

CHAPTER 16

Zoning

Article I	Purpose	
	Sec. 16-1	Declaration of purpose
Article II	Definitions	
	Sec. 16-11	Rules of construction of language
	Sec. 16-12	Specific words and phrases
Article III	Establishment of Districts	
	Sec. 16-21	Official Zoning District Map
	Sec. 16-22	Changes in the Official Zoning District Map
	Sec. 16-23	Replacement of the Official Zoning District Map
	Sec. 16-24	Interpretation of district boundaries
Article IV	Administration and Enforcement	
	Sec. 16-41	Administrative official
	Sec. 16-42	Building permits
	Sec. 16-43	Application for building permit
	Sec. 16-44	Certificates of zoning compliance
	Sec. 16-45	Expiration of building permit
	Sec. 16-46	Construction and use to be as provided in plans and permits
	Sec. 16-47	Complaints regarding violations
	Sec. 16-48	Public hearings
Article V	Amendments	
	Sec. 16-61	Authority
	Sec. 16-62	Procedure
	Sec. 16-63	Protest of amendments
Article VI	Board of Adjustment	
	Sec. 16-81	Establishment
	Sec. 16-82	Proceedings
	Sec. 16-83	Powers and duties
	Sec. 16-84	Conditions
	Sec. 16-85	Decisions of the Board of Adjustment
	Sec. 16-86	Procedure
Article VII	Conditional Use Grants	
	Sec. 16-101	Intent
	Sec. 16-102	Approval of conditional use grants
	Sec. 16-103	Application to existing uses
	Sec. 16-104	Termination of conditional uses
	Sec. 16-105	Standards and requirements
	Sec. 16-106	Procedure
Article VIII	General Application of Regulations	
	Sec. 16-121	Compliance with regulations
	Sec. 16-122	Structures other than buildings
	Sec. 16-123	Accessory uses and structures
	Sec. 16-124	Basic locational regulations
	Sec. 16-125	Legal nonconformity
Article IX	Supplementary District Regulations	
	Sec. 16-141	Visibility at intersections
	Sec. 16-142	Home occupations

	Sec. 16-143	Off-street parking requirements
	Sec. 16-144	Off-street loading requirements
	Sec. 16-145	Approval of building, site and operational plans
Article X	Application of Individual Lot Regulations	
	Sec. 16-161	General
	Sec. 16-162	Use regulations
	Sec. 16-163	Lot size
	Sec. 16-164	Density
	Sec. 16-165	Building location
	Sec. 16-166	Open space
Article XI	Single-Family Residential SF-1 Districts	
	Sec. 16-181	Statement of intent
	Sec. 16-182	Use regulations
	Sec. 16-183	Density
	Sec. 16-184	Building location
	Sec. 16-185	Open space
	Sec. 16-186	Off-street parking requirements
Article XII	Single-Family Attached Residential SF-2 District	
	Sec. 16-201	Statement of intent
	Sec. 16-202	Use regulations
	Sec. 16-203	Density
	Sec. 16-204	Building location
	Sec. 16-205	Open space
	Sec. 16-206	Off-street parking requirements
Article XIII	Multifamily Residential MF-1 District	
	Sec. 16-221	Statement of intent
	Sec. 16-222	Use regulations
	Sec. 16-223	Density
	Sec. 16-224	Building location
	Sec. 16-225	Open space
	Sec. 16-226	Off-street parking requirements
Article XIV	Central Business CB District	
	Sec. 16-241	Statement of intent
	Sec. 16-242	Use regulations
	Sec. 16-243	Off-street parking requirements
	Sec. 16-244	Off-street loading requirements
Article XV	Industrial I District	
	Sec. 16-261	Statement of intent
	Sec. 16-262	Use regulations
	Sec. 16-263	Limitation on external effects of uses
	Sec. 16-264	Lot size
	Sec. 16-265	Building location
	Sec. 16-266	Off-street parking requirements
	Sec. 16-267	Off-street loading requirements
Article XV-A	Gateway District	
	Sec. 16-271	Statement of intent
	Sec. 16-272	Use regulations
	Sec. 16-273	Limitation on external effects of uses
	Sec. 16-274	Lot size

	Sec. 16-275	Building location
	Sec. 16-276	Off-street parking requirements
	Sec. 16-277	Off-street loading requirements
Article XV-B	Holding Agricultural District	
	Sec. 16-278	Statement of intent
	Sec. 16-279	Permitted uses
	Sec. 16-280	H-A District requirements
Article XVI	Recreation and Open Space O District	
	Sec. 16-281	Statement of intent
	Sec. 16-282	Use regulations
	Sec. 16-283	Lot size
	Sec. 16-284	Off-street parking requirements
Article XVII	Planned Unit Development	
	Sec. 16-301	Purpose and intent
	Sec. 16-302	Permitted uses
	Sec. 16-303	Declaration of policy; review criteria
	Sec. 16-304	PUD review process
	Sec. 16-305	Development assurances
	Sec. 16-306	Design standards
Article XVIII	Planned Mobile Home Park Development and Regulations	
	Sec. 16-321	Statement of intent
	Sec. 16-322	Where permitted
	Sec. 16-323	Locational restrictions
	Sec. 16-324	Use regulations
	Sec. 16-325	Minimum area requirement
	Sec. 16-326	Site planning – internal
Article XIX	Telecommunication Towers and Antennas	
	Sec. 16-341	Definitions
	Sec. 16-342	Purpose
	Sec. 16-343	Applicability
	Sec. 16-344	General requirements
	Sec. 16-345	Specific requirements
	Sec. 16-346	Applications
	Sec. 16-347	Inventory and tracking
	Sec. 16-348	Separation allowances
	Sec. 16-349	Location exceptions
Article XX	Sign Code	
	Sec. 16-361	Intent and purpose
	Sec. 16-362	Definitions
	Sec. 16-363	Permit requirements
	Sec. 16-364	General provisions
	Sec. 16-365	Signs not subject to permit
	Sec. 16-366	Signs requiring a permit
	Sec. 16-367	Master sign plan
	Sec. 16-368	Prohibited signs
	Sec. 16-369	Supersession
	Sec. 16-370	Enforcement and penalties

ARTICLE I

Purpose

Sec. 16-1. Declaration of purpose.

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of buildings; to encourage the most appropriate use of land; and to otherwise provide for the growth of an orderly and viable community. (Prior code Appx. B, § 1)

Secs. 16-2—16-10. Reserved.

ARTICLE II

Definitions

Sec. 16-11. Rules of construction of language.

For the purposes of this Chapter, words used herein shall be interpreted in accordance with the following rules:

- (1) The particular controls the general.
- (2) In case of any difference of meaning or implication between the text of this Chapter and the heading of a section or subsection thereof, the text shall control.
- (3) The word *shall* is mandatory unless the context clearly indicates the contrary. The word *may* is permissive.
- (4) Words used in the present tense include the future, unless the context clearly indicates the future tense.
- (5) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary. (Prior code Appx. B, § 2.01)

Sec. 16-12. Specific words and phrases.

When used in this Chapter, the following words and phrases shall have the specific meaning as hereinafter defined:

Auction facility means any area or building where the business of selling articles to the highest bidder is conducted.

Building means any structure used, designed or intended for the roofed shelter, enclosure or protection of persons, animals or property.

Clinic, medical or dental means offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including bed-patient care.

Convenient center means a small group of retail stores and service establishments which serve a local neighborhood, including, by way of example but not of limitation, a food store, drugstore, hardware store, barber shop, restaurant, shoe repair shop or laundromat.

Dwelling, multifamily means a structure or portion thereof designed to house two (2) or more families, with each dwelling unit having a separate entrance.

Dwelling, single-family attached means a residential structure designed to house a single-family unit from lowest level to roof, with a private outside entrance, but not necessarily occupying a private lot, and sharing a common wall adjoining dwelling units.

Dwelling, single-family detached means a residential structure designed to house a single-family unit, with private outside entrance, but without common walls between the dwelling units.

Dwelling unit means a housekeeping unit designed and used for occupancy by a single individual or a family and containing cooking, living, sleeping and sanitary facilities, and having a separate entrance.

Family means one (1) or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group of individuals occupying a hotel.

Gasoline service station means a place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, and including facilities for greasing, oiling, washing and minor repair of vehicles on the premises, but not including major automatic car washing or any body repair facilities.

Gross leasable area (G.L.A.) means the total floor area of commercial buildings, which floor area is designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, if any; expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

Home occupation means a gainful occupation conducted by members of the family, within its place of residence, where the space used is incidental to residential use and no article is sold or offered for sale except such as is produced by such home occupation.

Hotel means a building in which lodging, with or without meals, is offered for compensation but not including kitchen facilities in individual rooms.

Indoor recreation facility means an establishment engaged in the provision of participant recreation exclusively within an enclosed structure, such as indoor soccer, ice-skating, tennis or similar use, and adequate provision has been made for spectators and competitive events.

Lot means a single parcel of contiguous land occupied or intended to be occupied by such structures and uses as permitted under this Chapter, together with the open spaces required by this Chapter, and abutting on a public street or officially approved way.

Lot area means the area of contiguous land bounded by lot lines, exclusive of land provided for public thoroughfare.

Lot lines mean the lines bounding a lot as defined herein.

Motel means a building or series of buildings in which lodging is offered for compensation, and which is distinguished from a hotel primarily by reason of providing direct independent access to, and adjoining parking for, each rental unit.

Nonconforming structure means a structure which does not conform to the building location regulations of the district in which it is located.

Nonconforming lot means a lot which does not conform to the Lot Size Regulations of the district in which it is located.

Nonconforming use of land means a use of any land in a way which does not conform to the Use, Density or Open Space Regulation of the district in which it is located.

Nonconforming use of structure means a use carried on within any building which does not conform to the Use or Density Regulations of the district in which it is located.

Off-street parking space means the area on a lot designed to accommodate a parked motor vehicle as an accessory service to the use of lot and with adequate access thereto from the public street.

Offset means the horizontal distance between any structure and a lot line, other than a street right-of-way line.

Open space, livability means open space on a building site, exclusive of space devoted to vehicular streets, drives and parking areas, and including pedestrian ways, space for active and passive recreation and landscaping.

Outdoor recreational facilities means land and structure, along with accessory equipment, designed and utilized for leisure time activities of a predominantly "outdoor" nature and of more specific purpose than passive park-like open areas, and further classified as follows:

a. *Public.* Facilities owned and operated by a government agency for limited or general public use.

b. *Private commercial.* Facilities owned and operated by a group for profit as a business, whether or not open to general public use.

c. *Private group.* Facilities owned and operated by a group for the exclusive use of the members of such group and their guests and not for profit as a business.

d. *Private residential.* Facilities owned by an individual, located on the same lot or adjoining lot to his or her family and guests.

Private lodge or club means a structure or grounds used for regular or periodic meetings or gatherings of a group of persons organized for a nonprofit purpose, but not groups organized to render a service customarily carried on as a business.

Professional office means the office of a doctor, dentist, architect, landscape architect, engineer, lawyer or other similar recognized profession.

Retail store means a commercial establishment for the sale of material goods or commodities in relatively small quantities directly to the consumer.

Setback means the horizontal distance between any structure and the established street right-of-way line.

Sign means any structure or part thereof or any device attached to a structure, or any other form of visual communication applied by paint, illumination, embossing or other technique to a structure for the purpose of directing, advertising, informing, warning or otherwise conveying information visually to the viewer.

Sign, directional means a sign intended solely for the purpose of directing patrons or customers to an establishment off the main traveled road and not including promotional advertising unnecessary to such directional purpose.

Sign, nonaccessory means a sign related to commercial or similar activities other than those actually engaged in on the site on which such nonaccessory sign is located.

Structure means a combination of materials other than natural terrain or plant growth erected or constructed to form a shelter, enclosure, retainer, container, support, base, pavement or decoration. The word *structure* includes buildings. Exception: Not including fences six (6) feet or less in height.

Use, accessory means a use subordinate to and customarily incident to the permitted principal use of the property or buildings and located upon the same lot as the principal use.

Use, legal nonconforming means a building or premises lawfully used or occupied at the time of the passage of this Chapter or amendment thereto, which use or occupancy does not conform to the regulations of this Chapter or to the amendments thereto.

Use, permitted means that utilization of land by occupancy, activity, building or other structure which is specifically enumerated as permissible by the regulations of the zoning district in which land is located.

Use, principal means the main or primary use of property or structures as permitted on such lot by the regulations of the district in which it is located. (Prior code Appx. B, § 2.02; Ord. 604 §2, 1999; Ord. 2003-709 §1; Ord. 2004-722 §1)

Secs. 16-13—16-20. Reserved.

ARTICLE III

Establishment of Districts

Sec. 16-21. Official Zoning District Map.

(a) The Town is hereby divided into zoning districts as shown on the Official Zoning District Map which, together with all explanatory material thereon, is hereby adopted by reference and declared to be a part of this Chapter.

(b) The Official Zoning District Map, which shall be located in the office of the Town Clerk, shall be identified by the signature of the Mayor attested by the Town Clerk, and shall bear the seal of the Town under the following words: "This is to certify that this is the Official Zoning District Map referred to in the Johnstown Municipal Code" together with the date of adoption of this Chapter. (Prior code Appx. B, § 3.01)

Sec. 16-22. Changes in the Official Zoning District Map.

(a) If, in accordance with the amendment provisions of this Chapter, changes are made in district boundaries or other matters shown on the Official Zoning District Map, such changes shall be made promptly after the amendment has been approved by the Board of Trustees, together with an entry on the Official Zoning District Map noting the date of the change and a brief description of the nature of the change, which entry shall be signed by the Chairman of the Board of Trustees and attested by the Town Clerk. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning District Map. No amendment to this Chapter which involves matters shown on the Official Zoning District Map shall become effective until after such change and entry have been made on the map.

(b) No changes of any nature shall be made on the Official Zoning District Map or matters shown thereon except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Chapter and punishable as provided under this Code. (Prior code Appx. B, § 3.02)

Sec. 16-23. Replacement of the Official Zoning District Map.

In the event that the Official Zoning District Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Trustees may, by resolution, adopt a new Official Zoning District Map which shall supersede the prior Official Zoning District Map. The new Official Zoning District Map may correct drafting or other errors or omissions in the prior Official Zoning District Map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. (Prior code Appx. B, § 3.03)

Sec. 16-24. Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning District Map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets or highways shall be construed as following such center lines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following Town limits shall be construed as following Town limits.
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as following shore lines shall be construed to follow such shore line, and in the event of change in the shore line shall be construed as moving with the actual shore line.
- (6) Boundaries indicated as approximately following the centerlines of streams, rivers or canals shall be construed to follow such centerlines.
- (7) Boundaries indicated as parallel to or extensions of features indicated in Subsections (1) through (6) above shall be so construed. Distances not specifically indicated on the Official Zoning District Map shall be determined by the scale of the map.
- (8) Where physical or cultural features existing in the ground are at variance with those shown on the Official Zoning Map or in circumstances not covered by Subsection (1) through (7) above, the Board of Adjustment shall interpret the district boundaries. (Prior code Appx. B, § 3.04)

Secs. 16-25—16-40. Reserved.

ARTICLE IV

Administration and Enforcement

Sec. 16-41. Administrative official.

(a) An administrative official designated by the Board of Trustees shall administer and enforce this Chapter. The administrative official may be provided with the assistance of such other persons as the Board of Trustees may direct.

(b) If the administrative official shall find that any of the provisions of this Chapter are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order

discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Chapter to insure compliance with or prevent violation of its provisions. (Prior code Appx. B, § 4.01)

Sec. 16-42. Building permits.

No building or other structure shall be erected, moved, added to or structurally altered without a permit therefor issued by the administrative official. No building permit shall be issued except in conformity with the provisions of this Chapter, except after written order from the Board of Adjustment. (Prior code Appx. B, § 4.02)

Sec. 16-43. Application for building permit.

(a) All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families or dwelling units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Chapter.

(b) One (1) copy of the plans shall be returned to the applicant by the administrative official, after he or she shall have marked such copy either as approved or disapproved and attested to the same by his or her signature on such copy. The second copy of the plans, similarly marked, shall be retained by the administrative official. (Prior code Appx. B, § 4.03)

Sec. 16-44. Certificates of zoning compliance.

(a) It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the administrative official stating that the proposed use of the building or land conforms to the requirements of this Chapter.

(b) No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this Chapter upon completion of the work.

(c) The administrative official shall maintain a record of all certificates of zoning compliance, and copies shall be furnished upon request to any person.

(d) Failure to obtain a certificate of zoning compliance shall be a violation of this Chapter and punishable under this Code. (Prior code Appx. B, § 4.04)

Sec. 16-45. Expiration of building permit.

(a) If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, the permit shall expire; it shall be cancelled by the administrative official; and written notice thereof shall be given to the persons affected.

(b) If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, the permit shall expire and be cancelled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained. (Prior code Appx. B, § 4.05)

Sec. 16-46. Construction and use to be as provided in plans and permits.

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use arrangement or construction at variance with that authorized shall be deemed a violation of this Chapter, and punishable as provided by this Code. (Prior code Appx. B, § 4.06)

Sec. 16-47. Complaints regarding violations.

Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint stating fully the cause and basis thereof. Such complaint shall be filed with the administrative official, who shall record properly the complaint, immediately investigate and take action thereon as provided by this Chapter. (Prior code Appx. B, § 4.07)

Sec. 16-48. Public hearings.

(a) No regulation, restriction or boundary of this Chapter shall become effective, nor shall any such regulation, restriction or boundary be amended until after a public hearing thereon, at which parties in interest and citizens shall have an opportunity to be heard.

(b) Upon the filing of an application, petition or other document, the Town Clerk shall set a date for a public hearing, which date shall be not more than thirty (30) days from the date of submission of a complete application.

(c) Not less than fifteen (15) days prior to the date set for the hearing, the hearing authority shall cause a notice stating the time, place and purpose of such hearing to be published once in a newspaper in general circulation in the County. When the hearing involves a proposed change in the zoning district classification of any property or the granting of a conditional use, a notice stating the time, place and purpose of such hearing shall be posted in the vicinity of such proposed change or conditional use. (Prior code Appx. B, § 4.09; Ord. 542, § 1, 1996)

Secs. 16-49—16-60. Reserved.

ARTICLE V

Amendments

Sec. 16-61. Authority.

The Town Council may, after first submitting the proposal to the Planning and Zoning Commission for report and recommendation, and after public notice and hearing as provided in this code, amend, supplement, change or repeal the regulations, restrictions and district boundaries set forth in this Chapter. (Prior code Appx. B, § 5.01)

Sec. 16-62. Procedure.

(a) *Initiation.* A proposal to amend the text or change the district mapping of this Chapter may be initiated by the Town Council on its own motion, by recommendation of the Planning and Zoning Commission, or by petition of one (1) or more property owners.

(b) *Filing.* A petition for change or amendment submitted by a private property owner shall be prepared in triplicate on forms provided for the purpose and filed with the Town Clerk, and shall be accompanied by a fee of twenty-five dollars (\$25.00) to defray the cost of giving notice, investigation and other administrative processing.

(c) *Information required.* In addition to all information required on the petition form, the petitioner shall also supply the following:

(1) Three (3) copies of a map prepared at a scale of one hundred (100) feet to one (1) inch or larger, showing the land in question, its location and the length and direction of each boundary thereof, the location and use of all buildings on such land, and the principal use of all properties within three hundred (300) feet of such land.

(2) The names and addresses of the owners of all properties within three hundred (300) feet of any part of the land included in the proposed change.

