town for inspection of improvements. Upon inspection and approval, the Town shall notify the subdivider that there is a two (2) year guarantee period before release of funds. If the Board of Trustees or respective special district determines that any of the required improvements are not constructed in compliance with specifications, it shall furnish the subdivider with a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such compliance. If the Board of Trustees determines that the subdivider will not construct any or all of the improvements or remedy the deficiencies in accordance with all the specifications, the Board of Trustees may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements or remedy deficiencies in accordance with the specifications.
- (e) The improvements to be constructed as specified in the subdivision improvements agreement shall include the following:
  - (1) Road grading and surfacing.
  - (2) Curbs.
  - (3) Streetlights.
  - (4) Sidewalks.
  - (5) Sanitary sewer collection system.
  - (6) Storm sewers or storm drainage system, as required.
  - (7) Potable water distribution, including fire hydrants.
  - (8) Utility distribution system for public parks and open space.
  - (9) Standard street name signs at all newly opened intersections and such other traffic control signs within the subdivision determined to be necessary by the Town.



- (10) Permanent reference monuments and monument boxes.
- (11) Underground telecommunications, electricity and gas lines.
- (12) Required floodway improvements.
- (13) Berm or fence along major arterial and collector streets. ‘
- (14) Landscaping and irrigation pursuant to Article III, Division 3. – Landscaping, Buffering, Fence, and Wall Standards.
- (15) Underdrains.
- (16) Required irrigation ditch improvements.
- (17) Other improvements not specifically mentioned herein but found appropriate and necessary due to unusual conditions found on the site shall be constructed at the applicant's expense within such time and in conformance with such specifications as deemed necessary and appropriate by the Board of Trustees.

#### **Sec. 16-5-510 - Probationary Acceptance.**

- (a) Request. Upon completion of required public improvements, the developer shall request probationary acceptance and inspections in compliance with the development agreement, Municipal Code, approved plans, construction notes and design specifications, and Milliken Design Criteria and Construction Specifications. Probationary acceptance shall only be granted if improvements have passed all necessary tests, and have been approved by all other governmental entities and agencies having jurisdiction.
- (b) Issuance of probationary acceptance by the town begins the warranty period as specified in the executed development agreement.

#### **Sec. 16-5-515. - Maintenance and Repair.**

- (a) Responsibility. Until final acceptance, the developer shall be solely responsible for correction of any and all defects.
- (b) Routine Maintenance. The developer shall, at his or her sole cost, protect the facility and perform all routine maintenance thereon so as to keep it in good repair and operating condition. Such obligations shall include the repair or replacement of any parts thereof damaged as a result of street construction, paving, utility installation, vehicular traffic or other construction or development activities. In addition, the developer shall, at his or her sole cost, correct any soil subsidence or erosion which the Town determines occurred in connection with or as a result of construction of the development.
- (c) Cure of Defects. The developer shall, at his or her sole cost, correct, repair or replace any improvement or part thereof which the Town reasonably determines were not constructed in conformity with the Code, approved plans, construction notes or design specifications, or which the Town determines to be defective or of poor or unworkmanlike quality. If the developer fails to cure the issues, the Town may, in addition to and without waiving any other remedy, perform the work itself and charge the developer for its actual costs incurred in connection therewith.

#### **Sec. 16-5-520. - Final Acceptance.**

- (a) Request. At the expiration of two (2) years from the date of ~~conditional-Probationary~~ Aacceptance, or any longer period of time reasonably determined by the Town, the developer may request the Town to perform a final acceptance and inspections ~~s-and-accept of~~ the improvements.

- (b) Inspection. The Town shall inspect the public improvements and determine whether the improvements have been constructed and connected to Town facilities in conformance with the development agreement, Municipal Code, approved plans and construction notes, design specifications, and the Milliken Design Criteria and Construction Specifications. The inspection shall confirm that improvement have passed all necessary tests, and have been approved for use by all other governmental entities and agencies having jurisdiction.
- (c) Effective Date. The Town's acceptance of the public improvements for maintenance shall be effective as of the date noted therefor on written documentation prepared by the Town. As of such date, all of the developer's right, title, and interest in and to the constructed improvements shall be deemed immediately to pass to and vest in the Town, free and clear of all liens and encumbrances. The developer shall warrant and defend the conveyance of such facility to the Town, its successors and assigns against all and every person whomsoever. As of the date of final acceptance, the Town shall maintain the public improvements at its expense. Notwithstanding final acceptance, the developer or his or her successors and assigns shall own and remain responsibility for all water and sewer service lines and private water and sewer facilities as provided in Chapter 13 of the Code.

**Sec. 16-5-525. - Metropolitan/Special Districts.**

A developer may create a Metropolitan/Special District with limited powers in order to build the infrastructure and maintain the common open space. All development of land within any such district shall be subject to all Town regulations, codes. and approval of the service plan by the Board of Trustees.

**Division 6: Subdivision Standards**

**Sec. 16-5-600. - General Standards.**

- (a) The design and development of subdivisions shall preserve, insofar as it is possible, the natural terrain, natural drainage, existing topsoil, unusual rock formations, lakes, rivers, streams, and trees.
- (b) Land subject to natural or manmade hazardous conditions shall be identified on the plat and shall not be subdivided until the hazards have been eliminated or mitigated by the subdivision design and construction plans.
- (c) A subdivision shall be designed in such a manner as to be coordinated with adjoining subdivisions with respect to the alignment of street rights-of-way and utility and drainage easements and open space.

**Sec. 16-5-605. - Design Standards.**

The design standards for the Town of Milliken are adopted by reference, as amended, and one (1) copy of each is on file in the Town Clerk's office. These standards shall be known as the Design Criteria and Construction Specifications, as amended.

**Sec. 16-5-610. - Lots and Blocks.**

- (a) Intent. The intent of the block and lot standards is to continue Milliken's existing block pattern in a manner that is compatible with site-specific environmental conditions.
- (b) General Provisions.

- (1) Blocks. Streets shall be designed to create blocks that consider interconnectedness, topography, solar orientation, views, and other design features. The length of blocks in "Old Town" is typically four hundred (400) feet.

Thus, to the greatest extent possible, blocks shall be designed to have a length of between three hundred (300) feet and seven hundred (700) feet (nonresidential streets). The lengths, widths and shapes of blocks shall be determined with due regard to the following:

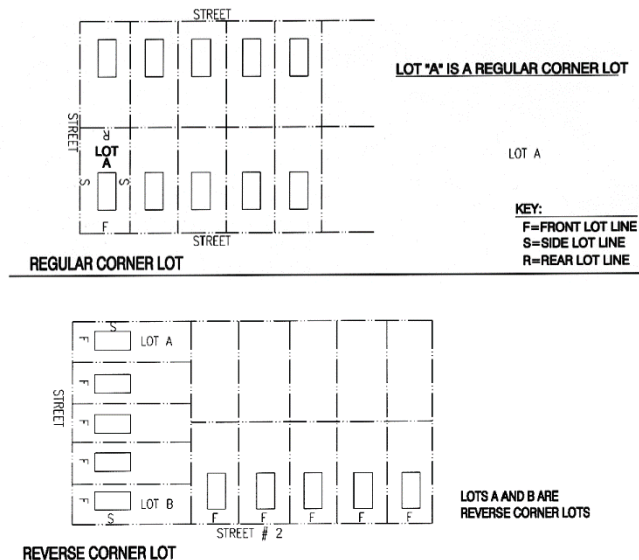
- a. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
- b. Need for convenient access, control, and safety of vehicular and pedestrian traffic circulation.
- c. Limitations and opportunities of topography.



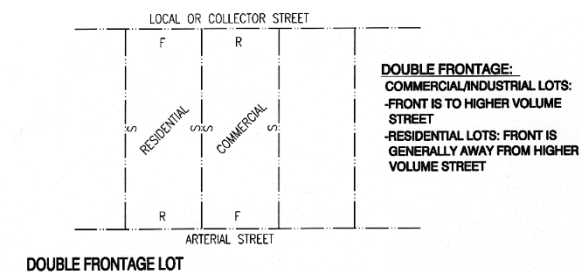
- (2) Lot Dimension and Configuration.

- a. Lot size, width, depth, shape, and orientation and minimum building setback lines shall conform to Article II "Zoning Districts and Uses" of this Chapter and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy, and view.
- b. Depth and width of properties shall be adequate to provide for off-street parking, landscaping, and loading areas required by the type of use and development contemplated.
- b. Lot Width Frontage. All lots shall have frontage that is either adjacent to or directly accessible to a street. Street frontage shall typically not be less than twenty-five (25%) percent of the lot depth. Flag lots are prohibited unless otherwise approved by the Board of Trustees.
- c. Corner Lots. Corner lots for residential use shall have extra width to accommodate side elevation enhancements, the required building setback and utility easements on

both street frontages. For a corner lot, the front of the lot is defined as the side having the shortest street frontage. In the case of a reverse corner lot, both sides abutting a street shall maintain a front yard setback as illustrated below



- d. **Double Frontage.** Double frontage lots for residential shall not be permitted except where essential to provide separation of residential properties from arterial streets or commercial uses, or to overcome specific disadvantage of topography and orientation. A planting screen easement of at least ten (10) feet in width, across which there shall be no vehicular right of access, may be required along the property line of lots abutting an arterial or other disadvantageous use as illustrated below.



- e. **Side Lot Lines.** Side lot lines shall be substantially at right angles or radial to road right-of-way lines or centerlines.
- f. **Residential Lots Adjacent to Arterial Streets.** When residential lots are adjacent to, and the houses do not face, an arterial street (i.e., rear yards abut the street), they shall be a minimum of one hundred fifty (150) feet deep, and direct access to the arterial street shall be prohibited, except for nonconforming situations on unplatted parcels. The setback from the arterial to the house shall be a minimum of seventy-five (75) feet. When houses face the arterial street or are side-loaded relative to the street, the front or side setback to the house, respectively, shall be a minimum of fifty (50) feet. These setbacks do not apply for mixed-use dwelling units in the MU-C-D District.
- g. **Residential Lot Access to Adjacent Street.**

1. Driveway access to a local or collector street from a single-family detached residential lot shall be limited to one (1) driveway curb cut or driveway access of no greater than twenty (20) feet in width. A circular drive in which each access to the local or collector street is less than ten (10) feet in width, separated by at least thirty (30) feet and which is constructed as an integral part of the overall architectural design of the single family residence, may be considered as a single driveway access.
  2. Driveway access to a local street from a single-family detached residential lot shall be greater than fifty (50) feet (except for reduced width lots in Mixed Use Zones) from the intersection of the local street and a collector street or one hundred twenty-five (125) feet from the intersection of the local street and an arterial street, as measured from the intersecting right-of-way lines.
  3. Driveway access to a collector street from a single-family detached residential lot shall be greater than one hundred twenty-five (125) feet from the intersection of the collector street and a local street, another collector street or an arterial street as measured from the intersecting right-of-way lines.
- h. Multi-Family Residential, Commercial, Business and Industrial Lot Access to Adjacent Street.
1. Driveway access to a local or collector street from a multi-family residential, commercial, business, or industrial lot shall be greater than one hundred twenty-five (125) feet from any street intersection as measured from the intersecting right-of-way lines;
  2. Driveway access to an arterial street from a commercial, business or industrial lot shall be not less than two hundred fifty (250) feet from any intersection on the arterial street, or from another commercial, business or industrial lot's access as measured from the intersecting right-of-way lines, or driveways; or
  3. At the sole option of the Town, driveway access to a local street, collector street or arterial street from a multi-family residential, commercial, business, or industrial lot shall be as determined by a traffic study approved by the Town.

#### **Sec. 16-5-615. - Access and Dedication.**

- (a) Access. Access to all subdivisions shall be from a public street system. Driveways shall not be permitted to have direct access to arterials or CDOT state highways (principal arterials).
- (b) Street Right-of-Way Dedication. The full width of right-of-way for all streets being platted must be dedicated to the Town. In cases where the perimeter streets have a portion of the proposed right-of-way on an adjacent property, the following standards will apply:
- (1) The subdivider shall either:
- a. Purchase the other one-half ( $\frac{1}{2}$ ) of the proposed right-of-way property for the Town at the appraised fair market value and then dedicate the right-of-way to the Town; or
  - b. If the landowner of the proposed right-of-way property is unwilling to sell the proposed right-of-way property to the subdivider for its appraised fair market value, the subdivider shall pay for the cost of an appraisal for the proposed right-of-way property

and legal fees for the Town Attorney to complete the condemnation process. The subdivider may enter into a reimbursement agreement with the Town to recover costs.

(2) The subdivider shall finalize an agreement with the Town which guarantees the construction of the street to Town standards.

(3) Perimeter Streets. When a street is dedicated which ends on the plat, the street right-of-way must be dedicated to the boundary of the plat.

**Sec. 16-5-620. - Intersections.**

Intersections shall meet the requirements found in "*Design Criteria and Construction Specifications*" unless otherwise approved by the Town Engineer.

**Sec. 16-5-625. - Street Names.**

(a) Names of new streets shall not duplicate names of existing streets. However, new streets which are extensions of, or which are in alignment with, existing streets shall bear the names of such streets. All street, park, and recreation names shall be approved during the subdivision review and approval process.

**Sec. 16-5-630. - Minimum Design Standards.**

(a) The width of street right-of-way and the design of the street it contains shall conform to the minimum standards set forth in the adopted Design Criteria and Construction Standards.

(b) Tree-Lined Streets. All collector and arterial streets shall be lined with trees on both sides.

(c) Street Layout. The use of cul-de-sacs and other roadways with a single point of access shall be minimized. The integration of traffic-calming features within and adjacent to residential areas shall be utilized when appropriate. To the greatest extent possible, streets shall be designed to have a maximum length of seven hundred (700) feet, from intersection to intersection.

(d) Controlling Street Access. A strip of land between a dedicated street and adjacent property shall not be reserved for the purpose of controlling access to such street from such property.

(e) Visibility at Intersections. No shrubs, ground cover, berms, fences, structures or other materials or items greater than thirty (30) inches in height shall be planted, created, or maintained at street intersections within the intersection sight distance triangles. Trees shall not be planted in the intersection sight distance triangles.

(f) Pedestrian Crossings at Street Intersections and Mid-Block Crossings. Mid-block crossings shall be required and designed to ADA standards as specified in the Design Criteria and Construction Specification Standards.

**Sec. 16-5-635. - Irrigation Ditches.**

Existing irrigation ditches shall be incorporated within the subdivision plan in a manner such that their function is not impaired. The ditches shall be protected from encroachment.

## ARTICLE VI – LAND USE APPLICATIONS

### Division 1: Review Procedures

#### **Sec. 16-6-100. – General Review Process.**

All land use activities applications shall conform to this Chapter.

The following land use activities are reviewed and approved by the Community Development Department:

- (a) Plot Plan
- (b) Floodplain Development permit pursuant to Section 16-4-45
- (c) Sign Permit pursuant to section 16-x-xx
- (d) Site Plan under 15,000 sq. ft.
- (e) Administrative plat or correction of errors
- (f) Change of use
- (g) Request for second driveway permit

The following land use activities require a public hearing:

- (a) Amendments to the Comprehensive Plan
- (b) Amendment to the Official Map
- (c) Amendments to the Text of the Land Use Code
- (d) Appeals
- (e) Conditional Use
- (f) Major Subdivision
- (g) Manufactured Home Communities
- (h) Planned Unit Development (PUD) District Master Plan and Final Development Plan
- (i) Revocation of Approved Development Applications and Permits
- (j) RV Park Development
- (k) Site Plan over 15,000 sq. ft.
- (l) Site Specific Development Permit/ Vested Rights
- (m) Special Use Permit for New Oil and Gas Operations
- (n) Vacation of Right-of-Way/Easements
- (o) Variances

- (p) Wireless Telecommunication Facility

## **Division 2: General Description of Review Procedures**

### **Sec. 16-6-200. - Preapplication Conference.**

- (a) A pre-application is a non-binding meeting held when an application submittal is imminent, that benefits the applicant by giving them the opportunity to discuss submittal requirements with the Town Staff. The meeting will include staff from the Community Development Department, Public Works Department, the Fire District, Building Official, Town Engineer, Water Engineer, Certified Floodplain Manager, and any other technical staff or consultants as applicable to the type of application.
- (b) The preapplication conference also serves to facilitate discussion about the technical elements of the development including but not limited to:
- (1) Characteristics of the site and surrounding area, such as size, location, zoning, accessibility of the site, natural and man-made features, natural hazards, and surrounding development and land use.
  - (2) The nature of the development proposed, including:
    - a. Proposed Uses;
    - b. Densities;
    - c. Placement of Proposed Buildings and Improvements;
    - d. Location, Type, and Method of Maintenance of Common Open Space;
    - e. Public Use Areas such as Trails, and Paths;
    - f. Internal Circulation System;
    - g. Total Ground Coverage of Paved Areas and Structures; and
    - h. Proposed Streets, Water, Wastewater, and Other Utility Infrastructure.
  - (3) Conformance with adopted Town policies including but not limited to the Comprehensive Plan, Parks, Open Spaces and Trails Master Plan, and Transportation Master Plan.

### **Sec. 16-6-210. - Submittal Requirements and Review.**

- (a) Each applicant shall submit a complete land use application packet, and all required submittal documents. A digital copy of all application documents in a PDF format, along with GIS files as applicable, shall be submitted in addition to required paper documents with original signatures. The application packet shall consist of the following materials as applicable to each type of application:
- (1) Completed Land Use Application Form
  - (2) Completed Fee Agreement and payment of applicable fees and deposits
  - (3) Mineral Rights Affidavit



- (4) Written statement or narrative describing how the application is consistent with adopted Town policies and plans including but not limited to the Comprehensive Plan, Community Design and Development Standards, Parks, Open Spaces and Trails Master Plan, Transportation Master Plan, and the Design Criteria and Constructions Specifications.
  - (5) Plat, map or graphic of the site or proposed use depicting topography, building locations, parking, traffic circulation, usable open space, landscaping, utilities, drainage features and any other information needed to evaluate the proposal.
  - (6) 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, return receipt requested including the name of the current contact, phone number and mailing address.
  - (7) Current proof of ownership in the form of title insurance issued within thirty (30) days of submission of the application
  - (8) Traffic Study
  - (9) Certified Drainage Study or Report by a Colorado Licensed Engineer
  - (10) Landscape Plan
  - (11) Open Space and Ecological Characterization Plan
  - (12) Elevations of Proposed Structures and Buildings
- (b) The Community Development staff shall review the application packet to determine if the application is complete or if there are deficiencies in the application submittal. If the application is complete, the Community Development Department staff shall notify the applicant within a reasonable period of time. No land use application shall be scheduled for further review until the application is deemed complete by staff.

**Sec. 16-6-220. - Required Referrals.**

- (a) Upon a determination that the application is complete, the Community Development Department staff shall refer the application to appropriate referral agencies. Referrals including all jurisdictions which have an Intergovernmental Agreement with the Town, and any jurisdictions required in the Colorado Revised Statutes.
- (b) Referrals required by State Law.
  - (1) Major Activity Notice shall be sent to the state geologist and the Board of County Commissioners pursuant to Section 31-23-225, C.R.S., if the proposed subdivision or commercial or industrial development covers five (5) or more acres of land.
  - (2) Mineral, Oil and Gas Rights Documentation. The applicant shall provide 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. The applicant shall provide documentation that any issues identified by said mineral rights owners or lessees are being resolved. 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.

