

CHAPTER 16

Zoning

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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 in accordance with the Comprehensive Development Plan for the Town 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 102-1)

Secs. 16-2--16-10. Reserved.

ARTICLE II

Definitions and Usage

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 102-2)

Sec. 16-12. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

Basement means that portion of a building between floor and ceiling which is partly below and partly above grade but so located that the vertical distance from grade to the floor is more than the vertical distance from normal grade to ceiling.

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

Building, accessory means a detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use and which is not intended for human habitation.

Building elevation means the building wall, face or facade as measured to the predominant roofline. For the purpose of sign calculations, the building elevation shall be considered a two-dimensional flat surface as depicted in a site plan drawing, with each building typically having four (4) elevations, regardless of architectural features. The predominant roofline shall not include architectural elements or appurtenances such as clock towers or cupolas.

Building height means the vertical distance from ground level to the highest point of the roof surface.

Clinic, medical or dental means a group of medical or dental 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.

Complete application means an application wherein all of the required information and submittal materials in the particulars required by this Code have been submitted to and received by the Town department or official specified in this Code, and the zoning officer of the Town or his or her designee has certified the application as complete.

Convenience center means a small group of retail stores and service establishments which serves a local neighborhood, including, by way of example but not of limitation, a food store, drug store, hardware store, barber shop, restaurant, shoe repair shop, gas station 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 private outside entrance but not necessarily occupying a private lot, and sharing a common wall between 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 containing cooking, living, sleeping and sanitary facilities and having a separate entrance.

Equivalent performance engineering basis means that, by using engineering calculations or testing, following commonly accepted engineering practices, all components and subsystems will perform to meet health, safety and functional requirements to the same extent as required single-family housing units.

Family means an individual living alone, or either of the following groups living together in a single dwelling unit and sharing common living, sleeping, cooking and eating facilities:

- a. Any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, unless such number is otherwise specifically limited in this Code;
- or

b. Any unrelated group of persons consisting of (i) not more than four (4) persons; or (ii) not more than two (2) unrelated adults and their related children, if any.

c. This definition shall not include individuals living in small group living facilities as defined in this Code.

Front building corner of a principal structure means each of the two (2) corners of the widest portion of the foundation of the principal structure that face and are parallel to the right-of-way line which defines the front yard (see *front yard*).

Front yard means the horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. The *front yard* of a corner lot shall be that yard which contains the front lot line marking the boundary between the lot and the shorter of the two (2) abutting street segments, except as otherwise specified by deed restrictions, and usually, but not always, that portion of the yard which is situated in front of the building elevation that contains the building address.

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 a household within its place of residence and incidental to the residential use of the premises.

Hospital means an institution intended primarily for the medical diagnosis, treatment and care of patients being given medical treatment. A *hospital* shall be distinguished from a clinic by virtue of providing for bed-patient care.

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

Individual sewage disposal system means any sewage disposal system not connected to the public sewer system serving no more than one (1) lot and approved and authorized by the Town, the State Department of Health, and any other appropriate state or local agency.

Kennel means any establishment wherein or whereon the business of boarding, training, selling or breeding dogs for sale is carried on, not, however, including veterinary hospitals, veterinary clinics, veterinary offices or pet shops. If the occupants of any dwelling unit harbor more than four (4) dogs over the age of six (6) months, such occupants shall be deemed to be operating a kennel.

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 means the lines bounding a lot as defined herein.

Major tenant means any use that (1) exceeds 5,000 square feet of gross leasable area (GLA) and (2) if part of a multiple tenant building, the use is the largest tenant, in terms of GLA, in the building that it occupies.

Manufactured home means a single-family dwelling which:

- a. Is partially or entirely manufactured in a factory;
- b. Is not less than twenty-four (24) feet in width and thirty-six (36) feet in length;
- c. Is installed on an engineered permanent foundation;
- d. Has brick, wood, masonite or a cosmetically equivalent exterior siding and a pitched roof;
- e. Meets or exceeds on an equivalent performance engineering basis standards established by the Building Code of the Town.
- f. Is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. Section 5401, et seq., as amended.

Minor tenant means any use that (1) contains gross leasable area (GLA) equal to or less than five thousand (5,000) square feet and (2) if part of a multiple tenant building, the use is not the largest tenant, in terms of GLA, in the building that it occupies.

Mobile home means a single-family dwelling which:

- a. Is partially or entirely manufactured in a factory;
- b. Is designed for longer-term residential use;
- c. Is not less than eight (8) feet in width and thirty-six (36) feet in length;
- d. Meets or exceeds on an equivalent performance engineering basis standards established by the Building Code of the Town.
- e. Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended.

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 lot means a lot which does not conform to the lot size regulations of the district in which it is located.

Nonconforming structure means a structure which does not conform to the building location 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 regulations 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.

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

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 said lot and with adequate access thereto from the public street.

Open house means a temporary event intended to market or advertise the sale of the property at which the open house is located.

Open space, livable 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 structures, along with accessory equipment, designed and utilized for leisure-time activities of a predominantly outdoor nature and of more specific purposes than passive parklike open areas and further classified as follows:

- a. *Public* - Facilities owned and operated by a governmental agency for limited or general public use.
- b. *Private commercial* - Facilities owned and operated by an individual or 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 as or an adjoining lot to his or her residence and intended solely for the use of his or her family and guests.

Parapet means an extended wall or false building front above a roofline.

Parking lot means a group of off-street parking spaces which is designed to be used for the temporary parking of motor vehicles. As used in this Section, any such group of off-street parking spaces shall not include any part of any street or alley and shall not include any off-street storage areas for industrial uses which are (a) authorized by the Town through the site-planning process, and (b) shown on the site plan for the respective industrial development.

Planning Procedures Manual is the manual approved by the Board of Trustees.