(d) *Referral.* The Town Clerk shall transmit one (1) copy of the petition to the Planning and Zoning Commission. The Planning and Zoning Commission shall conduct a study and investigation upon the proposal.

(e) *Public hearing.* The Planning and Zoning Commission shall give public hearing upon the petition as provided in this Code.

(f) *Action.* As soon as possible after such public hearing, the Planning and Zoning Commission shall forward a written report and recommendation to the Town Council. Upon hearing the recommendation of the Planning and Zoning Commission, the Town Council shall act to approve, approve with modifications or disapprove the proposed change or amendment. Should the Town Council not concur in the recommendation of the Planning and Zoning Commission, it shall return the petition to the Planning and Zoning Commission for reconsideration before taking final action. An approved change shall be by appropriate ordinance, and necessary changes in the Official Zoning District Map shall be made promptly. (Prior code Appx. B, § 5.02)

Sec. 16-63. Protest of amendments.

In case of a protest against a proposed change, signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of the members of the Town Council. (Prior code Appx. B, § 5.03)

Secs. 16-64—16-80. Reserved.

ARTICLE VI

Board of Adjustment

Sec. 16-81. Establishment.

All powers, duties and authority of the Board of Adjustment, as expressed under state law and under the provisions of this Article are hereby vested in the Planning and Zoning Commission for the Town as established under Article X of Chapter 2 of this Code. (Ord. 2004-726 §1)

Sec. 16-82. Proceedings.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Chapter. Meetings shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. (Prior code Appx. B, § 6.02)

Sec. 16-83. Powers and duties.

The Board of Adjustment shall have the following powers and duties:

(1) *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of this Chapter.

(2) *Referred Matters.* To hear and decide all matters referred to it under the provisions of this Chapter.

(3) *Variances.* To authorize upon appeal in specific cases such variances from the regulations or provisions of this Chapter as will not be contrary to the public interest, where due to special conditions a literal enforcement of the provisions of this Chapter would result in unnecessary hardship; so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done. (Prior code Appx. B, § 6.03)

Sec. 16-84. Conditions.

In granting any variance, the Board of Adjustment may impose such conditions and requirements with respect to location, construction, maintenance and operation, in addition to any which may be stipulated in this Chapter, as deemed necessary for the protection of adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Chapter and shall be punishable under this Code. (Prior code Appx. B, § 6.04)

Sec. 16-85. Decisions of the Board of Adjustment.

(a) In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken.

(b) The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variation in the application of this Chapter. The grounds of every such determination shall be stated in writing. (Prior code Appx. B, § 6.05)

Sec. 16-86. Procedure.

(a) *Filing:*

(1) Appeals to the Board of Adjustment concerning interpretation or administration of this Chapter may be taken by any person aggrieved, or by any officer, department or board of the Town affected by any decision of the administrative official.

(2) Such appeals shall be taken within a reasonable time, by filing with the administrative official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

(b) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(c) *Hearing.* The Board of Adjustment shall give notice and hold a public hearing on the appeal as provided in this Code. At the hearing any party may appear in person or by an attorney representing him or her. The Board of Adjustment shall set forth its decision in writing within fifteen (15) days after completion of the hearing on the appeal. (Prior code Appx. B, § 6.06)

Secs. 16-87—16-100. Reserved.

ARTICLE VII

Conditional Use Grants

Sec. 16-101. Intent.

The conditional use classification is intended to provide for the inclusion within a district of uses of such unique nature or character, or uses which are so dependent upon specific contemporary conditions, that predetermination of permissibility by right, or the detailing within the ordinance of specific standards, requirements or conditions necessary or appropriate to such permissibility are not practical; but which may be permitted in the district where listed subject to conditions and requirements as hereinafter specified. (Prior code Appx. B, § 7.01)

Sec. 16-102. Approval of conditional use grants.

Uses listed as conditional uses may be permitted upon petition to the Planning and Zoning Commission for a conditional use grant and subject to approval of the Commission. The Planning and Zoning Commission shall base its determination on general considerations as to the effect of such permit on the health, safety, welfare and economic prosperity and specifically on the effect of such use upon the immediate neighborhood in which it would be located, including the considerations listed in Section 16-105 below. Approval shall only be for a specific location and shall terminate upon change in the use. (Prior code Appx. B, § 7.02; Ord. 2003-709 §2)

Sec. 16-103. Application to existing uses.

A use which existed lawfully on a lot at the time the lot was placed in a district where such use would be permitted only upon approval of a conditional use grant shall automatically be granted conditional use status. In such cases, the grant of conditional use status shall be based upon the existing conditions at that time and any expansion or change in use shall require changing of the conditional use grant. Petition may be made at any time for expansion or other change of the conditional use grant, and such petition shall not prejudice the existing grant as herein authorized. (Prior code Appx. B, § 7.03)

Sec. 16-104. Termination of conditional uses.

Where a permitted conditional use does not continue in conformity with the conditions of the original approval, or where a use is no longer compatible with the surrounding area, the conditional grant may be terminated by the Town Council upon referral to the Planning and Zoning Commission and public hearing thereon. Such use shall thereafter be classified as a legal non-conforming use; except that where the action is due to failure to comply with the conditions of the conditional grant, the Town Council may require complete termination of the use. (Prior code Appx. B, § 7.04)

Sec. 16-105. Standards and requirements.

(a) Approval of a conditional use grant shall be based on an evaluation of such factors as the following: the character and quality of the area in which the use will be located; the physical

appearance of the use, including suitability of architectural and landscaping treatment; appropriate location of the building or buildings on the lot; adequate provision of parking, loading and circulation facilities; potential effect of the use upon off-site vehicular and pedestrian traffic circulation, with particular reference to potential traffic congestion; potential effect of the use on storm drainage in the area; adequacy of planting screens where necessary; provision of operational controls where necessary to avoid hazardous conditions or eliminate potential air or water pollutants or other noxious influences; and the general compatibility of the proposed use with the area in which it is to be located.

(b) *Conformity with regulations.* Except as may be specifically otherwise provided, any conditional use shall conform to the lot size, building location, building size, open space and height limitation regulations of the district in which it is located.

(c) *Accessory uses.* Uses and structures accessory to a principal conditional use shall be subject to appropriate regulations in the same manner as herein set forth for the principal conditional use. (Prior code Appx. B, § 7.05)

Sec. 16-106. Procedure.

(a) *Filing.* A petition for a conditional use grant shall be submitted in writing and filed with the Town Clerk, who shall promptly refer such petition of the Planning and Zoning Commission. Such petition shall be accompanied by building, site and operational plans as provided in Section 16-145(c) and by such other data and information as necessary for proper evaluation of the request.

(b) *Hearing.* The Planning and Zoning Commission shall conduct a study and investigation on the petition and shall give public notice and hold a public hearing thereon as provided in Section 16-48.

(c) *Determination.* Following public hearing, the Planning and Zoning Commission shall make a determination and set forth its decision in writing, indicating conditions of approval, or if the petition is disapproved, indicating the reason therefor.

(d) *Recording.* When a conditional use grant is approved, such approval shall be appropriately noted on building permits and certificates of zoning compliance. Indication of such grant shall also be made on the Official Zoning District Map by appropriate symbol. (Prior code Appx. B, § 7.06)

Secs. 16-107—16-120. Reserved.

ARTICLE VIII

General Application of Regulations

Sec. 16-121. Compliance with regulations.

Within the Town, the use of any land, the size and placement of lots, the use, location and type of structure thereon, and the provision of open spaces shall be in compliance with the regulation established herein and made applicable to the district or districts in which such land or structure is located. (Prior code Appx. B, § 8.01)

Sec. 16-122. Structures other than buildings.

(a) *Structures less than six (6) inches in height.* Structures not classified as buildings and less than six (6) inches in height from the surface of the ground shall not be subject to the setback, offset, building size or open space requirements of this Chapter except as may be specifically otherwise provided.

(b) *Structures six (6) inches or more in height.* Structures not classified as buildings and six (6) inches or more in height from the surface of the ground shall be subject to the setback, offset height limitation and open space requirements of this Chapter except as may be specifically otherwise provided. (Prior code Appx. B, § 8.02)

Sec. 16-123. Accessory uses and structures.

(a) *General.* Any accessory use or structure shall conform to the applicable regulations of the district in which it is located except as specifically otherwise provided.

(b) *Permanent Structures:*

(1) Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.

(2) Fences, walls and screening devices.

a. Fences, walls and other architectural screening devices not in excess of six (6) feet in height may be permitted except in the area of the front yard of the area of a parcel of land or lot considered to be the front portion thereof. Fences and other architectural screening devices are permissible in the front yard area such as opaque fence with a maximum height of thirty-six (36) inches and chain link fence with a maximum height of forty-two (42) inches.

b. It shall be unlawful for any person to construct or maintain on any property occupied as residential within the Town any fence, cellar or window guard containing barbs, barbed wire, sharpened nails or any other pointed or sharpened thing of metallic substance.

c. It shall be unlawful for any person to construct or maintain within the Town an electrical fence.

(c) *Unenclosed storage.* No unenclosed storage of materials, equipment, supplies or vehicles shall be permitted where such storage is unsightly to the surrounding view. (Prior code Appx. B, § 8.03; Ord. 471, 1992; Ord. 475, 1992)

Sec. 16-124. Basic locational regulations.

(a) *Building must be on a lot.* Every building hereafter erected, structurally altered or relocated shall be placed on a lot as herein defined.

(b) *One (1) building per lot.* Except as otherwise provided for multifamily dwellings and planned unit developments, only one (1) principal residence structure shall be permitted on a lot.

(c) *Street access.* No lot shall hereafter be created or any building placed on a lot which does not abut on a public street or approved way except as hereinafter provided for planned unit developments. (Prior code Appx. B, § 8.04)

Sec. 16-125. Legal nonconformity.

(a) The existing lawful use of a building or premises at the time of the enactment of this Chapter or any amendment applicable thereto which is not in conformity with the provisions established by this Chapter may be continued in the manner and for the purposes then existent subject to the conditions hereinafter stated.

(b) For the purpose of administration, such nonconformity shall be classified and regulated as follows:

(1) *Nonconforming structures:*

a. Subject to Subsection c below, no such structure shall be expanded or enlarged except in conformity with the regulations of the district in which it is located.

b. Subject to Subsection c below, when such structure is damaged to the extent of more than fifty percent (50%) of its current local assessed value, it shall not be restored except in conformity with the regulations of the district in which it is located.

c. A nonconforming structure which has been damaged by fire or other unavoidable cause may be restored to its original condition for the same use, provided that such work is commenced within six (6) months of such calamity. Moreover, upon the commencement of such work, it shall be diligently and continuously pursued until the work is completed.

(2) *Nonconforming use of structures:*

a. No such use shall be expanded or enlarged.

b. Upon petition to and approval of the Planning Commission, such use may be changed to another use provided that the Planning Commission determines that the new use would result in a greater, or no less, degree of conformity, and provided further that such new use shall thereafter determine the degree of legal nonconformity.

c. Where any such use is discontinued for a period of twelve (12) consecutive months or for eighteen (18) accumulative months during any three (3) year period, any future use of the structure shall conform to the regulations of the district in which it is located.

d. Subject to Subparagraph (1)c above, where the structure in which such use is carried on is damaged to the extent of more than fifty percent (50%) of its current local assessed value, it shall not be restored for use except in conformity with the regulations of the district in which it is located.

e. Subject to Subparagraph (1)c above, structural repairs and alterations to a structure housing such use shall not, as long as such use continues, exceed fifty percent (50%) of the local assessed value of the structure at the time the use became nonconforming.

(3) *Nonconforming lots:*

a. No building permit or certificate of zoning compliance shall be issued except in conformity with Article IV of this Chapter.

b. The size and shape of such lot shall not be altered in any way so as to increase the degree of nonconformity except with the approval of the Planning Commission.

(4) *Nonconforming use of land:*

a. No such use shall be expanded or enlarged.

b. Upon petition to and approval of the Planning Commission, such use may be changed to another use provided that the Planning Commission determines that the new use would result in greater, or no less, degree of conformity, and provided further that such new use shall thereafter determine the degree of legal nonconformity.

c. Where any such use is discontinued for a period of twelve (12) consecutive months or for eighteen (18) accumulative months during any three (3) year period, any future use of the land shall conform to the regulations of the district in which it is located. (Prior code Appx. B, § 8.05; Ord. 459, 1990)

Secs. 16-126—16-140. Reserved.

ARTICLE IX

Supplementary District Regulations

Sec. 16-141. Visibility at intersections.

No substantial impediment to visibility between the heights of three (3) and eight (8) feet shall be created or maintained at street intersections within a triangular area described as follows:

Beginning at the point of intersection of the edges of the driving surface, then to points twenty-five (25) feet along both intersecting edges, and then along a transverse line connecting these points. (Prior code Appx. B, § 9.01)

Sec. 16-142. Home occupations.

(a) *General requirements.* In any district where home occupations are permitted as an accessory use, the establishment and continuance of a home occupation shall be subject to the following general requirements:

(1) Such use shall be conducted entirely within a dwelling and carried on principally by the inhabitants thereof.

(2) Such use shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the residential character thereof.

(3) The total area used for such purposes shall not exceed the equivalent of one-half ($\frac{1}{2}$) the floor area, in square feet, of the first floor of the user's dwelling unit.

(4) There shall be no advertising, display or other indications of home occupation on the premises.

(5) There shall not be conducted on the premises the business of selling stocks, supplies or products, provided that incidental retail sales may be made in connection with the permitted home occupations.

(6) There shall be no exterior storage on the premises of material used in the home occupation.

(7) There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line, as a result of the home occupation.

(8) For purposes of this Subsection, provided that all requirements contained herein are met, the following shall, by way of example, be considered home occupations: teaching, with musical instruction limited to two (2) pupils at a time; dressmaking or millinery; child care.

(b) *Excluded uses.* A home occupation shall not include the following: medical or dental clinic, funeral home, restaurant, antique shop, veterinarian's office or any use similar to the foregoing excluded uses. (Prior code Appx. B, § 9.02)

Sec. 16-143. Off-street parking requirements.

Off-street parking space shall be provided for buildings and uses as hereinafter specified:

(1) *Application to existing uses.* Provision of parking space shall not be required for uses in existence as of the date of enactment of this Chapter, but shall be required for any expansion of such use by the addition of primary floor area or other special expansion of building or use generating new parking demand.

(2) *Location.* Parking areas shall be provided upon the same lot containing the use for which they are required or on separate lots within a five hundred (500) foot radius of the lot containing the use for which they are required. Such separate lots and the lot containing the use for which they are required shall be held under unified ownership or control, or the owner of the lot containing the use for which the off-street parking is required shall hold a parking easement in such separate lot.

(3) *Surfacing.* Any off-street parking area, other than that provided for a residence, having a capacity for more than four (4) vehicles shall be hard surfaced and maintained in a reasonably dustless condition if it is within five hundred (500) feet of a residential district.

(4) *Screening.* Any off-street parking area, other than that provided for a single-family residence, shall provide a planting screen, landscaped fence or wall at least four (4) feet in height along any side abutting or fronting on a residential district. Plans for such screen shall be submitted to the Planning Commission for approval before installation.

(5) *Standard dimension.* An individual parking space shall be at least nine (9) feet wide by twenty (20) feet long, and if covered shall have a minimum height clearance of seven (7) feet.

(6) *Determination of need.* The number of parking spaces required shall be based upon the anticipated parking demand of individual uses and shall be as designated for specific uses and situations as follows:

<u>Use</u>	<u>Parking Requirements</u>
Single-family residence	2 spaces per dwelling unit
Multifamily residence	1.5 spaces per dwelling unit
Public assembly facilities provided for seated audiences (churches, theaters, auditoriums, etc.)	1 space for every 3 seats
Elementary schools (if the school includes an auditorium, the auditorium requirement shall govern if it is greater)	2 spaces for every classroom
Junior and senior high schools	Auditorium requirement of 1 space for every 5 students of maximum capacity
Hospitals	1 space for every 2 beds
Clinics	5 spaces for every practitioner on the staff
Industrial uses	1 space for every 2 employees
Commercial office buildings	1 space for every 300 sq. ft. of G.L.A.
Retail stores	1 space for every 150 sq. ft. of G.L.A.
Customer services establishments	1 space for every 200 sq. ft. of G.L.A.

Restaurant or bar	1 space for every 100 sq. ft. of G.L.A.
Planned shopping center	1 space for every 150 sq. ft. of G.L.A.

(7) *Uses not enumerated.* In any case where there is a question as to the parking requirements for a use or where such requirements are not specifically enumerated, the Planning Commission shall determine the appropriate application of the parking requirements to the specific situation. (Prior code Appx. B, § 9.03)

Sec. 16-144. Off-street loading requirements

(a) *Space required.* In any commercial or industrial district, off-street loading and unloading space shall be provided in addition to the required off-street parking area for every building used for commercial or industrial purposes, which building is in excess of three thousand (3,000) square feet in area exclusive of storage areas.

(b) *Standard dimension.* An individual loading space shall be at least twelve (12) feet wide by forty-five (45) feet long and have a minimum height clearance of fourteen (14) feet.

(c) *Determination of need.* The number of such spaces provided shall be based upon the operating characteristics of the individual use and shall be subject to approval by the Planning Commission upon submittal of site and operational plans.

(d) *Street servicing prohibited.* No building for commercial or industrial purposes shall hereafter be erected or placed on a lot in a manner requiring servicing directly from the abutting street. (Prior code Appx. B, § 9.04)

Sec. 16-145. Approval of building, site and operational plans.

(a) *Where required.* In the case of certain uses, the character of which could have a substantial adverse effect upon the surrounding environment and general character, such uses may be required, as a qualifying condition to their permissibility, to submit for approval of the Planning Commission building, site and operational plans.

(b) *Use by right not infringed.* Such required approval shall be limited solely to reasonable compliance with design, locational and operational requirements and shall not involve the basic permissibility of the use where such use is permitted by right.

(c) *Submittal.* Before issuing a building permit, the administrative official shall submit the necessary building, site and operational plans to the Planning Commission for its consideration. In the case of industrial uses permitted under Section 16-262(a), the Planning Commission shall refer such plans to the air pollution control and water pollution control sections of the State Department of Public Health for their review and recommendation. Building, site and operational plans shall be in sufficient detail to enable the Commission and other agencies to properly evaluate them and shall specifically include the following:

(1) A site plan of the property accurately dimensioned showing the location of all existing and proposed structures and uses.

(2) General building plans, including either elevations or perspective drawings showing the exterior appearance.

(3) A statement describing the basic operational characteristics of the proposed use.

(d) *Criteria.* In determining the acceptability of the building, site and operational plans, the Planning Commission shall take into consideration the following factors as well as any others it deems appropriate:

(1) The relationship of structures and uses to each other and to the site, with particular consideration of traffic circulation and access, screening of parking and storage areas and general appearance.

(2) The character of the operation in terms of its impact upon traffic facilities, sewage disposal, water supply and environmental character with particular consideration of the control of any possible noise, dust, odor or other undesirable operating characteristic. (Prior code Appx. B, § 9.05)

Secs. 16-146—16-160. Reserved.

ARTICLE X

Application of Individual Lot Regulations

Sec. 16-161. General.

The regulations set by this Chapter within each district shall be held to be minimum requirements and shall apply to each class or kind of structure or land, except as hereinafter provided. (Prior code Appx. B, § 10.01)

Sec. 16-162. Use regulations.