**Sec. 16-6-230. - Public Hearings.**

- (a) Applicability. This Section shall apply to all land use applications requiring a public hearing before the Planning Commission, the Board of Trustees, or the Board of Adjustment.
- (b) Procedure. The procedure for public hearings shall be as follows:
  - (1) Notice. Upon receipt of the applicant's response to referral agency comments, the [Town Clerk](#)~~Community Development Staff~~ shall set the required public hearings, and shall publish, post, and mail the notice of the public hearings as required by Section 16-6-240.
  - (2) Hearing and Decision. Public hearings shall be conducted in accordance with due process procedures. The Planning Commission, Board of Adjustments or Board of Trustees shall either recommend approval to the Board of Trustees, approve, approve with conditions, deny or continue the hearing on the application.

**Sec. 16-6-240. - Public Notice Requirements.**

- (a) For all actions of the Town described in this Chapter requiring public hearings, public notice of the hearing shall be given conforming to the following requirements. The cost of all notices shall be borne by the applicant.
- (b) Notice of the public hearing shall be sent to all property owners within three hundred (300) feet of the boundaries of the subject property, mineral right interests of record, oil and gas lessees for the property and the appropriate referral agencies at least fifteen (15) days in advance of the hearing using the most recent property owner information from the Weld County Assessor's records.
- (c) All notices shall include:
  - (1) A statement of the nature of the matter being considered.
  - (2) The time, date, and place of the public hearing.
  - (3) The agency or office and phone number where further information may be obtained; and
  - (4) The street address and/or a legal description of the subject property.
- (d) Such notice shall be sent via first class mail, unless required by Colorado Revised Statutes to be send certified mail, return receipt requested. Copies of the certified mailing receipts shall be provided to the Town prior to the hearing. The Town may assist the applicant with a recent list of property owners based on the Weld County Assessor's records.
- (e) Notice of the hearing shall be published by the Town in a newspaper of general circulation at least fifteen (15) days in advance of the hearing. All publication expenses shall be paid by the applicant. Failure to properly notice the hearing shall be grounds for a continuance of the public hearing until such notice is provided.
- (f) Public Notification Sign. The Town Staff shall prepare a public notification sign to be posted on the property no less than fifteen (15) days in advance of the hearing.

**Sec. 16-6-250. - Revocation of Permits.**

- (a) The Board of Trustees may revoke any land use development approval, after notice and a public hearing.

- (b) Notice of Public Hearing. The public hearing on the revocation of a land use development approval, shall be conducted during a regular or special meeting of the Board of Trustees not less than fifteen (15) days from the date the notice of the hearing is given. Notice of hearing shall be deemed given to the owner, the owner's agent or other person to whom the land use development approval was issued, upon deposit of said notice in the U.S. mail by certified mail, return receipt requested, and addressed to the last known address of said owner. Notice shall also be given via in-person delivery from a Town police officer.
- (c) Findings. Following the public hearing, the Board of Trustees, upon a finding of the following, may revoke any development permit, building permit or other authorization:
  - (1) There is a departure from the approved plans, specifications, or conditions of approval.
  - (2) There is a violation of any provision of the Land Use Code.
  - (3) The land use development approval was obtained by false representation; or
  - (4) The land use development approval was issued in error.
- (d) Notice of Revocation. Written notice of revocation shall be served upon the owner, owner's agent, applicant or other person to whom the land use approval was issued, by certified mail, return receipt requested, or such notice may be posted in a prominent location at the place of the violation. No work or construction or use of the property shall proceed after service of the revocation notice.

## **Division 3: Types of Application Processes**

### **Sec. 16-6-300. - Amendments to the Official Zoning Map.**

- (a) Initiation of Amendments to Text or Official Zoning Map. The Board of Trustees may from time to time amend, supplement, change or repeal the regulations and provisions of this Article. Amendments to the text of this Code may be initiated by the Board of Trustees, Town Staff or Planning Commission, or by written application of any property owner or resident of the Town. Amendments to the zoning district map may be initiated by the Board of Trustees, Town Staff, or the Planning Commission, or by a real property owner in the area to be included in the proposed amendment.
- (b) General Rezoning of the Town. Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of this Code, whether such revision is made by repeal of the existing land use and enactment of a new land use or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in, the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for fifteen (15) days prior to the public hearing on such amendments.
- (c) The Board of Trustees may amend the boundaries of any zone district as shown on the Official Zoning Map.
- (d) A zone change of individual property may be initiated by the Town, or by application filed by the landowner or landowners.

- (e) Town Initiated Zoning Change. Requests for zoning changes initiated by the Board of Trustees, Planning Commission, or Town Staff will be prepared as a draft ordinance by the Town Attorney and Town Staff. The Planning Commission shall hold a public hearing on the ordinance and shall make a recommendation to the Board of Trustees. The Board of Trustees shall hold a public hearing on the ordinance pursuant to the procedures in Section 16-6-210. In this instance, the Town shall be considered to be the applicant.
- (f) Owner Initiated Zoning Change of private property. The petitioner must be the owner of the property or the owners of all of the land affected by the application for zone change. The application shall be considered by the Planning Commission and the Board of Trustees as outlined in section (c) above.
- (g) Zoning Change Procedures
  - (1) Step 1: Preapplication Conference pursuant to Section 16-6-205.
  - (2) Step 2: Zoning Amendment Application Submittal. A complete application packet pursuant to 16-6-205 shall be submitted to the Community Development ~~Director~~[Department](#). In addition to the requirements in 16-6-205, the application shall include the following:
    - a. A zoning amendment map of the area included in the proposed change, on a sheet twenty-four (24) inches high by thirty-six (36) inches wide, with the following information:
    - b. North arrow, scale 1" = 100' or 1" = 200', and date of preparation.
    - c. The subdivision or block and lot name of the area to be zoned (if applicable) at the top of each sheet.
    - d. Legal description of the area to be zoned (entire area and individual zoning districts). In Unsubdivided property zone boundaries shall be determined by a metes and bounds description.
    - e. Location and boundaries, including dimensions, of the property proposed for the zone change. rezoning. Note: Zone boundaries are to be the centerlines of physical streets, roads, highways, alleys, railroad rights-of-way and channelized waterways, or such lines extended.
    - f. The acreage or square footage contained within the property proposed for rezoning.
    - g. All existing land uses in the proposed rezoning area.
    - h. Zoning and existing land uses on all lands adjacent to the proposed rezoning.
    - i. The location and dimensions for all existing public rights-of-way, including streets, and centerlines of watercourses within and adjacent to the rezoning.
    - j. The names of all adjoining subdivisions with lines of abutting lots and departing property lines of adjoining properties not subdivided.
    - k. Certificate blocks for the Surveyor, Planning Commission, Board of Trustees, and County Clerk and Recorder. (See appendices to this Chapter for examples certificate blocks.)

- I. An Auto CAD™ drawing file (Release 12 or higher) of the zoning amendment map on a flash drive or by other acceptable electronic transfer.
    - m. Surrounding and Interested Property Ownership Report pursuant to Section 16-6-230.
- (3) Step 3: Zoning Amendment Application Certification of Completion pursuant to 16-6-200.
- (4) Step 4: Staff Review and Report to Planning Commission. Staff shall complete a review of the submitted materials and prepare a report to the Planning Commission explaining how the application is or is not consistent with the Criteria for Amendments to the Official Zoning Map.
- (5) Step 5: Set Zoning Amendment Public Hearing and Complete Public Notification Process pursuant to Sections 16-6-220 and 16-6-230.
- (6) Step 6: Planning Commission Public Meeting and Action on the Zoning Amendment. The Planning Commission shall hold a public hearing to review the zoning amendment based on the Criteria for Amendments to the Official Zoning Map and make a recommendation to the Board of Trustees to approve, conditionally approve or deny the zoning amendment.
- (7) Step 7: Finalize Zoning Amendment based on Planning Commission Comments. If necessary, the applicant shall revise the zoning amendment application based on the Planning Commission's comments and submit it to the Community Development ~~Director~~[Department](#).
- (8) Step 8: Schedule Public Hearing by Board of Trustees pursuant to Section 16-6-220.
- (9) Step 9: Board of Trustees Public Hearing and Action on the Zoning Change Amendment. The Board of Trustees shall, after receiving the report and recommendations from the Planning Commission, hold a public hearing and act upon the proposed amendment. Following the required hearing, the Board of Trustees shall consider the comments and evidence presented at the hearing, evaluate the application in accordance with the criteria listed in Section 16-1-170, and approve, approve with conditions or deny the application, in whole or in part. No petition for rezoning shall be granted where, within one (1) year preceding the date of filing of such petition with the Town Clerk, a petition for the same changes of the zoning district on the property described in such petition has been denied.
- (10) Step 10: Post Approval Actions.
  - a. Upon approval of a zoning change amendment to the official zoning map by the Board of Trustees, the Community Development ~~Director~~[Department](#) shall cause an appropriate revision of the official zoning map to be prepared for-recording with the County Clerk and Recorder. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.
  - b. The applicant initiating the official zoning map amendment shall have thirty (30) days after approval of the amendment by the Board of Trustees to submit to the Community Development ~~Director~~[Department](#), two (2) Mylar copies, 24"x36", and two (2) blueline copies of the approved zoning amendment map for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment. The amended map shall be stamped by a Colorado- licensed surveyor or engineer. Inaccurate, incomplete or poorly drawn maps shall be rejected. In addition, the

petitioner shall submit one (1), eleven (11) inch by seventeen (17) inch Mylar reduction of the zoning amendment map, and a digital copy in AutoCAD™ or GIS format.

- c. Within thirty (30) days of receipt of the zoning amendment map, the Community Development ~~Director~~ Department shall review the documents for compliance with the Board of Trustees' approval, obtain the Town officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the Weld County Clerk and Recorder's Office for recordation.
- d. Map - Amendment upon Zoning Establishment or Modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

#### **Sec. 16-6-310. - Text Amendments to the Land Use Code.**

- (a) Text amendments. Amendments to this Chapter may be proposed by any person who is an owner of real property in the Town, by the Planning Commission, Town Staff, or by the Board of Trustees by filing an application packet as outlined in Section 16-6-205. Amendments to these regulations shall be known as text amendments and will be reviewed by the Planning Commission and the Board of Trustees pursuant to Sec 16.6.220 and 16-6-230.
- (b) Criteria for Text Amendments to the Land Use Code. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the text of this Chapter shall not be amended except:
  - (1) To correct a manifest error in the text of this Chapter.
  - (2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town Staff.
  - (3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Chapter; or
  - (4) To further the implementation of the goals and objectives of the Comprehensive Plan.
- (c) Upon approval of an ordinance amending, changing, or repealing part of the text of this Chapter, the Town Clerk shall certify a copy of the ordinance and place it in the official records of the Town and make appropriate supplements to this Chapter.

#### **Sec. 16-6-320. - Change of Use.**

- (a) Applicability. A change of use approval is required for any change from one use to another use in an existing building and where the new use is allowed by right in the zoning district.
- (b) Purpose. The purposes of the change of use approval are:
  - (1) Public safety as provided for in the building, fire, and health codes, and
  - (2) Availability of adequate services such as water and sewer.

## (c) Review Process.

- (1) Step 1: Pre-application meeting at the discretion of the applicant.
- (2) Step 2: Submit a change of use application packet pursuant to Section 16-6-205. In addition to the requirements in 16-6-205, the application shall include a site plan with the following information.
  - a. Title of project.
  - b. North arrow, scale 1" = 20' or as approved by the Town.
  - c. Name, address, and phone number of property owner.
  - d. Name, address, and phone number of the person preparing the drawing.
  - e. Date of preparation.
  - f. Bearings and distances of all lot lines.
  - g. Existing easements on the lot.
  - h. Footprint of any building or structures on the lot.
  - i. Building setbacks from all property lines.
  - j. Table of statistics including building gross floor area, height, and site coverage.
  - k. Floor elevation in USGS.
  - l. Location and size of water and sewer service to the building(s).
  - m. Architect's written analysis of the proposed use in compliance with the Land Use Code, Fire Code and Building Code.
  - n. Water Engineer's written analysis of the adequacy of water rights for the proposed use.
- (3) Step 3: Within fifteen (15) days of submittal, Staff review the change of use application for completeness pursuant to Section 16-6-200 and shall notify applicant if the application is complete and accepted.
- (4) Step 4: Staff distributes copies to other staff and appropriate reviewing agencies pursuant to Section 16-6-210.
- (5) Step 5: Within fifteen (15) days the other reviewers may submit comments to the Community Development ~~Director~~Department, who will forward all comments to the applicant.
- (6) Step 6: Community Development ~~Director~~Department reviews the comments and the use's compliance with the Land Use Code, previously approved site plans, and makes a decision on the change of use.
- (7) If the Community Development ~~Director~~Department determines the proposed change of use is permitted in the zoning district but is not in substantial compliance with previously approved site plans or site plan agreements, a new site plan application shall be submitted by the owner subject to the requirements in Section 16-6-370.

**Sec. 16-6-330. - Board of Adjustment (BOA).**

- (a) Board of Adjustment. Pursuant to C.R.S., § 31-23-307, a Board of Adjustment for the Town is created as outlined in Chapter 2, Article XI Board of Adjustment in the Milliken Municipal Code.
  - (1) The BOA shall have all powers granted to it by Section 31-23-307, C.R.S.
  - (2) The BOA shall have the power to interpret this chapter, including any uncertainty as to district boundary locations, or meaning of wording, so long as this interpretation is not contrary to the purpose and intent of this chapter.
  - (3) Pursuant to Chapter 2, Article XI of the Municipal Code, the Board of Adjustment shall not consider or grant variances to uses in the zoning district.

**Sec. 16-6-340. – Variances.**

- (a) Specific Plan Required. The BOA may authorize variances from the requirements of a zoning district based on unique or irregular physical circumstances or conditions that are unique to the land or building. Unless otherwise specified by the BOA, a variance runs with the land and succeeds to the benefit of subsequent owners under the terms and conditions of the approved variance.
- (b) Application. An application packet for a variance shall be submitted pursuant to Section 16-6-205.
- (c) Procedure. The BOA shall hold a public hearing on the variance pursuant to Section 16-6-220 and notice all adjoining property owners pursuant to Section 16-6-230. Any final determination of the Board of Adjustment shall be reported in writing over the signature of the chairperson of the BOA.
- (d) Criteria. In order to grant a variance to this Land Use Code, the Board of Adjustment shall find that all of the following have been satisfied:
  - (1) That there are unique physical circumstances or conditions such as irregularity, narrowness, or shallowness of the lot, or exceptional topographical or other physical condition particular to the affected property.
  - (2) That, because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of this Chapter.
  - (3) That due to such unique physical circumstances or conditions, the strict application of this Chapter would create a demonstrated hardship.
  - (4) That the demonstrable hardship is not self-imposed.
  - (5) That the variance, if granted, will not adversely affect the proposed development, or use of adjacent property or neighborhood.
  - (6) That the variance, if granted, will not change the character of the zoning district in which the property is located.
  - (7) That the variance, if granted, is in keeping with the intent of this Chapter.
  - (8) That the variance, if granted, will not adversely affect the health, safety, or welfare of the citizens of Town.



- (e) Board of Adjustment Public Hearing and Action on the Variance. The Board of Adjustment shall make the decision on variances at a regular meeting of the Board.
  - (1) The appellant, or the applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the Board of Adjustment.
  - (2) The BOA shall have all the powers of the applicable Town administrative official on the action appealed. The BOA may in whole or in part affirm, reverse, or amend the decisions of the applicable Town administrative official.
  - (3) The BOA may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of this Land Use Code.
  - (4) The BOA may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested.
  - (5) No single decision of the BOA sets a precedent. The decision of the BOA shall be made on the particular facts of each case.
  - (6) Variances granted by the Board of Adjustment shall be recorded with the County Clerk and Recorder at the expense of the applicant.
- (e) Any appeal of the decision of the Board of Adjustment may be made to the District Court as provided by law; provided however, that such appeal must be made prior to thirty (30) days following the date of the final action taken by the Board of Adjustment, as provided by Rule 106, Colorado Rules of Civil Procedure.

#### **Sec. 16-6-350. – Appeals.**

- (a) The Board of Adjustment (BOA) shall hear appeals and decide appeals where it is alleged that there is an error in any final order, requirement, decision or determination made by any administrative official of the Town charged with the enforcement of this Code.
- (b) Any aggrieved person may file an application for appeal pursuant to Section 16-6-205 within thirty (30) days following the final action or decision from which the appeal is taken and shall include all information required by the Town Attorney. The BOA shall hold a public hearing on the appeal pursuant to Section 16-6-220.
- (c) The BOA may reverse or affirm, wholly or in part, or may modify the final order, requirement, decision, or determination of the Town official where the BOA finds that the decision was beyond the official's duties, not in compliance with adopted regulations or was made in error.
- (d) An appeal from a final order, requirement, decision, or determination shall stay all proceedings unless the Town Administer certifies that such stay would cause imminent peril to life or property.
- (e) Any further appeal from the decision of the BOA may be made to the courts, as provided by law; provided, that such appeal is made prior to 30 days following the date of the BOA's decision.
- (f) Appeal Criteria for Approval. The Board of Adjustment, in hearing an appeal from an interpretation of this Land Use Code, shall consider:
  - (1) The technical meaning of the provision being appealed;

- (2) The positive or negative impact of the requested appeal on the achievement of stated Town development goals and objectives; and
- (3) The intent of the provision in implementing the Comprehensive Plan and the Community Design and Development Standards.

**Sec. 16-6-360. – Conditional Use Applications.**

- (a) All conditional uses specified in each zone district will be subject to a two-step review process.
  - (1) Step 1: Planning Commission review and recommendation.
  - (2) Step 2: Board of Trustees review and decision.
- (b) Applicants for a conditional use permit shall complete an application packet pursuant to 16-6-205.
- (c) The completed application packet and supplementary submittal materials shall be filed with the Community Development Department at least 30 days prior to the Planning Commission Public Hearing.
- (d) The Community Development ~~Director~~Department shall review the application packet pursuant to Section 16-6-210.
- (e) The Planning Commission shall hold a public hearing on the Conditional Use pursuant to Section 16-6-220 and notice shall be sent to all adjoining property owners pursuant to Section 16-6-230.
- (f) The Board of Trustees shall hold a public hearing on the Conditional Use pursuant to Section 16-6-220 within 45 days of the recommendation of the Planning Commission.
  - (1) Notice shall be sent to all adjoining property owners pursuant to Section 16-6-230.
- (g) The following criteria shall be used to evaluate the applicant's request:
  - (1) The conditional use is consistent with the intent, purpose and other uses of the zoning district in which it is proposed.
  - (2) The conditional use will satisfy all applicable provisions of the land use code and subdivision regulations unless a variance is being requested.
  - (3) The conditional use will conform with or further the goals, policies and strategies set forth in the Comprehensive Plan, and Milliken Parks, Open Spaces and Trails Master Plan.
  - (4) The conditional use will be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
  - (5) The conditional use will not substantially alter the basic character of the district in which it is proposed or jeopardize the development or redevelopment potential of the district.
  - (6) The conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent use or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.

- (7) Potential negative impacts of the conditional use on the neighborhood have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods. The applicant shall satisfactorily address the following impacts:
- a. Traffic;
  - b. Activity levels;
  - c. Light;
  - d. Noise;
  - e. Odor;
  - f. Building type, style, and scale;
  - g. Hours of operation;
  - h. Dust;
  - i. Erosion control; and
  - j. Effect on neighborhood character.
- (8) The applicant has submitted evidence that all applicable local, state, and federal permits have been or will be obtained.
- (h) Conditions imposed on any approved conditional use application may include but are not limited to time limits, future review and renewal of the permit, limits to quantities of material allowed on the site, pollution control measures, and enhancements to landscaping, screening or buffering requirements.
- (i) The Board shall approve the Conditional Use by Resolution. The Resolution shall be recorded with the Weld County Clerk and Recorder Office.