Private lodge or club means a structure or grounds used for regular or periodical 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, 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 guiding or directing pedestrian or vehicular traffic within an establishment and not including promotional advertising unnecessary to such directional purpose. Examples of directional signs include "entrance," "exit," "no parking" or "loading only" and other similar directives. *Directional signs* shall not count toward the overall total number of signs on the site due to their informational nature as opposed to signs used for promotion or advertising.

Sign, individual letter means signs which consist of individual letters that are mounted to a wall, or individual letters mounted to a "raceway" base to be mounted to a wall, which utilize the building wall as the background, or freestanding individual letters that are mounted to a monument base.

Sign, off-premises means a sign not directly related to the use of the premises on which such off-premises sign is located.

Sign, regulatory traffic means traffic control and informational signage typically erected or required to be erected by government agencies such as the Town or the Colorado Department of Transportation.

Small group living facilities means state-licensed group homes for the developmentally disabled or mentally ill, nonprofit or owner-occupied group homes for the aged as defined in Section 31-23-303(2), C.R.S., wherein not more than eight (8) unrelated individuals are living together in a single dwelling unit with common access to and common use of all living and eating areas and all facilities for the preparation and serving of food within the dwelling unit. None of the residents of small group living facilities shall receive on-site medical or psychological treatment, therapy or counseling, but some or all of the residents may receive physical assistance with day-to-day living activities.

Street means a public or private right-of-way usually affording primary access to abutting property.

Street frontage means that portion of a legal lot which abuts a designated public or private street. For the purpose of overall development identification sign calculations, the street frontage shall be calculated as the street frontage that abuts a street classified as an arterial or collector adjacent to the property upon which the overall development 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.

Structure, principal means the structure on a lot in which the principal use is conducted (see use, principal).

Use, accessory means a use subordinate to and customarily incidental 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 amendments thereto, which use or occupancy does not conform to the regulations of this Chapter or the amendments thereto.

Use, permitted means the 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 said 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 102-3; Ord. 1991-811, § 1; Ord. 1993-852, § 1; Ord. 1998-981, § 1; Ord. 2001-1077, § 2; Ord. 2002-1104, § 1; Ord. 2002-1117, § 1; Ord. 2002-1118, §§ 1,3; Ord. 2002-1122, §§ 2-4)

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 of the Town, 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 and 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 Section 16-21 of the Zoning Ordinance of the Town," together with the date of adoption of this Chapter. (Prior code 102-4)

Sec. 16-22. Changes in 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 matter shown on the Official Zoning District map shall become effective until after such change and entry have been made on said 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 in this Code. (Prior code 102-5)

Sec. 16-23. Replacement of official map.

In the event that the Official Zoning District Map becomes damaged, destroyed, lost or difficult to interpret because of 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 thereto. (Prior code 102-6)

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 such 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 lines, 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 center line of streams, rivers or canals shall be construed to follow such center lines.

(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 on the ground are at variance with those shown on the Official Zoning District Map or in circumstances not covered by Subsections (1) through (7) above, the Board of Adjustment shall interpret the district boundaries. (Prior code 102-7)

Secs. 16-25--16-30. Reserved.

ARTICLE IV

Administration and Enforcement

Sec. 16-31. Zoning Officer.

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

(b) If the Zoning Officer 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 violation, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Officer 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, or discontinuance of any illegal work being done; or take any other action authorized by this Code to ensure compliance with or prevent violation of its provisions. (Prior code 102-8)

Sec. 16-32. Building permits.

No building or other structure shall be erected, moved, added to, remodeled, repaired, structurally altered or any work accomplished or undertaken subject to the requirements of Chapter 18 without obtaining a permit therefor, issued by the Zoning Officer. No building permit shall be issued except in conformity with the provisions of this Code, except after written order from the Board of Adjustment. (Prior code 102-9)

Sec. 16-33. Application for building permit.

(a) All applications for building permits shall be accompanied by plans in duplicate, 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 alterations. The application shall include such other information as lawfully may be required by the Zoning Officer, 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 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 Zoning Officer after he or she shall have marked such copy either as approved or disapproved and attested to same by his or her signature on such copy. The second copy of the plans, similarly marked, shall be retained by the Zoning Officer.

(c) An application for a building permit shall be deemed complete as defined by this Code when all of the required information and submittal materials, as required by this Code, have been submitted to and received by the zoning officer of the Town, and the zoning office or his or her designee has certified the application as complete. (Prior code 102-10; 2002-1117, § 2)

Sec. 16-34. 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, said permit shall expire.

(b) If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire. (Prior code 102-12; Ord. 1991-811, § 1)

Sec. 16-35. Compliance with approved plans and applications.

Building permits issued on the basis of plans and applications approved by the Zoning Officer 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 Code. (Prior code 102-13; Ord. 1991-811, § 1)

Sec. 16-36. 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 designated hearing authority shall set a date for a public hearing, which date shall be not more than sixty (60) days from the date of filing such petition, application or document.

(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 of Weld. 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 102-16; Ord. 1991-811, § 1; Ord. 2003-1156, § 1)

Secs. 16-37—16-50. Reserved.

ARTICLE V

Amendments

Sec. 16-51. Authority to amend.

The Board of Trustees may amend, supplement, change or repeal the regulations, restrictions and district boundaries set forth in this Chapter, after public notice and hearing as provided in Section 16-36 and after first submitting the proposal to the Planning Commission for report and recommendation. The Planning Commission shall submit a written recommendation to the Board of Trustees within forty-five (45) days after receipt of such submittal. Upon failure of the Planning Commission to submit a recommendation within forty five (45) days, the Board of Trustees may amend, supplement, change or repeal the regulations, restrictions and district boundaries set forth in this Chapter, after public notice and hearing as provided in Section 16-36. (Prior code 102-18)

Sec. 16-52. Rezoning applications.

(a) Purpose. The purpose of this Section is to provide a procedure for changing the existing zone classification of a parcel of land within the Town.