No structure or land shall be used and no structure shall be hereafter erected, structurally altered or relocated except for a use as permitted in compliance with the regulations hereinafter established for the district in which it is located. (Prior code Appx. B, § 10.02)

Sec. 16-163. Lot size.

Minimum lot area. No building shall be erected on a lot of less area than hereinafter specified by the regulations of the district in which such building is located. (Prior code Appx. B, § 10.03)

Sec. 16-164. Density.

(a) *Purpose.* The regulatory techniques controlling the distribution of population throughout the community are intended to achieve the desired environmental character as set forth in the

Comprehensive Development Plan and to achieve a practical economic and functional relationship between the residential use of land and its consequent impact upon traffic circulation, public utilities, community facilities and other service demands.

(b) *Method.* In single-family residential development, the density is established by the minimum required lot size. In multifamily residential development, the determination of the number of allowable dwelling units on a given property being developed shall be made by dividing the net area of the parcel to be developed by the number of square feet required per dwelling unit. (Prior code Appx. B, § 10.04)

Sec. 16-165. Building location.

(a) *Setback.*

(1) No building shall hereafter be erected, structurally altered or relocated so that any portion thereof is closer to the base setback line than the minimum setback distance hereinafter specified by the regulations of the district in which it is located.

(2) The only structures permitted within such setback area shall be necessary highway and traffic signs, public utility lines, fences and screens, mailboxes and permitted accessory signs in the Neighborhood Commercial and Highway Service Districts.

(b) *Offsets.* No building shall hereafter be erected, structurally altered or relocated so that any roofed or enclosed portion thereof is closer to any lot line than the offset distance hereinafter specified by the regulations for the district in which it is located except as follows:

(1) In the case of multifamily, commercial or industrial use structures, two (2) or more buildings on adjoining lots may be erected with common or directly adjoining walls, provided that the requirements of Building Codes relative to such construction are complied with and provided that at both ends of such "row" type buildings the applicable offset requirements shall be complied with.

(2) The required offset may be reduced on one (1) side of a structure provided that the offset on one (1) of the other sides is increased by an equivalent amount, and provided that the owners of any property adjoining the area of reduced offset shall file with the Town a copy of a recorded deed restriction stipulating that no building shall be erected on the property so as to reduce the combined offset in such case to a distance less than that resulting from the normal application of the minimum offset requirements to both properties except as permitted under Subparagraph (1) above.

(c) *Maintenance and use of setback and offset areas.* Any such required setback or offset area shall be landscaped and kept clean and free from the accumulation of debris and refuse, and shall not be used for the storage or display of equipment, products, vehicles or any other material except as may be specifically otherwise permitted under this Chapter.

(d) *Projections into setbacks and offsets.* Projections or parts of a structure may encroach into the required setbacks or offsets in the Residential SF-1 and SF-2 Districts not more than the distances listed in the following table:

Projections	Setback	Offset
Architectural features such as eaves, roof overhangs, chimneys, awnings, cantilevered window boxes and fireplaces can encroach no more than	2 ft	2 ft
Unenclosed or uncovered decks, porches, patios and landings ¹ at ground level can encroach no more than	2 ft	2 ft
Basement egress window wells	3 ft	3 ft

¹A required landing at an exit door may encroach up to 3' into required offset.

A combination of projections such as a fireplace cantilever and its roof overhang shall not encroach more than a total of two (2) feet. (Prior code Appx. B, § 10.05; Ord. 604 §1, 1999)

Sec. 16-166. Open space.

(a) *Minimum open space per dwelling unit.* No building used in whole or in part for residential purposes shall be hereafter erected, structurally altered or relocated on a lot as to reduce the usable livability open space of such lot to less than that hereinafter specified by the regulations of the district in which such building is located.

(b) *Usability of required open space.* To be considered usable, livability open space shall be readily accessible and of a size and shape which can be reasonably considered to provide for amenities and the necessities of light, air, play space, yard area, garden, etc., but shall not include parking area and drives. (Prior code Appx. B, § 10.06)

Secs. 16-167—16-180. Reserved.

ARTICLE XI

Single-Family Residential SF-1 District

Sec. 16-181. Statement of intent.

This district is intended to provide for the development of single-family dwellings with a full complement of accessory uses. It is intended that such development be served by institutional uses and community facilities compatible with the character of the district. (Prior code Appx. B, § 11.01)

Sec. 16-182. Use regulations.

A building or lot may be used for the following uses and no other:

- (1) *Principal uses permitted by right:*
 - a. Single-family detached dwellings;
 - b. Public parks and recreation areas; and
 - c. Public and private schools.

(2) *Permitted accessory uses:*

- a. Private garages, carports and paved parking areas;
- b. Private residential and private group outdoor recreational facilities, including by way of example, but not of limitation, swimming pools and tennis courts;
- c. Home occupations, subject to the provisions of Section 16-142;
- d. Service buildings and facilities normally incidental to the use of a public park or recreation area; and
- e. Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right.

(3) *Conditional uses.* The following uses shall be permitted in this district upon approval of a conditional use grant as provided in Article VII of this Chapter.

- a. Child care centers;
- b. Nursing and rest homes;
- c. Churches;
- d. Private commercial outdoor recreational facilities;
- e. Public administrative offices and service buildings; and
- f. Public utility installations including transmission lines and substations.
- g. Farm animals as defined in Subsection 7-121(7) of this Code, and only upon newly annexed land for a limited period of time as determined by the Board of Trustees, and in no event shall the numbers and types of animals be increased beyond those that could exist at the time of annexation under County regulations. (Prior code Appx. B, § 11.02; Ord. 631, § 1, 2000)

Sec. 16-183. Density.

The minimum lot area per dwelling unit is six thousand (6,000) square feet. (Prior code Appx. B, § 11.03)

Sec. 16-184. Building location.

- (a) The minimum setback is twenty (20) feet.
- (b) The minimum offset is five (5) feet. (Prior code Appx. B, § 11.04)

Sec. 16-185. Open space.

The minimum livability open space per dwelling unit is three thousand (3,000) square feet. (Prior code Appx. B, § 11.05)

Sec. 16-186. Off-street parking requirements.

See Section 16-143. (Prior code Appx. B, § 11.06)

Secs. 16-187—16-200. Reserved.

ARTICLE XII

Single-Family Attached Residential SF-2 District

Sec. 16-201. Statement of intent.

This district is intended to provide for residential development of single-family attached dwellings of the "duplex" or "townhouse" type, where all dwelling units have ground level occupancy and private entrances, at relatively low density, and where such development would be compatible with surrounding residential uses. (Prior code Appx. B, § 12.01)

Sec. 16-202. Use regulations.

A building or lot may be used for the following purposes and no other:

(1) *Principal uses permitted by right:*

- a. Single-family attached dwellings of two (2) or more units, but not more than six (6) dwelling units per structure.
- b. Public parks and recreation areas.
- c. Public and private schools.

(2) *Conditional uses:* The following uses shall be permitted in this district upon approval of a conditional use grant as provided in Article VII of this Chapter: any conditional use permitted in the Single-Family Residential SF-1 District. (Prior code Appx. B, § 12.02)

Sec. 16-203. Density.

The minimum lot area per dwelling unit is four thousand five hundred (4,500) square feet. (Prior code Appx. B, § 12.03)

Sec. 16-204. Building location.

- (a) The minimum setback is twenty (20) feet.

(b) The minimum offset is five (5) feet. (Prior code Appx. B, § 12.04)

Sec. 16-205. Open space.

The minimum livability open space per dwelling unit is two thousand (2,000) square feet. (Prior code Appx. B, § 12.05)

Sec. 16-206. Off-street parking requirements.

See Section 16-143. (Prior code Appx. B, § 12.06)

Secs. 16-207—16-220. Reserved.

ARTICLE XIII

Multifamily Residential MF-1 District

Sec. 16-221. Statement of intent.

This district is intended to provide for residential development of multifamily dwellings in areas where such development would be compatible with surrounding uses and when such intensive use would not create service problems. (Prior code Appx. B, § 13.01)

Sec. 16-222. Use regulations.

A building or lot may be used for the following purposes and no other:

(1) *Principal uses permitted by right:*

- a. Multifamily dwellings of two (2) or more units; and
- b. Public parks and recreation areas.

(2) *Permitted accessory uses:*

- a. Private garages, carports and paved parking areas;
- b. Signs;
- c. Private residential and private group outdoor recreational facilities;
- d. Service buildings and facilities normally incidental to the use of a public park or recreation area; and
- e. Any other structures or uses clearly incidental to and commonly associated with the operation of a principal use permitted by right.

(3) *Conditional uses.* The following uses shall be permitted in this district upon approval of a conditional use grant as provided in Article VII:

- a. Private commercial outdoor recreational facilities; and
- b. Private lodge or club. (Prior code Appx. B, § 13.02)

Sec. 16-223. Density.

The minimum lot area per dwelling unit is three thousand (3,000) square feet. (Prior code Appx. B, § 13.03)

Sec. 16-224. Building location.

- (a) The minimum setback is twenty (20) feet.
- (b) The minimum offset is six (6) inches for every foot of building height. (Prior code Appx. B, § 13.04)

Sec. 16-225. Open space.

The minimum livability open space per dwelling unit is nine hundred (900) square feet. (Prior code Appx. B, § 13.05)

Sec. 16-226. Off-street parking requirements.

See Section 16-143. (Prior code Appx. B, § 13.06)

Secs. 16-227—16-240. Reserved.

ARTICLE XIV

Central Business CB District

Sec. 16-241. Statement of intent.

This district is intended to provide for the development of a concentration of commercial, office, recreational, cultural, entertainment and governmental facilities serving as a center of community activity. It is the further intent of this district to conserve and enhance the existing central business area for the benefit of the community as a whole. (Prior code Appx. B, § 14.01)

Sec. 16-242. Use regulations.

A building or lot may be used for the following purpose and no other:

- (1) *Principal uses permitted by right:*
 - a. Retail stores:

1. Food store, supermarket;
 2. Food store, convenience;
 3. Delicatessen;
 4. Bakery goods store;
 5. Liquor store;
 6. Hardware store; and
 7. Drugstore.
- b. Customer service establishments:
1. Barber and beauty shops;
 2. Restaurant and bar;
 3. Shoe repair shop;
 4. Laundromat and coin-operated dry cleaning establishment; and
 5. Fine art studio.
- c. Business and professional offices;
- d. Banks and savings and loans;
- e. Medical and dental clinics;
- f. Public administrative offices and service buildings;
- g. Public utility offices and installations;
- h. Public library;
- i. Private club or lodge;
- j. Commercial lodging;
- k. Theater;
- l. Minor repair, rental and servicing establishments; and
- m. Passenger transportation terminals, not including trucking terminals.

(2) *Permitted accessory uses.* The following subject to approval by the Planning and Zoning Commission of building, site and operational plans as provided in Section 16-145:

- a. Garages for storage of vehicles used in conjunction with the operation of a business;
- b. Off-street parking and loading areas;
- c. Signs;
- d. Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business;
- e. Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right.

(3) *Conditional uses.* The following uses shall be permitted in this district upon approval of a conditional use grant as provided in Article VII:

- a. Commercial parking facilities; and
- b. Gasoline service stations.
- c. Motor vehicle repair and maintenance. (Prior code Appx. B, § 14.02; Ord. 681-B, § 1, 2001)

Sec. 16-243. Off-street parking requirements.

See Section 16-143. (Prior code Appx. B, § 14.03)

Sec. 16-244. Off-street loading requirements.

See Section 16-144. (Prior code Appx. B, § 14.04)

Secs. 16-245—16-260. Reserved.

ARTICLE XV

Industrial I District

Sec. 16-261. Statement of intent.

This district is intended to identify and preserve land suitable for exclusive industrial use and to provide for the orderly grouping of light manufacturing or industrial operations in an appropriate setting. It is the further intent of this district to establish such regulatory controls as to reasonably assume a harmonious relationship between the industrial uses and the community. (Prior code Appx. B, § 15.01)

Sec. 16-262. Use regulations.

(a) *Principal uses permitted by right.* The following uses shall be permitted in this district subject to approval by the Planning and Zoning Commission of the building site and operational plans and subject to approval of such plans by the air pollution control and water pollution control sections of the State Department of Health, as provided in Section 16-145.

(1) Manufacturing, assembly, processing and fabrication plants;

(2) Transportation terminals, including trucking;

(3) General warehousing;

(4) Experimental, testing and research laboratories;

(5) Printing and publishing houses and related activities;

(6) Automobile body repair shops;

(7) Special trades contractor specializing in one (1) or more trades of which the following are examples: plumbing and heating, painting and decorating, electrical work, glazing, insulation, carpentry and masonry; and

(8) Public utility offices and installations.

(b) *Permitted accessory uses:*

(1) Office, storage, power supply and other such uses normally auxiliary to the principal industrial use;

(2) Parking and service areas;

(3) Accessory signs;

(4) Residential quarters for guards or caretakers; and

(5) Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right.

(c) *Conditional uses.* The following uses shall be permitted in this district upon approval of a conditional use grant as provided in Article VII:

(1) Manufacture of asphalt or concrete;

(2) Packing houses;

(3) Drop forges or foundries;

(4) Storage of gasoline or any other flammable liquid as defined as those having a flash point below seventy-three degrees Fahrenheit (73°F) and having a boiling point below one hundred degrees Fahrenheit (100°F) where such storage is in excess of fifty thousand (50,000) gallons; and

(5) Nonaccessory signs. (Prior code Appx. B, § 15.02; Ord. 533, § 1, 1996)

Sec. 16-263. Limitation on external effects of uses.

(a) No use or activity shall be permitted to produce hazardous conditions or noxious influences, such as noise, vibration, heat, glare, radiation, fumes, smoke or other pollutant to a degree detrimental to existing or prospective adjacent uses or to existing or prospective adjacent residential and commercial districts.

(b) All fuel, raw materials and products stored outdoors shall be enclosed by a solid fence or wall adequate to conceal such fuel, raw materials and products from adjacent residential and commercial districts. (Prior code Appx. B, § 15.03)

Sec. 16-264. Lot size.

The minimum lot area is sixty thousand (60,000) square feet. (Prior code Appx. B, § 15.04)

Sec. 16-265. Building location.

(a) The minimum setback is thirty (30) feet.

(b) The minimum offset is twenty (20) feet. Where an industrial district adjoins a residential district, structures located in the district shall be set back or offset a minimum distance of two hundred (200) feet and shall be permanently screened with a planting screen at least six (6) feet wide and fifteen (15) feet high. (Prior code Appx. B, § 15.05)

Sec. 16-266. Off-street parking requirements.

See Section 16-143. (Prior code Appx. B, § 15.06)

Sec. 16-267. Off-street loading requirements.

See Section 16-144. (Prior code Appx. B, § 15.07)

Secs. 16-268—16-270. Reserved.

ARTICLE XV-A

Gateway District

Sec. 16-271. Statement of intent.

This district is intended to identify and preserve land at an interstate highway interchange for light industrial and commercial uses and to provide for the orderly grouping of light industrial and

commercial operations in an appropriate setting. It is the further intent of this district to establish such regulatory controls as to reasonably assume a harmonious relationship between the industrial and commercial uses and the community. (Ord. 526, 1996)

Sec. 16-272. Use regulations.

(a) *Principal uses permitted by right.* The following uses shall be permitted in this district subject to approval by the Planning Commission of the building site and operational plans and subject to approval of such plans by the air pollution control and water pollution control sections of the State Department of Health, as provided in Section 16-145. These uses are permitted by right provided that they are conducted entirely within an enclosed structure and that all dust, fumes, odors, smoke, noise, lights and vibration are confined within the lot on which the use is located.

- (1) Manufacturing, assembly, processing and fabrication plants;
- (2) Transportation terminals, including trucking;
- (3) General warehousing;
- (4) Experimental, testing and research laboratories;
- (5) Printing and publishing houses and related activities;
- (6) Automobile body repair shops;
- (7) Special trades contractor specializing in one (1) or more trades of which the following are examples: plumbing and heating, decorating, electrical work, glazing, insulation, carpentry and masonry;
- (8) Public utility offices and installations;
- (9) Motor vehicle sales and rental;
- (10) Motor vehicle repair and maintenance;
- (11) Heavy equipment sales and rental including, but not limited to, farm implements, mobile homes, construction equipment and recreational vehicles;
- (12) General administrative offices;
- (13) Distribution centers; and
- (14) Boat and RV storage.

(b) *Permitted accessory uses:*

- (1) Office, storage, power supply and other such uses normally auxiliary to the principal industrial use;

- (2) Parking and service areas;
- (3) Accessory signs;
- (4) Residential quarters for guards or caretakers; and
- (5) Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right.

(c) *Conditional uses.* The following uses shall be permitted in this district upon approval of a conditional use grant as provided in Article VII:

- (1) Manufacture of asphalt or concrete;
- (2) Packing houses;
- (3) Drop forges or foundries;
- (4) Storage of gasoline or petroleum where such storage is in excess of fifty thousand (50,000) gallons;
- (5) Nonaccessory signs;
- (6) Restaurants;
- (7) Service stations;
- (8) Auction facility; and
- (9) Indoor recreation facility. The following additional standards and limitations shall be applied in considering and granting this conditional use:

- a. Approval shall apply only to a specified location.
- b. Approval shall terminate upon change in the use or occupancy of the specific location.

c. Minimum off-street parking shall be based upon the applicant's anticipated use and a statistical study to be paid by the applicant. The applicant shall either restrict competitive events or provide adequate off-street parking and, if necessary, furnish written authorization to use adjoining property. (Ord. 526, 1996; Ord. 2003-709 §3; Ord. 2004-722 §2)

Sec. 16-273. Limitation on external effects of uses.

(a) No use or activity shall be permitted to produce hazardous conditions or noxious influences, such as noise, vibration, heat, glare, radiation, fumes, smoke or other pollutant to a degree detrimental to existing or prospective adjacent uses or to existing or prospective adjacent residential and commercial districts.

(b) All fuel, raw materials and products stored outdoors shall be enclosed by a solid fence or wall adequate to conceal such fuel, raw materials and products from adjacent residential and commercial districts. (Ord. 526, 1996)

Sec. 16-274. Lot size.

The minimum lot area is sixty thousand (60,000) square feet. (Ord. 526, 1996)

Sec. 16-275. Building location.

(a) The minimum setback is thirty (30) feet.

(b) The minimum offset is twenty (20) feet. Where an industrial district adjoins a residential district, structures located in the district shall be set back or offset a minimum distance of two hundred (200) feet and shall be permanently screened with a planting screen at least six (6) feet wide and fifteen (15) feet high. (Ord. 526, 1996)

Sec. 16-276. Off-street parking requirements.

See Section 16-143. (Ord. 526, 1996)

Sec. 16-277. Off-street loading requirements.

See Section 16-144. (Ord. 526, 1996)

ARTICLE XV-B

Holding Agricultural District

Sec. 16-278. Statement of intent.

This district is for those properties which have been annexed to the Town and are either being used for agricultural purposes and/or which have no future land use proposed at the time of annexation and are in a transitional stage with regard to their ultimate development. (Ord. 673, § 1, 2001)

Sec. 16-279. Permitted uses.

The following provisions and development standards shall apply in this district:

Land use — single-family, farming, oil and gas operations. Existing uses cannot be expanded without prior approval of the Town Council. (Ord. 673, § 1, 2001)

Sec. 16-280. H-A District requirements.

The following requirements shall apply in the H-A District:

(1) One (1) single-family dwelling shall be permitted per forty-acre lot.