#### **Sec. 16-6-370. - Site Plan.**

- (a) Applicability. Site plan approval is required for a building permit for all multi-family, commercial and industrial developments as well as parks, open space, and trails. The only development where a site plan is not required is for a new single-family detached or single family attached development.
- (b) Site Plan Review Process.
- (1) Development applications involving less than 15,000 square feet of new, remodeled or an expansion of an existing structure or of land area shall be reviewed administratively. This includes review by the Community Development Department, Public Works, Town Engineer, Fire District, Building Official, and other referral agencies as needed in accordance with Section 16-6-210.
  - (2) Development applications involving more than 15,000 square feet and less than 25,000 square feet of new, remodeled or an expansion of an existing structure or of land area require one (1) properly noticed public hearing in front of the Planning Commission in accordance with Sections 16-6-220 and 16-6-230.
  - (3) Development applications involving any new construction, remodel or expansion of any

existing structure requires properly noticed public hearings before both the Planning Commission and the Board of Trustees in accordance with Sections 16-6-220 and 16-6-230.

(c) Site Plan Submittal Requirements.

(1) Step 1: Submit a complete application packet pursuant to 16-6-205. In addition to the requirements in 16-6-205, the application shall include the following:

a. Site Plan The site plan 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.
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 outdoor 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 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.
38. A land use chart (table).
- ~~39. Certificate blocks for signatures of owner, surveyor, and Town approval.~~
- b. 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.

1. Eligibility assessment for historic designation.
2. Statement of significance.
3. 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.

c. Rare species occurrence survey (from U.S. Fish and Wildlife Service).

d. 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: Certification of Completion pursuant to 16-6-210.

(3) Step 3: Referral to Agencies pursuant to 16-6-220. The comment period shall be twenty-one (21) days.

(4) Step 4: Staff Reviews Application and Prepares Comments. Staff will review the site plan and referral agency comments to ensure it is consistent with the site plan review criteria. Following the review, Staff will prepare a written report outlining any changes that the applicant must make before the site plan can proceed forward in the process. This report will be forwarded to the applicant.

(5) Step 5: Applicant Addresses Staff Comments. The applicant shall address all of the Staff and referral agency comments, and 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: Schedule Public Hearing and Notice property owners for sites 15,000 square feet and larger pursuant to 16-6-220 and 16-6-230.

(7) Step 7: Planning Commission Public Hearing and Decision. The Planning Commission shall hold a public hearing to review applications for buildings between based on the site plan review criteria. The Planning Commission shall then approve, approve with conditions, or deny the application based on the criteria in Step 11. The Planning

Commission may forward an application to the Town Board of Trustees for approval if they deem it necessary.

- (8) Step 8 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.
- (9) Step 9: 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 shall be secured by a surety in a form approved by the Town.
- (10) Step 10: Board of Trustees Public Hearing and Public Notification Process for Projects over 25,000 sq. ft. or if Planning Commission forwards the application for action, public notification and hearing procedures will follow in accordance with Sections 16-6-220 and 16-6-230.
- (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 hearing in accordance with Sections 16-6-220 and 16-6-230. The Board of Trustees may approve, conditionally approve, or deny the site plan based on the meeting the following review criteria.
- a. All of the information required on a site plan is shown.
  - b. The lot size and lot dimensions are consistent with what is shown on the approved final plat.
  - c. No buildings or structures infringe on any easements.
  - d. The proposed site grading is consistent with the requirements of the current Town Master Drainage Plan, on file at the Town Hall.
  - e. The proposed improvements conform with Division 4, Article III of this Chapter.
- (12) Step 12: Post - Approval Actions.
- a. Submit and Record Site Plan. Upon approval of a site plan, the applicant shall have thirty (30) days to submit two (2), 24"x36", original signed 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 applicant.
  - b. Building Permit. A building permit shall be issued only when a site plan has been approved and recorded.
  - c. 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.
  - d. Phasing and Expiration of Approval. If no specific vesting is granted, 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 multi-phased 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) 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 (10%) threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, change of use, etc.), shall be considered as a new site plan application. Such amendments shall conform to the review procedures outlined in Section 16-6-340. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Section.

**Sec. 16-6-375. – Required Approval for Two Driveways on a Single Property.**

- (a) Applicability. If a landowner owns real property that is one (1) acre or more in size and is zoned A, AE or R-1E within the Town, they may apply for approval for two (2) driveways in accordance with the following review process.

(b) Review Procedure:

- (1) Step 1: Submittal. A complete application packet pursuant to 16-6-205 shall be submitted to the Community Development ~~Director~~[Department](#). In addition to the requirements in 16-6-205, the application shall include the following:
  - a. Plot plan. The plan shall be eleven (11) inches high by seventeen (17) inches wide and include the following:
    1. Title of project.
    2. North arrow, scale, and date of preparation.
    3. Name, address, and phone number of property owner.
    4. Legal description.
    5. Lot size and boundary.
    6. Existing and proposed easements and rights-of-way, including adjoining streets and sidewalks.
    7. Existing and proposed structures and their uses.
    8. Existing and proposed driveways of lot and driveways on adjacent properties.
    9. Certificate blocks for signatures of owner and Town approval.
    10. Written Explanation of Request and How It Complies with the Review Criteria.
- (2) Step 2: Application Certification of Completion pursuant to 16-6-200.
- (3) Step 3: Staff Reviews Two-Driveway Application and Prepares Comments based on the



following criteria:

- a. The two (2) driveways will not negatively affect vehicular traffic on the adjoining street or pedestrian traffic on the adjoining sidewalk.
  - b. The distance between two residential driveways, setback and construction requirements of the Design Criteria and Construction Specifications.
  - c. Driveways in the A, AE and RE zone districts shall be limited to one access point per 100 linear feet of lot frontage or part thereof.
  - d. The driveways will not negatively impact drainage and or utilities.
- (4) Step 4: Applicant Addresses Staff Comments. The applicant shall address Staff's comments and submit a final Plot Plan for review and approval, approval with conditions or denial of application.

**Sec. 16-6-380. - Plot Plan.**

- (a) Applicability. The plot plan is required for any building, structure, or for flatwork proposed to be constructed or placed on a single-family lot.
- (b) Purpose. The plot plan shows where the proposed building or structure will be located on the lot so that the Town can make sure that the proposed location will be in compliance with all Town regulations.
- (c) Plot Plan Process.
  - (1) Step 1: Submit Plot Plan Application Package. A complete application packet pursuant to 16-6-205 shall be submitted to the Community Development ~~Director~~[Department](#). In addition to the requirements in 16-6-205, the application shall include the following:
    - a. Plot Plan. The plot plan shall be a minimum of eight and one-half (8½) inches by eleven (11) inches and shall provide the following information:
      1. Title of project.
      2. North arrow, scale (1" = 20' or as approved by the Town) and date of preparation.
      3. Name, address, and phone number of property owner.
      4. Lot number, block number, and name of subdivision.
      5. Lot size (square footage).
      6. Bearings and distances of all lot lines.
      7. Existing easements on the lot.
      8. Footprint of the proposed building or structure, dimensioned.
      9. Square footage of the proposed building and the footprint of the proposed building.
      10. Distance from the proposed building or structure to all lot lines.
      11. All existing buildings or structures on the lot.

12. Driveway.
  13. Existing and/or proposed water and sewer service lines on the lot.
  14. Elevations of:
    - a. The finished floor for the house and garage.
    - b. The lot corners.
  15. Height of all proposed buildings.
  16. Street trees (right-of-way landscaping).
  17. Location of the garage within the building.
  - b. Demonstrate in written and/or graphic form how the proposed structure is consistent with the applicable "Development Standards" found in Article III of this Chapter.
  - c. Drainage Information. Provide the Town with information regarding how the lot will drain.
- (2) Step 2: Staff Reviews Plot Plan Application and Prepares Comments. The Community Development Staff will review the Plot Plan for compliance with the following criteria:
- (c) Plot Plan Review Criteria. The plot plan must meet the following review criteria:
- (1) All of the information needed on a plot 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 FHA standards (if insured by FHA); otherwise it shall meet the Town's approval. It shall also be consistent with the approved subdivision master grading and drainage plan.
  - (5) The density and dimensions shown conform with the density and dimensional standards in Section 16-2-50 of this Code or the approved PUD requirements.
  - (6) Step 3: Applicant Addresses Staff Comments. If necessary, the applicant will make all necessary changes to the plot plan.
  - (7) Step 4: Plot Plan Decision. Staff will complete final review of plot plan to ensure that the Plan is complete and complies with this Chapter. If the Plan is determined to be complete and in compliance, it is approved by Staff.

## **Division 4: Special Plans and Studies**

### **Sec. 16-6-410. Open Space and Ecological Characterization (OSEC) Plans.**

- (a) Applicability. All land development applications, with the exception of plot plan applications for individual single-family building permits, shall be accompanied by the appropriate open space plan. Each land development application shall include an ecological characterization report to

determine if additional areas within the development shall be preserved. Refer to Section 16-6-420 of this Article for a description of the ecological characterization report requirements.

(b) Submittal of the Plan. The OSEC Plan must be submitted with the following applications.

- (1) Preliminary OSEC Plan. Submit with a subdivision preliminary plat.
- (2) Final OSEC Plan. Submit with a subdivision final plat.
- (3) A Site Plan.

(c) Conceptual OSEC Plan.

- (1) Purpose. The intent of the conceptual open space and ecological characterization plan is to identify the resources on a site and show how they are integrated into the overall design for the project and the neighborhood.
- (2) Format. The plan shall be submitted as a separate map or combined with the landscape plan if it can be clearly illustrated and the scale is not greater than 1" = 200'.
- (3) Content. The plan shall contain the following:
  - a. A verbal and graphic description of the design intention and how the open space will function; and
  - b. Specific information required on the conceptual plan as listed in the table which follows.

(d) Preliminary OSEC Plan.

- (1) Purpose. The intent of the preliminary open space and ecological characterization plan is to discuss the details of how the open space will be used to organize the overall project design, illustrate how it will function in the overall neighborhood and define long-term maintenance requirements and responsibilities.
- (2) Format. Information shall be included on the preliminary landscape plan if it can be clearly illustrated and the scale is not greater than 1" = 100'.
- (3) Content. The preliminary open space and ecological characterization plan shall contain the following:
  - a. A description of the design intention and how the proposal is consistent with the purpose and intent of this Section; and
  - b. Specific information required on the preliminary plan as listed in the table which follows.

(e) Final OSEC Plan.

- (1) Purpose. The intent of the final open space and ecological characterization plan is to ensure that all phases of the final open space plan are consistent with the preliminary open space plan as approved during the preliminary plat; or, for a PUD development, to identify the resources on the site and discuss the details of how the open space will be used to organize the overall project design, and to illustrate how it will function in the

overall neighborhood and define long term maintenance requirements and responsibilities.

- (2) Format. Information shall be included on the final landscape plan if it can be clearly illustrated and the scale is not greater than 1" = 50', or as a separate map.
- (3) Content. The final open space and ecological characterization plan shall contain the following:
- a. A description of the design intention and how the proposal is consistent with the preliminary open space and ecological characterization plan.
  - b. Appropriate documentation (i.e., warranty deed, homeowners' association documents, conservation easement and open space management plan) that shows who will own and maintain the open space. The applicants shall develop an open space management plan. Technical information and assistance in developing the plan are available from the National Resources Conservation Service (NRCS), the local Colorado State University Cooperative Extension Service and the local Soil Conservation District; and
  - c. Specific information required on the final open space and ecological characterization plan as listed in the table which follows.

<b>OPEN SPACE AND ECOLOGICAL CHARACTERIZATION PLAN</b>			
<b>Information Required</b>	<b>Concept</b>	<b>Preliminary</b>	<b>Final</b>
Scale, north arrow, site boundary	✓	✓	✓
Existing and proposed streets	✓	✓	✓
Existing and proposed utilities and easements		✓	✓
Existing contours (2' intervals) - may use USGS for concept plan	✓	✓	✓
Existing site features, including ditches, trees, shrubs and native ground covers and any drainageways on the site. Indicate which plants will be preserved and method of preservation and which will be removed	✓	✓	✓
Indicate if there are floodplains, wetlands, wildlife habitat, endangered species, archaeological/historic areas or other resources and prominent views and how they will be preserved and integrated into the overall site design	✓	✓	✓

Show the species of wildlife using the area, times/seasons area is used and the "value" (feeding, watering, nesting, roosting, perching, cover) area provides for such species	✓	✓	✓
Show wildlife travel corridors	✓	✓	✓
Note the general ecological functions provided by the site and its features	✓	✓	✓
Show the bank, shoreline and high-water mark of any perennial stream or body of water on the site	✓	✓	✓
Illustrate how the open space network and pedestrian circulation system (both private and public) will function within the proposed development and surrounding neighborhood	✓	✓	✓
Show how the property will relate to the neighborhood parks and trails in the area (see Milliken Comprehensive Plan Land Use and Public Facilities Map)	✓	✓	✓
Indicate which areas will be irrigated and method of irrigation		✓	✓
Define areas to be considered open space and if they will be public or private	✓	✓	✓
Indicate how open space (i.e., pocket parks, trails, natural areas, etc.) will be used and maintained, including: erosion control, revegetation, irrigation and weed management, both during and after construction		✓	✓
Describe the design intention	✓	✓	✓
Conceptual design of neighborhood park (if applicable)		✓	✓

### **Sec. 16-6-420. - Environmental Considerations.**

- (a) Intent. The intent of this Section is to ensure that new development limits/mitigates its impact to wildlife and wildlife habitat and that it minimizes environmental impacts.
- (b) General Provisions.
  - (1) Protection of Wildlife and Natural Areas. To the maximum extent practical, development shall be designed to ensure that disturbances which occur to any natural area as a result of development shall be minimized through the use of natural buffer zones. If any development materially disturbs a natural area, the development project shall mitigate

such lost natural resource either on- or off-site. Any such mitigation shall be roughly proportional to the loss suffered as a result of the disturbance.

- a. Natural areas shall include: floodplains and floodways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens, prairie dog colonies over twenty-five (25) acres in size, remnant native prairie habitat, plains cottonwood galleries, and any wetland greater than one-quarter ( $\frac{1}{4}$ ) acre in size.
- b. The natural area buffer zone shall be used between natural areas and proposed development to ensure that the proposed development does not degrade the natural area. The size of the buffer zone shall be determined in conjunction with the Colorado Division of Wildlife or a Town-approved wetland or wildlife ecologist. The Town may decrease this buffer when strict application of this Paragraph will impose an exceptional and undue hardship upon the property owner or developer.
- c. Exceptions. The Board of Trustees may allow disturbance or construction activity within the natural area or natural area buffer zone for the following limited purposes: mitigation of development activities, restoration of previously degraded areas, emergency public safety activities and utility installations when such activities and installations cannot reasonably be contained within other nearby develop areas, construction of a trail that will provide public access for educational or recreational purposes, or the enhancement of the habitat value and/or other natural resource values of a natural area.
- d. Ecological Characterization. If the Town determines that the site likely includes areas with wildlife, plant life and/or other natural characteristics in need of protection, the Town may require the developer to provide a report prepared by a professional qualified in the areas of ecology, wildlife biology or other relevant discipline. The ecological characterization report should be included on the open space plan and describe the following:
  1. The wildlife use of the natural area showing the species of the wildlife using the area, the times or seasons the area is used by those species and the "value" (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species;
  2. The boundary of wetlands in the area and a description of the ecological functions and characteristics provided by those wetlands.
  3. Any prominent views from or across the site.
  4. The pattern, species and location of any significant native trees and other native site vegetation.
  5. The bank, shoreline and high-water mark of any perennial stream or body of water on the site.
  6. Wildlife travel corridors; and
  7. The general ecological functions provided by the site and its features.

- e. **Wildlife Conflicts.** If wildlife that may create conflicts for the future occupants of the development (including, but not limited to, prairie dogs, beaver, deer and rattlesnakes) are known to exist in areas adjacent to or on the development site, then the development plan must, to the extent reasonably feasible, include provisions such as barriers, protection mechanisms for landscaping and other site features to minimize conflicts that might otherwise exist between such wildlife and the developed portion of the site. Any impacts to wildlife must be referred to the Colorado Division of Wildlife and, in the case of threatened or endangered species, United States Fish and Wildlife Services.

## **Division 5: Planned Unit Development (PUD)**

### **Sec. 16-6- 500. - PUD Review Process.**

The application for a PUD in the Town of Milliken shall be subject to a three-faceted review process composed of the following:

- (a) Preapplication conference pursuant to Section 16-6-205.
- (b) A Master Development Plan (MDP); and
- (c) A Final Development Plan (FDP).
  - (1) If the applicant seeks to develop the project in phases, the Planning Commission and Board of Trustees may, in their discretion, postpone the obligation of the applicant to fulfill any of the submission requirements set forth in this article for any delayed phase of the project.
  - (2) These regulations are intended to be applicable to large as well as small project sites. Applicants are encouraged to combine subdivision with the PUD process where appropriate and after conferring with Town staff.

### **Sec. 16-6-510. - General Preapplication Conference.**

Prior to actual submission of the Master Development Plan application, the applicant shall participate in a preapplication conference pursuant to Section 16-6-205.

### **Sec. 16-6-520. - Master Development Plan.**

- (a) The complete application packet in accordance with 16-6-205 shall be submitted with detailed information to provide ~~facilitate~~ adequate review by decision-making bodies and the general public. The completed application shall be known as the PUD Master Development Plan. In addition to the requirements in 16-6-205, the application shall include the following:
  - (1) A legal description of the total site.
  - (2) Proof of ownership of all lands included in the Master Development Plan area.
  - (3) A description of the character of the proposed development, the goals and objectives of the project, an explanation of how the development incorporates innovative design, the rationale behind the assumptions and choices made by the applicant, and an explanation of the manner in which it has been planned to conform to the adopted Comprehensive Plan.

- (4) Statements clearly outlining the proposed maximum (up to and including) limits or amounts of all design standards (Article III of this Chapter) to be.
- (5) A general description of the proposed open space for the development and an explanation of how said open space shall be integrated with surrounding developments, both existing and proposed.
- (6) A development schedule for the Master Development Plan and submission of subdivision applications.
- (7) Quantitative data for the following:
  - a. Total number and type of dwelling units.
  - b. Approximate parcel size.
  - c. Proposed lot coverage ratios of buildings and structures.
  - d. Proposed gross and net residential, commercial, and industrial densities.
  - e. Amount of open space (parks, wetlands, trails, recreation sites, etc.).
  - f. Water and sewer demand for projected uses.
  - g. Environmental studies of the proposed site and Ecological Characterization Plan.
- (8) The proposed maximum height(s) of buildings, setbacks, and related dimensional standards within the PUD.
- (9) A letter from the school district stating their ability to accommodate the projected number of students generated by the development.
- (10) Graphic Documents. Supporting maps, plans and drawings that portray the basic concepts proposed in the application. The documents shall include, at a minimum, the following information.
  - a. A vicinity map at a legible scale.
  - b. The existing site conditions including topographic contours and watercourses, floodplains (i.e., 100-year), wetlands, unique natural features, and vegetation cover.
  - c. Proposed subdivision boundary lines and site designs in specific or prototypical form. The general location of all existing buildings and improvements. Preliminary architectural standards, elevations and planned construction materials of proposed buildings and structures.
  - d. General location and size in acres or square feet of areas to be conveyed, dedicated, or reserved as common and private open spaces, public open spaces or parks, recreational areas, school sites and similar public and quasi-public uses.
  - e. Existing and proposed circulation system of arterial and collector-type streets and major points of access to public rights-of-way for vehicle, pedestrian and bicycle traffic. Notations of proposed ownership, public or private, shall be included. The locations of local streets may be required at the discretion of the Planning Commission.
  - f. A generalized grading plan for streets requiring substantial cuts and fills.