(b) Responsibilities of applicant.

(1) The applicant is responsible for having a representative at all meetings when the request is reviewed. Failure to have a representative present will be cause to have the item withdrawn from the agenda of that meeting.

(2) The applicant shall meet with the Planning Department to obtain a rezoning petition and to discuss the requirements of rezoning.

(c) Preliminary submission to Planning Commission.

(1) Procedure. The applicant shall submit to the Planning Department the rezoning petition, the review fee as established by resolution of the Board of Trustees, a minimum of twenty (20) folded copies of the preliminary rezoning map and the required supportive information. Such submission shall allow the Planning Department to schedule consideration of the rezoning proposal by the Planning Commission.

a. Upon the filing of the preliminary rezoning map, the applicant or the applicant's representative shall distribute copies of the preliminary rezoning map to the appropriate agencies and offices listed in Section 17-74(a)(1). The map shall be accompanied by written notice to the agencies and offices that any comments or objections must be received by the Planning Department within ten (10) days of receipt of the notice. It shall be the responsibility of the applicant or the applicant's representative to provide evidence in a form sufficient to the Planning Department that the rezoning map and accompanying notice were properly distributed.

b. The Planning Department shall submit the rezoning petition, rezoning map and the required supportive information to the Planning Commission. The Planning Commission shall give notice and hold a public hearing on the request as provided in Section 16-36. The Planning Commission shall submit a written recommendation to the Board of Trustees within the time limit fixed by Section 16-51.

(2) Preliminary rezoning map and data. All rezoning maps shall be made with an engineer's scale, minimum scales to be one (1) inch represents two hundred (200) feet, shall be on one (1) or more sheets with outer dimensions of twenty-four by thirty-six (24 x 36) inches and shall contain the following information:

- a. The date of preparation, the scale and a symbol designating true north.
- b. A legal description of the area proposed for rezoning, including total acreage.
- c. Each ownership within and adjacent to the property.
- d. Existing and proposed zone classification.
- e. The location and dimensions of all existing and proposed easements and rights-of-way.
- f. A description of all developed on-site property, including its use and total acreage.
- g. Vicinity map.

(3) Supportive information. The following supportive information shall be submitted with the rezoning map:

- a. Complete rezoning petition.
- b. List of names and mailing addresses of owners of all property within three hundred (300) feet of the area for which rezoning is requested.
- c. A statement regarding the justification for rezoning.

(d) Final submission to Board of Trustees.

(1) Procedure. The applicant shall submit to the Planning Department a minimum of fifteen (15) folded copies of the final rezoning map a minimum of fifteen (15) days prior to a regularly scheduled meeting of the Board of Trustees.

a. The Board of Trustees shall give notice and hold a public hearing on the rezoning request as provided in Section 16-36.

b. If the rezoning request is approved, the ordinance effecting the rezoning shall become effective thirty (30) days after publication. The Official Zoning Map of the Town shall be changed only upon the approval of the Board of Trustees, in accordance with Section 16-22 of this Chapter.

(2) Final rezoning map. The final rezoning map shall conform to the preliminary rezoning map as approved. Appropriate certification blocks, as provided in the Planning Procedures Manual, shall appear on the final rezoning map.

(3) Upon final approval of the Board of Trustees, the applicant shall submit to the Planning Department either two (2) translucent original Mylars of final rezoning maps to be recorded in the office of the Weld County Clerk and Recorder or three (3) translucent original Mylars of final rezoning maps to be recorded in the office of the Larimer County Clerk and Recorder within ten (10) days of the effective date of the ordinance. Reproduction Mylars, dark colored or tinted Mylars and sepias will not be accepted. (Prior code 102-19; Ord. 1991-811, § 1; Ord. 1996-927, §§ 1, 2; Ord. 1999-1045, §§ 2, 3)

Sec. 16-53. 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 Board of Trustees. (Prior code 102-20)

Secs. 16-54--16-60. Reserved.

ARTICLE VI

Board of Adjustment and Variances

Sec. 16-61. Membership.

(a) The Board of Adjustment shall consist of five (5) regular members and two (2) alternate members, to be appointed by the Board of Trustees. Appointments to the Board of Adjustment shall be for terms of four (4) years. Members of the Board of Adjustment shall be residents of the Town and shall serve without pay. If any member ceases to reside in the Town, his or her membership shall immediately terminate. The initial appointment of alternate members to the Board of Adjustment shall be for staggered terms, the first appointment being for two (2) years, and the second appointment for four (4) years, with the terms of the alternate members being four (4) years thereafter. Alternate members of the Board of Adjustment shall serve in the absence of regular members.

(b) No member of the Board of Adjustment shall be eligible to serve on any other board or commission of the Town during that member's tenure on the Board of Adjustment.

(c) Members of the Board of Adjustment may be removed from office by the Board of Trustees for inefficiency, neglect of duty or malfeasance, upon written notice and after public hearing.

(d) The Board of Trustees shall make such appointments as necessary to fill the unexpired terms of vacancies which may occur on the Board of Adjustment, giving preference to alternate members when filling regular member vacancies. (Ord. 2001-1079, § 1; Ord. 2001-1099, § 1)

Sec. 16-62. 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 may determine. The Chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. (Ord. 1992-833; Ord. 2001-1079, § 1)

Sec. 16-63. Decisions of the Board of Adjustment.

(a) 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 Zoning Officer of the Town or to grant a variance or otherwise decide in favor of an applicant on any matter considered by the Board of Adjustment under the provisions of this Chapter.

(b) The Board of Adjustment shall set forth all decisions in writing, including grounds therefor, within fifteen (15) days after the decision has been made at the public meeting where the matter was considered. (Ord. 1992-833; Ord. 2001-1079, § 1)

Sec. 16-64. Appellate power.