(2) A mobile home may be permitted in lieu of a single-family dwelling for residential purposes, so long as the property remains in the H-A District and is subject to all applicable Building Code provisions. All mobile homes shall be removed at the time of development.

(3) Existing direct access from county roads shall be permitted to continue until such time as the area redevelops, which shall then require all access to be taken from local streets and not county roads or arterial streets. (Ord. 673, § 1, 2001)

ARTICLE XVI

Recreation and Open Space O District

Sec. 16-281. Statement of intent.

This district is intended to preserve land for recreational uses and public and private open space. Residential development of such areas would be subject to rezoning. However, residential subdivisions could encompass open space areas if the open space within such developments were planned to overlay the previous Recreation and Open Space District area. (Prior code Appx. B, § 16.01)

Sec. 16-282. Use regulations.

(a) *Principal uses permitted by right:*

- (1) Public parks and recreation areas;
- (2) Public schools; and
- (3) Public, private, commercial and private group outdoor recreational facilities.

(b) *Permitted accessory uses:*

- (1) Service buildings and facilities normally incidental to the use of a public park and recreation area; and
- (2) Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right.

(c) *Conditional uses:* The following uses shall be permitted in this district upon approval of a conditional use grant as provided in Article VII:

- (1) Public administrative offices and service buildings; and
- (2) Public utility installations including transmission lines and substations. (Prior code Appx. B, § 16.02)

Sec. 16-283. Lot size.

The minimum lot area is one hundred twenty thousand (120,000) square feet. (Prior code Appx. B, § 16.03)

Sec. 16-284. Off-street parking requirements.

See Section 16-143. (Prior code Appx. B, § 16.04)

Secs. 16-285—16-300. Reserved.

ARTICLE XVII

Planned Unit Development

Sec. 16-301. Purpose and intent.

(a) The purpose of the PUD District is to facilitate greater flexibility resulting in higher quality development through more creative and imaginative design of the commercial, industrial and residential areas than is typically possible under conventional, restricted zoning regulations. Further, this Article is intended to promote more efficient and economical use of land while providing a greater number of usable and suitably located recreation facilities and other amenities. It is intended to provide measured design freedom by permitting the developer to best utilize the physical characteristics of the site by modifying minimum lot size, setbacks and other zoning and subdivision related restrictions; by encouraging high quality mixed use development; and by encouraging energy efficient design. Increased commercial and industrial floor area ratios may be permitted if such increases can be justified on the basis that the superior design makes the densities desirable with no reduction of amenities.

Finally, the information herein is intended to assist the developer in achieving compliance prior to incurring costs of complete design, while providing the Town with assurances that the project will retain the character presented at the time of concurrence.

If an existing project is covered by a unit development site plan approved prior to the effective date of the ordinance codified herein which is in substantial compliance with these PUD regulations and other applicable Town regulations and requirements, then it shall be "grandfathered" and not subject to additional requirements unless a major amendment is desired. All major amendments to the previously approved site plans shall meet the requirements of this Article.

(b) The following classifications of Planned Unit Development shall be permitted where consistent with the designated land uses of the Comprehensive Plan:

- | | |
|-------|--|
| PUD-R | Planned Unit Development
Residential District |
| PUD-I | Planned Unit Development
Industrial District |

PUD-B Planned Unit Development
Business District

PUD-MU Planned Unit Development
Mixed Use District

The above-listed zoning clarifications may be established through initial zoning when petitioning for annexation. In addition, a PUD may be established in an existing residential, commercial or industrial zoning district as an overlay. Principal permitted uses and, subject to appropriate criteria, conditional and accessory uses of the underlying zoning district are permitted in the PUD; however, the restrictions, controls and incentives of the applicable PUD classification shall apply to the overlay. PUD-R may be processed as an overlay in the SF-1, SF-2 and MF-1 districts; PUD-B in the CB and SC districts; and PUD-I in the I-1 and Gateway districts. The application of an overlay district does not require rezoning, therefore the property shall retain its existing zoning classification. The PUD classification PUD-MU in all cases and in all other PUDs when associated with an annexation shall not be considered as an overlay district, and therefore shall be subject to initial zoning or rezoning procedures.

(c) The following chart identifies whether the respective PUD districts may be used as an overlay or involves rezoning:

	<u>Overlay In Town</u>	<u>Rezone In Town</u>	<u>New Zone Annex*</u>
PUD-R	yes	no	yes
PUD-I	yes	no	yes
PUD-B	yes	no	yes
PUD-MU	no	yes	yes

*The property owner has the option of requesting a straight base zone (e.g. SF-1, CB, I-1) or PUD zone at the time of annexation. The property owner is not required to initiate the PUD review and approval process in order to obtain PUD zoning along with an annexation petition. Reference should be made to the Town's annexation procedures to identify requirements for ultimate annexation.

(Ord. 99-615 §1)

Sec. 16-302. Permitted uses.

(a) PUD-R, Planned Unit Development Residential District:

(1) Intent. The PUD-R District is created to support private residential development by providing incentives encouraging the use of innovative design techniques in order to achieve high quality residential development.

(2) Size. There is no minimum size for the PUD-R District.

(3) Uses permitted. Within the PUD-R District, the following uses shall be permitted, subject to meeting all applicable criteria and regulations:

a. Any permitted use, conditional use and accessory use allowed in the SF-1, SF-2 and MF-1 districts.

b. Mobile home parks and subdivisions, provided that they are of not less than fifty (50) spaces and do not exceed a density of seven (7) units per acre.

c. Consumer goods and services including neighborhood commercial, provided such uses are secondary to the permitted uses; satisfy convenience center criteria as identified in the Comprehensive Plan; are designed to serve primarily the residents of the development; and are harmoniously incorporated into the total design of the PUD.

d. Churches, schools and other nonresidential, noncommercial uses provided such uses meet all requirements for lot area, width, height, yards and setbacks prescribed in the underlying district, or the standards of the zoning district which correspond to the land use designation of the Comprehensive Plan.

e. If applicable, any use not identified above, however permitted in the underlying zoning district.

(b) PUD-I, Planned Unit Development Industrial Park District:

(1) Intent. The PUD-I District is created to provide for the construction of planned office and/or industrial parks. It is intended to promote the grouping of office and/or industrial uses in such a manner so as to provide well planned access and parking areas, adequate fire and safety controls, landscaped open space, harmonious relationship between structures, and architectural controls. This district is intended to encourage compatibility between all areas similarly zoned by setting minimum design standards.

(2) Size. There is no minimum size for the PUD-I district.

(3) Principal permitted uses. Within a PUD-I district, the following uses shall be permitted subject to meeting all applicable criteria and regulation:

a. Any permitted, conditional or accessory use allowed in the Gateway and I-1 zones.

b. If applicable, any use not included above but permitted in the underlying zoning district.

(c) PUD-B, Planned Unit Development Business District:

(1) Intent. The PUD-B District is created to provide for construction of planned business and shopping centers. It is intended to promote the grouping of consumer oriented professional and business uses and to provide areas large enough to establish harmonious relationships between structures, people and motor vehicle impact with the use of well planned parking access, pedestrian walkways, courtyards, malls and landscaped open space.

(2) Size. There is no minimum size for the PUD-B district. Any business development which is substantially dependent upon shared access, parking and other facilities with other lots should be developed as a PUD.

(3) Uses permitted. Within the PUD-B District, the following uses shall be permitted, subject to meeting all applicable criteria and regulations:

a. Any nonresidential permitted use, conditional use or accessory use allowed in CB or SC Districts.

b. Residential uses, provided such use mix is found to be beneficial to the Town, consistent with the Comprehensive Plan and compatible with the surrounding uses.

c. If applicable, any use not included above, however permitted in the underlying zoning district.

(d) PUD-MU, Planned Unit Development Mixed-Use District:

(1) Intent. The PUD-MU District is created to allow the integration of residential, commercial and industrial development within an area so as to facilitate the formation of a self-sustaining project. Light industrial uses, including those permitted in I-1 and Gateway zones, are permitted, provided they complement the commercial uses and do not substantially negatively impact the residential uses. The following provisions apply to the PUD-MU District:

a. The developer must establish that a special type of business and professional community will be created in which the addition of residential units would be a benefit to the business and professional development and the citizens who occupy the residential units.

b. The Town shall pay special attention as to how the design of the PUD-MU District will affect the environment of the citizens who would occupy the residential units.

c. The number of residential units that may be built is flexible, but said number must achieve an acceptable balance for self-supporting neighborhoods.

d. If retail uses are proposed for mixed use developments, said uses shall be consistent with the land use designation of the Comprehensive Plan or otherwise be consistent with the criteria for neighborhood or convenience commercial.

e. Commercial and industrial development within a PUD shall be located so as not to create undue traffic congestion or street hazards. Location of sufficient off-street parking and loading area shall be determined as appropriate to the particular PUD. Consideration shall be given to anticipated pedestrian, bicycle and vehicular impacts, adjacent development providing multiple use of off-street parking facilities and the types of commercial uses implicated.

f. Parking areas, service areas, buffers, entrances, exits, yards, courts, landscaping, graphics and lighting shall be designed as integrated portions of the total PUD.

(2) Size. There is no minimum size for the PUD-MU District.

(3) Uses permitted. Within a PUD-MU District, the following uses shall be permitted subject to meeting all applicable criteria and regulations: any permitted, conditional or accessory use allowed in any zone.

(4) Supplemental mixed use regulations. Multifamily dwellings may be constructed above commercial uses provided:

a. Separate access to dwelling units is provided.

b. No commercial uses shall occupy the same floor as occupied by dwelling units. (Ord. 99-615 §1)

Sec. 16-303. Declaration of policy; review criteria.

Planned Unit Developments provide a more flexible approach to the physical development of real property, providing an opportunity for creative development planning and building design, to the end that the public health, safety and general welfare will be better served by tailoring development to the unique or special characteristics of the subject property and surrounding area. The Town Administration, Planning and Zoning Commission and the Town Board of Trustees shall evaluate all Planned Unit Development plans pursuant to the following criteria, which may be applicable to the particular circumstances, balancing and evaluating the implementation of such criteria to maximize, to the greatest practical extent, the community interest and welfare.

(1) Comprehensive Plan and Code requirements:

a. Is the proposed development in accordance with all elements of the Comprehensive Plan including, but not restricted to, park and school sites, street location and classification?

b. Have all applicable provisions of the subdivision and zoning regulations been met? If not, have the exceptions/variances requested been evaluated through the PUD process and found to contribute positively to the PUD design?

c. For PUDs including exceptions to the height standards, have the following been satisfied?

1. Benefit to the Town has been demonstrated, including what considerations the applicant is prepared to offer in exchange for resulting increased structure height.

2. Proposed structures' effect upon adjacent properties is minimal with respect to compatibility of use and design, alternative energy access, visual access, and rights of privacy, light and air.

3. Public services can be provided to the site at a level currently enjoyed by the area, or at adequate levels per existing Town policies and regulations.

4. Mix of developed area within the site is appropriate, including building coverage, parking, landscaping, pedestrian area, vehicle area and screening.

5. Project complies with all adopted Fire District regulations and standards.

d. Have all material and procedural requirements of the Town Code been met?

(2) Public facilities:

a. Is there present and available adequate capacity to serve the proposed development at appropriate service levels with the following utilities and facilities without negatively impacting the service levels of the surrounding neighborhoods, or have arrangements been made for extension and/or augmentation to adequately serve the proposed development and mitigate negative impacts on surrounding neighborhoods?

Water	Streets/Transportation System
Sewer	Gas
Electric	Telephone
Storm Drainage	

b. Does the proposed development comply with all standards, requirements and specifications for the following services, without a negative impact on existing services, or alternatively have exceptions been evaluated through the PUD process and found to contribute positively to the PUD design?

Water	Storm Drainage
Sewer	Floodplain
Electricity	Telephone
Gas	Streets/Pedestrian System
Ditch	Fire Protection
Public Transit	Cable Television
Refuse Collection	

(3) Neighborhood compatibility:

a. Are the scale, building bulk and orientation, setbacks, landscaping and visual integrity of the proposed development appropriate for the development, sensitive to the immediate area, compatible with the character of the neighborhood and promote the stabilization of the surrounding neighborhood?

b. Does the design and layout of the proposed development facilitate the development of adjacent property rather than limit design options for adjacent landowners?

(4) Resource protection:

a. Does the proposed development preserve significant existing vegetation (i.e. large trees) and unique features of the site?

b. If the project contains known areas of natural or geologic hazard, including unstable slopes, flood, high groundwater or soil conditions unfavorable to urban development, are special engineering precautions proposed to be taken to address satisfactorily those limitations, or have these areas been set aside appropriately restricted from development?

c. Does the proposed development preserve significant scenic views from both on and off the site?

d. Does the proposed development include design features or facilities to promote energy, water and other resource conservation?

(5) Land use:

a. Is the land use mix appropriate given land use designations of the Comprehensive Plan, support facilities in the area, project design and PUD district intent?

b. Do the land use specifications of the PUD meet the restrictions for permitted uses and appropriately address conditional use standards, goals and criteria for those uses which are specified in this Chapter as conditional in the underlying zoning district?

c. Have the appropriate design standards been satisfied?

d. Are the exceptions to standard requirements warranted by virtue of inclusion in the PUD of design elements and amenities exceeding minimum requirements? (Ord. 99-615 §1)

Sec. 16-304. PUD review process.

All PUD applications shall be reviewed in accordance with the following procedure:

(1) Pre-application procedure.

a. Prior to filing of an application for a PUD zoning district, the developer shall submit to the Planning and Zoning Commission an Outline Development Plan and data as specified in Section 17-81 of this Code, plus the following information:

1. Evidence of unified control of the entire area proposed for development.

2. A tentative schedule of development.

3. Evidence of financial capability to complete the development as proposed.

This portion of the procedure may require a fee and a formal application for amendment.

(2) The Planning and Zoning Commission and all appropriate referral agencies shall study the material received to determine its general acceptability and compliance with the Comprehensive Plan and the objectives of this Article.

(3) Following such study, the Planning and Zoning Commission shall hold a conference with the applicant to discuss desirable changes to the Outline Development Plan.

(4) Consideration of Preliminary Development Plan.

a. On reaching conclusions informally, as recommended in Subsection (1) above, regarding the acceptability of the plan or program as presented in the Outline Development Plan, the developer may make formal application to establish a PUD District in conjunction with annexation or to seek to invoke a PUD zoning as an overlay zone.

b. An application for invoking the overlay zone to establish a PUD District shall be filed with the Planning and Zoning Commission, and shall be accompanied by a fee sufficient to cover the costs of outside consultant review of the plans and in addition shall cover the cost of

giving notice, review and processing of the application. The fee may be changed from time to time by resolution of the Board of Trustees.

c. Material to be submitted with an application shall include the following:

1. A Preliminary Plat and data for the entire property as specified in Section 17-82 of this Code, with such modifications and additions as required, including identification of building sites when used instead of or in conjunction with lots, common open space whether or not to be dedicated for public use and other matters as appropriate to planned unit development generally or the specific PUD. Specifically, the Preliminary Development Plat shall indicate sub-areas for phased development, if any, major off-street parking and loading areas location and use of structures in relation to building site lines, open space areas in relation to the use for which they are intended, and other information as required to establish a clear pattern of the relationship between structures, uses, circulation and open space.

2. Indication as to order and timing of development, if development is to be in stages.

3. Proposals for improvement and continuing maintenance and management of any private streets or ways or common open space not offered or accepted for dedication for general public use.

4. A list of uses anticipated to be established in the PUD.

5. Preliminary Home Owners Association documents.

6. A current Ownership and Encumbrance report from a title company.

7. A surrounding property owners list showing property owners within six hundred (600) feet of the subject property's boundaries as certified by a title company.

8. Stamped, addressed legal sized envelopes addressed to all property owners specified on the certified property owners list.

9. A typical site development plan showing building envelopes for residential and for commercial or industrial developments showing uses allowed, typical buildings, setbacks, landscaping, signage, off-street parking, off-street loading facilities, lighting and screening.

d. The Planning and Zoning Commission shall review the Preliminary Development Plan and consult with other agencies as necessary to determine compliance with the requirements and standards of this Chapter and with the Outline Development Plan originally submitted by the applicant.

e. The Planning and Zoning Commission shall hold a public hearing on the proposal as provided in Article V of this Chapter.

f. As soon as possible after such public hearing, the Planning and Zoning Commission shall forward its recommendation to the Board of Trustees indicating approval, approval with specific conditions or disapproval, and its reason therefor.

g. If the Board of Trustees grants the application, such application shall relate to the Preliminary Development Plan, and shall include any conditions or modifications deemed necessary to bring the plan into full compliance with the requirements and intent of this Chapter.

(5) Consideration of the Final Development Plan.

a. Before any building permit can be issued in the PUD, a Final Development Plan and report shall be submitted and approved by the Planning and Zoning Commission and the Board of Trustees. Such plan shall be in accordance with the Preliminary Development Plan as approved by the Board of Trustees with such modifications required by the Board of Trustees.

b. The Final Development Plan and the supplementary material shall include the following:

1. A map or maps and other documents containing information required by Section 17-83 of this Code as well as refinements of the mapped requirements in Section 16-145(c), with modifications and additions as appropriate to planned unit development generally and to the specific PUD proposal.

2. Plans for individual buildings or groups of buildings other than single-family dwellings including the following:

a) Plans of building sites indicating relationship to adjoining areas.

b) Floor plans of buildings, indicating horizontal dimensions and floor areas if available.

c) Elevations of the buildings involved, indicating height typical thereof.

c. The Planning and Zoning Commission may authorize submittal of the Final Development in stages. Each stage may constitute only that portion of the approved Preliminary Development Plan that the developer proposes to record and develop at the time.

d. Following review and approval of the Final Development Plan by the Board of Trustees, individual lot developments submitted to the Town which comply with such approved typical development plans may be approved administratively by the Town. The Building Inspector may issue building permits and certificates of zoning compliance for structures and uses within the PUD.

e. The Final Development Plan as approved by the Planning and Zoning Commission shall be binding and shall not be changed during the construction of the PUD except upon application to the appropriate agency under the following procedure:

1. Minor changes in the location, siting, bulk or size of structures or improvements may be authorized by the Planning and Zoning Commission if required by circumstances not foreseen at the time the Final Development Plan was approved.

2. All other changes in use, arrangements of blocks or streets, or significant changes in the provision of required open spaces must be made by the Board of Trustees under the procedure provided by this Article for amendments. (Ord. 99-615 §1)

Sec. 16-305. Development assurances.

The Board of Trustees may require adequate assurance, in a form and manner which it approves, that the common open space, amenities and public improvements shown in the Final Development Plan will be provided, fully developed and perpetually maintained by a single ownership entity. The following methods of assurance are intended as illustrative, and they may be used singly or in combination or in conjunction with other similar methods:

(1) The Town may accept an irrevocable letter of credit, cash escrow or other acceptable financial guarantee, in a form which complies with the requirements of the Town Attorney, and in an amount sufficient to ensure installation and completion of the public improvements and amenities associated with the Final Development Plan.

(2) The unencumbered title to the land shown as common functional open space may be put in escrow. The escrow agreement shall provide that the land is to be held in escrow until the Board of Trustees has certified to the escrow agent that the PUD has been completed, at which time the common functional open space is to be conveyed to the private association. The escrow agreement may provide for the release of common functional open space by the escrow agent in phases. The Board of Trustees shall certify the completion of each stage of the PUD to the escrow agent. The escrow agreement shall provide that a portion of the functional open space shall be conveyed in the following manner if the PUD is not completed. In this event, the functional open space which is conveyed shall be no less than the percentage of the functional open space provided on the Final Development Plan as the dwelling units that have been built are to the total number of dwelling units which are permitted by the Final Development Plan. (Ord. 99-615 §1)

Sec. 16-306. Design standards.