- g. The proposed concept and general off-site connection methods for utility service including sanitary sewers, storm sewers, water, electric, gas, cable, and telephone lines.
  - h. Preliminary drainage plan for the entire project indicating proposed on-site facilities and treatment and abatement of drainage to adjoining properties.
  - i. A preliminary lighting plan indicating proposed on-site streetlight location, height, and fixture type.
  - j. Employment estimates and housing demand.
- (11) Additional Information. The Planning Commission may require additional information from the applicant to evaluate the character and impact of the proposed PUD on the Town, including fiscal impacts over the period of the generalized development schedule.
- (b) Approval Procedure.
- (1) Step 1: The completed application packet and supplementary submittal materials shall be filed with the Community Development ~~Director~~ Department at least 30 days in advance of the regular meeting date of the Planning Commission at which the Master Development Plan will be heard.
  - (2) Step 2: Within a reasonable time, the Community Development ~~Director~~ Department shall review the application and determine it is complete or send notice to the applicant of deficiencies. The applicant shall address the deficiencies and provide missing or updated information to the Community Development ~~Director~~ Department.
  - (3) Step 3: Upon determination that the application is complete, the Community Development Department shall refer the application to appropriate reviewing agencies in accordance with 16-6-210.
  - (4) Step 4: The Planning Commission shall hold a public hearing on the MDP in accordance with 16-6-220 and 16-6-230
  - (5) Step 5: The Planning Commission shall either recommend approval, approval with conditions, disapproval, or continue the hearing for 30 days. Consent of the applicant(s) is required for any continuance beyond 30 days. Lack of consent to continue or failure to reach agreement on negotiated items shall be deemed a recommendation of denial.
  - (6) Step 6: A Public Hearing before Board of Trustees shall be scheduled pursuant to Section 16-6-220 and 230 of this Article.
  - (7) Step 7: If the application is approved as presented, preconditioned, or denied, the Board of Trustees shall, by resolution~~ordinance~~, either approve~~grant~~ the necessary PUD designation, or disapprove said application. If approved, ~~the official zoning map of the Town shall be amended, and~~ the MDPPUD documents shall be recorded with the Weld County Clerk and Recorder.
  - (8) Step 8: Within six (6) months following the approval of the Master Development Plan, the applicant shall file an application packet for a Final Development Plan (FDP). For phased developments, an FDP must be filed for the first phase within six (6) months of approval of the MDP.

- (9) Step 9: If the applicant fails to apply for an FDP or the extensions of deadlines described above, then the Board of Trustees in its sole discretion may terminate the ~~MDPPUD and the undeveloped land shall revert back to the Master Development Plan~~. Subsequent action by the developer or their assignees to revive the ~~MDPPUD~~ after it has been allowed to expire will require a new application and subsequent review and public hearings pursuant to 16-6-200, 205, 210, 220 and 230 of this Article.
- (10) Step 10: Minor Amendment to the Master Development Plan. Minor changes of not more than 10% in development standards shall be process by the Community Development ~~Department~~~~Director~~. Any minor amendments beyond 10% but still considered minor by the Community Development ~~Department~~~~Director~~ shall be subject to review and consideration by the Planning Commission. Upon consideration of said changes, the Planning Commission shall take formal action in writing, either approving or disapproving the changes. This section shall serve as the mechanism for reviewing and approving changes and a substitute for the variance procedures provided elsewhere in these zoning regulations.
- (11) Step 11: Major amendments to the Master Development Plan include without limitation:
- A change in land use or development concept;
  - An increase in density or building coverage;
  - An increase in the maximum allowed height of structures;
  - A realignment of major circulation patterns or a change in functional classification of the street network;
  - A reduction in approved open space or common amenities;
  - A reduction of off-street parking.
- (12) Step 12: ~~When m~~Major amendments to the ~~MDP MDP involve a reduction of or an addition to the agreed upon amounts of land area or increases in the original negotiated development standards amounting to greater than 10 percent, said changes must be formally approved~~amended by the Board of Trustees. An application to amend the MDP shall be submitted for consideration and review according to the process outlined above.

### **Sec. 16-6-530. - Final Development Plan ("FDP").**

- (a) The FDP application is intended to specify design components of the PUD or portions thereof and provide for the review of additional items not required by the Master Development Plan. An FDP application may be made for all or a portion of the entire PUD district as previously approved at the Master Development Plan stage. All FDP's must include building locations and footprint dimensions. In any PUD, an approved FDP for all or portions of the district must be subdivided before any building permits may be issued for the construction of ~~structures in the approved portions of the district~~. The completed application shall be known as the FDP.
- (b) Submission Requirements. The FDP shall include all of the information required in the Master Development Plan in its finalized, detailed form plus any additional items included below. Omissions are caused to continue or deny the application.

- (c) Written Documents. The applicant shall submit a written statement which shall include the following additional information:
- (1) A final development schedule indicating the approximate date(s) when construction of the PUD or phases of said development can be expected to begin and to be completed.
  - (2) A description of the proposed open space to be provided at each stage of development; an explanation of how said open space shall be coordinated with surrounding developments; total amount of open space (including a separate figure for usable amount of open space); a statement explaining anticipated legal treatment of ownership and maintenance of common open space areas and the amounts and location of dedicated public open space.
  - (3) Copies of proposed final covenants, declarations, architectural design standards, grants of easements or other restrictions to be imposed upon the use of the land, including common open spaces, buildings, and other structures within the development.
  - (4) Final environmental studies of the proposed site(s) prepared and attested to by qualified professionals in the fields of soil quality, slope, topography, geology, water rights and availability, ground water conditions, and impact on wildlife.
  - (5) Any required dedication, documentation and/or improvement agreements and bonds plus a title insurance commitment dated not older than 30 days prior to application.
  - (6) Any new items not submitted with the Master Development Plan planned development plan.
  - (7) Quantitative data for the following: final number of dwelling units, densities, calculations for previously agreed upon design standards, and footprint sizes of all proposed buildings.
  - (8) A statement that integrates pertinent elements of any pre-annexation and development agreements and contracts negotiated with the Town.
  - (9) Final traffic impact study.
  - (10) Final utility and water plans.
- (d) Graphic Documents. The applicant shall submit finalized graphics which shall include the following information:
- (1) Any plan maps that have been revised since the Master Development Plan approval.
  - (2) Final landscape plan.
  - (3) The planned pedestrian, bicycle and vehicular circulation system including their interrelationships with the vehicular parking and unloading system, indicating proposed detailed treatments of points of conflict.
  - (4) An erosion control and stormwater plan.
  - (5) The proposed treatment of the perimeter of the PUD including materials and techniques used such as screens, fences, walls and landscape plan.
  - (6) Final drainage plan stamped by a licensed Colorado engineer.

- (7) Final engineering and construction plans for public improvements and private streets.
  - (8) A phasing plan if the development is approved for phased development.
  - (9) A detailed lighting plan depicting on-site streetlight location, height, and fixture type, with supplemental specifications.
  - (10) Such additional information as may be required by the Planning Commission or Board of Trustees necessary to evaluate the character and impact of the proposed PUD.
- (e) Approval Procedure.
- (1) Applications for a Final Development Plan shall be submitted in accordance with Section 16-6-205. The FDP must be in conformance with the Master Development Plan as approved or amended.
  - (2) The completed application packet and supplementary submittal materials shall be filed with the Community Development ~~Director~~ Department at least 30 days in advance of the regular meeting date of the Planning Commission at which the Final Development Plan will be heard.
  - (3) Within a reasonable time, the Community Development ~~Department~~ Director shall review the application and determine it is complete, or send notice to the applicant of deficiencies. The applicant shall address the deficiencies and provide missing or updated information to the Community Development ~~Department~~ Director.
  - (4) Upon determination that the application is complete, the Community Development Department shall refer the application to appropriate reviewing agencies in accordance with 16-6-210.
  - (5) The Planning Commission shall hold a public hearing on the FDP in accordance with 16-6-220 and 16-6-230.
  - (6) The Planning Commission shall either recommend approval, approval with conditions, disapproval, or continue the hearing for 30 days. Consent of the applicant(s) is required for any continuance beyond 30 days. Lack of consent to continue or failure to reach agreement on negotiated items shall be deemed a recommendation of denial.
  - (7) A Public Hearing before Board of Trustees shall be scheduled pursuant to Section 16-6-220 and 230 of this Article. The Board may approve ~~by ordinance~~, approve with conditions by resolution, or deny the application. If approved, the applicant shall provide two (2) signed mylars of graphic documents, and two (2) 24"x26" paper copies with original signatures.
  - (8) The Community Development ~~Department~~ Director shall review the application packet pursuant to Section 16-6-200.
- (e) No building permits shall be issued on land within the PUD until ~~an~~ the FDPs for that land has been all or a portion of the project area have been approved by the Planning Commission and Board of Trustees.
- (f) Amendments to the Final Development Plan. Minor changes of 10% or less in the location, siting, and height of buildings and structures may be authorized by the Community Development ~~Director~~ Department.
- (g) Approval for Amendments to the Final Development Plan. The following changes will require review and approval by the Planning Commission and Board of Trustees at a duly noticed public hearing:

- (1) A change in the use or character of the development.
  - (2) An increase in the overall land coverage of structures.
  - (3) An increase in the intensity and density of use.
  - (4) A reduction in approved open space.
  - (5) A reduction of off-street parking and loading spaces.
  - (6) A reduction in required pavement widths.
  - (7) An increase in height over what was originally approved.
  - (8) All other changes in use, or rearrangement of lots, blocks, and building tracts, or any changes in the provision of common open spaces may be made by the Board of Trustees after a report is prepared by the Community Development ~~Director~~ Department and upon recommendation by the Planning Commission. Such amendments may be made only if they are shown to be required by changes in conditions that have occurred since the FDP was approved or by changes in the Master Development Plan.
  - (9) Any changes which are approved for the FDP must be recorded as amendments in accordance with the procedure established for the recording of the initial FDP documents with the exception that prior to making its recommendation to the Board of Trustees, the Planning Commission shall hold at least one public hearing with the Community Development Department publishing notice of general description of said hearing in the official publication of the Town at least 15 days in advance of the hearing.
- (h) Review of Development Schedule. Each approved FDP must contain a detailed development schedule of public and private improvements. Town staff shall monitor the development schedule. Failure of the developer to substantially adhere to the approved schedule shall be cause for an FDP special review by the Planning Commission. Special review shall be conducted as a result of one or more of the following:
- (1) Failure to begin subdivision platting and/or draw building permits for construction as detailed in the approved development schedule within 18 months of the scheduled starting date or extensions thereto.
  - (2) Inactivity or documented lack of progress on any stage of the project for more than two years from the last completed benchmark in the approved development schedule, as determined by either the staff or Planning Commission.
- (i) FDP Special Review process. The FDP special review by the Planning Commission shall determine if the original assumptions and plans of the PUD are still appropriate. During the review, the developer may request that the development schedule be formally amended. If no amendment is granted, the Planning Commission shall forward a recommendation to the Board of Trustees that the FDP be declared null and void, in whole or in part.
- ~~(j)~~(i) Request for extensions to the starting dates by the developer. The Planning Commission may extend, for not more than two periods of 12 months each, the time for beginning the project.
- ~~(j)~~(k) The Board of Trustees shall hold a public hearing to amend or void the ~~PUD~~FDP. Said hearing shall be conducted in conformance with 16-6-220 and 230 of this Article. ~~If the Board~~

~~declares the PUD to be null and void, the PUD is stricken from the official zoning map shall be correspondingly amended. The lands shall revert to the zone district in effect prior to the PUD zoning, or shall be zoned Agricultural (A) District at the discretion of the Board.~~

**Sec. 16-6-540. - Periodic Reviews of All Planned Development Districts.**

The Planning Commission will conduct a review of each project on a biennial schedule commencing on or about the anniversary date of the FDP approval. No fees will be charged to the developer for these reviews. Developers of PUD projects may be asked by the Planning Commission or staff to appear at this review and make a progress report. The Planning Commission will decide and so note in the minutes as to whether adequate or no progress has been made by the developer.

**Sec. 16-6-550. - Open Space.**

- (a) General. The amount of open space required in a PUD shall be not less than 15% of the gross land area, expressed in acres and percentages. Open space shall be land areas not occupied by buildings, structures, parking areas, driveways, streets, or alleys. Said open space shall be devoted to landscaping, planting, patios, walkways, trails recreational areas and facilities, and preservation of natural features.
- (b) Open space negotiations are to be carried out in relation to the following criteria:
  - (1) Open space and/or landscaping must accompany all types of development.
  - (2) Larger open space areas are logically connected to each other and to external open spaces via linear path systems.
  - (3) Enhancement of the natural features of a development site.
  - (4) Degree of maintenance.
  - (5) Development of waterways and bodies of as a recreational amenity.
  - (6) Degree of public access to open spaces and recreational amenities.
  - (7) Maintenance. Open space shall comply with requirements of the Master Development Plan and annexation agreement.
  - (8) Landscape Plan. All multi-family, commercial and industrial uses within the PUD shall submit landscaping plans as required in site plan approval.
- (c) Administration and Maintenance. The following provisions shall govern the administration of the common improvements and open space in all PUDs approved pursuant to these regulations.
  - (1) The FDP shall be approved subject to the submission of legal instruments setting forth a plan or manner of permanent care and maintenance of all common improvements, open space, and other facilities provided by the FDP. No such instrument shall be accepted until approved by the Town attorney as to legal form and effect, and by the Board of Trustees. Such documentation shall conform to Section 24-67-105(6), C.R.S.
  - (2) The common open space and other facilities provided may be conveyed to a public agency or private association. If the common improvements, open space, or recreational facilities are conveyed to a private association, the developer shall file, as a part of the

aforementioned instruments, a declaration of covenants and restrictions, bylaws, and articles of incorporation that will govern the association.

**Sec. 16-6-560. - Other Provisions and Standards.**

- (a) Enforcement. The provisions of the approved FDP may be enforced by the Town and/or by the occupants, residents and owners of the PUD to the extent and in the manner provided by Section 24-67-106, C.R.S., as may be amended. In addition to and without limitation on such powers of enforcement, the approved PUD or the FDP of the development may provide for additional rights and remedies as against the landowner in the event of any violation of the provisions of the plan.

## ARTICLE VII - ANNEXATION

### **Sec. 16-7-10. - Purpose.**

The purpose of this Article is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the *Colorado Municipal Annexation Act of 1965*, as amended. This Article, in part, provides supplemental requirements for annexation pursuant to the *Colorado Municipal Annexation Act of 1965, as amended* and is not to be construed as altering, modifying, eliminating, or replacing any requirement set forth in that act, or any requirements set forth in other portions of this Code. In the event of a conflict between the act, the provisions of this Article or any requirements set forth in other portions of this Code, it is the expressed intent of the Board of Trustees that the more stringent provision shall control.

### **Sec. 16-7-20. - Responsibilities of Applicant.**

In addition to other duties imposed upon all applicants by this Code and the Colorado Municipal Act of 1965 (the "Act"), as amended, all applicants shall have the following responsibilities: The applicant is responsible for having a representative at all meetings of the Planning Commission and the Board of Trustees where the request is reviewed. Failure to have a representative present may cause to have the item withdrawn from the agenda of that meeting.

### **Sec. 16-7-30. - Annexation Policy.**

- (a) All annexations to the Town shall comply with the *Colorado Municipal Annexation Act of 1965* (Sections 31-12-104 and 31-12-105, C.R.S.).
- (b) All annexation shall comply with the annexation policies of the Town's Comprehensive Plan including:
  - (1) Annexation of enclaves may be accomplished for the purpose of improving the continuity of the Town's boundary and to provide more efficient and effective delivery of services.
  - (2) Annexation of unincorporated land may be accomplished in situations where the Town has the ability to serve or will have the ability to serve the annexed land.
  - (3) Annexation of land should mainly be limited to the Urban Growth Area of the Town as defined by the Framework Map.
  - (4) The fiscal impact of the annexation, if any, shall be determined by applying the Town's fiscal impact model to the present and proposed land use of the annexed area. The fiscal impact shall not be the sole determinant of annexation approval but shall be one of the determinants in a decision to annex land.

### **Sec. 16-7-40. Three-mile limitation and Three-Mile Plan.**

- (a) Except as otherwise provided in this Section, no annexation may take place that would have the effect of extending the Town's municipal boundary more than three (3) miles in any direction from any point of such municipal boundary in any one (1) year. Within the three-mile area, the contiguity required by Section 31-12-104(1)(a), C.R.S., may be achieved by annexing a platted street or alley, a public or private right-of-way, a public or private



transportation right-of-way or area, or a lake, reservoir, stream or other natural or artificial waterway. Such three-mile limit may be exceeded if such limit would have the effect of dividing a parcel of property held in identical ownership if at least fifty percent (50%) of the property is within the three-mile limit. In such event, the entire property held in identical ownership may be annexed in any one (1) year without regard to such mileage limitation.

- (b) The Comprehensive Plan, as amended, shall serve as and shall constitute the "plan in place" referenced in Section 31-12-105(1)(e), C.R.S., unless a different plan, supplement or revision is expressly adopted to serve as a plan in place. The plan in place may also be commonly referred to as the "Three-Mile Plan" and such plan shall be deemed automatically updated annually on January 1st of each year without further action by the Town unless a change or modification is necessary and is adopted by resolution or ordinance by the Town Board of Trustees. The absence of a specific reference in such plan to a particular parcel of land proposed for annexation shall not be interpreted as a statement of intent to not annex such parcel of land; it is the plan and intent of the Town Board of Trustees to evaluate and to consider for potential annexation all property within three (3) miles of the Town's then-existing municipal boundaries upon submission of a petition or as otherwise permitted by this Article and the Colorado Municipal Annexation Act of 1965, as amended.