The Board of Adjustment is empowered to hear and decide appeals when an error is alleged in any order, requirement, decision or determination made by the Zoning Officer of the Town in the enforcement of the provisions of this Chapter. (Ord. 1992-833; Ord. 2001-1079, § 1)

Sec. 16-65. Appellate procedure.

(a) Filing.

(1) Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department or board of the Town affected by any decision of the Zoning Officer of the Town.

(2) Such appeals shall be taken within forty-five (45) days of the decision of the Zoning Officer and shall be filed with the Town Clerk in writing, together with the required application fee, to be set by resolution of the Board of Trustees. The Town Clerk shall forthwith transmit to the Board of Adjustment the application, any materials submitted with the application and all papers constituting the record upon which the action appealed was taken.

(b) Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Officer 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, to 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 Section 16-36. At the hearing any party may appear in person or by attorney at law representing him or her. (Ord. 1992-833; Ord. 2001-1079, § 1)

Sec. 16-66. Variances.

(a) The Board of Adjustment is empowered to grant variances from the regulations and provisions of this Chapter.

(b) A variance, if granted, will constitute a change in the zoning provisions of this Chapter as distinct from a conditional use grant which allows for inclusion within the zones established by this Chapter certain anticipated uses of a unique nature or character justified by temporary conditions. Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured. (Ord. 1992-833; Ord. 2001-1079, § 1)

Sec. 16-67. Variance procedure.

(a) Application. An application for a variance shall be submitted to the Town Clerk in writing, together with the required application fee.

(b) Determination by Board of Adjustment. The Board of Adjustment shall give notice and hold a public hearing on all variance applications in accordance with Section 16-36 of this Code. The Board of Adjustment shall consider the application for variance at a public meeting. (Ord. 1992-833; Ord. 2001-1079, § 1)

Sec. 16-68. Conditions on granting variances.

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 by this Chapter as deemed necessary for the protection of the 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 Code. (Ord. 1992-833; Ord. 2001-1079, § 1)

Secs. 16-69--16-75. Reserved.

Sec. 16-76. Zoning officer authorized to approve minor modifications.

(a) Purpose and intent. The purpose and intent of this Section is to allow the zoning officer to grant minor modifications up to a maximum of ten percent (10%) from zoning district standards in cases where a deviation therefrom exists relative to existing structures. Relief under this Section shall not be available for the following:

- (1) Any application for a new development or proposed construction.
- (2) A building permit application.

- (3) A plot plan application.
- (4) An improvement location certificate.
- (5) Any minor modification that would result in any of the following:
 - a. An increase in permitted maximum development density or intensity.
 - b. A change in permitted uses or mix of uses.
 - c. An increase in the building height of principal structures.
 - d. A decrease in the amount of required open space or landscaping.

(b) Application. The applicant shall submit to the zoning officer a variance application, together with such supporting documentation as the zoning officer may require, and a review fee, the amount of which shall be set by the Board of Trustees and modified by the Board of Trustees from time to time.

(c) Appeal. The zoning officer shall review the application and initially determine whether or not the application qualifies the applicant for relief under this Section. In the event the zoning officer determines that the application should be denied, appeal of the zoning officer's decision to the Board of Adjustment shall be in accordance with the provisions of this Code.

(d) Approval criteria. Upon complete submission of the application as aforesaid and approval thereof by the zoning officer, the zoning officer shall grant the modification unless it is in conflict with either the goals of the Comprehensive Plan or the purposes of the zoning code.

(e) Effect of approval. The zoning officer shall state on the zoning certificate, and on all affected plans or plats, the nature of any minor modification and reason for approval thereof. The zoning officer shall also sign, date and, if applicable, record all such documentation. (Ord. 2002-1128, § 1)

Secs. 16-77--16-80. Reserved.

ARTICLE VII

Conditional Use Grants

Sec. 16-81. Intent of conditional use grants.

The conditional use classification is intended to provide 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 chapter of specific standards, requirements or conditions necessary or appropriate to such permissibility, is not practical, but which may be permitted in the district where listed, subject to conditions and requirements as hereinafter specified. (Ord. 1992-833)

Sec. 16-82. Approval of conditional use grants.

Subject to final approval and acceptance by the Board of Trustees, uses listed as conditional uses may be permitted upon a petition to the Planning Commission for a conditional use grant and subject to approval by the Commission. The Planning Commission shall base its determination on general

considerations as to the effect of such permit on the health, safety, welfare and economic prosperity of the Town and specifically on the effect of such use upon the immediate neighborhood in which it would be located, including the considerations listed in Section 16-85 below. (Ord. 1992-833)

Sec. 16-83. Application to existing uses.

A use which existed lawfully on a lot at the time said 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. (Ord. 1992-833)

Sec. 16-84. 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 use grant may be terminated by the Board of Trustees upon referral to the Planning Commission and public hearing thereon. Such use shall thereafter be classified as a legal nonconforming use; except that, where the action is due to failure to comply with the conditions of the conditional use grant, the Board of Trustees may require complete termination of the use. (Ord. 1992-833)

Sec. 16-85. Standards and requirements for conditional use grants.

(a) Approval of a conditional use grant shall be based on the evaluation of such factors as the following:

- (1) The character and quality of the area in which the use will be located.
- (2) The physical appearance of the use, including suitability of architectural and landscaping treatment.
- (3) Appropriate location of the building or buildings on the lot.
- (4) Adequate provision of parking, loading and circulation facilities.
- (5) Potential effect of the use upon off-site vehicular and pedestrian traffic circulation, with particular reference to potential traffic congestion.
- (6) Potential effect of the use on storm drainage in the area.
- (7) Adequacy of planting screens where necessary.
- (8) Provision of operational controls where necessary to avoid hazardous conditions or eliminate potential air or water pollutants or other noxious influences.
- (9) 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. (Ord. 1992-833)

Sec. 16-86. Procedure for conditional use grants.