The following design standards shall be used during the review process as guidelines for evaluation of the PUD. If any specific standard causes extraordinary hardship or if the applicant demonstrates that the intent of the standard will be better accomplished by other appropriate means, such alternatives may be considered through the review process.

(1) Density. The allowable number of residential dwelling units per acre or maximum allowable floor area ratio (FAR) in a PUD shall be established by the underlying zoning district designation or, if no other zoning exists on the subject site, the land use designation on the Comprehensive Plan.

a. Density increase. Density increases, as specified in the following paragraphs, may be allowed. Density increases shall not exceed fifty percent (50%) of the permitted maximum density. The Planning and Zoning Commission and the Board of Trustees shall calculate the allowable density increase based on the sum of those items contained in the following chart, determined to be applicable for the proposed PUD. The amenities or public improvements listed below are illustrative of the kinds of factors which are eligible for density bonuses. The Planning and Zoning Commission and the Board of Trustees may allow bonuses for other

items which contribute to the public interest by providing a higher quality project. This list and the respective bonuses shall be reviewed and updated periodically to reflect the changing priorities and goals of the Town.

Maximum Density <u>Increase</u>	<u>Amenity or Public Improvement in Excess of What is Required</u>
3%	Alleys provided to access garages by means other than in front yard
3%	Sidewalk/trail to parks and public use areas
5%	"X" new jobs created by the principal use
3%	Dedicating land for a school site
3%	Dedicating land for a park site per Town standards for same
3%	If dwelling units or retail/office is located within CBD

b. The Board of Trustees may allow partial waiver of the park improvement fee based on a formula which determines if the park within the PUD satisfies the need to financially contribute towards neighborhood and community parks. The PUD must contain a dedication and/or development of a public park which meets the Comprehensive Plan standards.

c. The Planning and Zoning Commission or Board of Trustees may prohibit or limit an increase in density to avoid any of the following:

1. Inconvenient or unsafe access to the PUD.
2. Traffic congestion in the streets which adjoin the PUD.
3. An excessive burden on park, recreation areas, schools, police, fire protection and public facilities which serve or are proposed to serve the PUD.

d. The developer shall submit signed statements and drawings as necessary to justify density increases.

e. If a density increase is granted under provisions of this Section, the improvements shall be completed in accordance with a development schedule to be contained in the development plan or annexation agreement.

(2) Density transfer.

a. Density may not be transferred from:

1. Any land not under the direct legal control of the property owner at the time of review, such as ditch right-of-way.
2. Any land purchased by the Town or any other governmental entity.
3. Any church sites.
4. Any recreational facility designated to be operated as a commercial enterprise.

5. Any land outside the PUD.

6. Residential density may not be transferred from areas of the PUD set aside for commercial or industrial use.

b. Density may be transferred from:

1. Any dedicated school sites.

2. Any public open space, accepted by the Town, above the minimum requirement.

3. Any common open space owned by a homeowners' association and made available to the general public.

4. Dedicated land or easements for public sites such as water tanks, libraries, and fire stations, public greenways, detention/retention areas.

When density transfers are permitted, fees and raw water requirements which are based on land area shall be calculated, including the development area and all area from which density is transferred.

(3) Parcel size. There shall be no minimum size for a PUD except as otherwise specified in the permitted uses section; however, it must be large enough to enable its development as a complete identifiable unit and, through the flexibility allowed by the PUD process, provide bona fide benefits to the residents/users of the PUD. Recommended minimum lot size for a detached single-family residential PUD is five thousand five hundred (5,500) square feet when less than forty percent (40%) open space is provided.

(4) Open space.

a. Residential Planned Unit Development. The minimum required open space in residential PUDs shall be thirty percent (30%) of the total site. The required open space shall be land areas not occupied by buildings, structures, parking areas, driveways, streets or alleys or required setbacks. Said open space shall be devoted to landscaping, walkways, recreational areas and uncovered facilities, and preservation of natural features.

b. Nonresidential developments. The minimum required landscaped open space area in the nonresidential portion of any PUD shall be fifteen percent (15%) of the total area of the site as defined in the above paragraph.

c. Physical surface characteristics. The Planning and Zoning Commission and the Board of Trustees may determine that all or part of streams, ponds or drainage areas satisfy minimum open space requirements. In making this determination, the Town shall be guided by the following factors:

1. The extent of such areas in relation to the area of the PUD.

2. The degree to which these areas contribute to the quality, livability and amenity of the PUD.

d. Dimension and location. If there exists common open space in residential PUDs, a minimum of fifty percent (50%) shall be contiguous lands generally free from obtrusions which affect the intended functionality of the open space. Common open spaces shall be distributed equitably throughout the project in relation to the dwelling units of the residents to be served, and shall be reasonably accessible to all the PUD residents.

e. Natural amenities. The required open space may be left in its natural state if the Town determines that the natural landscape should be preserved. Areas devoted to natural flood control channels or drainage easements may be applied toward satisfying this portion of the total open space requirement.

f. Clustering. Clustering of dwelling units, commercial and industrial uses is encouraged as long as buffer yards, open space and emergency access are adequately planned. Buffer yards shall be required to separate different uses in order to eliminate or minimize potential interference and nuisances on adjacent properties. The size of the buffer yard shall be determined through the review process, based on its ability to achieve appropriate separation.

(5) Covenants.

a. A PUD shall be approved subject to the submission of relevant legal instruments, including covenants, declarations, articles of incorporation, bylaws and restrictive instruments of conveyance setting forth a plan or manner of architectural character and control and permanent care and maintenance of all common open space and other facilities provided by the Final Development Plan. No such instrument shall be accepted until approved by the Town Attorney, as to legal form and effect, and by the Town Planner as to suitability.

b. The common open space and other facilities provided shall be conveyed to a private association or some other entity having the authority and responsibility to maintain said facilities. Such facilities may be conveyed to the Town only if the recreation facility and/or open space are designated on the Comprehensive Plan or the Town determines it is in its best interest to own and maintain the facility or open space. If the common open space or recreational facilities are conveyed to a private association, the developer shall file with the Town, as a part of the aforementioned instruments, a declaration of covenants and restrictions which will govern the association. The provisions shall include, but not be limited to, the following:

1. The private association must be established prior to sale of any unit(s).
2. Membership must be mandatory for the original buyer and any successor.
3. The private association or, if applicable, the developer shall be responsible for liability insurance, local taxes (if any), and the continuing maintenance of common open space and other related facilities.
4. Each member of the association shall be assessed a pro rata share of the costs incurred by the association, unless the covenants provide for a different means of assessment.

5. The private association must be able to adjust any assessments to meet changing needs.

c. The Town may also require dedication of development rights or scenic easements to assure that common open space shall be maintained. In the event the common open space and other facilities are not maintained in a manner consistent with the approved Final Development Plan, the Town may, at its option, cause such maintenance to be performed and assess the costs to the affected property owner(s) or responsible association, which assessment shall constitute a lien upon the property and shall be collected by assessment by certification to the County Treasurer for collection to be collected in the same manner as other taxes are collected.

(6) Landscaping. A Landscape Plan, prepared pursuant to the Town's adopted landscape regulations, shall be required for all open space in a PUD, with the exception of those areas where the Town determines would be most beneficial to the project and the community if left in its natural or existing condition due to the area's natural beauty or uniqueness. Existing trees shall be preserved wherever practicable. The location of trees shall be considered when planning common open space, location of buildings, underground services, walks, paved areas, playgrounds and parking areas.

(7) Traffic circulation.

a. Primary vehicular access points to the PUD shall be designed to provide smooth traffic flow with controlled turning movements and minimum hazards to vehicular, pedestrian and bicycle traffic. Local streets within the PUD shall not be connected to streets outside the development in such a manner as to encourage their use by through traffic.

b. Where appropriate, the internal circulation system shall provide pedestrian and bicycle paths that are physically separated from vehicular traffic to serve residential, nonresidential and recreational facilities provided in or adjacent to the PUD. Where designated bicycle paths exist adjacent to the PUD, safe, convenient access shall be provided. The Town may require, when necessary to achieve public safety pedestrian and/or bicycle overpass, underpass (eligible for bonus) or traffic signalization in the vicinity of parks, shopping areas or other uses that may generate considerable pedestrian and/or bicycle traffic.

(8) Streets. The design of public streets within a PUD shall reflect the nature and function of the street. Existing Town standards of design and construction may be modified only as is deemed appropriate by the Town after recommendation by the Town Engineer, Planning Director and Fire District Chief based on unique circumstances. Right-of-way and pavement widths and street widths may be reduced through the review process where it is found that the development plan for the PUD provides for the separation of vehicular, pedestrian and bicycle traffic; that access for public safety and service vehicles is not impaired; that adequate off-street parking has been provided; and that such design will not impair public safety and the ability of the Town to provide its services in a standard fashion, or make it difficult for residents to utilize the standard public services.

(9) Parking standards.

a. Parking shall generally be provided as per the off-street parking requirements found in this Chapter. In addition, the Town may determine that storage areas for boats, trailers, campers and other recreational vehicles be required, where the necessity for such facilities has been demonstrated and where such facilities will preserve the required off-street parking for the use of automobiles.

b. The Town may decrease or increase the number of required parking spaces based upon such factors as: the probable number of cars owned or required by the occupants anticipated; the parking demand resulting from any nonresidential uses; varying time periods of use; and the general location of the project.

c. All off-street parking areas, covered or open, in any PUD shall be screened by landscaping or otherwise from view from any public right-of-way, except in single-family projects. Parking setbacks from rights-of-way may be reduced if appropriate additional landscaping and berming is provided.

d. Only developers of commercial and/or industrial PUDs may be permitted to pay cash-in-lieu for up to twenty-five percent (25%) of the required number of parking stalls if, in the judgment of the Town staff and Planning and Zoning Commission, sufficient public parking exists in proximity to the PUD. The payment shall be based on the cost of constructing a standard hard surfaced 9' x 19' size parking stall.

e. Commercial and/or industrial projects may reduce the number of parking spaces if perpetual joint use parking is provided on- or off-site per standards of the parking provisions of this Code.

f. Residential parking and garage design shall take into account visibility required for access from parking to the street. Generally, a distance of twenty-two (22) feet between garage door and back of walk will be considered adequate.

(10) Perimeters. Where a PUD is adjacent to a public right-of-way, a permanent buffer yard, at least twenty (20) feet in width, shall be required along the abutting property line(s). Additional open space or buffer yard may be required based on a recommendation of the Town Planner in order to mitigate adverse impacts caused by the PUD. This area shall be kept free of buildings and structures and parking, and shall contain permanently maintained landscaping, unless screened or protected by natural features. If the design of this buffer area enhances the overall development plan, it may be included toward satisfying the common open space requirements as listed in Subsection (4) above.

(11) Building spacing. No specific yard, setback, lot size or building height requirements shall be imposed (except those required by adopted uniform codes, contemplating matters such as building separation) in any Planned Unit Development District, provided that the spirit and intent of this Section are complied with in the Final Development Plan. The Town may determine that certain setbacks and/or building heights be required within all or a portion of a PUD, and in all cases the height specified in the base zoning district should be used as a guide for building within the PUD.

(12) Noise attenuation. When a proposed PUD produces or is impacted by noise which will adversely affect the peace, tranquility and privacy of its inhabitants or the inhabitants of adjacent property, noise attenuation techniques and/or an acoustical analysis may be required. Said analysis shall be conducted by a qualified acoustical engineer and include a description of the noise environment and the construction or other methods necessary to attenuate the noise to an acceptable level. The aforementioned plans shall be submitted with the Preliminary Plan, and necessary mitigating measures may be required.

(13) Signs.

a. Guidelines applicable to all PUD signage.

1. The location and design of all signs required to be posted by this Section shall be approved by the Town prior to erection of the sign in the development and shall be generally in compliance with the Town Sign Code.

2. All signs related to a multi-use structure shall provide a continuity of design to the aggregate, shall be proportioned to the building space allotted and shall be compatible in design with each other. Such continuity and proportion shall be subject to review by the Town.

3. In addition to the previously identified PUD application procedures, the owner or the duly authorized agent of the multi-use structure shall provide a plan which identifies the general sign theme, consistent with Subsection (13)a2 above, for the structure and shall make this information available to all tenants in the structure.

4. The Town may allow additional business or complex identification signs when there are two (2) separate building fronts having independent entrances not visible from one (1) location. No more than twenty (20) square feet of signage per business may be visible on any building from any one (1) location. This provision applies to all signs unless specifically excluded elsewhere in this Chapter.

5. Combination of signs. Each business activity shall be authorized to utilize within the limits established by this Chapter, a combination of two (2) of the following: (a) one (1) wall sign; (b) one (1) canopy sign; (c) one (1) freestanding sign; and (d) one (1) projecting sign. A business activity shall be limited to no more than two (2) signs herein defined, and a maximum aggregate area of each sign shall not exceed two hundred (200) square feet.

6. Hanging panels. Freestanding signs and projecting signs with the exception of multiuse signs may include a maximum of two (2) additional hanging panels per freestanding or projecting sign. All hanging panels suspended from projecting signs shall clear grade by a minimum of eight (8) feet. The maximum aggregate area of the freestanding sign together with the hanging panels shall not exceed two hundred (200) square feet. The maximum aggregate area of the projecting sign, together with the hanging panels, shall not exceed one hundred (100) square feet in area.

7. The owner and/or developer of the PUD shall be responsible for the maintenance and, when necessary, the replacement of all signs required by this Subsection. The

owner(s) and/or developer(s) shall maintain all temporary signs located at major entrances until ninety percent (90%) of the Certificates of Occupancy for the PUD have been issued, at which time the Town may require removal. The requirements of this Subsection shall apply to all successor developers.

b. Temporary signs.

1. A PUD containing more than one (1) of the following uses: single-family, multifamily, office/commercial and industrial shall be required to erect one (1) or more project layout signs on the property, subject to the following specifications:

a) Each sign shall be a low profile type, the bottom of which shall not exceed six (6) feet in height.

b) Each sign shall be a minimum of twenty (20) square feet, but not greater than forty (40) square feet, in area.

c) A sign shall be located near all of the PUD's major entrances which shall display a map clearly indicating all proposed uses, their respective locations, common open space and, in the case of any residential use, the proposed density.

2. Real estate signs. One (1) real estate sign authorized per lot or per activity: eight (8) square feet maximum for residential uses and up to thirty-two (32) square feet for commercial or industrial use.

c. Permanent signs.

1. Complex identification signs. Each multiuse structure shall be permitted one (1) complex identification sign containing only the name of the structure and/or including the names of the individual businesses therein or a description of the types of businesses therein. Complex identification signs shall not exceed fifty (50) square feet and may be freestanding or wall mounted.

2. Individual business signs. Businesses or activities in multiuse structures shall also be allowed one (1) wall or canopy sign or ground sign for each activity or business owning or leasing space within the multiuse structure. Wall signs shall be placed on the ground floor. The total sign area for all such signs shall not exceed twenty (20) square feet.

3. Freestanding signs site requirements.

a) The activity or business shall be accessible by automobile, and shall have off-street parking on premises.

b) The building or structure in which the activity is conducted must be set back a minimum of twenty (20) feet from the designed right-of-way as required, based on the street classification.

c) All signs shall be located on the lot of the advertised use.

d) All signs shall be set back from property line a distance equal to their height, except that a ground sign six (6) feet in height shall be allowed to be placed one (1) foot from the property line.

4. A single activity or business not in a multiuse structure shall be permitted no more than one (1) freestanding sign which meets the site requirements provided by this Subsection, and which shall not exceed twelve (12) feet above grade.

5. All new ground signs shall be placed in an appropriately landscaped planter or area and shall not exceed six (6) feet in height. No freestanding sign shall be placed in a location that will obstruct other legal conforming signs.

6. Other signage plans may be proposed by an applicant and approved by the Town to be implemented by the applicant in its covenant review with written approval being submitted to the Town by the PUD's architectural control committee prior to Town review of same.

d. Prohibited signs. Certain signs shall be prohibited in any PUD, including but not limited to: flashing/moving signs, animated signs, unsafe signs, roof signs, signs which cause radio or television interference and signs in the restricted site triangle at corners.

(14) Architectural review.

a. In order to preserve and protect the natural beauty of the Town's setting and to attain the objectives identified in the Comprehensive Plan, the exterior design of all new development shall be subject to the following architectural review guidelines and process. Submissions shall be made in three (3) design phases:

1. Concept Plan (presented at Pre-application conference) - this sets the overall format for architectural information. This requires only basic information dealing with the most general massing information and appearance for the buildings. More than one (1) plan may be submitted.

2. Schematic Design (submitted with Preliminary Development Plan) - including preliminary (scale plans and illustrative) elevations, and optional perspectives, and/or models as well as a Preliminary Development Plan. Schematic Design information begins to define the parameters of the project and give the flavor of the project and its relationship to its context. The purpose of this phase is to determine the overall function of the components, general configuration and general massing. If the applicant is intending to receive administrative approval of the Final Development Plan, then the design development information contained in the second paragraph below should be submitted with the Preliminary Development Plan.

3. Design Development submitted with Final Development Plans, including scale plans and elevations (one-eighth [$\frac{1}{8}$] inch or appropriate), and optional perspective and models; as well as a site plan suitable for approval of the concepts and items that are likely to portray what will be built.

4. A set of the proposed covenants, final building and site information shall be provided. The purpose of design development is to further define the approved schematic plans and to determine materials, textures and other design items.

5. The developer is responsible for presenting specific building features such as roof slopes, colors and materials, through the use of covenants for the development. A set of suggested guidelines is available from the Town for the developer to use in establishing basic items which would be uniform for all covenants.

b. Architectural guideline checklist. The recommendations of the staff and the Planning and Zoning Commission shall be based on the guidelines prescribed in this Section. If a development project is to be built in phases, each phase shall be subject to the design guidelines prescribed in this Section. The applicant shall demonstrate that the architecture of the PUD is harmonious with adjacent development and will make a positive contribution to the visual integrity and aesthetics of the Johnstown community by addressing the following elements:

1. Intended overall appearance.
 - a) Buildings (identify architectural type).
 - b) Grounds (e.g. landscaping, parking, entrance treatment).
 - c) Other site development (e.g. signage, lighting).
2. Building colors and materials (type and durability of exterior surfacing materials and colors).
3. Phasing of buildings.
4. Configuration of buildings (e.g. shape, height, form, entry location(s), service area).
5. Unique architectural features.
6. Features which may require exceptions from Town code requirements (e.g. height, bulk as defined in Town regulations).
7. Roof criteria (type of material, pitch, overhang).
8. Architectural features which may have an impact upon energy conservation (e.g. solar orientation, shading devices, active/passive system).
9. Fenestration information/general specifications.
10. Accessory structures (type, location, connections).
11. Scale (relationship to other buildings and the site).
 - a) Commercial.

- b) Residential.
 - c) Industrial.
12. Privacy (method(s) of achieving screening, separation, barrier).
- a) Impact upon neighborhood.
 - b) Within the PUD.
13. Service areas.
- a) Utilities (e.g. underground meters in cabinets, transformer screening).
 - b) Storage (auxiliary buildings).
 - c) Trash storage/pickup (enclosed/screened).
 - d) Vehicular (long or short term).
 - e) Loading docks (design and appearance).