#### **Sec. 16-7-50. - Annexation Application Process.**

- (a) The requirements as set forth in this Section may be waived or modified as determined by the Town Administrator or his or her designee based on the size of the proposed land area to be annexed and the timing and intensity of development proposed by the applicant. Requirements which cannot be waived include the petition, annexation map, zoning map, annexation impact report, or other requirements of the Colorado Municipal Annexation Act of 1965, as amended.
- (b) Persons comprising more than fifty percent of the landowners in the area and owning more than fifty percent of the area, excluding public streets and alleys and any land owned by the annexing municipality, who meet the eligibility for annexation may petition the Board of Trustees for annexation of said land.
  - (1) Step 1: Preapplication Conference. The applicant shall schedule a preapplication conference with the Community Development Department for the purpose of reviewing the Town's requirements, obtaining the annexation application materials and to discuss any special conditions pertaining to the annexation.
  - (2) Step 2: Annexation Application Submittal.
    - a. Application and Deposit Fees. A nonrefundable application fee as determined by the adopted Town Fee Schedule shall accompany each application. This fee is for the cost of the Town to process and review the application. A deposit as determined by the adopted Town Fee Schedule shall accompany each application for outside fees accrued by the Town for review and processing of the application. Any unused amount will be refunded to the applicant as per the fee and deposit agreement. The aforementioned fee and deposit may be waived at the discretion of the Town.
    - b. Annexation Map. All annexation maps shall be made with an engineer's scale, minimum scale to be one (1) inch represents one hundred (100) feet, shall be on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36)

inches, and shall also be submitted in electronic format. The annexation map shall contain the following information:

1. The date of preparation, the scale and a symbol designating true north.
  2. The name of the annexation. The name of the annexation shall be approved by Town Staff.
  3. The names, addresses, and phone numbers of the applicant and the firm or person responsible for preparing the annexation map.
  4. The legal description shall be provided in digital format in MSWord.
  5. Designation of the boundary that is contiguous to the Town and the length of the same.
  6. Lot and block numbers if the area is already platted.
  7. Existing and proposed easements and rights-of-way.
  8. Existing and requested zoning and acreage of each requested zone.
  9. Ownership of all parcels within and adjacent to the annexation.
  10. Appropriate certification blocks as directed by the Community Development Department.
  11. A digital copy of the annexation map shall be submitted.
- c. Concept Plan. All concept plans shall be made with an engineer's scale, at a minimum scale of one (1) inch represents one hundred (100) feet and shall be on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches. The concept plan shall contain the following information:
1. The date of preparation, the scale and a symbol designating true north.
  2. The name of the annexation. The name of the annexation shall be approved by Town Staff.
  3. The names, addresses, and phone numbers of the applicant and the firm or person responsible for preparing the concept plan.
  4. Existing and proposed easements and rights-of-way.
  5. Location and approximate acreage of proposed land uses including open space and public sites to be dedicated.
  6. Existing watercourses with adequate easements for flood control.
  7. Land Use Table that includes land uses (including oil and gas facilities and their required setbacks), approximate acreage of each land use, percentage of each land use, proposed density or floor area ratio and proposed number of dwelling units.
  8. USGS topographic contours, most current available.
  9. Proposed zoning of the property.

10. A digital copy of the concept map shall be submitted.
- d. Supportive information. The following supportive information may be submitted with the annexation map and master plan:
  1. Soils description and limitation.
  2. Preliminary utility plan.
  3. Floodplain information.
  4. Title Commitment. Such commitment must have an effective date less than thirty (30) days prior to the date of the submittal of the annexation petition.
  5. Mailing list and labels for county, special districts, irrigation ditch companies, mineral interest owners and adjacent property owners. The applicant is to provide a mailing address list and labels as required by the Town of all property owners within three hundred (300) feet of the boundaries of the annexation.
  6. In the case of flagpole annexations, a separate list and set of mailing labels of owners of property adjacent to the public right-of-way proposed to achieve contiguity.
  7. Descriptive Summary stating how the annexation is consistent with the goals, policies and strategies set forth in the Comprehensive Plan.
  8. Water Rights. Water rights sufficient for development of annexed land shall be provided to the Town. One-acre-foot, as the net amount delivered to the applicable treatment facility, per single-family residential unit or in an amount as determined by a water demand analysis for residential or non-residential development shall be applicable. Water rights shall be conveyed as units of the Northern Colorado Water Conservancy District or paid for based on the current market value as determined by the Town Administrator based upon current reliable sales information. Water rights shall be provided at the time of final plat approval or prior to the issuance of a building permit as determined by the Board of Trustees upon approval of the final plat.
  9. Zoning Map of Property to be Annexed. All zoning maps shall be made with an engineer's scale at a minimum scale of one (1) inch represents one hundred (100) feet, shall be on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches, and shall also be submitted in electronic format. The concept plan shall contain the following information:
    - a. The date of preparation, the scale and a symbol designating true north.
    - b. The name of the annexation. The name of the annexation shall be approved by Town Staff.
    - c. The names, addresses, and phone numbers of the applicant and the firm or person responsible for preparing the zoning map.
    - d. Existing and requested zoning and acreage of each requested zone. Type and maximum density, including gross and net density of residential land uses; and floor area ratios of nonresidential uses.
    - e. Legal description of the property.
    - f. All existing land uses within the parcels to be rezoned.

- g. Appropriate certification blocks as directed by the Community Development Department.
  - h. A digital copy of the zoning map shall be submitted.
  - i. Property tax statement.
  - j. Vicinity map with a radius of one and one-half (1½) miles, at a minimum scale of one (1) inch represents two thousand (2,000) feet.
  - k. Statement on community need for proposed annexation and zoning.
  - l. For all annexations in excess of ten (10) acres, the applicant shall obtain from the school district governing the area to be annexed a statement of the effect of the annexation upon the school district, including an estimate of the number of students generated by the proposed annexation.
- e. Annexation impact report. Required for any annexation over 10 acres. See Section 31-12-108.5, C.R.S., as amended, for requirements.
- 1. One (1) copy of the impact report shall be filed with the Board of County Commissioners governing the area proposed to be annexed within five (5) days thereafter. The preparation and filing of the annexation impact report may be waived upon approval of the Board of County Commissioners governing the area proposed to be annexed.
  - 2. The annexation impact report shall include the following:
    - a. A map or maps of the Town and adjacent territory.
      - (1) The present and proposed boundaries of the Town in the vicinity of the proposed annexation.
      - (2) The present streets, major trunk water lines, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation.
      - (3) The existing and proposed land use pattern in the areas to be annexed.
    - b. A copy of any draft or final pre-annexation agreement, if available.
    - c. A statement of the Town's plans for extending or providing for municipal services within the area to be annexed.
    - d. A statement of the Town's plans for the financing of municipal services to be extended into the area to be annexed.
    - e. A statement identifying all existing districts within the area to be annexed.
    - f. A statement of the effect of the annexation upon the school district governing the area to be annexed.
- (4) Step 3: Staff Certifies the Application and Petition is Complete. Within thirty (30) days, Staff shall either certify that the application and petition are 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 (as specified by the Community Development ~~Director~~Department) to the Town. If all documents are complete and accurate, the Community Development Department shall submit the annexation petition to the Town Clerk.
- (5) Step 4: Annexation Petition Referral to the Board of Trustees. The Town Clerk shall present the Annexation Petition and a Resolution initiating annexation proceedings to the Board of Trustees, which shall thereafter establish the dates for a public hearing.

- (6) Step 5: Publish Public Notice. At least thirty (30) days prior to the public hearing, the Town Clerk shall publish notice of the date, time, and place that the Planning Commission and Board of Trustees will be holding the public hearing. The notice must be published once a week for four (4) successive weeks.
- (7) Step 6: The Community Development ~~Director~~ Department refers Annexation Petition, Resolution and Maps to the County, Neighboring Municipalities and Special Districts. Upon the establishment of a public hearing date, the Town Clerk shall give appropriate notice in accordance with the Colorado Municipal Annexation Act of 1965, as amended, and shall specifically direct copies of the annexation petition, maps and the resolution initiating the annexation procedure by certified mail to the Clerk of the Weld Board of County Commissioners and the Weld County Attorney. Copies of the annexation petition, maps and the resolution initiating the annexation procedure shall also be sent by certified mail to any school district or special district having territory within the annexed area and all municipalities within three (3) miles of the subject property. These copies shall be sent at least twenty-five (25) days prior to the public hearing.
- (8) Step 7: Referral of the Annexation to Interested Parties. Upon acceptance of the signed annexation petition by the Board of Trustees, staff shall send copies of the annexation materials to all referral agencies. Such agencies shall be advised of the scheduled hearing date and shall further be notified that any objections to the annexation and concept plan must be submitted to the Town in writing no later than fourteen (14) days after receipt of the annexation map and master plan.
- (9) Step 8: Town Clerk Files the Annexation Impact Report. The Town Clerk shall file one (1) copy of the Annexation Impact Report with the Board of Weld County Commissioners at least twenty (20) days before the date of the first public hearing.
- (10) Step 9: Posting of Property and Notification.
- a. Using the mailing list provided by the applicant, notification shall be sent by the Town via first-class mail to the all owners of property within three hundred (300) feet of the property proposed for annexation, mineral interest owners of the property and irrigation ditch companies no later than twelve (12) days before the first public hearing.
  - b. The applicant shall post the property with a notice of the public hearings at least twelve (12) days prior to the first public hearing. The sign shall meet the standards determined by the Community Development Department.
- (11) Step 10: Annexation Agreement. The Community Development Department shall coordinate discussion among the applicant and appropriate representatives of the Town regarding the provisions of an annexation agreement. The agreement shall be in a form provided by the Town. A draft agreement shall be prepared in advance of the Town Board Public Hearing.
- (12) Step 11: Planning Commission Review and Recommendation.
- a. The Planning Commission shall consider the petition for annexation and zoning of the property at a regular or special meeting to be held prior to the date of the public hearing before the Board of Trustees.
  - b. The Planning Commission shall, by resolution, recommend approval of the petition for

annexation and zoning with or without modifications and/or conditions, or recommend denial. The Planning Commission shall refer any such recommendation to the Board of Trustees.

- (13) Step 12: Board of Trustees Public Hearing. Upon the submission of documentation in accordance with this Article and upon compliance with the notice and hearing requirements as set forth in the *Colorado Municipal Annexation Act of 1965*, as amended, the Board of Trustees may consider the approval of an ordinance annexing and zoning the subject property to the Town. Before approval or denial of the ordinance to annex the subject property, the Board of Trustees per Section 31-12-110, C.R.S., shall set forth a finding of facts through a resolution regarding compliance with Sections 13-12-104 and 13-12-105, C.R.S., as amended, and whether or not an election is required. If the Board of Trustees, in its sole discretion, finds that the annexation is not in the best interest of the Town, it may deny the petition by resolution, stating the grounds for such denial. In the event the Board of Trustees considers and disapproves such ordinance, no similar request may be heard for a period of one (1) year from the date of denial.
- (14) Step 13: Final Submittal. In the event the Board of Trustees approves the annexation and zoning ordinance, the applicant shall submit to the Town Clerk two (2) Mylars of the final annexation and zoning maps within ten (10) days of the effective date of the ordinances.
- (15) Step 14: Record the Documents. The Town Clerk shall record two (2) certified copies of the annexation and zoning maps and the signed annexation agreement, if any, with the Weld County Clerk and Recorder Office.

**Sec. 16-7-60. - Review Criteria.**

- (a) It shall be the general policy of the Town with respect to annexations and the consideration of annexation petitions that:
- (1) Annexation is a discretionary act. With the exception of an initiated petition for the annexation of an enclave, the Board of Trustees shall exercise its sole discretion in the annexation of territory to the Town.
  - (2) The property is eligible for annexation if the annexation complies with the *Colorado Annexation Act of 1965* (Sections 31-12-104 and 13-12-105, C.R.S.), as amended.
  - (3) All annexations shall comply with the annexation policies of the Town's Comprehensive Plan.

## Article VIII - Definitions

### Sec. 16-8-100. - General.

- (a) Words or phrases contained in this Chapter are those having a specific meaning in this Land Use Code.
- (b) Words not listed in this Article are defined by a published standardized dictionary.
- (c) Interpretation and Rules of Construction are outline in Section 16-1-50 "Interpretation and Rules of Construction."

### Sec. 16-8-200. - Definitions of Words, Terms and Phrases.

*100-Year Flood* is the flood level having a one percent chance of occurring in a year.

*Access* means the place, means or way by which vehicles and persons shall have safe, adequate, and usable ingress and egress to a property, a use, or a parking space.

*Accessible* means approachable, enterable, and usable by persons with disabilities.

*Accessory building or structure* means a building or structure that has less square footage than the principal building ~~or structure~~ and is ~~clearly~~ subordinate to the principal ~~use or structure~~ and located on the same lot or parcel ~~or an adjacent lot or parcel~~ serving a purpose that is customarily incidental to the principal use ~~or structure~~.

*Accessory use* means a subordinate use, clearly incidental and related to the main structure, building or use of land, and located on the same lot as that of the main structure, building or use.

*Accessory Dwelling Unit.* A second, subordinate dwelling unit located on the same lot as a primary dwelling unit or commercial unit. The unit includes its own independent living facilities with provisions for sleeping, cooking, and sanitation, and is designed for residential occupancy independent of the primary dwelling unit or commercial unit. The unit may have a separate entrance or an entrance to an internal common area accessible to the outside.

~~*Accessory solar energy system* means a device or facility that converts the sun's radiant energy into thermal, chemical, mechanical, or electrical energy and has a combined name plate DC rating of less than fifteen (15) kilowatts, and includes the equivalent kilowatt measurement of energy for systems other than photovoltaic.~~

*Adjacent* means meeting or touching at some point, or separated from a lot or parcel by one (1) of the following: a street, alley or other right-of-way, lake, stream or open space.

*Adjacent property owner* is an owner of record of any estate, right or interest in real property abutting the subject property.

*Adult-oriented use* means a use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to *specified sexual activities* or *specified anatomical areas* as the primary attraction to the premises, including but not limited to:

*Adult arcade* means any place to which the public is permitted or invited wherein coin-operated, slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

*Adult bookstore* or *adult video store* means a place where books, magazines, motion pictures, prints, photographs, periodicals, video or audio recordings, novelties and devices, or any of these things, which have, as their primary or dominant theme, matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas, are sold or offered for sale to adults and includes a place with only a portion or section of its area set aside for the display or sale of such material to adults; except that any place, otherwise included within this definition, that derives not more than ten percent (10%) of its gross income from the sale of such material shall be exempt from the provisions of this Section so long as such material is kept in a location where it is not visible and shall not be a self-service item for the customers of such place.

*Adult cabaret* means a nightclub, bar, restaurant or similar business which regularly features:

1. Persons who appear in a state of nudity;
2. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
3. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

*Adult motel* means a hotel, motel or similar business which offers private rooms to the public and provides patrons with live performances or closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

*Adult motion picture theater* means a business where films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

*Adult photo studio* means any establishment that, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas.

*Adult theater* means a theater, concert hall, auditorium or similar business which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

*Peep booth* means a viewing room, other than a private room, of less than one hundred fifty (150) square feet of floor space upon the premises of a sexually oriented business where there are exhibited photographs, films, motion pictures, video cassettes or other video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.



*Private room* means a room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.

*Sexual encounter establishment* means a business or commercial establishment which, as one (1) of its primary business purposes, offers for any form of consideration a place where two (2) or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas, when one (1) or more of the persons exposes any specified anatomical area.

*Sexually oriented business* means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or other similar business and includes:

1. The opening or commencement of any sexually oriented business as a new business;
2. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;
3. The addition of any sexually oriented business to any other existing sexually oriented business;
4. The relocation of any sexually oriented business; or
5. The continuation of a sexually oriented business in existence on the effective date of the initial ordinance codified herein.

*Specified anatomical areas* means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point above the top of the areola.
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

*Specified sexual activities* means acts, simulated acts, exhibitions, representation, depictions or descriptions of:

1. Human genitals in a state of sexual stimulation or arousal.
2. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
3. Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.
4. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function.
5. Flagellation, mutilation or torture for purposes of sexual arousal, gratification or abuse.

*Stage* means a raised floor or platform at least three (3) feet above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least thirty-six (36) square feet in area.

*Affordable housing project* means a development project in which: (1) at least seventy-five percent (75%) of the gross acreage to be developed under the plan is to be developed as

residential dwelling units or mobile home park spaces; (2) at least ten percent (10%) of said dwelling units or spaces (the *affordable housing units*) are to be available for rent or purchase on the terms described in the definitions of *affordable housing unit for rent* or *affordable housing unit for sale* (as applicable); (3) the construction of the dwelling units or spaces is to occur as part of the initial phase of the project and (a) prior to the construction of the market rate units or (b) on a proportional basis, according to the same ratio as the number of affordable units bears to the number of the market rate units; and (4) the units will be required by binding legal instrument acceptable to the Town of Milliken and duly recorded with the Weld County Clerk and Recorder, to be occupied by and affordable to low-income households for at least twenty (20) years.

*Affordable housing unit for rent* shall mean a dwelling unit which is available for rent on terms that would be affordable to households earning eighty percent (80%) or less of the median income of Town of Milliken residents, as adjusted for family size, and paying less than thirty percent (30%) of their gross income for housing, including rent and utilities. The unit must be occupied by and be affordable to such low-income households for a period of at least twenty (20) years or permanently.

*Affordable housing unit for sale* shall mean a dwelling unit which is available for purchase on terms that would be affordable to households earning eighty percent (80%) or less of the median income of Town of Milliken residents, as adjusted for family size and paying less than thirty-eight percent (38%) of their gross income for housing, including principal, interest, taxes, insurance, utilities and homeowners' association fees. The unit must be occupied by and affordable to such low-income households for a period of at least twenty (20) years or permanently.

*Agriculture* shall mean farming, including plowing, tillage, cropping, utilization of best management practices, seeding, cultivating or harvesting for the production of food and fiber products (except commercial logging and timber harvesting operations); the grazing or raising of livestock (except in feedlots); nurseries, tree farms, aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products.

*Agricultural education and research* means teaching or research about agriculture, food and natural resources in order improve the quality of food, farming, or the environment.

*Alley* means a minor or secondary way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

*Alternative tower structure* means man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflage or conceal the presence of antennas or towers so as to make them architecturally compatible with the surrounding area pursuant to Chapter 16 of this Code. This term also includes any antenna or antenna array attached to an alternative tower structure. A stand-alone pole in the right-of-way that accommodates small cell facilities is considered an alternative tower structure to the extent it meets the camouflage and concealment standards of this Chapter.

*Animal boarding* shall mean the operation of an establishment in which domesticated animals are housed, groomed, bred, boarded, trained, or sold.

*Animal unit* is a term and number to establish an equivalency for various species of livestock.

*Antenna* means any exterior apparatus used to transmit and/or receive radio, telephone, television, or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one (1) or more elements, multiple antenna configurations, or other similar devices and configurations.

*Applicant* means the owner of land, the owner's authorized representative or the optionee of the land, as well as mineral owners and lessees a person submitting an application for development, a permit or other required approval under this Code.

*Application for development* refers to those types of applications that require mineral estate notification pursuant to CRS 24-65.5-103.

*Aquifer recharge area* means an area where water is absorbed into a natural aquifer adding to the zone of saturation.

*Articulate or articulated* ~~means articulation~~ means to delineate spaces so different functions are clear and architecture is meaningful.

*Assisted living* means a residential facility that provides meals and assistance with daily activities, such as dressing, grooming, and bathing for the elderly or adults who are unable to manage these activities themselves.

*Automotive repair* means an establishment primarily engaged in the repair or maintenance of passenger and light truck-oriented motor vehicles, trailer and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune-ups and transmission work, car washing, detailing, polishing or the like, provided that it is conducted within a completely enclosed building. Such may include the sale of fuel, gasoline or petroleum products.

*Awning sign* means a wall sign which is painted, stitched, sewn or stained onto the exterior of an awning.

*Banner* means a temporary sign of flexible material (e.g. cloth, foam core, paper, vinyl, plastic, etc.) with only such material for a backing, which projects from, hangs from or is affixed to a building or structure.

*Bar or tavern* means an establishment providing or dispensing fermented malt beverages and/or malt, vinous or spirituous liquors and in which the sale of food products such as sandwiches or light snacks is secondary; includes nightclubs and lounges.

*Base Station* means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of base station does not include or encompass a tower as defined herein or any equipment associated with a tower. Base station includes, without limitation:

1. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including distributed antenna systems ("DAS") and small-cell networks.

The definition of Base Station does not include any structure that, at the time the relevant application is filed with the Town under Chapter 16, does not support or house equipment described in paragraphs 1 and 2 above.

*Beacon, revolving* means a rotating source of light.

*Bed and breakfast* means an overnight lodging establishment that provides short-term lodging for a charge to the public, generally for periods of less than one (1) month, having an owner or manager residing on the site.