(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 to the Planning Commission. Such petition shall be accompanied by building site and operational plans and by such other data and information as necessary for proper evaluation of the request.

(b) Hearing. The Planning Commission shall conduct a study and investigation of the petition and shall give public notice and hold a public hearing thereon as provided in Section 16-36.

(c) Decision. Following public hearing the Planning Commission shall make a determination and set forth its decision in writing, indicating conditions of approval or if the petition is disapproved, indicating the reasons for disapproval. The determination of the Planning Commission shall be transmitted forthwith in writing to the Board of Trustees, which shall, at the next regular meeting, finally approve or disapprove the decision of the Planning Commission.

(d) Recording. When a conditional use grant is approved, such approval shall be appropriately noted on building permits and zoning certificates. (Ord. 1992-833)

Secs. 16-87--16-100. Reserved.

ARTICLE VIII

General Application of Regulations

Sec. 16-101. 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 regulations established herein and made applicable to the district or districts in which such land or structure is located. (Prior code 102-33)

Sec. 16-102. 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 102-34)

Sec. 16-103. 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 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) With the exception of the restrictions and limitations hereinafter set forth, fences, walls and other architectural screening devices, not in excess of six (6) feet in height, shall be permitted on lots within the Town.

a. No solid fences, walls or other solid architectural screening devices, including, but not limited to, solid wooden or vinyl fences, solid and continuous hedge rows and other natural or artificial barriers in excess of four (4) feet in height, shall be permitted in the front yard of any residential zoning district in the Town.

b. Chain link fences shall not be permitted in the front yard of any residential zoning district in the Town.

c. In residential zoning districts, screening devices not exceeding six (6) feet in height may be erected and extended from each of the front building corners of the principal structure into the front yard for a maximum distance of eight (8) feet from the front building corners, but from that point forward in the front yard, no such screening devices shall exceed four (4) feet in height.

d. In the event screening devices in excess of six (6) feet in height are permitted under the provisions of this Code, all such screening devices shall conform to all setback, offset and height requirements of the zoning district in which such screening devices are permitted.

e. All permitted screening devices, of whatever kind or nature, shall conform to the visibility requirements of Section 16-121 of this Chapter.

(c) Barbed wire and electrical fences. It shall be unlawful to erect or maintain, anywhere in the Town, a fence equipped with or having barbed wire, spikes or any similar device or any electric charge sufficient to cause shock.

(d) Accessory buildings which are not any larger than one hundred twenty (120) square feet in area, as measured around the perimeter of the building, and do not exceed eight (8) feet in height, as measured as the vertical distance from the ground level adjacent to the structure to the highest point of the roof surface, shall be permitted without a building permit. Accessory buildings which have dimensions in excess of either or both of these requirements shall conform to the location requirements of the zoning district in which the building is located and shall be required to have a building permit. However, no accessory building, regardless of its size, shall be located any closer to the front property line than the rear corners of the principal building, that is, accessory buildings are only allowed in rear yards. Additionally, all accessory buildings shall also conform to the visibility requirements of Section 16-121 of this Chapter and the open space requirements of the zoning district in which the building is located. (Prior code 102-35; Ord. 1993-843, § 1; Ord. 2000-1054; Ord. 2002-1104 § 2)

Sec. 16-104. Basic location 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 nor 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 102-36)

Sec. 16-105. Legal nonconformity.

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

(1) Nonconforming structure.

a. No such structure shall be expanded or enlarged except in conformity with the regulations of the district in which it is located.

b. 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.

(2) Nonconforming use of structures.

a. No such use shall be expanded or enlarged.

b. Upon petition to and approval by 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 or eighteen (18) accumulative months during any three-year period, any future use of the structure shall conform to the regulations of the district in which it is located.

d. 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. 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 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 by 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 or 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 102-37; Ord. 1991-811, § 1)

Secs. 16-106--16-120. Reserved.

ARTICLE IX

Supplementary District Regulations

Sec. 16-121. 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 forty (40) feet along both intersecting edges and then along a transverse line connecting these points. (Prior code 102-38)

Sec. 16-122. Home occupations.

(a) Home occupations shall be permitted as an accessory use of any dwelling unit in any Single-Family Residential Zoning District, whether or not authorized as a named accessory use by this Code, if the following conditions are met and continuously exist:

(1) No more than one (1) home occupation shall be allowed as an accessory use of any dwelling unit.

(2) All persons carrying on the occupation must be regular inhabitants of the dwelling unit and the home occupation shall not employ other than those inhabitants for any purpose.

(3) Such use shall be incidental and secondary to the residential purposes of the dwelling unit and the occupational activity shall be harmonious with the residential use.

(4) The total area used for such purposes shall not exceed three hundred (300) square feet of the dwelling unit.

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

(6) Merchandise shall not be sold or displayed for sale at the dwelling unit.

(7) There shall be no offensive noise, vibration, smoke, dust, odor, heat or glare noticeable at or beyond the property line which would not exist but for the home occupation.

(8) In the event the home occupation involves tutoring or instruction, no more than two students may be present at the dwelling unit at any one (1) time.

(9) In the event the home occupation involves child care, the number of children cared for at the dwelling unit at any one (1) time shall be limited to the lawful number permitted by the rules and regulations for day care homes then in effect and issued by the Department of Social Services of the State. The home occupation of child care shall be exempt from the square footage conditions as set forth in Subsection (a)(4) hereof.

(10) Such use may not adversely affect traffic flow and parking in the surrounding residential area.

(b) Home occupation by conditional use grant.

(1) All uses not in compliance with all of the conditions set forth in Subsection (a) hereof but located within a Single-Family Residential Zoning District shall require a conditional use grant as set forth in Article VII of this Chapter.

(2) All uses in compliance with all of the conditions set forth in Subsection (a) hereof but located in Residential Zoning Districts other than Single-Family Residential Zoning Districts shall require a conditional use grant as set forth in Article VII of this Chapter.