The above checklist is illustrative only, as the applicant is responsible to design the PUD based upon consideration of items that need to be addressed. This allows for change, variety, creativity, economics, energy requirements, marketing strategies, site conditions and other variables to be addressed. If any of the items in the above checklist are inappropriate as suggested by the applicant, then the Town Planner may determine them to be not applicable (N/A). For very small projects the Town Planner may waive some or all of the architectural review guidelines.

Once architectural controls are adopted, the owner's association architectural control committee shall review all building and site plans in nonresidential PUDs and shall submit written approval of the same by it to the Town prior to the Town beginning its review process. (Ord. 99-615 §1)

Secs. 16-307—16-320. Reserved.

ARTICLE XVIII

Planned Mobile Home Park Development Regulations

Sec. 16-321. Statement of intent.

The Planned Mobile Home Park Development (hereinafter called PD-M) provision is intended to encourage the unified planning and development of permanent mobile home parks providing all facilities and amenities appropriate to the needs of residents. It is the further intent to provide for the orderly grouping of mobile homes, accessory uses and common facilities within the park, and to

provide such regulatory controls as will assure a harmonious relationship between the mobile home park and adjoining residential uses. (Prior code Appx. B, § 17.1-01)

Sec. 16-322. Where permitted.

Subject to the general requirements set forth in this Chapter, and additional requirements set forth herein, a PD-M may be established in any area indicated as a Planned Mobile Home Park Development residential area on the proposed land use plan. (Prior code Appx. B, § 17.1-02)

Sec. 16-323. Locational restrictions.

(a) Any mobile home parked on any lot, parcel or tract in the Town, but not included within an approved PD-M, shall, after a period of forty-five (45) days, have the wheels removed and placed on a suitable permanent foundation, and be subject to all requirements of the district of its location.

(b) A mobile home may be parked within a PD-M, provided that, within nine (9) months from the initial date of locating the mobile home, the wheels thereof shall be removed and the mobile home shall be placed on a suitable permanent foundation and shall be subject to all ordinances affecting real property and improvements thereto. (Prior code Appx. B, § 17.1-03)

Sec. 16-324. Use regulations.

Permitted uses are:

- (1) Mobile home dwelling units as herein defined;
- (2) Single-family dwelling for occupancy by the mobile home park owner, manager or caretaker; and
- (3) Common uses and uses accessory to mobile home dwelling units, including recreation facilities for the use of residents of the park only, management offices, laundry rooms, tenant storage lockers, parking areas, and garbage and trash disposal facilities. (Prior code Appx. B, § 17.1-04)

Sec. 16-325. Minimum area requirement.

The minimum required land area for a PD-M shall be five (5) contiguous acres. (Prior code Appx. B, § 17.1-05)

Sec. 16-326. Site planning - internal.

(a) *General requirements.* The site, including mobile home stands, structures and all site improvements, shall be harmoniously and effectively organized in relation to topography, the shape of the tract, and the shape, size and position of structures, with consideration for usability of space, appearance and livability. An informal park type of arrangement, with grouping or clustering of mobile home dwelling units, and which conforms to the terrain and natural landscape features, is preferable to a rigid, stylized pattern.

(b) *Streets and access ways:*

(1) Paved streets at least twenty-two (22) feet in width shall extend from the existing street system as necessary to provide convenient access to each mobile home stand and to common facilities and uses. Private streets shall be permitted in a PD-M.

(2) Convenient access shall be provided to each mobile home stand by an access way at least fifteen (15) feet in width. Such access way shall be reserved for maneuvering mobile homes into position and shall be kept free of trees and other immovable obstructions, but need not be paved. Temporary planks or steel mats may be used during the placement of a mobile home.

(c) *Pedestrian access:*

(1) Pedestrian walkways, at least two (2) feet in width and having an all-weather surface shall be provided for access to each mobile home from a paved street or paved a driveway or parking area connected to a public street.

(2) Common walkways at least three (3) feet in width and having an all-weather surface shall be provided for access to common facilities and uses from each mobile home group or cluster. Walkways through the interiors of blocks are preferable to walkways adjacent to streets.

(d) *Parking:*

(1) Parking areas shall be located off street and shall have an all-weather surface. One (1) parking space may be located on each lot or the space immediately adjacent to the mobile home stand, and the remainder shall be located in parkway bays adjacent to the street or adjacent to a vehicular access way connected to a street.

(2) Parking spaces shall be provided at the rate of at least one (1) car for each mobile home, plus one (1) additional car space for each four (4) mobile home lots or spaces to provide for guest parking and delivery and service vehicles.

(e) *Mobile home spaces and stands:*

(1) Each mobile home shall be contained within a space or lot having a minimum area of three thousand (3,000) square feet for single-wide mobile homes, and a minimum area of four thousand (4,000) square feet for double-wide or expandable mobile homes.

(2) The maximum density of mobile homes within the PD-M shall be eight (8) single-wide mobile homes per acre, and six (6) double-wide mobile homes per acre.

(3) Within each space or lot allocated to a mobile home, there shall be provided a mobile home stand for the purposes of satisfactory placement of the mobile home and retention of the mobile home in the allocated space in satisfactory relationship to its surroundings.

(4) Mobile home stands shall have minimum dimensions equal to those of the mobile home to be placed on them.

(5) Mobile home stands shall be constructed of appropriate material on properly graded and compacted areas so as to be durable for the support of the maximum anticipated loads under all weather conditions.

(6) The space between the lower edge of the mobile home unit and the mobile home stand shall be completely enclosed with suitable and uniform material.

(f) *Distances between stands, structures and uses:*

(1) The minimum distance from the line or corner of any mobile home stand to a street pavement, common parking bay or common walk shall be eight (8) feet.

(2) The minimum distance from the line or corner of any mobile home stand to a boundary line of the PD-M shall be twenty (20) feet.

(3) The minimum distance from the line or corner of any mobile home stand to any permanent building or structure for common use shall be twenty (20) feet.

(4) Permanent buildings and structures for common facilities, and dwelling units other than mobile homes shall be set back and offset from the PD-M boundaries a minimum distance of twenty (20) feet.

(g) *Common facilities and uses:*

(1) No less than eight percent (8%) of the total land area of the PD-M shall be devoted to space for common facilities and uses, such as laundry, swimming pool or recreation and play areas.

(2) Laundry, recreation rooms, management offices and other common facilities may be consolidated in a single building if the single location will adequately serve all mobile home units.

(h) *Storage:*

(1) Tenant storage facilities shall be provided for materials which cannot be conveniently stored in a mobile home. A minimum of thirty-two (32) square feet of storage space shall be provided for each mobile home unit.

(2) Storage facilities may be located adjacent to the mobile homes, or in common compounds within a reasonable distance from the mobile homes. Storage facilities shall be designed in a manner that will enhance the park, and shall be constructed of suitable weather-resistant materials appropriate under the use and maintenance contemplated.

(i) *Landscaping:*

(1) Lawn and ground cover, which may include aggregates, shall be provided on all common ground areas except those covered by structures, paved or surfaced areas, and except those undisturbed areas, such as watercourses, left in their natural state.

(2) Screen planting and/or fencing at least six (6) feet in height, shall be provided where necessary for screening purposes, such as around the PD-M boundary lines, refuse collection points, common recreation areas and playgrounds, and at such other points as necessary for screening of objectionable views. (Prior code Appx. B, § 17.1-06)

Secs. 16-327—16-340. Reserved.

ARTICLE XIX

Telecommunications Towers and Antennas

Sec. 16-341. Definitions.

(a) *Alternative tower structure* means manmade trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflages or conceals the presence of antennas and/or towers. This term also includes any antenna or antenna array attached to the alternative tower structure.

(b) *Antenna* means any exterior transmitting or receiving devices mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

(c) *Backhaul network* means the lines that connect a provider's tower/cell sites to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

(d) *FAA* means Federal Aviation Administration.

(e) *FCC* means Federal Communications Commission.

(f) *Telecommunications facilities* means the plant, equipment and property, including but not limited to, cables, wires, conduits, ducts, pedestals, antennas, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, provide or offer telecommunications services.

(g) *Telecommunications service* means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.

(h) *Telecommunications support facilities* means support buildings, structures and equipment cabinets containing electrical and mechanical equipment and devices used for the reception of or transmission of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.

(i) *Tower* means any structure designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and other similar structures. This term also includes any antenna or antenna array attached to the tower structure.

(j) *Tower height* means, when referring to a tower or other alternative tower structure, the distance measured from the lowest point within ten (10) feet of the structure to the highest point on the tower or other alternative tower structure, including the base pad and any antenna. (Ord. 575 §1, 1997)

Sec. 16-342. Purpose.

The purpose of this Section is to establish regulations for telecommunications facilities. The goals of this Section are:

- (1) To protect residential areas and lands by minimizing adverse impacts of towers;
- (2) To encourage the location of towers in nonresidential zone districts;
- (3) To minimize the total number of towers in the community;
- (4) To encourage the joint use of new and existing tower locations;
- (5) To ensure that towers are located in areas that minimize adverse impacts;
- (6) To ensure that towers and antennas are configured in a way that minimizes adverse visual impacts by careful design, appropriate siting, landscape screening and innovative camouflaging techniques;
- (7) To enhance the ability to provide telecommunications services to the community quickly, effectively and efficiently;
- (8) To consider public health and safety of telecommunications facilities;
- (9) To avoid damage to adjacent properties from tower failure through careful engineering and locating of tower structures;
- (10) To encourage the attachment of antennas to existing structures; and
- (11) To facilitate the provision of telecommunications services throughout the Town. (Ord. 575 §1, 1997)

Sec. 16-343. Applicability.

These regulations shall apply to all towers and antennas as defined, except:

- (1) Any tower or antenna, not more than seventy (70) feet in height, owned and operated by a federally licensed amateur radio station operator or used exclusively as a receive only facility; but to the extent possible, without precluding the use, it must use materials, colors and screening that create compatibility with the surrounding neighborhood.
- (2) Antennas designed to receive direct over-the-air broadcast services (DBS), including direct-to-home satellite services, or designed to receive over-the-air video programming services, including multichannel multipoint distributor services (MMD), television broadcast signals

(TVBS), instructional television, fixed services, and local multipoint distributor services that are one (1) meter or less in diameter or diagonal measurement. (Ord. 575 §1, 1997)

Sec. 16-344. General requirements.

(a) Towers, antennas and telecommunications support facilities shall be regulated and permitted pursuant to this Section and shall not be considered utilities;

(b) Towers are allowed in nonresidential zone districts and shall:

(1) Be considered a permitted use, and the existence of another structure or use on the same zone lot shall not preclude the installation of a tower;

(2) Comply with the regulations contained herein and the zone district regulations for permitted structures in the zone district in which it is located. The dimensions of the entire zone lot shall apply and not the dimensions of the leased parcel; and

(3) Have a diameter of not more than forty-eight (48) inches measured at the base of the tower.

(c) Antennas not attached to a tower and their associated telecommunications support facilities may be located in any zone district on:

(1) Any nonresidential structure; or

(2) Be considered a permitted use, and the existence of another structure or use on the same zone lot shall not preclude the installation of an antenna.

(d) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of the issue date of the notice to remove the tower or antenna.

(e) Antennas, towers and alternative tower structures, their associated antennas and arrays and telecommunications support facilities shall be subject to design review and approval. Applicants may submit their designs for pre-approval subject to the same procedures outlined herein. Designs for antennas, towers, alternative tower structures, their associated antennas and arrays and telecommunications support facilities shall be submitted to the Zoning Administrator for design review by the Planning Office. Upon submission of a complete application for design review, the Zoning Administrator shall establish a schedule for processing the application. Design review shall be completed within thirty (30) days of the date designated in the schedule, except that the review period may be extended by an amount of time equal to any delay caused by the applicant. In reviewing the design of towers, the Planning Office shall consider the goals and requirements set forth in this Section. After completion of design review, the Planning Office shall make recommendations to the Zoning Administrator. Within seven (7) days after receiving recommendations from the Planning Office, the Zoning Administrator shall approve, approve with conditions or deny the application. A reasonable design review fee shall be assessed at the time of submittal. (Ord. 575 §1, 1997)

Sec. 16-345. Specific requirements.

Towers and/or antennas shall meet the following requirements:

(1) Towers and/or antennas

a. The design of antennas and telecommunications support facilities shall use materials, colors, textures, screening and landscaping that create compatibility with the natural setting and surrounding structures;

b. Signs shall be limited to those signs required for cautionary or advisory purposes only; and

c. The mass of antennas or an antenna on a tower shall not exceed four hundred fifty (450) cubic feet per user, with no one (1) dimension exceeding fourteen (14) feet per user. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical or pyramidal geometric shapes encompassing the entire perimeter of the array.

(2) Towers

a. *Setbacks:* The minimum zone district setback requirements shall apply to all towers;

b. *Height:* The height and bulk of the tower shall be controlled by the district regulations of the zone district in which the tower is located, but in no case shall it exceed the following maximum heights:

1. Single users - not more than seventy-five (75) feet in height; or

2. Two (2) or more users - not more than ninety (90) feet in height.

c. *Color:* Towers shall be finished in a neutral color to reduce visual obtrusiveness, subject to any applicable standards of the FAA;

d. Support facilities associated with towers shall:

1. Not contain more than three hundred and fifty (350) square feet of gross floor area or be more than twelve (12) feet in height per user;

2. Maintain the minimum setback and bulk plane requirements of the zone district in which it is located;

3. Provide solid view-obscuring security fencing not less than six (6) feet in height; and

4. Provide landscaping in accordance with the following requirements:

a) The tower compound shall be landscaped with a buffer of plant materials that effectively screens the view of the tower base and compound from property used for residences. The standard buffer shall consist of a landscaped strip at least five (5) feet

wide outside the perimeter of the compound and shall provide for and maintain minimal landscaping on the remainder of the zone lot;

b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived; and

c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. Towers located on large, wooded lots, natural growth around the property perimeter may be considered a sufficient buffer.

e. *Lighting:* Towers shall not be artificially illuminated unless required by the FAA or other governmental regulation. Ground level security lighting not more than twenty (20) feet in height may be permitted if designed to minimize impacts on adjacent properties.

f. *Separation requirements:* The following separation requirements shall apply to all towers:

1. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1. If the requested separation distance is greater than or equal to the distance in this Subsection, the Zoning Administrator can proceed to process the application hereunder. If the requested separation distance is less than the separation distances provided in Table 1, but more than or equal to one hundred (100) feet, the provisions of Section 16-348 below shall apply.

Table 1. Tower Separation From Certain Uses and Zones.

<i>Off-site Use/Designated Area</i>	<i>Separation Distance</i>
Single or two-unit dwellings	500 feet or three (3) times the height of the tower, whichever is greater
Vacant platted or unplatted residentially zoned land	500 feet or three (3) times the height of the tower, whichever is greater
Existing multi-family residential units	500 feet or the height of the tower, whichever is the greater
Parks	1000 feet
Non-residentially zoned lands with non-residential uses	None; only setbacks apply

2. Separation distances between towers shall be maintained and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the base of the proposed tower, pursuant to a site plan of the proposed tower. If the requested tower

separation distance is greater than or equal to the distance in this Subsection the Zoning Administrator can proceed to process the application hereunder. If the requested tower separation is less than the separation distance as provided in Table 2, but more than or equal to five hundred (500) feet, the provisions of Section 16-348, below shall apply.

Table 2

Minimum Separation Between Towers (in feet) Existing Towers-Types

	<i>Lattice</i>	<i>Guyed</i>	<i>Monopole 75 feet in height or greater</i>	<i>Monopole not more than 75 feet in height</i>
<i>Lattice</i>	2500	2500	1500	1000
<i>Guyed</i>	2500	2500	1500	1000
<i>Monopole 75 feet in height or greater</i>	1500	1500	1500	1000
<i>Monopole not more than 75 feet in height</i>	1000	1000	1000	1000

3. Antennas installed on a structure other than a tower:

a) *Height and bulk plane:* Height and bulk of the antenna shall be controlled by the district regulations of the zone district in which it is located, except that antennas shall not extend more than fourteen (14) feet beyond the highest point of the building or structure to which it is attached;

b) *Telecommunications support facilities:*

1) Telecommunications support facilities may be located on the roof of a building;

2) The antenna and telecommunications support facilities shall be a neutral color that is identical to, or closely compatible with, the color of the supporting structure;

3) The telecommunications support facilities shall not contain more than three hundred and fifty (350) square feet of gross floor area or be more than twelve (12) feet in height per user; and

4) If the telecommunications support facilities are located at grade, they shall comply with all the same requirements as those for towers in the preceding Subsection (2)f1. (Ord. 575 §1, 1997)

Sec. 16-346. Applications.

(a) Every applicant for a tower shall provide the Zoning Administrator with:

(1) The first application for a permit by a provider, or an applicant for a provider shall include an inventory of all of that provider's existing towers, antennas, or sites approved for towers or antennas, that are either within the Town or within one thousand (1,000) feet of the border thereof, and the provider shall also comply with the inventory and tracking requirement of this Section;

(2) This identification of its backhaul providers, updated on at least an annual basis, and the method of providing backhaul, wired or wireless;

(3) A vicinity map drawn to scale showing adjacent land uses that require separation and zoning within one thousand (1,000) feet, including those in adjacent municipalities and Weld County;

(4) Upon the request of the Zoning Administrator or a member of the Board of Trustees, or their designees, the telecommunications provider shall meet with the requesting official and provide them with information concerning the proposed system design, which information shall not be reduced to writing and shall be treated as a confidential trade secret; and

(5) A scaled set of plans containing the following information:

- a. Location and legal description of the proposed site;
- b. Type and height of the proposed tower;
- c. On-site land uses and zoning;
- d. Adjacent roadways;
- e. Proposed means of access;
- f. Setbacks from property lines;
- g. Architectural elevation drawings of the proposed tower and any other telecommunications support facilities;
- h. Site topography;
- i. Parking;
- j. A landscape plan showing specific landscape materials; and
- k. The method of fencing, finished color and, if applicable, the method of camouflage and illumination.

(6) An affidavit from the owner of the property acknowledging that the owner of the property is responsible for the removal of a tower that is abandoned or is unused for a period of twelve (12) months.

(b) Every applicant for an antenna shall provide the Zoning Administrator with the information required in Section 16-346(5) where applicable.

(c) The Zoning Administrator may share information, except for the confidential proposed system design, with other applicants applying for administrative approvals or use exceptions under this Section or other organizations seeking to locate towers/antennas in the Town, except that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable. (Ord. 575 §1, 1997)

Sec. 16-347. Inventory and tracking.

(a) The Zoning Administrator shall compile a list of towers and maintain and update the same from information furnished by all service providers. The Zoning Administrator shall issue a registration number to be affixed to and displayed on each tower. A reasonable fee as determined by the Zoning Administrator shall be assessed for an initial registration and annual inspection fees.