*Bikeway* means a path designed for use by bicyclists, which may be used by pedestrians.

*Blank wall* shall mean an exterior building wall with no openings and a single material and uniform texture on a single plane.

*Block* means a unit of land, or a group of lots, bounded by streets or by a combination of streets and public lands or other rights-of-way other than an alley, waterways or any barrier to the continuity of development, or land which is designated as a block on any recorded subdivision plat.

~~*Block Diversity Plan* is a plan provided by an applicant that demonstrates that an adequate mix of housing models and styles are offered within a neighborhood and within each block face. The intent is to ensure that diverse and quality design elements are integrated into the character of residential homes and streets.~~

*Block-face* means one (1) side of a street between two (2) consecutive features intersecting that street (such as one (1) side of a Town block between two intersecting streets).

*Board of Adjustment or BOA* means a special review board operating under the authority of the Milliken Municipal Code for purposes of hearing and deciding appeals or variances.

*Board of Trustees (Board)* means the governing board of the Town of Milliken.

*Boarding and rooming house* means a building or portion of which is used to accommodate, for compensation, five (5) or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building, under tenancies of at least one-week duration, and not including hotels, motels and lodges.

*BOCC* means the Weld County Board of County Commissioners.

*Bollard* means a short, thick post used to divert traffic from an area, road or object.

*Brew pub or microbrewery* means a restaurant or tap room that sells beverages (beer and other malt liquors) brewed on the premises.

*Brewery* means a building or establishment that creates ales, beers, meads, wines, spirits, and/or similar beverages on site or for wholesale production.

*Building* means any structure used or intended for sheltering ~~any use~~ or occupancy which includes a roof supported by walls and/or columns and is partially or fully enclosed by walls including one or more openings such as doors and walls.

*Building code* means and includes any law, ordinance or code which is in force in the Town and which pertains to the design and construction of buildings and other structures.

*Building frontage* means the building face on which the primary entry is located. There can be only one (1) building frontage per building.

*Building height* means the vertical distance from the highest point of the structure to the average of two points:

- (1) The highest finished grade adjoining the building, and
- (2) The lowest finished grade adjoining the building (excluding window wells and similar below grade features).

~~For purposes of calculating the height of building, the finished grade shall not be artificially manipulated to gain more than six (6) inches in overall height.~~

*Building Official* means the officer or other designated authority charged with the administration and enforcement of the adopted building code, or a duly authorized representative.

*Caliper* means the American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six (6) inches above the ground for trees up to and including four-inch caliper size, and as measured at twelve (12) inches above the ground for larger sizes.

*Camouflage, concealment, or camouflage design techniques* means a wireless communication facility (WCF) is camouflaged or utilizes camouflage design techniques when any measures are used in the design and siting of a WCF with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes camouflage design techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, or (iii) uses a design which mimics and is consistent with the nearby natural or architectural features (such as an artificial tree) or is incorporated into (including without limitation, being attached to the exterior of such facilities and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.

*Campground* means a parcel of land used or intended to be used, let, or rented for overnight or short-term occupancy by campers, trailers, tents, or recreational vehicles.

*Canopy sign* means a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

*Carport* means a covered structure used to offer limited protection to vehicles, primarily cars, and other personal items from the elements. The structure can either be free standing or attached to a wall, and it is open on two or more sides.

*Cash-in-lieu* (also known as *fee-in-lieu*) means that the applicant, at the determination of the Board of Trustees, may pay the Town of Milliken money instead of land dedication in those cases where the dedication of land is not the Town's preferred alternative.

*CDOT* means the Colorado Department of Transportation.

*Character* means those attributes, qualities and features that make up and distinguish a development project and give such project a sense of purpose, function, definition, and uniqueness.

*Childcare center* means a facility that is not a residence, is licensed by the State, and is maintained for the whole or part of a day for the care of children under the age of sixteen (16) years not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes pursuant to Section 26-6-102(1)(6), C.R.S.; including without limitation facilities commonly known as day care centers, day nurseries, nursery schools, kindergartens, preschools, play groups, day camps, summer camps and centers for developmentally disabled children, except that the term shall not apply to any kindergarten maintained in connection with a public, private or parochial elementary school system.

*Civic facility* means a facility which is primarily intended to serve the recreational, educational, cultural, administrative or tourism and entertainment needs of the community as a whole, such as museums, libraries, senior centers, and similar establishments serving a public or quasi-public purpose, but excluding public and private schools.

*Clubs and lodges* mean a membership organization catering exclusively to members and their guests, whose facilities are limited to use by the membership except on occasion, and whose activities are not conducted principally for monetary gain.

*Collocation* means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

*Code* means the Milliken Municipal Code, as may be amended from time to time.

*Colorado Revised Statutes, or C.R.S.*, means the codified laws of the State of Colorado, as the same may be amended from time to time.

*Commercial* means an activity involving the sale of goods or services carried out for profit.

*Commercial garage* means an indoor area for repairing and servicing motor vehicles for profit.

*Commercial mineral deposit* means an area in which minerals are located in sufficient concentrations in veins, deposits, bodies, beds, seams, fields, pools or otherwise as to be capable of economic recovery; the term includes but is not limited to any area in which there has been significant mining activity in the past, there is significant mining activity in the present, mining development is planned or in progress, or mineral rights are held by mineral patent or valid mining claim with the intention of mining; the phrase also includes a *commercial mineral deposit* as defined in Section 34-1-302, C.R.S.

*Common area* means any portion of a development that is designed for the common usage of the owners and residents within a development. These areas may include plazas, private parks and open spaces, and in some cases parking lots and pedestrian walkways. Maintenance of such areas is the responsibility of a private entity,

and is normally set forth in the form of private restrictive covenants, which guarantee the private maintenance of these areas.

*Common open space* means a parcel of land, an area of water, or a combination of land and water not covered by buildings, parking areas, driveways or other impervious surfaces. Open space shall be devoted to the purpose of outdoor living spaces for the residents and may include lawn areas, walkways, sitting areas, courtyards and the like.

*Community Development Director* means the director of the Community Development Department in the Town of Milliken or his/her designee.

*Compatibility* means the characteristics of different uses, activities or design which allow them to be located near or adjacent to each other in harmony.

*Comprehensive Plan* means the Town of Milliken Comprehensive Plan.

*Concept plan* means an accurate graphic representation drawn to scale of the proposed development of a particular site which indicates in a conceptual form the proposed and surrounding land uses. The plan may include, but not be limited to, the intended lot lines, general uses, likely ranges of square footages of the proposed uses and the general location of building and parking areas, points of access, primary internal circulation, existing contour lines, existing easements and required dedication areas for public facilities. The concept plan shall contain the information required in the concept plan application provided by the Department.

*Conditional use* means a use that is generally compatible with the other uses permitted in a zone district, but which requires site-specific review of its location, design, configuration, density, intensity and operating characteristics, and may require the imposition of appropriate conditions in order to ensure compatibility of the use at a particular location, to mitigate its potentially adverse impacts and to ensure that it complies with all of the standards of this Chapter.

*Condominium unit* means a physical portion of a common interest community which is designated for separate ownership or occupancy and the boundaries of which are described or determined in the declaration.

*Congregate care* means assisted living with support services for more than eight (8) individuals.

*Congregate living facilities* means a building or part thereof that contains sleeping units where residents on a temporary basis share bathroom and/or kitchen facilities such as a fire station or health care facility.

*Connecting walkway* means:

- a. Any street sidewalk; or
- b. Any walkway that directly connects a building entrance to the street sidewalk, and connects other origins and destinations for pedestrians, including but not limited to commercial establishments, schools, parks, dwellings, work places and transit stops, without requiring pedestrians to walk across parking lots or driveways, around buildings or following parking lot outlines which are not aligned to a logical route.

*Conservation easement* means a right of the owner of the easement to prohibit certain acts with respect to the property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space or historical importance. See also Section 38-30.5-102, C.R.S.

*Container* (also known as cargo or shipping container) means a truck trailer body that can be detached from the chassis for loading into a vessel, a rail car or stacked in a container depot. Containers may be ventilated, insulated, refrigerated, flat rack, vehicle rack, open top, bulk liquid or equipped with interior devices. A standard container may be twenty (20) feet, forty (40) feet, forty-five (45) feet, forty-eight (48) feet or fifty-three (53) feet in length, eight (8) feet or eight (8) feet six (6) inches in width, and eight (8) feet six (6) inches or nine (9) feet six (6) inches in height.

*Courtyard* means an open, unoccupied space on the same lot with a building and bounded on three (3) or more sides by such building.

*Covenants* means a private written agreement outlining regulations specific to a development.

*Cul-de-sac* means a local street with only one (1) outlet and having the other end for the reversal of traffic movement.

*Curb cut* means the length of an opening in the curb along a roadway that allows vehicular access to an abutting development site.

*Dedication* means any grant by the owner of a right to use land for the public in general, involving a transfer of property rights, and an acceptance of the dedicated property by the appropriate public agency.

*Density, gross* means the average number of dwelling units or gross commercial building floor area per acre for the entire development area or site (property boundaries).

*Density, net* means the average number of accommodation and/or dwelling units or gross commercial building floor area per acre, except all land areas dedicated for public or private joint use for the entire development area such as streets, parking, drives, recreation facilities, and open space. Net density for lots within a development is calculated to the midpoint of adjacent public and private streets and/or contiguous open spaces that provide a boundary to the lots.

*Design standards* mean written statements, explanatory material, graphic renderings, and/or photographs which are requirements regarding the visual character of buildings and development.

*Detached* means not attached and having no wall in common and separated by three feet (3') or more; structures that are connected by a covered, unenclosed breezeway shall be considered detached if the breezeway is at least three feet (3') in length, less than twelve feet (12') in height and less than six feet (6') in width.

*Detention basin* means a manmade or natural water collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of property, into natural or manmade outlets.

*Developer* means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale, or lease of a development.

*Development* means any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land



into two (2) or more parcels. When appropriate in context, *development* shall also mean the act of developing or the result of development. *Development* shall also include:

- a. Any construction, placement, reconstruction, alteration of the size or material change in the external appearance of a structure on land;
- b. Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
- c. Any change in use of land or a structure;
- d. The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land;
- f. The demolition of a structure;
- g. The clearing of land as an adjunct of construction;
- h. The deposit of refuse, solid or liquid waste, or fill on a parcel of land;
- i. The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property; and
- j. The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.

*Development* shall not include:

- a. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way;
- b. Work by any public utility for the purpose of inspecting, repairing, renewing or constructing, on established rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic-generating activity;
- c. The maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;
- d. The use of any land for ~~an agriculture activity~~ as defined in this Section.
- e. A change in the ownership or form of ownership of any parcel or structure; or
- f. The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

*Downtown* means the original business district of the Town of Milliken, defined as that area located approximately between Alice Avenue and Kathleen Avenue, approximately a block on either side of Colorado Highway 60.

*Drive aisles* mean the lanes in a parking lot devoted to the passage of vehicles, as opposed to the parking stalls. The term *drive aisle* does not include lanes used ~~only~~ or primarily for drive-in customer service.

*Driveway* means a constructed vehicular access serving one (1) or more properties and connected to a public or private road.

*Dwelling* means a building used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, town home dwellings and multi-family dwellings.

*Dwelling, duplex or two-family* means a residential building containing two (2) dwellings each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings.

*Dwelling, multi-family* means a dwelling containing three (3) or more dwelling units, not including hotels, motels, lodges, fraternity houses and sorority houses and similar group accommodations, with or without accessory use facilities limited to an office for the building manager, laundry area and recreation facilities.

*Dwelling, single-family* means a building designed exclusively for occupancy by one (1) family, but not including mobile home, otherwise provided herein.

*Dwelling, single-family attached* means a residential building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses.

~~*Dwelling, single-family detached* means a detached principal building, other than a mobile home, designed for and used as a single dwelling unit by one (1) family.~~

*Dwelling, townhouse* means an attached single-family dwelling in a building that contains two (2) or more dwellings, each of which is individually owned.

*Dwelling unit (DU)* means one (1) or more rooms complete with independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, served by no more than one (1) gas meter and one (1) electric meter. Dwellings may exist in many configurations, including but not limited to single-family detached, duplex, townhomes, multi-unit dwellings, often in a stacked configuration, and group homes. Dwellings do not include hotels, motels, inns, or long-term occupancy lodging.

*Easement* means a right to land generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation, a utility, or particular persons for specified uses other than the legal fee owner(s) of the property. Unless otherwise specified on the plat, a platted easement shall be permitted for use under, on or above said platted property.

*Eating and drinking establishment* means a permanent building containing a restaurant, bar tavern or brewery which serves food and/or beverages, prepared, or consumed on the premises, within a building or on an outdoor patio, served to the customer at tables or counters.

*Election season* means forty-five (45) days before and seven (7) days after any regular or special Town election, county election or any state or federal primary or general election.

*Elevation, building* means the external vertical plane of a building. Elevations are considered different if they have different roof lines, building materials, details, color and overall stylistic expression.

*Eligible facilities request* means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station involving: (i) collocation of new transmission equipment, (ii) removal of transmission equipment, or (iii) replacement of transmission equipment.

*Eligible support structure* means any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the Town under this Section.

*Entertainment facilities and theaters* means a building or part of a building devoted to showing motion pictures or dramatic, musical, or live performances, including convention facilities and other such private or public facilities and structures.

*Environmentally sensitive areas* mean aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical plant communities and ridgelines.

*Existing tower or base station* means a constructed tower or base station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time it was built, for example, a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

*Exotic animal* means an animal not found for sale in the majority of pet stores; and may include wild, dangerous, endangered and other nondomestic animals.

*FAA* means the Federal Aviation Administration.

*Factory built home* means a home that:

1. Is constructed to HUD, Uniform/International Residential Code, the International Energy Conservation Code and the National Electric Code;
2. Is partially or entirely manufactured in a factory;
3. Does not have self-contained motive power;
4. Is transported to the site and installed on-site; and
5. Is not licensed as a recreational vehicle.

*Family*. Family means the following:

1. A single individual or a collective body of persons in a domestic relationship based upon blood, marriage, adoption or fostering, living as a separate, independent housekeeping unit, including domestic servants; or
2. A group of not more than six unrelated persons, all living together as a single housekeeping unit in a residential dwelling unit. Excludes boarding or rooming houses, lodges, clubs, hotels, motels, or fraternities.
3. Notwithstanding the above, a family shall be deemed to include six or more persons (but not in excess of 12 persons) not related by blood, marriage, adoption or legal custody occupying a residential dwelling unit and living as a single housekeeping unit if the occupants are handicapped persons as defined in Title VIII, Part 3 of the Civil Rights Act of

1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by Section 24-34-301, C.R.S. A household that includes six or more persons identified above shall not be excluded from the definition of “family” by the residence in the dwelling unit of additional necessary persons employed in the care and supervision of such handicapped or disabled persons.

*Farming* means the cultivation of land, ranching, and the raising of livestock, or the raising of livestock only.

*FCC* means the Federal Communications Commission.

*Feather banner* (also known as quill banner, feather flag, quill flag, or other similar names) is an attention attracting device consisting of a pole with fabric attached, generally in the shape of a feather or quill. The definition applies regardless of whether there is any symbol, text or logo printed on the fabric.

*Feedlot* means any tract of land or structure, pen or corral, wherein cattle, horses, sheep, goats, emus, ostriches or swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

*FEMA* means Federal Emergency Management Agency.

*Fence or wall* means a structure made of wood, brick, stone, stucco, concrete, wrought iron, chain-link, plastic, composite, vinyl, or other similar material that provides screening or encloses an area, most often a front, side or back yard. Walls include both freestanding walls and retaining walls.

*Fence, decorative or ornamental* means any open fence other than those comprising barbed wire or chain link, used to frame, accent or decorate landscaping or an architectural feature.

*FHA* means Federal Housing Administration.

*Final Development Plan (FDP)* means the required plan that follows the approval of a Master Development Plan (MDP) and includes specific design components, structure locations, footprints dimensions, designated open space, number of dwelling units, non-residential square footage and documentation regarding the utility service including water and sewer demand.

*Financial services* mean banks, savings and loans, finance companies, credit unions and similar establishments.

*Finished grade* means the final elevation and contour of the ground after cutting or filling and conforming to the proposed grading of a site plan or landscaping plan.

*Floodplain or flood hazard area* means areas that have been designated by the Board of Trustees, the Colorado Water Conservation Board or FEMA as susceptible to flooding.

*Flood-prone* means areas subject to flooding that have not been designated by the Board of Trustees, the Colorado Water Conservancy Board or FEMA.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than six (6) inches. Letters of

Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

*Floor area* means the amount of square feet of horizontal habitable or commercially usable floor space within the exterior walls of a building.

1. *Gross floor area* means the total amount of horizontal habitable and usable floor area (includes enclosed public spaces) within the exterior wall faces in a building. Excludes interior parking and drive areas, crawl spaces, and attics and uninhabitable heating and cooling equipment areas.

2. *Gross leasable area means* in commercial buildings, the total amount of horizontal floor area that is tenant occupied, used or leased for exclusive use or individually owned exclusive of enclosed mall/pedestrian areas, parking, and uninhabitable joint service and equipment areas that are used to operate the building (within the building). Includes basements, mezzanines, upper floors, and lofts and is expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

*Floor area ratio (FAR)* means the ratio of the gross floor area to the gross lot area permitted on a zone lot or parcel (both the numerator and denominator are usually expressed in square feet).

*Flow lines*, when used with reference to streets, mean the curb lines, or if no curbs have been installed, the natural water-flow lines at the outside edge of the traveled portion of the street.

*Footprint* means the outline of the total square footage area covered by a building or structure with a roof at ground level.

*Freestanding sign* means a sign which is not attached to any building and which is supported by a structure extending from the ground, or from an object on or in the ground.

*FT. or ft.* means feet.

*Functional open space* means open space which is large enough to serve a practical purpose such as recreation, wildlife habitat or preservation of areas of agricultural, archeological or historical significance and shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells or their appurtenances, or other hazards to the public.

*Garage* means an accessory building, or an accessory portion of a main building designed or used for the shelter or storage of motor vehicles owned or operated by the occupant of the main building.

*Garage, private* means an accessory building or a part of a main residential dwelling that is subordinate in size to the primary structure, located on the same lot, and is used for the storage only of private, passenger motor vehicles owned by the occupants of the principal building.

*Garage sale* means an accessory use involving the sale or offering for sale articles of tangible personal property by the owner, lessee or other occupant of a dwelling unit. The term garage sale shall include patio sale, yard sale, or any similar sale.

*Gas station* means any premises where gasoline and other petroleum products and/or convenience items are sold and/or light maintenance activities such as engine tune-ups, emissions testing, lubrication, minor repairs, and carburetor cleaning are conducted. Gas

stations shall not include premises where heavy motor vehicle maintenance activities such as engine overhauls, motor vehicle painting and body fender work are conducted.

*Geologic hazards* mean unstable or potentially unstable slopes, undermining, faulting, landslides, rock falls, flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.

*Government sign* is any sign constructed, erected, placed or maintained by state, federal or local government, for any purpose, including, without limitation traffic direction and designation of or direction to any school, hospital, historical site or public service or facility, or a sign that is required to be constructed, placed or maintained by the federal, state or local government.

*Grade* means:

a. The lowest point of elevation of the finished surface of the ground, pavement or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

b. The degree of rise or descent of a sloping surface.

*Grade, finished* means the final elevation of the ground surface after development.