(3) No home occupation shall be allowed in other than Residential Zoning Districts.

(c) Registration of Home Occupations. All persons engaged in home occupations shall register said occupations with the Town Clerk. Registration shall be required whether the home occupation is allowed by right under Subsection (a) hereof or by conditional use grant under Subsection (b) hereof. The registration shall include the name and address of the persons conducting the home occupation and a description of said occupation. In the event the home occupation is allowed by right under Subsection (a) hereof, the registration shall include a statement that the home occupation complies and will continue to comply with the conditions set forth in Subsection (a) hereof. In the event the home occupation is by conditional use grant, the registration shall similarly require a statement of continuing compliance as to all conditions set forth in Subsection (a) hereof, with the exception of those conditions from which an exemption by conditional use grant has been allowed. There shall be no fee for the registration set forth herein.

(d) All home occupations lawfully in existence at the time of the adoption of this Section shall be allowed to continue at their present levels of activity and in their present form; and, if hereafter changed, those home occupations must conform with the requirements of this Section. (Prior code 102-39)

Sec. 16-123. 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. All parking lots which are designed to be used for employee parking, visitor parking, customer parking and tenant parking, and all interior drives connecting such parking lots, which are designated for multifamily uses, business uses, commercial uses, industrial uses, offices and places of assembly shall be paved with asphalt or concrete. In addition, all parking lots must also conform to all of the following requirements:

- a. Be striped so as to identify each parking space;
- b. Conform to all of the Town's landscaping guidelines and requirements;
- c. Be constructed to allow for proper drainage;
- d. Be designed so as to prevent vehicles from having to back into a public or private street; and
- e. No point of ingress or egress shall be allowed to be any closer than twenty-five (25) feet of any right-of-way line of any intersecting street or alley.

(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
Multi family dwelling residence	1.5 spaces per unit
Public assembly facilities, provided for seated audiences (churches, theaters, auditoriums, etc.)	1 space for every 3 seats

<u>Use</u>	<u>Parking Requirements</u>
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 or 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 square feet of G.L.A.
Retail stores, customer service establishments, shopping centers and other similar uses	1 space for every 250 square feet of G.L.A.
Eating and drinking establishments	1 space for every 200 square feet of G.L.A., plus 1 space for every 2 employees, computed on the maximum service capacity
Hotel or motel	1 space for every room to be rented, plus 1 space for every 2 employees, computed on the maximum service capacity

(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 102-40; Ord. 1998-981, § 2; Ord. 1999-1026, §§ 1--3)

Sec. 16-124. 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 public street. (Prior code 102-41)

Sec. 16-125. Building height regulations.

(a) Intent. The following regulations are intended to preserve the comprehensive development plan of the Town, create a desirable architectural effect, contribute to fire safety and, generally, to promote a desirable community environment.

(b) General regulations. The following regulations shall apply to all buildings and structures within the boundaries of the Town:

(1) In zones classified as Residential and Estate Residential, no building or structure shall exceed a maximum height of thirty-five (35) feet.

(2) In zones classified as High-Density Multifamily Residential MF-2 District, Neighborhood Commercial NC District and General Commercial GC District, no building or structure shall exceed a maximum height of fifty-five (55) feet.

(3) In zones classified as Central Business CB District or Industrial I-H and I-L Districts, no building or structure shall exceed a maximum height of seventy-five (75) feet. (Prior code 102-42; Ord. 1991-811, § 1)

Sec. 16-126. Sign regulations.

(a) Intent. The following regulations are intended to protect property values, create a more attractive business climate, enhance and protect the physical appearance of commercial and industrial areas, prevent the deterioration of areas of scenic and natural beauty and, in general, promote a desirable community environment through the regulation of existing and proposed outdoor signs. These regulations are further intended to reduce potential traffic hazards from distracting and obstructing signs and to reduce hazards that may be caused by signs projecting over public rights-of-way.

(b) General sign regulations. The following general regulations shall apply to all signs in all zoning districts, regardless of zoning designation, of the Town:

(1) Sign area. The sign area of any sign, including building-mounted and freestanding signs, shall be considered to be the entire advertising area of the sign containing text, decorative artwork, logos or other displayed information, including the space within and between such text and information. Only one (1) side of freestanding signs with back-to-back sign areas shall be considered in calculating the sign area, with such signs being limited to a maximum of two (2) sides per any one (1) sign. The sign area of building-mounted signs shall not include structural elements used to attach or support the sign that do not contribute to the display. The sign area of freestanding signs shall not include the monument base. Calculation of sign area. The following methods shall be used to calculate the total square footage of the sign area of any sign:

a. Cabinet signs and signs other than individual letter signs. Sign area shall be determined by the outer edge of the sign background, frame or cabinet that encompasses all text, decorative artwork, logos or other information displayed. In instances where the background, frame or cabinet is an irregular shape, the sign area shall be calculated as the entire area within a continuous

rectangular box drawn with straight lines at perpendicular angles to encompass the entire perimeter of the extreme limits of the background, frame or cabinet encompassing the background material.

b. Individual letter signs. Signs which consist of individual letters that are mounted to a wall, or "raceway-type" signs that consist of individual letters that are mounted to a base that is mounted to a wall, which utilize the building wall as the background, and freestanding individual letters that are mounted to a monument base shall be considered individual letter signs. The sign area of such signs shall be calculated as the entire area contained within a continuous rectangular box drawn with straight lines at perpendicular angles to encompass the entire perimeter of the extreme limits of each line of text, decorative artwork, logos or other displayed information, calculated cumulatively as the total square footage of all of the aforementioned elements, including the space within and between letters, text and other displayed information in each respective line.