(b) Collocation: Antennas may be attached to an existing tower which is in compliance with all requirements of this Article and the requirements of Section 16-345(2)f2 and Table 2 shall not apply, as long as the height of the tower is not increased. The new antenna and any telecommunications support facilities must comply with all applicable regulations in Section 16-345(1) and (2). A tower may be modified or reconstructed to accommodate the collocation of additional antennas under the following conditions:

(1) The tower shall be the same type as the existing tower, unless the tower is replaced by a monopole not more than forty-eight (48) inches in diameter;

(2) An existing tower, to accommodate the collocation of an additional antenna, may be modified or rebuilt only once to a taller height, not to exceed thirty (30) feet more than the tower's existing height;

(3) The additional height referred to in Subsection (b)(2) shall not require an additional distance separation as set forth in Table 2 of Section 16-345(2)f2. The tower's pre-modification height shall be used to calculate distance separations;

(4) The existing tower shall comply with the separations from certain uses and zones in Table I of Section 16-345(2)f2;

(5) If a tower is replaced to accommodate collocation, only one (1) tower may remain on the zone lot;

(6) If a tower is relocated on-site in compliance with all setback requirements, and within a twenty-five (25) feet radius of its existing location, under the terms and conditions of this Section, it shall not be deemed a violation of the separation requirements of Section 16-345(2)f. (Ord. 575 §1, 1997)

Sec. 16-348. Separation allowances.

The following provisions shall govern applications where the requested separations are less than the minimum requirements in Tables 1 and 2 of Sections 16-345 (2)f1 and 16-345 (2)f2 above, but greater than or equal to one hundred (100) feet for Section 16-345 (2)f1 and greater than or equal to five hundred (500) feet for Section 16-345(2)f2.

(1) Submittal requirements: In addition to the application requirements of Section 13-346 and a reasonable review fee, the Zoning Administrator may require that the applicant submit for review the following information or items if applicable:

- a. Legal description of the zone lot and leased parcel (if applicable);
- b. The setback distance between the base of the proposed tower and the nearest residential dwelling unit, platted residentially zoned properties and unplatted residentially zoned properties;
- c. The separation distance from other towers located within one thousand (1,000) feet of the base of the proposed tower shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known;
- d. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future use;
- e. A description of the suitability of the use of existing towers, other structures, locations or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower; and
- f. Such other information as is deemed by the Zoning Administrator to be necessary to render a determination.

(2) Notification and certification requirements: Using a notice form supplied by the Zoning Administrator, the applicant shall promptly notify all property owners within five hundred (500) feet of the proposed tower and registered neighborhood organizations whose boundaries contain or are within two hundred (200) feet of the proposed tower. Such notice shall indicate the boundaries of the property included in the application, shall explain the character and dimensions of the proposed telecommunications tower, the nature and applicable separation distances and shall give directions for submitting written comments. The said notice shall also include notice of a date not less than thirty (30) days after the delivery of the notice which has been set by the Zoning Administrator for consideration of the application and any written comments related thereto and that a public hearing may be requested. The applicant shall also file a statement with the Zoning Administrator stating how and on what date the applicant has so notified said adjoining property owners and registered neighborhood organizations. The Zoning Administrator may solicit comments from other appropriate public agencies.

(3) Posting requirements: In addition to the written notice required above, the applicant shall post the property in a conspicuous location or locations determined by the Zoning Administrator

with a sign provided by the Zoning Administrator. The posted notices shall contain the same information as the written notices and shall be in number, size and location as required by the Zoning Administrator. Such posted notices shall be removed by the applicant within forty-five (45) days after their posting; failure to remove such notices in a timely manner shall constitute a violation of this Article.

(4) If no public meeting is requested: If no timely request for a public meeting in accordance with Section 16-348(5) is received, the Zoning Administrator shall consider the written comments of all interested parties and the factors contained in this Subsection.

a. Findings required: The Zoning Administrator may approve or approve with conditions the application providing findings are made that the proposed telecommunications towers will:

1. Not substantially or permanently injure the appropriate uses of adjacent property;

2. Maintain the separation distances between towers and certain uses contained in Table 1 of Section 16-345(2) of at least one hundred (100) feet and a distance of at least five hundred (500) feet from any other tower if the tower has a diameter or width of less than forty-eight (48) inches;

3. Maintain a setback distance of two thousand five hundred (2,500) feet from a residential district or residential structure, if the tower has a diameter or width of more than forty-eight (48) inches; and

4. Meet all Zone District regulations.

b. Considerations. The Zoning Administrator shall consider the following factors in determining whether the application meets the goals contained in Section 16-342.

1. Height of the proposed tower;

2. Proximity of the tower to residential structures and residential district boundaries;

3. Nature of uses on adjacent and nearby properties;

4. Surrounding topography;

5. Surrounding tree coverage and foliage;

6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

7. Proposed ingress and egress; and

8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

c. Conditions: In approving with conditions, the Zoning Administrator may place such conditions on the approval as deemed necessary to advance the goals contained in Section 16-342. Such conditions may include but are not limited to:

1. Moving the location of the tower to a more appropriate site;
2. Using a different technology that will lessen the impact of the tower;
3. Requiring an appropriate alternative tower structure; or
4. Other actions which will disguise or otherwise lessen the impact of the tower.

(5) If a public hearing is requested: If a request for a public hearing is received from three property owners within five hundred (500) feet of the proposed tower or from a registered neighborhood association whose boundaries contain or are within two hundred (200) feet of the proposed tower, the Zoning Administrator shall refer the application to the Town Clerk to arrange for a public hearing to be held within thirty (30) days from the date of request.

a. Notification and posting: All persons submitting comments or requests for a public hearing and all neighborhood organizations whose boundaries contain or are within two hundred (200) feet of the location of the proposed tower shall be notified of the date, time and location of the public hearing. The applicant shall post the property in a conspicuous location or locations determined by the Zoning Administrator with a sign provided by the Zoning Administrator. Such sign shall describe the proposed construction and the date, time and location of the public hearing. The property shall be posted for fifteen (15) days prior to the hearing date. Such posted notices shall be removed by the applicant within forty-five (45) days after their posting; failure to remove such notices in a timely manner shall constitute a violation of this Article.

b. Recommendation: Within fifteen (15) days of the public hearing, the Board of Trustees shall approve, approve with conditions or deny the application. In making its decision, the Board of Trustees shall consider the comments at the public hearing and the purposes and goals of Section 16-342 and the provisions of Subsections (4)a. and b. (Ord. 575 §1, 1997)

Sec. 16-349. Location exceptions.

The Board of Trustees shall have the power to grant in specific cases, subject to terms and conditions fixed by the Board of Trustees, the placement of towers and their associated telecommunications support facilities in residential zone districts, within one hundred (100) feet of a residential zone district or within five hundred (500) feet of another tower.

(1) Findings required: No exception hereunder shall be granted unless the Board of Trustees finds that the proposed tower is necessary and essential to providing the applicant's telecommunications service.

(2) Conditions: In granting such exception the Board of Trustees shall place such conditions on the exception as will advance the goals contained in Section 16-342. Such conditions may include but are not limited to:

- a. Moving the location of the tower or antenna to a more appropriate available site;
 - b. Using a different technology that will lessen the impact of the tower antenna;
 - c. Requiring an appropriate alternative tower structure; or
 - d. Other actions which will disguise or otherwise lessen the impact of the tower or antenna.
- (Ord. 575 §1, 1997)

Secs. 16-350—16-360. Reserved.

ARTICLE XX

Sign Code

Sec. 16-361. Intent and purpose.

The purpose of this Article is as follows:

- (1) To protect the public from signs which are structurally unsafe;
- (2) To promote traffic safety and the free movement of traffic, and protect the public from the hazardous conditions which result from signs that obscure or distract the vision of motorists, bicyclists and pedestrians;
- (3) To facilitate easy, safe and pleasant communication between people and their surroundings;
- (4) To conserve the character and economic value of buildings and neighborhoods;
- (5) To provide a balance between legitimate identification and advertising needs and the visual discord which signs sometimes cause, and to provide a sense of balance or proportion between a sign and the building or property which it serves;
- (6) To encourage the erection of signs which are legible in their surroundings, compatible with the visual character of the surrounding area, appropriate to the activities identified; and
- (7) To ensure that adequate and effective advertising signage opportunities exist within a regulatory framework which protects the constitutionally guaranteed right of free speech. (Ord. 682, § 1, 2001)

Sec. 16-362. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Address signs means any sign designed to identify a particular parcel of land, provided such contains only the street address and name of the owner of the property or the name of the property and does not exceed two (2) square feet in area for residential land uses and five (5) square feet in area for nonresidential land uses.

Animated sign means a moving sign that utilizes motion, implied or actual, in a horizontal or vertical plane or both. The only animated type of signs that are permitted are "time and temperature" and "barber pole" signs.

Approved wall area means an exterior wall of a building with a public pedestrian entrance and facing a public street, alley or parking lot which provides parking for the subject building

Arcade sign means any sign projecting beneath and attached to the underside of any balcony, canopy, awning or other structural overhang or passageway.

Artistic mural or sculpture means a freestanding statue or sculpture, a graphic illustration or design, an architectural design or an architectural design or relief applied directly to or incorporated within a wall of a building, which does not advertise or promote a particular business, service or product. A company, firm, association, society, etc., logo is not considered within the scope of this definition and is not considered a sign.

Awning means a temporary hood, cover or shelter which may be fixed or retractable, and which projects from the exterior wall of a building over a window, walk, door or similar building feature. An awning is often constructed of fabric, metal or glass and is not supported by the ground.

Billboard means any sign in excess of fifty (50) square feet in size utilized to advertise a product or service that is not produced or conducted on the same property as the sign.

Building front means the exterior walls of a building facing a public street or streets or other public right-of-way other than alleys, or one (1) exterior wall containing the primary entrance to the building if not directly facing upon a public street.

Building identification signs means signs which identify by name or number individual buildings within institutional or residential building group complexes which are limited to signs attached to the building, not more than two (2) signs per building, and not more than four (4) square feet each. These signs may be illuminated or nonilluminated.

Bulletin board means a sign which announces meeting times or special events of public interest such as a church service, civic meeting or similar event.

Canopy means a roof-like structure serving the purpose of protecting vehicles and/or pedestrians and which may be freestanding or attached to a building, is provided with supports, and is open on three (3) sides if attached and on all sides if freestanding.

Under canopy signs means signs affixed underneath a canopy or awning advertising the business or products sold within the building. Such signs are not to exceed two (2) square feet.

Changeable copy sign means a sign, either illuminated or nonilluminated, which is designed so that the message or any part of the message may be periodically changed, either mechanically or electronically. However, such change in message occurs no sooner than every fifteen (15) seconds. Any sign wherein the message changes sooner than fifteen (15) seconds shall be considered a flashing sign.

Commemorative plaques means any memorial or commemorative plaque or tablet that contains the primary name of a building, the date of erection and use of the building, when the sign is built into the building, mounted flat against the wall of the building, or is designed to designate any particular location of historical significance as determined by the Town.

Construction signs means a temporary sign not exceeding thirty-two (32) square feet announcing subdivision, development, construction or other improvement of a property by a builder, contractor or other person furnishing services, materials or labor to said premises. For the purposes of this Code, a *construction sign* shall not be considered to be a "real estate sign" as defined herein and shall contain only project name; developer, architect, builder, and/or consultants; lending institution and opening date.

Courtesy signs means nonilluminated or indirectly illuminated signs which identify, as a courtesy to customers, items such as "credit cards accepted" and "redemption stamps offered," and which are 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.

Development means a single lot, parcel or tract of land or portions or combinations of lots, parcels or tracts of land which are held in single or common ownership and which exist as a distinct functional entity. Multi-use buildings and multiple building complexes which are held in singular or common ownership, either by individual, corporation, partnership or other legally recognized entity, shall be considered a *development* for the purpose of signage.

Erect means to build, construct, attach, hang, place, suspend, affix, relocate or reconstruct any sign or sign-supporting structure.

Flags means the flag, pennant or insignia of any nation, organization of nations, state, county, town, any religious, civic, or fraternal organization or any educational institution.

Flashing sign means a sign that is illuminated with intermittent lighting, animated lighting or with varying intensities of light at intervals of fifteen (15) seconds or less, including a moving light or lights.

Freestanding sign means a sign that is permanent and self-supporting, being nondependent upon support from a building or other structure, including signs placed upon fences or nonsupporting walls.

Garage sale sign means a sign advertising the existence of a garage sale for the sale of personal property and advertising the date, time and location of the garage sale, with such signs having a maximum area of six (6) square feet, a maximum height of three (3) feet and a minimum

setback of ten (10) feet, posted for the period of three (3) days prior and three (3) days following the date of the garage sale. Such signs shall not block or interfere with traffic visibility.

Gasoline price sign means for gasoline or service stations, two (2) signs listing only the prices and types of gasoline available are permitted with each sign, not to exceed ten (10) square feet in area or six (6) feet in height.

Holiday decorations means temporary decorations or displays when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday or celebration.

Illuminated sign means a sign that is illuminated with constant intensities of light of a nonvarying nature. There are three (3) types of illuminated lights as follows:

a. *Direct illumination* means lighting by means of an unshielded light source which is effectively visible as a part of the sign. Neon lighting is considered direct lighting.

b. *Indirect illumination* means lighting which illuminates the front of a sign or the entire building façade upon which the sign is displayed, the source of the light being shielded from public view and from surrounding properties. *Indirect illumination* does not include lighting which is primarily used for purposes other than sign illumination, such as parking lot light.

c. *Internal illumination* means lighting by means of a light source which is within a sign having a translucent background and which silhouettes opaque letters or designs, or lighting within or behind letters or designs which are themselves made of translucent or opaque material.

Informational and directional signs means a freestanding or wall-type sign, not located within public street right-of-way, which gives necessary direction or nonadvertising information to motor vehicle operators or pedestrians, such as entrance, exit, parking limitations or location of onsite buildings or facilities. Such sign will be related to the permitted use on the lot on which the sign is located, provided that each sign does not exceed two (2) square feet in total area and is nonilluminated, internally illuminated or indirectly illuminated. This category shall be interpreted to include such signs as "No Smoking," "Restroom," "No Solicitors," "Self Service," "Vacancy," "Entrance," "Exit" and similar informational signs located at least five (5) feet from the property line.

a. *Informational directional sign, off-premises* is a single- or double-faced sign designed to give direction to a church, school, philanthropic organization or similar use of a nonretail or business nature. Such signs may contain only the name of the organization, direction and number of blocks. Such signs shall be metal, no more than two (2) square feet and mounted on minimum two-inch square steel pole. The bottom of the sign shall be a minimum of seven (7) feet above grade. Such signs may be located in the right-of-way.

Interior or window signs means signs within any structure or attached to the inside of any window of a structure.

Kiosk/plaza signs means freestanding signs not more than twelve (12) feet in height, owned or leased by the Town and located in public rights-of-way or on private property with the property owner's written permission, for the purpose of directing the public to development projects, business and/or public facilities as approved by the Town Manager.

Lot means a tract, building site, parcel or portion of land separated from other parcels or portions by description, as on a subdivision plat of record or survey map or by metes and bounds, for the purpose of sale, lease or use.

Nonconforming sign means a sign which does not conform with the regulations set forth in this Article, but which did meet the requirements of the regulations existing at the date of its erection.

Painted sign means a sign that is painted directly onto the exterior surface of a building, wall or structure.

Political sign means a noncommercial sign, which is exempt from permit requirements, erected or placed so as to advertise, announce, declare or state a political message, whether relating to a political campaign or election or any other issue of public concern which is protected by the First Amendment's right of free speech. Such a sign is subject to all applicable provisions of this code.

Portable sign means any sign which is supported by one (1) or more uprights or braces upon the ground and which is of portable design.

Projecting sign means a sign which is affixed to any building, wall or structure and which extends beyond the building wall more than fifteen (15) inches.

Public information sign means a sign giving only information about public places owned and operated by federal, state or local government.

Public sign means an official sign that is required by law or ordinance or is necessary for public information. Any sign erected by any governmental agency including, but not limited to, federal, state, county and town governments, school and recreation districts, but not including private water and sanitary sewer districts, is a *public sign*.

Real estate signs means temporary, nonilluminated real estate signs indicating the availability for sale, rent or lease of a specific lot, building or portion of a building upon which such signs are erected or displayed, which do not exceed six (6) square feet in total area and four (4) feet in height for residential properties or twenty (20) square feet in total area and six (6) feet in height for nonresidential properties and which are located on properties to be sold, limited to one (1) such sign per street frontage. Such signs shall not remain in place more than seven (7) days following sale or rental of the subject property.

Revolving sign means a sign utilizing an axis point to pivot the sign surface. *Revolving signs* are specifically prohibited.

Roof sign means a sign erected, constructed and maintained above the eaves and attached to the roof of a building. *Roof signs* are specifically prohibited.

Semipublic sign means a sign giving information as to church location, educational institutions or service club locations.

Shopping center identification signs means a freestanding or wall sign which identifies all or some of the tenants in a multi-tenant building.

Sight distance triangle means that area formed by drawing a straight line back from intersecting property lines twenty-five (25) feet from said intersection and connecting same with a separate line, creating a triangle.

Sign means any object or device or part thereof situated outdoors or indoors, viewed from outdoors by the general public, which object or device or the effect produced thereby is used to advertise, announce, identify, declare, demonstrate, display, instruct, direct or attract attention by means including, but not limited to, words, letters, figures, designs, fixtures, colors, motion, illumination, sound or projecting images.

Sign permit means a building permit issued for the erection, construction, enlargement, alteration, repair, relocation, improvement, removal, conversion or demolition of any sign issued pursuant to the building code of the Town or this sign code.

Sign structure means any supports, uprights, braces or framework of a sign which does not include any portion of the sign message.

Special event signs means signs in conjunction with and in conformance with the Colorado Revised Statutes regarding special events such as philanthropic campaign, church, circus, carnival or community celebrations, provided that such signs are removed within ten (10) days of the termination of the event of which they are a part.

Street frontage means for the purpose of signage, frontage upon a street is obtained by ownership, easement or leasehold only if used for vehicular access to the property, or if not used for vehicular access, only if such street frontage is at least fifty (50) feet in width. Where the regulations allow "one sign per street frontage," the intent is that the sign allowed is placed upon or facing the street, unless specifically otherwise permitted.

Surface area of sign means the total area enclosed by the shortest eight (8) straight lines that can be drawn around the entire sign, including any architectural embellishment or background material or color forming an integral part of the display and used to differentiate the sign from its surroundings. Sign support structures which do not bear advertising material shall be excluded in computation of sign area. Signs without backing (i.e. freestanding, projecting, A-frame or pedestal signs) are allowed the maximum square footage for each side for double-faced signs; however, signs having more than two (2) sides or faces shall not exceed the total face area allowed for a double-faced sign.

Temporary sign means any sign, banner, pennant, valance or other outdoor advertising sign constructed of light fabric, cardboard, wallboard, plywood, sheet metal, paper or other light materials, with or without a frame, intended or designed to be displayed for a limited period of time.

Traffic directional signs means private *traffic directional signs* guiding or directing vehicular or pedestrian traffic onto or off of a lot or within a lot, when such do not exceed three (3) square feet per sign per face in area and eight (8) feet in height, do not contain any advertising or trade name identification and are nonilluminated, internally or indirectly illuminated. Private traffic control signals shall conform to the standards of the Colorado Manual of Uniform Traffic Control Devices and exceed three (3) square feet per face in area but shall not exceed seven (7) square feet per face. Such signs shall not exceed four (4) feet in height and shall be set back at least five (5) feet from the property line.

Unlawful sign means any sign or outdoor advertising device erected in the absence of a permit required by this Article, or in violation of any of the limitations, prohibitions or requirements of this Article.

Unsafe sign means any sign or advertising structure found unsafe or insecure or creating a hazard or menace to the public safety, health and welfare.