*Grade, median* means the mathematical mean between the grade, defined above, and the highest point of elevation of the finished surface of the ground, pavement or sidewalk within the area between the building and a line five (5) feet from the building.

*Grade, natural* means the elevation of the ground surface in its natural state, before manmade alterations.

*Grading* means any excavating or filling or combination thereof.

*Grass-crete* means incorporates a mixture of concrete and natural soil in a patterned layout. The mixture is generally about 47 percent concrete and 53 percent holes for the grass

*Gross square footage (GSF)* means the total floor area designed for occupancy and use, including basements, mezzanines, stairways, and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

*Ground or monument sign* means a type of freestanding sign in which the entire bottom of the sign or the bottom of the sign support structure is in contact with or is close to the ground and is independent of any other structure.

*Group home.* Any structure that provides noninstitutional housing for not more than eight (8) service-dependent or developmentally disabled individuals living as a single housekeeping unit with professional staff who function as surrogate parents and are not considered a family. Certain forms of group housing are specifically regulated by the federal or state government, as defined in Section 31-23-303, C.R.S., including:

a. Group home for handicapped.

- b. Group home for developmentally disabled.
- c. Group home for mentally ill.
- d. Group home for the elderly

*Historic district* means an area related by historical events or themes by visual continuity or character, or by some other special feature that helps give it a unique historical identity. Such area may be designated a historic district by the local, state or federal government and given official status and protection.

*Historic site* means a structure or place of historical significance. Such structure or place may be designated a historic site by the local, state or federal government and given official status and protection.

*Home occupation* means a permitted accessory use entirely within a dwelling or a permitted accessory structure, and carried on by the occupants, which is clearly incidental and secondary to the primary use of the dwelling and does not change the basic residential character of the neighborhood and is subordinate to the residential use of the dwelling unit.

*Homeowners association (HOA)* means the association set up to enforce the covenants and maintain all common areas and buildings for a development. Also known as Owners Association.

*Hospital* means an institution licensed by the state to provide primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as integral parts of the institution, related facilities such as laboratories, outpatient facilities, or training facilities with facilities for lodging patients overnight.

*Hotel/motel/lodge* means a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are five (5) or more guest rooms.

*Human scale or pedestrian scale* means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

*Identification sign* means a sign on a specific property identifying the specific lot or parcel. An identification sign must include the property address.

*IGA* means an intergovernmental agreement.

*Illumination, internal* means lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs, or which is within letters or designs that are themselves made of a translucent material.

*IN. or in.* means inch.

*Industrial, heavy* means uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involved hazardous conditions. *Heavy industrial* also means those uses engaged in the operation, parking and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations,

recycling establishments and transport terminals (truck terminals, public works yard, container storage).

*Industrial, light including light manufacturing and assembly* means uses engaged in the manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Further, *light industrial* means uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like.

*Industrial, medium* means a variety of uses, including warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations, establishments for food and beverage processing, for the sale and repair of farm machinery and diesel trucks and buses, lumberyards and builders supply facilities (with outdoor storage), machine shops, mini-storage facilities, outside storage facilities, railroad yards and stations, recycling facilities, transportation headquarters with incidental repair and servicing facilities, and utility service facilities with buildings and/or storage structures.

*Infrastructure* means those manmade structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

*Intersection Sight Distance (ISD) or Sight distance triangle* means the area at the four (4) corners of an intersection that is to be kept free of shrubs, ground covers, berms, fences, structures or other materials or items greater than thirty (30) inches in height. Trees shall not be planted in the triangular area. The size of the sight distance triangles is determined as follows:

- a. At the intersection of any two (2) streets or where a street intersects with an alley, a triangle measuring thirty (30) feet along each curb or edge of roadway from their point of intersection, the third side being a diagonal line connecting the first two (2) sides.
- b. At the intersection of a driveway or private access and a street, a triangle measuring fifteen (15) feet in length along the edge of the driveway and along the curb or edge of roadway from their point of intersection, the third side being a diagonal line connecting the first two (2) sides.
- c. The site distance triangle for signs is forty-two feet-see section Sec. 16-3-650. - Standards for specific sign structures.

*Internal street or internal street system* means the system of public or private streets located internal to a development site, and which may connect at one or both ends to a perimeter public street. The internal street system is intended to provide vehicle, pedestrian, and bicycle access and circulation to all uses within a development site.

*Inter-neighborhood connections* mean connections (such as trails and roads) between neighborhoods.



*Intra-neighborhood connections* mean connections (such as trails and roads) within the same neighborhood.

*Inoperable vehicle* means any vehicle that: (1) would be required to be licensed if operated on a public highway, but does not display current, valid license plates; (2) does not work, move or run; (3) is not functioning; (4) is not operable for the function for which it was designed; or (5) does not comply with the minimum safety requirements of the Colorado Motor Vehicle Law.

*ISDS* means individual sewage disposal system.

*Junk* means any old, used or secondhand materials of any kind including, without limitation, cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, tires, brass, copper or other metal, furniture, refrigerators, freezers, all other appliances, the parts of vehicles, apparatuses and contrivances and parts thereof which are no longer in use, any used building materials, boards or other lumber, cement blocks, bricks or other secondhand building materials or any discarded machinery, inoperable vehicles, or any other article or thing commonly known and classified as junk.

*Junk yard* means a place where junk is bought, sold, exchanged, shredded, baled, packed, assembled, stored, or handled, including automobile wrecking yards.

*Kennel* means any building, structure or open space devoted in its entirety or in substantial part to the raising, boarding, or harboring of adult dogs that are kept primarily for sale or commercial endeavor.

*Kitchen.* Kitchen means a room or portion of a room devoted to the preparation or cooking of food for a person or a single household unit living independently, which contains a sink; a stove, cooktop or built in grill; and a refrigerator.

*Landowner* means any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assigns of such ownership interests, and also each and every person who has the right to occupy all or a portion of a lot or all or a portion of a structure on a lot, under a lease or a tenancy. The word *landowner* is used in this Chapter synonymously with *owner* and *property owner*.

*Landscaping* means any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools, fountains, or the like. *Landscaping* shall also include irrigation systems, mulches, topsoil use, soil preparation, revegetation or the preservation, protection, and replacement of existing trees.

*Land use activity* means any activity that modifies the existing land and requires review under this Code.

*Land use application* means an application for development, a permit, or other required approval under this Code.

*Lane* means a private street; or a portion of a roadway delineated for a single line of vehicles; or a secondary means of access to the abutting lots and not intended for general traffic circulation.

*Large solar energy system* means a device or facility that converts the sun's radiant energy into thermal, chemical, mechanical, or electric energy and has a combined name plate

DC rating of greater than five hundred (500) kilowatts, and includes the equivalent kilowatt measurement of energy for systems other than photovoltaic.

*Legal description* means an accurate, complete written account of a specific tract of land or other real estate, including its size, configuration, and location.

*Lighting, indirect* when applied to the lighting of signs, means reflected light only from a concealed light source outside the sign face that reflects from the sign face only or from the sign face and sign copy.

*Live/work* means a single unit that combines personal living space and commercial workspace.

*Livestock* means domestic animals kept or raised for use, pleasure and/or profit.

*Livestock processing facility* means feedlots, stockyards, slaughterhouses, rendering plants, packing plants and tanneries.

*Long-term care facility* including nursing homes means ~~any of the following:~~ any place or institution which operates and maintains facilities providing full-time or part-time convalescent and/or chronic care, for a period exceeding twenty-four (24) hours for two (2) or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in palliative services, nursing and caring for the sick. *Long-term care facility* may include continuing care retirement facilities and hospice care facilities.

*Lot* means a designated parcel, tract, or area of land established by plat or subdivision of at least a sufficient size to meet minimum requirements for use, street frontage, and area, and required yards and other open spaces in the zoning district in which the lot is located, and which has direct access onto a public or private street.

*Lot, adjoining* means a lot separated from the lot under consideration by a rear lot line, side lot line or street.

*Lot, corner* means a lot located at the intersection of two (2) or more intersecting streets with frontage on both streets.

*Lot, double frontage or through lot* means a lot having frontage on two (2) generally parallel streets.

*Lot, flag* means a lot where the front lot line abuts one or more rear or side lot lines of adjacent lots. Primary access is by a private or privately shared drive leading to a public or private street.

*Lot, Interior* means a lot having frontage along only one street.

*Lot, reverse corner* means a corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.

*Lot area* means the total area within the lot lines of a lot.

*Lot coverage* means the total square footage of all buildings and structures on the lot. Flat surfaces, such as sidewalks, driveways and uncovered patios are not included when calculating lot coverage.

*Lot depth* means the average distance between the front lot line and the rear lot line.

*Lot frontage:* means the length of a property line of a lot which abuts a public or private right of way.

*Lot line* means the property lines dividing one (1) lot from another lot, parcel, tract, or from a street or any public place, as further defined below.

*Lot line, front* means any property line separating a lot from any public street or private street, but not including alleys. In the case of corner lots, the primary front lot line is that property line most parallel to the street from which access is gained; the secondary front lot line is the other lot line with street frontage. In the case of a double frontage lot, there is one front lot line that is the property line most parallel to the street from which access is gained. For a flag lot, the front lot line is that property line not including the flag stem most parallel to the street from which access is gained.

*Lot line, rear* means the lot line which is opposite and most distant from the front lot line. In the case of a corner lot, the owner shall select any lot line, other than one of the front lot lines, to be the rear lot line. In the case of a double frontage lot, the rear lot line shall be most opposite the front lot line along the street frontage from which access is not gained. The rear lot line of any irregularly shaped lot or triangular lot shall be a line within the lot which is ten feet (10') long and most parallel to and distant from the front lot line. For a triangular lot which is also a corner lot, there shall be no rear lot line.

*Lot line, side* means any lot lines other than the front lot line or rear lot line.

*Lot size* means the total square footage area within the lot lines of a lot.

*Lot width* means the distance parallel to the front lot line, measured at the front building setback line. *Lot width on a curving front lot line* means the distance parallel to the tangent of the front lot line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.

*Major street* means an actual or proposed street with a right of way width greater than sixty feet (60') which provides for the rapid and relatively unimpeded movement of vehicular traffic between major land use and activity centers in the Town, while accommodating public transit and pedestrian movements on the Town's arterial streets.

*Manufactured home* means a structure which is designed primarily for long-term occupancy as a residence, is partially or wholly manufactured in a factory or at a location other than the site of the completed home, contains sleeping areas, a flush toilet, a tub or shower bath and kitchen facilities, has plumbing and electrical connections provided for attachment to outside systems, is transportable in one (1) or more sections, can be installed on a permanent foundation, and meets all established snow loads. Manufactured home does not include park trailers, camper trailers, travel trailers or other similar vehicles.

1. *Type I* is a manufactured home which is transportable in two (2) or more sections, has brick, wood or cosmetically equivalent exterior siding and a pitched roof, is not less than twenty-four (24) feet wide at its narrowest dimension and not less than thirty-six (36) feet long, has a minimum floor area of one thousand (1,000) square feet, and is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq., as amended, and all regulations enacted pursuant thereto, or is

certified by the State as being in compliance with the requirements of the Uniform Building Code as adopted by the State and enforced and administered by the Colorado Division of Housing.

2. *Type II* is a single-section manufactured home which is designed to be transported on its own or detachable wheels or on a trailer, is eight (8) feet or more in width at its narrowest dimension and thirty-two (32) feet or more in length, and bears a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Except where the context requires a different interpretation, Type II manufactured home shall be deemed synonymous with mobile home.

*Marijuana testing facility* shall mean an entity licensed to analyze and certify the safety and potency of marijuana.

*Master Development Plan (MDP)* means the provisions for development of a planned unit development, as required herein, which may include, but need not be limited to, easements, covenants and restrictions relating to use, location and bulk of buildings and other structures, intensity of use or density of development, utilities, private and public streets, ways, roads, pedestrian areas and parking facilities, common open space and other public facilities.

*Medical and dental offices and medical clinics* means an establishment operated by one (1) or more duly licensed members of the human health care professions, including but not limited to physicians, dentists, chiropractors, psychiatrists, and osteopaths, where patients are not lodged overnight but are admitted for examination, diagnosis, therapy, surgery, or consultation, including referral, rendered by a licensed provider that is physically present during all hours of operation of the offices and clinic to furnish medical services. and/or treatment.

*Medical marijuana center* shall have the same meaning as set forth in Section 6-7-30 of Chapter 6 of this Code.

*Medical marijuana-infused products manufacturer* shall have the same meaning as set forth in Section 6-7-30 of Chapter 6 of this Code.

*Medical marijuana optional premises cultivation operation* shall have the same meaning as set forth in Section 6-7-30 of Chapter 6 of this Code.

*Mini-storage facilities* means a building or a group of buildings containing separate, individual self-storage units divided from the floor to ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage or personal goods, materials and equipment. No rentable unit shall have a gross floor area greater than three hundred sixty (360) square feet, and all of which are intended for rental primarily for personal, family or household purposes.

*Mixed use* means the development of a lot, tract or parcel of land, building or structure with two (2) or more different uses, including but not limited to residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.

*Mixed use building* means a building designed, planned and constructed as a unit, used partially for residential use and partly for commercial uses, including but not limited to office, retail, public uses, personal service or entertainment uses.

*Mixed use dwelling unit* means the dwelling unit in a mixed-use building.

*Mobile home* means a structure having the physical characteristics of a Type II manufactured home, but which was constructed before the effective date of the Federal Manufactured Home Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Except where the context requires a different interpretation, mobile home shall be deemed synonymous with Type II manufactured home.

*Model home* means a dwelling temporarily used as a sales office or demonstration home for a residential development under construction, said dwelling being used as an example of a product offered for sale to purchasers (by a realtor, building developer or contractor). The dwelling may be furnished but not occupied as a residence while being used as a *model home*.

*Model Diversity Plan* is a plan provided by an applicant that demonstrates that an adequate mix of housing models and styles are offered within a neighborhood and within each block face. The intent is to ensure that diverse and quality design elements are integrated into the character of residential homes and streets.

*Model plans* means a set of standard plans for a home. Models are considered different if they have different floor plans, garage placement and building massing (form and structure).

*Modified grid pattern* means a grid pattern of streets and blocks adapted to the topography, unique natural features, environmental constraints and peripheral open space areas.

*Monument sign* is a permanent, exterior freestanding sign that is not affixed to a building. This kind of sign either sits directly on the ground on a concrete foundation or is on a low base that makes the sign highly visible and easy to read from the street level.

*Mural* means a picture or graphic illustration painted or applied directly on a wall, ceiling, or other large permanent surface.

*Natural areas* means floodplains and flood ways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens, prairie dog colonies over twenty-five (25) acres in size, remnant native prairie habitat, plains cottonwood galleries, and any wetland greater than one-quarter (¼) acre in size.

*Nightclub* means a bar or tavern containing more than one hundred (100) square feet of dance floor area.

*Nonconforming building* means a building or structure, or portion thereof, that does not conform to the regulations of this Code, but that was lawfully constructed under the regulations in force at the time of construction.

*Nonconforming lot* is a lot of record that ~~that~~ does not conform to the regulations of this Code, but that was lawfully created under the regulations in force at the time of its creation.

*Nonconforming use* means a use that does not conform to the use regulations of this Code, but that was lawfully established under the regulations in force at the time the use was established and has been in regular use since that time.

*Official Zoning Map or zoning map* means the official zoning map adopted by the Town by ordinance, as amended.

*Off-premises sign* means a sign that directs attention to a business, property, commodity, service, or entertainment conducted, sold or offered at a different location from the premises on which the sign is located.

*Off-street parking area* means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or operation of motor vehicles, including driveways or access ways in and to such areas, but not including any outdoor storage area used principally as a *recreational vehicle, boat or truck storage* use, storage areas for landscaping and other bulk items or public streets and rights-of-way.

*Oil and gas operation* means any structure, facility, or activity which is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including but not necessarily limited to wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines.

*Oil or gas well* means a well, the principal production of which at the mouth of the well is oil or gas.

*On-premises sign* means a sign that directs attention to a business, property, commodity, service, or entertainment conducted, sold or offered at premises on which the sign is located.

*Open space* means any land or water area with its surface open to the sky, which serves specific uses of: providing park and recreation opportunities, conserving natural areas, wildlife habitat, agricultural areas and environmental resources, structuring urban development form, and protecting areas of agricultural, archeological or historical significance. *Open space* shall not be considered synonymous with vacant or unused land.-Open space shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells and their appurtenances, or other hazards to the public.

*Open space, common* means an area permanently set aside for the common use and enjoyment of residents of a multifamily development.

*Regional Open Space* means Milliken's regional open space system that includes Town drainage ways, floodplains, natural areas, natural area buffer zones, wetlands, subsidence areas, agriculture preservation areas and lands of archeological or historic significance. Access is generally limited to trails, educational signs, and similar improvements.

*Otard* means an over-the-air receiving device.

*Otard antenna* means: (i) an antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter; or (ii) an antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is

one (1) meter or less in diameter or diagonal measurement; or (iii) an antenna that is designed to receive television broadcast signals.

*OTARD antenna structure* means any pole, tower, or other structure designed and intended to support and OTARD antenna.

*Outdoor storage* means the keeping, in an unroofed area, of any equipment, goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

*Outlot* means a measured piece of land contained within subdivided land that is not a building lot. An outlot may be conveyed to the public for open space or other public purposes, be retained by the developer for later subdivision, or be conveyed to an owner's association.

*Owner* means the person or entity that owns the property under consideration.

*Pad site* is a building or building site located in a retail center that is physically separate from the principal building located within the same center. Pad sites are reserved for freestanding, single commercial uses, and accommodate buildings that are smaller than the principal building. Typical pad site uses include buildings that contain retail sales, restaurants, banks, and automotive services.

*Parcel* means a lot, or a contiguous group of lots, in single ownership or under single contract and usually considered a unit for purposes of development.

*Park* means an area reserved for recreational, educational, or scenic purposes.

*Park, community* means a park that serves the residents of several neighborhoods.

*Park, district* means a park that serves the residents of the entire Town as well as people who live outside of the community. These parks are located to take advantage of special natural settings. Milliken's district parks are illustrated on the Johnstown/Milliken Parks, Trails, Recreation and Open Space Master Plan.

*Park, neighborhood* means a park that is a place for recreation and social gatherings that is within walking distance of most residents. These parks can include multiple-use lawn areas, picnic areas, playground equipment, court game facilities and community gardens.

*Park, pocket* means a park that is a place within walking distance of residential units for supervised play for young children and unstructured activities for neighborhood residents. At a minimum, a pocket park shall include live ground cover, trees and irrigation plus one (1) of the following: playground equipment, contemplative garden or other active or passive recreation opportunities for the neighborhood, as approved by the Town.

*Parking* means the standing or placement of a vehicle on private or public right of way during the conduct of everyday affairs or business or normal daily activities, provided that such standing or placement occurs within a parking space that conforms to all requirements of the Town Code and is not for purposes of assembly, display, sale, repair, or other servicing commonly associated with a motor vehicle.

*Parking garage* means an off-street parking area within a building or portion of a building.

*Parking lot* means an off-street parking area or vehicular use area.

*Parking, shared* means off-street parking that is shared by one or more adjacent uses that do not have the same peak service times.

*Parking space, off street* means an area on a lot and/or within a structure intended for the temporary parking of an automobile.

*Pedestrian scale (human scale)* means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

*Permanent monument* means any structure of masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference.

*Place of worship* means a building that is used for various services which can be used by one (1) or more of multiple religious or non-religious denominations.