(2) Sign height. Calculation of sign height. The following methods shall be used to calculate the height of any sign:

a. Freestanding signs. The height of a freestanding sign shall be measured as the vertical distance from the average finished grade of the ground below the sign excluding any filling, berming, mounding or excavating solely for the purposes of increasing the height of the sign, to the top edge of the highest portion of the sign. For the purposes of this Section, average finished grade shall be considered the lower of:

1. The lowest elevation where the base of the sign meets ground level or
2. The top of the curb of the nearest public street adjoining the property upon which the sign is erected or the grade of the land at the principal entrance to the lot on which the sign is located. The height of freestanding signs shall include the monument base.

b. Building-mounted signs. The height of any sign attached to or painted on a wall or parapet of a building that is mounted flush or parallel to the building wall shall be measured as the lowest point at the bottom of individual letters, the sign background, frame or cabinet that encompasses all text, decorative artwork, logos or other information displayed to the top of the highest point on the sign. In cases involving multiple sign elements on any one (1) building elevation, the cumulative height of all sign elements located directly above or below (vertically) any portion of another sign element on the same building elevation shall be used to calculate the total sign height. Sign elements not located directly above or below any portion of another sign element shall be calculated individually.

(3) Sign setbacks and offsets.

a. Any freestanding sign that is located adjacent to an arterial street shall be set back and offset a minimum distance of fifteen (15) feet from the property line.

b. Any freestanding sign that is located adjacent to a collector or local street shall be set back and offset a minimum distance of ten (10) feet from the property line.

c. Freestanding signs within the Central Business (CB) Zoning District shall maintain a minimum setback distance of two (2) feet from the back of the sidewalk which, for the purposes of this Section, shall be defined as the edge of the sidewalk that is farthest away from the curb, gutter and street. In no event shall any sign be located within the public right-of-way or outside of the property boundary.

d. Commercial and industrial freestanding directional signs as allowed by this Section shall be set back and offset a minimum distance of five (5) feet from all property lines.

e. Distance separation. Distance separation between freestanding signs shall be measured along the street frontages adjacent to the subject monument signs. Distance between freestanding monument signs located on different street frontages shall be measured along the street frontage to the point of intersection of both street frontages. Freestanding signs shall be separated by at least one hundred (100) feet.

f. All freestanding signs shall be located in accordance with the sight visibility requirements of Section 16-121 above.

(4) Design criteria.

a. Freestanding, ground-mounted signs shall be constructed with a monument-type base consisting of materials that are complementary and compatible with the architectural elements of the project. The height of the monument base of any sign shall not exceed fifty percent (50%) of the overall height of the sign. The width and length of such base shall be at least as wide and long as the bottom edge of the sign area.

b. Freestanding signs shall be incorporated into a landscape planting bed with low landscape elements placed in front of signage to soften the sign and taller landscape placed behind single-sided signs to offer a backdrop.

c. All freestanding signs which incorporate lighting shall be served by underground utility service.

d. Vertical clearance. Any projecting sign or awning mounted sign which projects over the public right-of-way, sidewalk or pedestrian area shall maintain a minimum of eight (8) feet of unobstructed vertical clearance.

e. Building-mounted signs shall be sensitively designed to be integrated with the architecture and scale of the building on which they are mounted.

(c) Prohibited signs.

(1) No sign shall be erected on the roof of any building.

(2) No sign shall be illuminated by or contain flashing, intermittent rotating or moving light or lights. The only exception shall be signs which provide a legitimate public service, such as the giving of time and temperature.

(3) No sign or part thereof shall contain or consist of strings of lights, ribbons, streamers, spinners or similar moving, fluttering or revolving devices. Inflatable signs such as blimps, animals, inflatable representations of a product for sale and other inflatable devices shall also be prohibited. Such devices shall not be used for the purposes of advertising or attracting attention.

(4) Searchlights, whether stationary or revolving, beacons or other similar devices used for the purposes of advertising or attracting attention shall be prohibited.

(5) Unpainted signs, broken signs and signs on vacated buildings shall be removed from the premises or repaired or renovated by the owners of the premises on order of the Zoning Officer.

(6) No sign shall obscure vision or views of the natural landscape or the larger urban area along arterial and collector streets and roads, nor shall any such sign be distracting to motorists.

(7) No sign shall be erected at the intersection of any street or road in such manner as to obstruct clear vision, nor shall any sign be erected at a location where, by reason of its position, shape or color, it may interfere with, obstruct the view of or be confused with any traffic sign, signal or control device.

(8) Off-premises signs. No outdoor advertising sign, billboard or other advertising media not directly related to the use of the premises on which it is located shall be permitted in any district except as a conditional use in such districts as are hereinafter provided. Any off-premises sign permitted as a conditional use shall be in harmony with the spirit and intent of these regulations. Temporary signs advertising open houses shall be allowed in accordance with Subsection 16-126(g)(10) below.

(9) Signs pertaining to special events which refer to particular periods or points of time, such as garage sales, shall not be erected any sooner than the day before the event and shall be completely removed no later than two (2) hours after the end of the event.

(10) Pole-mounted signs are prohibited.

(11) No sign shall be mounted to or otherwise applied to trees or other landscaping, regulatory traffic signage, utility and light poles or other similar structures, and shall not be located within road rights-of-way or private street easements.

(12) Mobile signs are prohibited.

a. *Mobile sign* is defined as any sign painted or otherwise mounted on a vehicle, trailer or boat; fixed or attached to a device for the purpose of transporting from site to site. This definition includes vehicles placed or parked for the purpose of drawing attention to a service, product, object, person, organization, institution, business, event, location or message, but not signs or lettering installed on vehicles such as buses, taxicabs or other commercial vehicles operating during the normal course of business. On-premise signs mounted to construction trailers directly related to construction on a site shall be allowed to be located on the site for the duration of construction, and shall be removed immediately upon the receipt of the last certificate of occupancy for the site. Trailers that are unrelated to the construction activities on the site shall not be allowed to be located on any site solely for the purpose of mounting signage.

b. Any sign attached to, painted on or mounted on any construction trailers that are permitted in Paragraph a above shall be allowed if such signs meet the following conditions: the signs are magnetic, decals or painted in a professional manner on an integral part of the construction trailer as originally designed by the manufacturer and do not extend beyond the profile of the construction trailer.

c. Banners are prohibited on construction trailers.