Wall sign means a sign constructed of durable materials or painted and which is permanently affixed to an exterior surface of any building, wall or structure and which does not extend more than fifteen (15) inches beyond the building wall, except that signage placed upon marquees, canopies or awnings shall be considered as *wall signs*.

Warning signs means temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices. (Ord. 682, §1, 2001; Ord. 2005-730 §1)

Sec. 16-363. Permit requirements.

No sign or modification to an existing sign shall be erected, placed or displayed outdoors within the Town limits until a permit for such sign has been issued by the Town, unless such sign is exempt from a permit in accordance with this Article. Permit fees shall be in accordance with the fee schedule adopted by the Town at the time of the permit request. (Ord. 682, § 1, 2001)

Sec. 16-364. General provisions.

(a) Nonconforming signs: The lawful use of a sign existing at the effective date of the ordinance from which this Article is derived may be continued, although such use does not conform to the provisions of this Article, subject to the following provisions:

(1) Rebuilding, enlargement, relocation, extension, replacement or reconstruction of a nonconforming sign is prohibited unless such sign is brought into conformance with this Article.

(2) In the event the use of a nonconforming sign is discontinued for a period of sixty (60) consecutive days, the nonconforming sign shall thereafter conform to the provisions of the zoning district in which it is located or be removed. For the purpose of this Section, the term "discontinued" shall apply to uses which customarily operate on a continuous basis versus a seasonal basis. Seasonal uses shall be subject to a twelve-month period of nonuse prior to requiring full compliance with these regulations.

(3) A nonconforming sign that is destroyed or damaged more than fifty (50) percent of its net worth due to natural causes may not be reconstructed except in accordance with the provisions of this Article; however, any sign destroyed or damaged to any extent by vandalism or other unnatural cause may be rebuilt to its original state within two (2) months or be reconstructed in conformance with this Article.

(4) Normal maintenance such as painting and message replacement within sixty (60) days of prior use which does not require modification of the sign structure, supports or members shall be allowed.

In order to provide an incentive for removal of nonconforming signs, permit fees and Town use tax may be waived where a nonconforming sign is removed and replaced by a sign conforming with these regulations. Authorization for the waiver of use tax is to be approved by the Town Administrator or designee.

(b) Discontinued business, etc.: Whenever a use of land and/or building using an identification sign is discontinued, except for seasonal uses, the sign shall be removed or obscured by the person owning the property within thirty (30) days after the discontinuance of such use. Any such sign which is nonconforming to these regulations and which is not used to advertise an active business within sixty (60) days of discontinuance shall be removed or otherwise brought into compliance.

(c) Removal or reconstruction of dangerous signs. All signs which are prohibited in this Article relating to obstruction to view at street intersections, all illuminated signs that are erected in such a location that a traffic signal light is in a direct line between the sign and oncoming traffic, all signs that employ a lighting or control mechanism which causes radio, radar or television interference, any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door or opening used as a means of egress or ingress or for firefighting purposes or so placed as to interfere with any opening required for light or ventilation, and any other signs that are unsafe or dilapidated shall conform to the provisions of this Article either by removal or reconstruction, whichever applies, within sixty (60) days after the owner of such sign is notified for the violation.

(d) Location of certain signs. All signs, except public signs, semipublic signs and public information signs, allowed by this Article shall be located on the lot for which they advertise. Unless otherwise allowed by this Article, there shall be no sign advertising on the public right-of-way.

(e) Attachment to public structures. Attachment of any sign to utility poles or other poles or structures within public rights-of-way is prohibited, except as approved by the Board of Trustees.

(f) Conformance to building code. The design of all sign structure members and foundation shall conform to the requirements of the building code relative to allowable stresses, materials and engineering standards. Loads, both vertical and horizontal, shall not produce stresses exceeding those specified in the building code, and material construction shall be of the quality and grade required by the building code. All signs and structures shall be of the quality and grade required by this Article and/or by the building code. All signs and structures shall be designed and constructed to meet the Town-adopted code for same.

(g) Exterior signs only. No more than a total of three (3) signs per use is allowed.

(h) Sign setback requirements:

(1) From adjacent properties — ten (10) feet where adjacent to residential-zoned properties; no setback where adjacent to nonresidential-zoned properties. Where a sign exists on an adjacent property and that sign is within twenty (20) feet of the proposed location of a new sign on the adjacent property, an offset, either vertical or horizontal, shall be required, such that the existing sign is not visually blocked by the new sign.

(2) From a public right-of-way — one (1) foot setback up to six (6) feet in vertical height; one (1) foot for every foot of height greater than six (6) feet.

(i) Landscaping requirement: for new development or redevelopment, all freestanding signs shall be placed within a landscaped planter base. (Ord. 682, § 1, 2001)

Sec. 16-365. Signs not subject to permit.

The following signs, which shall be nonilluminated unless specifically stated to the contrary, are permitted in all zoning districts and require no permit for erection:

- (1) Public signs, as defined in Section 16-362.
- (2) Interior or window signs, as defined in Section 16-362.
- (3) Commemorative plaques, as defined in Section 16-362.
- (4) Address signs, as defined in Section 16-362.
- (5) Special event signs, as defined in Section 16-362.
- (6) Real estate signs, as defined in Section 16-362.
- (7) Building identification signs, as defined in Section 16-362.
- (8) Information and directional signs:

a. Traffic directional signs: Private traffic directional signs guiding or directing vehicular or pedestrian traffic onto or off of a lot or within a lot, when such do not exceed three (3) square feet per sign face in area and eight (8) feet in height, do not contain any advertising or trade name or color identification and are nonilluminated. Private traffic control signals shall conform to the standards of the Colorado Manual of Uniform Traffic Control Devices and exceed three (3) square feet per face in area but shall not exceed seven (7) square feet per face. Such signs shall not exceed four (4) feet in height and shall be set back at least five (5) feet from the property line and shall not be located in the sight distance triangle. (An example might be a "no parking" sign.)

b. Signs commonly associated with and limited to information and directions related to the permitted use on the lot on which the sign is located, provided that each such sign does not exceed two (2) square feet in total area and is nonilluminated, internally illuminated or indirectly illuminated. Such signs shall contain no advertising color schemes or logos of the

proposed business. This category shall be interpreted to include such signs as "No Smoking," "Restroom," "No Solicitors," "Self Service," "Vacancy," "Entrance," "Exit" and similar informational signs located at least five (5) feet from the property line and not in the sight distance triangle.

c. Off-premises informational directional signs. A single- or double-faced sign designed to give direction to a church, school, philanthropic organization or similar use of a nonretail or business nature. Such sign may contain only the name of the organization, direction and number of blocks. Such sign shall be metal, no more than two (2) square feet, and shall be mounted on a minimum two-inch square steel pole. The bottom of the sign shall be a minimum of seven (7) feet above grade. Such signs may be located in the right-of-way but not within the sight distance triangle and shall be subject to a revocable permit authorizing the use of the right-of-way for same.

(9) Courtesy signs: Nonilluminated or indirectly illuminated signs which identify, as a courtesy to customers, items such as "credit cards accepted" and "redemption stamps offered," are 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 wall signs, suspended from a canopy or included as an integral part of a freestanding sign.

(10) Flags: The flag, pennant or insignia of any nation, organization of nations, state, county, Town, any religious, civic or fraternal organization or any educational institution not to exceed twenty (20) square feet.

(11) Holiday decorations, as defined in Section 16-362.

(12) Warning signs, as defined in Section 16-362.

(13) Kiosk/plaza sign. (Ord. 682 §1, 2001; Ord. 2005-730 §1)

Sec. 16-366. Signs requiring a permit.

A permit is required for the following signs:

(1) Animated. Size of sign is based upon the sign type (i.e., freestanding, wall or projecting).

(2) Arcade.

a. Nonresidential uses.

b. Maximum height cannot exceed bottom of eave, balcony, canopy, awning or other structural overhang or passageway to which it is attached.

c. Minimum height, seven (7) feet above grade.

d. Maximum one (1) per building entrance for nonresidential uses.

e. Maximum area, four (4) square feet for nonresidential uses.

- f. Must be placed on an approved wall area.
- (3) Awning sign.
- a. Permitted on the bottom eighteen (18) inches of 1st floor awnings.
 - b. Allowed at 0.5 square feet per linear foot of awning.
 - c. Maximum of twelve-inch letter height.
 - d. Maximum of one (1) per awning.
 - e. Must be located on an approved wall area.
 - f. May be illuminated.
- (4) Bulletin boards.
- a. Nonresidential, nonagricultural and multiple-family uses only.
 - b. Maximum area, thirty-two (32) square feet.
 - c. Maximum height, eight (8) feet.
 - d. Maximum one (1) per street frontage.
 - e. Must be set back a minimum of ten (10) feet from any private property line and from a public right-of-way; one (1) foot setback for signs up to six (6) feet in vertical height; one (1) foot for every foot of height greater than six (6) feet.
- (5) Freestanding residential districts:
- a. Permitted in residential zones only.
 - b. Maximum sign area is one hundred (100) square feet.
 - c. Maximum of one (1) per street frontage, said street being on the boundary of the development.
 - d. Maximum height all residential districts, six (6) feet.
 - e. Maximum height in all multiple family use districts, twelve (12) feet.
 - f. Must be set back from any private property line and from a public right-of-way one (1) foot setback for signs up to six (6) feet in vertical height; one (1) foot for every foot of height greater than six (6) feet.
 - g. May be illuminated.

(6) Residential development entryway signs:

- a. One (1) for each major entryway;
- b. Not to exceed twenty (20) square feet in area or six (6) feet in height;
- c. Freestanding-type signs must be set back onto the property a minimum of ten (10) feet, unless incorporated into a traffic island entrance, then twenty-five (25) feet back from the face of the street curb and three (3) feet from the edge of the traffic island;
- d. Fence or wall-incorporated-type signs may be placed parallel with and at the property line following the same height and sight distance requirements as for a wall or fence.
- e. Subject to a revocable permit in favor of the Town if situated in the right-of-way.

(7) Freestanding nonresidential districts:

- a. Maximum height: Twenty-five (25) feet.
- b. Maximum number of signs per development: one (1) per street frontage, not to exceed two (2) per development, except as may be permitted by a master sign plan approved by the Board of Trustees.
- c. All such signs shall be set back from the property line a distance equal to the height of the sign, except a sign six (6) feet in height shall be set back from the property line a distance of one (1) foot.
- d. Maximum sign area: based upon the following table.

Floor area of Building	MAXIMUM SIGN AREA (Square Feet — s.f.)	
	Single Use Development	Multiple Use Development
0-1,500 s.f.	35 s.f.	60 s.f.
1,500-5,000 s.f.	35 s.f. plus 1 s.f. per each additional 50 s.f. of floor area over 1,501.	60 s.f. plus 1 s.f. per each additional 40 s.f. of floor area over 1,501.
5,000-50,000 s.f.	100 s.f. plus 1 s.f. per each additional 1,000 s.f. of floor area over 50,001 up to a maximum size of 300 s.f.	300 s.f. plus 1 s.f. per each additional 1,000 s.f. of floor area over 50,001 up to a maximum size of 400 s.f.

(8) Illuminated signs:

- a. Within one hundred (100) feet of residential use or district, internal lighting only.
- b. Over one hundred (100) feet from a residential district, any type of lighting source is allowed, except search or flashing lights, or directed so that the light shall not adversely affect surrounding premises or safe vision on public or private roadways, including highways.

(9) Portable:

- a. A-frame or pedestal style only;
- b. Maximum area: Six (6) square feet;
- c. One (1) per street frontage;
- d. Must be set back a minimum of ten (10) feet from the street right-of-way line if over forty-two (42) inches or two (2) feet if forty-two (42) inches high or less;
- e. Must be anchored to the ground or weighted sufficiently to prevent movement by force of wind.
- f. May not interfere or block pedestrian or vehicular traffic.

(10) Projecting:

- a. Maximum height: top of wall or parapet; not to be roof-mounted;
- b. Maximum projection: Shall be in accordance with building codes, requirements for "Construction in Public Right-of-Way."
- c. Maximum size: Two (2) square foot for each one (1) foot of height of the building wall to which the sign is to be attached;
- d. Projecting and wall sign not permissible on same wall;
- e. Maximum number: One (1) per street frontage.

(11) Public information: As defined with the approval of the Town Administrator or designee.

(12) Temporary subdivision signs:

- a. Temporary model home signs:
 - 1. One (1) per model home;
 - 2. Not to exceed twelve (12) square feet each and not over six (6) feet in height if a freestanding type; and
 - 3. Must be set back from property lines a minimum of ten (10) feet or a distance equal to height, whichever is greater.
- b. Temporary residential subdivision signs.
 - 1. Temporary signs are prohibited upon public rights-of-way. Temporary signs found by an enforcement officer to be located within Town rights-of-way shall be removed by such enforcement officer with no requirement of notice.

2. Construction signs shall not exceed thirty-two (32) square feet and twelve (12) feet in height. One (1) per street frontage is allowed between the time a building permit is issued and the time a certificate of occupancy is obtained.

3. Political and real estate signs may be located on property only by permission of the landowner.

c. Temporary commercial/industrial signs.

1. Banners are permitted for any nonresidentially zoned or used property to advertise special events or sales subject to the following provisions:

a) May be placed upon a building wall or roof or a fence but shall not be attached to landscaping, freestanding posts or utility poles;

b) The total size allowed for any single banner or total combination of multiple banners shall be determined using the same criteria that applies to wall signs. If the banner is to be affixed to a fence, size shall be the same as if it was attached to the nearest adjacent building wall having street frontage;

c) Any banner that becomes discolored, ragged, shredded, detached, etc., shall be removed or repaired.

2. Pennants, streamers and similar devices, and balloons or other inflatable devices, shall be permitted upon nonresidentially zoned or used properties only, subject to the following provisions:

a) Any one (1) or a concurrent or successive combination of pennants, streamers or balloons or other inflatable devices shall be permitted to advertise special events or sales not more than five (5) times per year for up to thirty (30) days or seven (7) times per year for up to fifteen (15) days each time;

b) Such devices shall be securely anchored or attached as to prevent dislocation, entanglement or encroachment onto adjacent properties or public streets, or undue hazard to motorists or pedestrians;

c) Roof mounting may be permitted by the Town Administrator or designee.

d) It is not the intent of these regulations to prohibit or unreasonably regulate or to require permits for the legitimate display of traditional winter holiday season decorations; provided, however, that such display occurs between November 15 (year-end) and January 15 (new-year), and provided that such decorations or display is installed and maintained in a safe manner.

(13) Under canopy signs.

a. Minimum clearance from the sidewalk is eight (8) feet.

b. One (1) sign per frontage.

c. Not counted against other allowed signage.

(14) Wall or painted:

a. Maximum area to be no larger than two (2) square feet for every linear foot of the side of the building having a public entrance and facing a public street, alley or parking lot to which it is affixed. Signs affixed to attached or detached canopies and marquees or awnings shall be considered wall signs and shall be calculated based upon the length of the wall to which they are attached or adjacent.

b. Each ground floor tenant or use shall have the right of wall signage upon any wall which fronts upon a public street, or if not fronting upon a public street, upon any wall which fronts upon a major interior drive having direct access to a public street. For uses that have a rear entry or delivery door, one (1) nonilluminated wall sign per use, not to exceed ten (10) square feet, is permitted.

c. For buildings with flat roofs, wall signs shall not extend above the top of parapet or mansard, shall not extend more than three (3) feet above the deck line.

d. May not extend more than fifteen (15) inches beyond the surface of the wall and may not extend beyond the side of the wall.

e. Commercial, industrial, multiple-family, public and semipublic uses only.

f. Cannot be used on the same wall as a projecting sign.

g. Must be placed on an approved wall area. (Ord. 682, § 1, 2001)

Sec. 16-367. Master sign plan.

(a) The Planning and Zoning Commission may approve a master sign plan for planned unit developments of any size and for any existing or proposed business center or office complex of at least two (2) acres or more in size which are under unified control either by ownership, legal association or leasehold.

(b) The intent and purpose is to encourage well planned and designed signage within a large multiple building or multiple use complex which expresses unification and integration by elements of architectural style, size, color, placement and lighting, while at the same time allowing for reasonable individual business identification. An additional purpose is to encourage the elimination of existing nonconforming signs. The Planning and Zoning Commission may grant a bonus for well designed plans up to a one hundred percent (100%) increase in the number of signs and/or fifty percent (50%) increase in the maximum square footage, and/or may permit signs in locations other than normally permitted, based upon a finding that the proposed master sign plan substantially meets the intent and purpose of this Subsection relating to unification and integration of signage.

(c) Once approved at a public hearing by the Planning and Zoning Commission, all master sign plans shall be recorded with the Weld or Larimer County recorder's office and shall constitute a covenant and must be complied with by all owners, proprietors, lessees or assigns, whether current or

future. No substantial variation from the plan shall be permitted without the Planning and Zoning Commission's approval. Approval procedures under this provision shall be subject to those requirements for a conditional use, as set forth in this Zoning Ordinance. (Ord. 682, § 1, 2001)

Sec. 16-368. Prohibited signs.

The following signs are prohibited:

- (1) Any sign which would violate sight distance triangle requirements.
- (2) Any nonpublic sign on the right-of-way or on a property other than that which it advertises.
- (3) Any sign which, even though in general conformance with the standards and requirements of this sign code, is a dangerous sign due to interference with a traffic control device by being in direct line between the control device and oncoming traffic or otherwise in visual competition with a traffic control device or resembling a traffic control device.
- (4) Any sign that is erected in such a location as to interfere with motor vehicle traffic.
- (5) Any sign employing a lighting or control mechanism which causes radio, radar, television, or telecommunication interference.
- (6) Any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door or opening used as a means of egress or ingress or for firefighting purposes, or any sign so placed as to interfere with any opening required for light or ventilation.
- (7) Flashing, blinking or other moving signs and searchlights/klieg lights.
- (8) Animated signs, including revolving, whirling, twirling or any other sign which uses motion, either implied or actual, except that barber poles (not exceeding five (5) feet in length which are not roof-mounted), windmills and time and temperature signs are permitted.
- (9) Structurally unsafe signs as determined by the chief building official, based upon criteria established in the adopted Town codes regulating same.
- (10) Roof signs.
- (11) Wheeled advertising devices, except for currently licensed, operative vehicles which are primarily used by their owners for service, delivery or general transportation on a regular basis.
- (12) Any merchandise displayed outside of a building in such a way as to attract attention when viewed by the general public by placement upon a pole, a fence, a platform, roof or other similar device or structure shall be considered as a sign and shall be prohibited unless otherwise approved by the Planning and Zoning Commission. This shall not, however, be construed to prohibit merchandise customarily stored outside of buildings and placed upon shelves or tables, such as automobiles, campers, boats, plant materials, produce or lumber.

(13) Any sign regulated by the State of Colorado Department of Transportation rules and regulations pertaining to outdoor advertising not approved by the CDOT. (Ord. 682, § 1, 2001)

Sec. 16-369. Supersession.

If the terms and provisions of this Article conflict with other Town Municipal Code requirements, the most stringent shall apply. (Ord. 682, § 1, 2001)

Sec. 16-370. Enforcement and penalties.

(a) A person who violates the requirements of this Section shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment of not more than one (1) year, or by both such fine and imprisonment.

(b) Specific authority is granted to the enforcement officer to remove, or have removed, the following signs:

(1) Signs which are prohibited as stated in this Article;

(2) Unlawful temporary or portable signs as defined in this Article. (Ord. 682, § 1, 2001; Ord. 2005-730 §1)

Secs. 16-371—16-390. Reserved.