*Planned Unit Development* means an area of land controlled by one or more landowners to be developed under unified control or a unified plan of development for a number of dwelling units, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for which may not correspond to lot size, bulk or type of use, density, lot coverage, open space, or other restrictions of the conventional land use regulations of the Milliken Land Use Code.

*Planning Area Boundary* means the area surrounding the Town of Milliken that the Town of Milliken will consider annexing and developing. The Planning Area Boundary is delineated on the *Land Use Map* in the Town of Milliken Comprehensive Plan.

*Plat* means a map of certain described land prepared in accordance with the requirements of this Code and Section 38-51-106, C.R.S., as an instrument for recording of real estate interests with the County Clerk and Recorder.

*Plaza* means an open area typically located in a commercial or industrial area to serve as a gathering place.

*Planning Commission* means the Planning Commission of the Town of Milliken.

*Plot plan* means a plan, as defined in the adopted Building Code, required for a single-family home or two-family home.

*Preapplication conference* means a conference between the applicant for a land use approval or permit and the planning staff.

*Prime farmland* means land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides and labor and without intolerable soil erosion, as determined by the Secretary of Agriculture. *Prime farmland* includes land that possesses the above characteristics but is being used currently to produce livestock and timber. It does not include land already in or committed to urban development or water storage.

*Principal use* means the main or primary purpose for which a tract of land or of a structure is designed, arranged, or intended, or for which it may be occupied or maintained under this Code. All other structures or uses on the same lot which are allowed, incidental, or supplementary to the primary purpose shall be considered accessory use.



*Private property rights* mean the rights a property owner within the Town of Milliken to use his or her property within the legal parameters set forth in this Code, and subject to applicable state, federal and constitutional law. Nothing herein guarantees any private property rights to develop in a particular manner except pursuant to a valid vested right.

*Professional Services* mean shops primarily engaged in providing services generally involving the care of the person (examples include beauty, barber, tanning and nail salons, spas, massage therapists) or such person's apparel or rendering services to business establishments such as laundry or dry-cleaning retail outlets, portrait/photographic studios, shoe repair, employment services, financial advisors, real estate, professional consultants, and mailing and copy shops.

*Professional Trade and Construction Contractors* means general contractors, builders, and any trades person involved in different aspects of construction, including masonry, carpentry, carpeting, framing, plumbing and woodworking.

*Projecting signs* mean any signs supported by a building wall and projecting therefrom at least twelve (12) inches or more horizontally beyond the surface of the building to which the sign is attached.

*Proof of ownership* means ownership as specified in a current title insurance commitment or policy, or certification of title, issued by a title insurance company licensed by the State of Colorado.

*Property* means all real property subject to land use regulation by the Town of Milliken.

*Property line* means the boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which said lot, parcel or tract abuts.

*PCF* means pounds per cubic foot.

*PSF* means pounds per square foot.

*PSI* means pounds per square inch.

*Public* means (when used as modifying a structure, activity, or purpose) a structure, activity, or purpose owned or operated by a government agency or by a nonprofit corporation with tax-exempt status under the Federal Internal Revenue Code, if the nonprofit corporation makes the structure or facility available for the use of all the members of the public without regard to membership status.

*Public areas* mean streets, parks, open spaces and other property designated or described as for public use on a map or plat of the Town of Milliken and fee title is vested in the Town of Milliken, other public body or a special district as defined in Section 32-1-103, C.R.S.

*Public facilities* mean those constructed facilities, including but not limited to transportation systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric, gas, telecommunication utilities or facilities, and publicly owned buildings or facilities.

*Public hearing* means a meeting called by a public body for which public notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.

*Public improvement* means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree lawn, landscaped open space, off-street parking area, lot improvement or other facility that benefits the public.

*Public notice* means the advertisement of an action to be taken by the Town which indicates the time, place, and nature of the hearing or action. This may include publication in a newspaper, mailings, meetings, and/or posting of a sign on the subject site.

*Public open space* means an open space area conveyed or otherwise dedicated to the municipality, state or county or other public body for recreational or conservation uses. *Public open spaces* are to be unencumbered by oil and gas wells, their appurtenances or other hazards to the public.

*Public utility* means a common carrier supplying electricity, wire telephone service, cable, natural gas, water, wastewater or storm water service or similar public services, but shall not include railroads or other forms of rail mass transit or depots or terminals supporting the same, or wireless telecommunication facilities.

*Quasi-public* means having the nature or characteristics of being public, but owned by a private or not-for-profit entity.

*Raw water* means water rights acceptable to the Town of Milliken for domestic purposes, or water rights acceptable to the Town that may be used for irrigation of public facilities.

*Real estate sign* means a temporary sign as provided in this Code on or near real property currently offered for sale, rent or lease.

*Recreational facilities:* The following classes of recreational facilities have these meanings:

a. *Private recreational facilities* include golf courses, tennis courts, swimming pools, country clubs or recreational facilities for fraternal organizations, all of which are owned and operated by either nonprofit organizations with a limited membership or by private persons who own the facilities and are the only users of them;

b. *Public recreational facilities* mean public parks, ~~zoos~~, swimming pools, golf courses and other such facilities owned or operated by or under the direction of a government agency or a nonprofit corporation which falls within the definition of the word *public*.

*Recreational vehicle* means a vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted or drawn by another vehicle. The following shall be considered a recreational vehicle (RV):

a. *Camping trailer.* A canvas (or other type of material), folding vehicle of rigid construction, mounted on wheels and designed for travel and recreation.

b. *Motorized home, motor home and/or recreational bus or van.* A recreational vehicle consisting of a portable, temporary dwelling to be used for travel, recreation and vacation uses, and constructed as an integral part of a self-propelled vehicle.

- c. *Pickup coach.* A vehicle designed to be mounted on or loaded into a truck chassis for use as a temporary dwelling for travel and recreation.
- d. *Tent.* Protective fabric erected to provide protection from the elements.
- e. *Travel trailer.* A towable vehicle designed as a temporary dwelling for travel and recreation.
- f. *Travel trailer, self-contained.* A trailer which can operate independently of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.

*Recreational vehicle park* means a parcel of land specifically developed for locating only recreational vehicles on lots on a short-term basis.

*Recreational vehicle site* means a plot of ground within a recreational vehicle park intended for the accommodation of a recreational vehicle, tent, or other individual camping unit on a temporary basis.

*Recycling facility* means a building used for the collection and/or processing of recyclable material. *Processing* means the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a facility, if entirely enclosed within a building or buildings, shall be considered a *warehouse*.

*Redevelopment* means the development of a site within an older/established contextual subarea of the Town, where the site was formerly developed and cleared, or that requires the clearance of some or all of existing structures and improvements prior to new construction.

*Restaurant, drive-through* means any establishment in which the principal business is the sale of foods and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

*Resubdivision or Replat* means the further division or relocation of lot lines of any lot or lots within a subdivision or the alteration of any streets or the establishment of any new streets within any subdivision previously recorded with the County Clerk and Recorder.

*Retail marijuana cultivation facility* shall have the same meaning as set forth in Section 6-6-30 "Definitions" of Chapter 6 of this Code.

*Retail marijuana product manufacturing facility* shall have the same meaning as set forth in Section 6-6-30 "Definitions" of Chapter 6 of this Code.

*Retail marijuana store* shall have the same meaning as set forth in Section 6-6-30 "Definitions" of Chapter 6 of this Code.

*Retention basin* means a pond, pool or basin used for permanent storage of water runoff.

*Right-of-way* means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term *right-of-way* for land platting purposes shall mean that every right-of-way established and shown on a final plat is to be

separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use on the plat on which such right-of-way is established.

*Sanitary facilities* means toilets, urinals, lavatories, showers, utility sinks and drinking fountains, and the service buildings containing these units.

*Sanitary waste station* means a facility used for removing and disposing of waste from self-contained camping vehicle sewage holding tanks.

~~*Sanitary waste station* means a facility used for removing and disposing of waste from self-contained camping vehicle sewage holding tanks.~~

*Self-storage facilities* means a commercial facility in which customers can rent space to store possessions.

*Service building* means a structure housing toilet, lavatory, bath, laundry, service sink and other such sanitary facilities as may be required.

*Setback* means the required unoccupied open space between the nearest along a wall of a structure and the property line of the lot on which the structure is located, measured on a horizontal plan.

*Setback, front* means the distance between the front lot line and the front wall of the main structure.

*Setback, rear* means the distance between the rear lot line and the back wall of the main structure.

*Setback, side* means the distance between any wall and the lot line other than the front and rear setbacks.

*Sign area* means the entire face of a sign, including the advertising surface and any framing, trim or molding but not including the supporting structure.

*Sign face* means the area of the sign on which the message is placed.

*Sign permit* means a permit issued by the Town Building Official and which is required for any sign specified in this Code.

*Significant vegetation* means vegetation that is indigenous (i.e., pine trees, mountain mahogany, scrub oak and native grasses) and that, through its location on the lot and/or size and maturity, will preserve the hillside character.

*Significant wildlife habitat and migration corridors* are areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source ([www.ndis.nrel.colostate.edu](http://www.ndis.nrel.colostate.edu)) as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.

*Site-built dwelling* means a dwelling that is predominately constructed on-site and is not a factory-built home or manufactured home.

*Site for towers* (other than towers in the right-of-way and eligible support structures) means the current boundaries of the leased or owned property surrounding the tower or eligible support structure and any access or utility easements currently

related to the site. A site, for other alternative tower structures, base stations and small cell facilities in the right-of-way, is further restricted to that area comprising the base of the structure and to other related accessory equipment already deployed on the ground.

*Site plan* means a scale drawing of a lot, showing the actual measurements, lot lines, the size and location of any existing or proposed buildings, the location of the lot in relation to abutting streets, and other details including parking areas, access points, landscaped areas, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations, reserved open space, and easements.

*Site specific development plan* means a Final Subdivision Plat, a Final PUD Development Plan (FDP), a Site Plan, and any other approved Agreement when vesting is specifically requested and approved by the Board of Trustees, and the vesting of a property right pursuant to Section 16-1-90 of this Chapter and Article 68 of Title 24, C.R.S., as may be amended.

*Slope* means a number that describes both the direction and the steepness of a line. Slope is calculated by finding the ratio of the vertical change to the horizontal change between two distinct points on a line (e.g. "rise over run").

*Small cell facility* means a Wireless Communication Facility where each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.

*Small equipment repair facility* means establishments for the repair and restoration of small equipment and appliances such as radios and television sets, business office machines and electrical appliances.

*Solar energy system* means a device or facility that converts the sun's radiant energy into thermal, chemical, mechanical, or electric energy to heat and/or cool indoor space or domestic water and/or provide electric power and light.

*Solar energy system accessory* means a device or facility that converts the sun's radiant energy into thermal, chemical, mechanical, or electrical energy and has a combined name plate DC rating of less than fifteen (15) kilowatts, and includes the equivalent kilowatt measurement of energy for systems.

*Solar energy system, large* means a solar energy system requiring a minimum ten (10) acre lot with twenty-five (25) maximum height limit.

*Solar energy system, small* means a solar energy system that has a combined name plate DC rating of fifteen (15) kilowatts to five hundred (500) kilowatts and includes the equivalent kilowatt measurement of energy for systems ~~other than photovoltaic~~.

*Special event* means an event of limited duration or frequency that is different in character from the customary or usual activities generally conducted on the subject property.

*Split garages* means having at least two (2) separate garages that are oriented in different directions.

*Storage* means the placement of goods, materials, and/or personal property in a particular place or space for more than a twenty-four (24) hour period.

*Street* means a public thoroughfare, which affords the principal means of access to abutting property.

*Street furniture* means constructed objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains and telephone booths, that have the potential for enlivening and giving variety to streets, sidewalks, plazas and other outdoor spaces open to and used by the public.

*Streetscape* means the distinguishing character of a particular street including paved materials, and the adjacent space extending along both sides of a street, including landscaping, sidewalks, medians, lighting, street furniture and signage.

*Structure* means any made-made matrix of load bearing or space enclosing members which requires location on the ground or attached to something having a location on the ground/

*Structurally altered* means any addition or elimination of load-bearing parts of a building, including columns, beams, walls, or girders

*Studio* means the building or room where an artist works. A place where people go to learn, practice, or study an art or a dwelling unit with no bedrooms.

*Subdivision* means the process of dividing a parcel of raw land into smaller buildable sites, blocks, lots, streets, open space and public areas and the designation of the location of utilities and other improvements.

*Subsidence* means a local mass movement that involves the downward settling or sinking of the solid Earth's surface. *Subsidence* may be due to natural geologic processes or man's activity such as coal mining.

*Swing-in garage* means a garage that is oriented so that the garage doors are perpendicular to the street.

*Tandem garage* means a garage that allows for the parking of one (1) car in front of another.

*Tandem parking* means parking two (2) cars in a driveway or parking space so that one (1) car is right in front of the other and the front car cannot move until the back car is moved.

*Telecommunications Act* means the federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, codified throughout Title 47 of the United States Code ('47 U.S.C.').

*Temporary sign* means a sign that is constructed of lightweight or flimsy material, and is easily installed and removed using ordinary hand tools. Any sign that qualifies as a "structure" under the building code is not within this definition.

*Temporary use* means a use or an activity that is temporary in nature with a specific function, location, specific dates and hours of operation, and termination date and does not involve the construction or ~~alteration~~<sup>alternation</sup> of any permanent structure.

*Temporary use permit* means an administratively approved permit authorizing a temporary use.

*Title commitment* means formal documentation from a title company listing the name of the owner of the property under consideration, the legal description of the property and any legal holdings on the property such as easements, rights-of-way, or liens.

*Townhouse (or Townhome)* means a single-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation. The units are separated from one another by a common party wall having no doors, windows, or other provisions for human passage or visibility and such units are located on their own fee simple lots meeting the various lot requirements specified in each zone district allowing townhome development.

*Tower* means any structure that is designed and constructed primarily built for the sole or primary purpose of supporting one (1) or more FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guy towers, monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and the like.

*Town* means the Town of Milliken located in Weld County, Colorado.

*Town Administrator* means the Town Administrator or his or her designee.

*Traffic control device* means a traffic control device authorized or required by law on private or public property, which must be erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state and, if not adopted by this state, with the Manual on Uniform Traffic Control Devices adopted by the Federal Highway Administration.

*Trails.* The trail system shall link neighborhoods, parks, schools, open spaces, employment centers, community facilities and neighboring communities and thus provide important transportation connections, as well as recreational opportunities and access.

*Transitions: Generally, an array of tools and techniques designed to achieve* compatibility between adjoining land uses that may differ by type and intensity, including, but not limited to, the following techniques:

(a) Landscape Buffer and Screening Transitions: The use of landscaping, berms, fences, walls, or any combination of these, to buffer and screen a more intense land use from an adjacent, less intense land use.

(b) Site and Building Transitions: Designing and adapting the form and mass of a building to take into consideration neighboring buildings and land uses.

(c) Transition Uses: A land use that may be appropriate to site between different land uses when the transition use is relatively more compatible with lesser intensity adjoining uses.



*Transmission equipment* means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

*Transparent* means glass in wall openings such as windows, which allow views into and out of a building. Windows or glazed areas that incorporate glass that is translucent or opaque shall not be considered transparent.

*Transportation headquarters* means headquarters and parking areas for ambulance services, taxi services, bus services and other services involving the transportation of persons but not property.

*Tree lawn* means an area of the street right-of-way between the curb and the sidewalk, planted with landscaping.

*Trip* means a single or one-way vehicle movement to or from a property or study area. *Trips* can be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.

*Truck stop* means an establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A *truck stop* may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.

*Undermining* means land that has been mined under the surface of the ground.

*Use* means the type of activity for which land or a building is designated, arranged or intended and also means the activity which in fact regularly takes place upon the land.

*USGS datum* means United States Geological Survey basis of elevations.

*Utilities* mean the equipment, facilities, and distribution systems for water, sewer, storm drainage, gas, electric, television, cable, fiber optic, and wireless communications.

*Utility facilities, major* mean facilities such as water and wastewater treatment plants, water tower, electrical generation plant, wireless telecommunications or transmission facility or any similar use including holding ponds and other structures for flood control, water storage and/or retention for potable or non-potable use, and watershed protection.

*Utility facilities, minor* means facilities such as pump stations, telephone exchanges, lift stations, electric substation, or any similar use.

*Vacant land* means land that does not have development on it.

*Variance* means a decision of the Board of Adjustment which grants a property owner relief from certain provisions of this code when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.



*Vegetation* means plants growing in a place, including but not limited to trees, shrubs, vines, grasses, and groundcover.

*Vehicle* means a machine propelled by power other than human power designed to travel along the ground, in the air, or through water by use of wheels, treads, runners, slides, wings or hulls and to transport persons or property, to pull non-self-propelled vehicles or machinery, and includes, but is not limited to: automobile, airplane, boat, bus, truck, trailer, motorcycle, motor home, recreational vehicle, camper, truck tractor. For the purpose of this Section, the term vehicle includes implements of husbandry, mobile machinery, and self-propelled construction equipment.

*Vendor* means a person, machine, or company that provides a good or a service in exchange for money.

*Vested property right* means the right to undertake and complete the development and use of property under the terms and conditions of a site-specific development plan, ~~pursuant to Article I “General Land Use Provisions” of this Chapter.~~

*Veterinary facilities, small animal clinic* means any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals are limited to dogs, cats or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

*View corridor:* The line of sight identified as to height, width and distance of features (usually natural) of significance to the community (e.g., ridgeline, river, historic building, etc.); the route that directs the viewer's attention.

*Walkable* means a distance of one-quarter (¼) mile or within a five-to-ten-minute walk.

*Walkway* means:

- a. A right-of-way dedicated to public use that is not within a street right-of-way, to facilitate pedestrian access through a subdivision block by means of a hard surface path.
- b. Any portion of a parking area restricted to the exclusive use of pedestrian travel.

*Wall Plane* means the plane of a building wall is a plane that extends from the ground to the top of each wall of a structure. The plane does not include roof area.

*Wall sign* means a sign that is attached parallel to and extending less than twenty (20) inches from the wall of a building; includes awning signs and canopy signs as defined herein.

*Warehouse and distribution* means a use engaged in storage, wholesale, and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms, including incidental retail sales, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

*Wholesale merchandise establishment* means establishments for the sale of merchandise at the wholesale level, including those that warehouse merchandise in covered buildings.

*Window sign* means a sign or graphics that are applied directly to a window, or any sign hanging within twelve (12) inches of the interior surface of a window and which is visible from the exterior of the building.

*Wireless communications facility* or *WCF* means a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, direction, omni-directional and parabolic antennas, base stations, support equipment, alternative tower structures, and towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Section.

*Workshop and custom small trade* means a facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstery, restoration of antiques and other art objects, or other similar uses and where there is no exterior indication of equipment nor noise.

*Yard* means that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zone district in which the lot is located.

*Yard, front* means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

*Yard, front setback* means the distance a building or structure must be placed from the back of the front property line.

*Yard, private* means that portion of the open area on a lot extending open and unobstructed that is owned by the homeowner of a single-family detached town home or two-family dwelling unit.

*Yard, rear* means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

*Yard, rear setback* means the distance a building or structure must be placed from the back of the rear property line.

*Yard, side* means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

*Yard, side setback* means the distance a building or structure must be placed from the back of the side property line.

*Yard sale* means an outdoor sale of used personal or household items held on the seller's premises.

*Zone district* means a zone district of the Town of Milliken as established in Article II "Zoning District and Uses" of this Chapter, unless the term is used in a context

that clearly indicates that the term is meant to include both the zone districts of the Town of Milliken and the zone districts of an adjoining governmental jurisdiction.