(d) Residential district signs. No sign shall be erected or maintained in the Single-Family Residential SF-1, Single-Family Attached Residential SF-2, Estate E-1 or E-2, Multifamily Residential

MF-1, High-Density Multifamily Residential MF-2, Recreation and Open Space zoning district or a residential component of a Residential Mixed Use RMU zoning district (Commercial and industrial uses within a Residential Mixed Use RMU zoning district as approved by the Town shall comply with the applicable commercial and industrial district sign regulations) except in conformity with the following regulations:

(1) A sign identifying the property or the name of the owner or occupant of property, provided that such sign is not in excess of two (2) square feet in area and provided further that not more than one (1) such sign is erected on any single lot or parcel.

(2) Signs pertaining to the lease or sale of the property on which they are located or of any building thereon, provided that such signs do not exceed six (6) square feet in area per side and further provided that no more than two (2) such signs are located on any single lot or parcel.

(3) Signs identifying any of the following uses in a residential district shall be allowed, subject to a maximum sign area of twenty-four (24) square feet and, further, not more than one (1) such sign per street frontage shall be erected on any single lot or parcel, not to exceed a total of two (2) such signs. Such freestanding signs identifying the following uses shall not exceed six (6) feet in height and shall be located in accordance with the offset and setback requirements of this Section:

a. Public or private school.

b. Church.

c. Nursing or rest home.

d. Public park or recreation area.

e. Conditional use grants and home occupations which have obtained all appropriate approvals from the Town.

f. Any entry feature signage identifying a platted residential subdivision within a Residential Mixed Use (RMU) zoning district. All such developments shall be allowed to erect such entry feature signs at separate entrances to the development. In the event that such signs are proposed for both sides of the street at any one (1) entrance, this "set" of signs shall be considered as one (1) development entrance sign.

(e) Commercial and industrial district signs. No sign shall be erected or maintained in the Neighborhood Commercial (NC), Central Business (CB), General Commercial - Planned Unit Development (GC-PUD), Limited Industrial (I-L) or Heavy Industrial (I-H) zoning districts, except to identify only the name of the owner, trade name, trademark or product symbol, products sold and/or the business activity conducted on the premises upon which the sign is located, in conformity with the following general regulations, unless otherwise specified in the subarea requirements of this Section.

(1) Building-mounted signs.

a. Maximum number of building-mounted signs allowable.

1. Minor tenant. One (1) building-mounted sign per building elevation shall be allowed for any one (1) minor tenant in a multiple tenant building, not to exceed a maximum of two (2) building elevations. Freestanding minor tenants shall be allowed to erect multiple building-

mounted signs, subject to the cumulative maximum sign area limitation of ten percent (10%) of the total area of the building elevation on which the signs are mounted and all other requirements contained in this Section.

2. Major tenant. Major tenants shall be allowed to erect multiple building-mounted signs, subject to the cumulative maximum sign area limitation of ten percent (10%) of the total area of the building elevation on which the signs are mounted and all other requirements contained in this Section.

3. In no event shall any illuminated building-mounted sign be allowed within one hundred fifty (150) feet of the nearest residential district or development, with this distance being measured from the nearest portion of the sign to the nearest property line contained within any such residential district or development.

b. Maximum sign area. Building-mounted signs shall not exceed ten percent (10%) of the total area of the building elevation on which they are mounted. In cases of multiple signs on a single building elevation, the cumulative total of all signs on any one (1) building elevation shall not exceed ten percent (10%) of the total area of the building elevation on which the signs are mounted.

c. Maximum sign height.

1. Minor tenant. The height of building-mounted signs for minor tenants shall not exceed either twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted or five (5) feet in height, whichever is less. The height of the building elevation shall be measured as the vertical distance between the finished floor elevation of the building and the predominant roofline of the building elevation upon which the sign is mounted, not including architectural elements or appurtenances such as clock towers or cupolas.

2. Major tenant. The height of building-mounted signs for major tenants shall not exceed twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted. However, in no event shall such sign exceed eight (8) feet in height. The height of the building elevation shall be measured as the vertical distance between the finished floor elevation of the building and the predominant roofline of the building elevation upon which the sign is mounted, not including architectural elements or appurtenances such as clock towers or cupolas.

d. Awning-mounted signs.

1. Sign bands shall be allowed on a free-hanging valance attached to canvas awnings. Such signs shall be limited to a sign area of no greater than six (6) inches in height and not to exceed twelve (12) square feet in area.

2. Additional advertising shall be permitted on each canvas awning elevation not to exceed ten percent (10%) of the area of the respective awning elevation.

3. Acrylic, plastic and interior illuminated awning signs are prohibited.

e. No building-mounted sign shall project higher than the eave or parapet line of the wall upon which the sign is mounted.

(2) Freestanding signs.

a. Shopping center development identification signs. Shopping centers, typically containing multiple tenants such as retail or other commercial centers which meet the following square footage requirements, shall be eligible for one (1) freestanding development identification sign per street frontage classified as an arterial or collector adjacent to the property upon which the shopping center development is located. The street frontage for a shopping center development which is designed to have individual freestanding tenants on platted lots or tracts that are included within the shopping center shall be calculated based upon the cumulative arterial or collector street frontage of such lots or tracts which are part of the respective shopping center development. Multiple buildings planned as part of the same shopping center development may use the cumulative total square footage of such buildings, however, any building used in such total shall then be ineligible for any additional freestanding signage.

1. Maximum sign area.

a) Shopping center developments exceeding a total of seventy-five thousand (75,000) square feet of total gross leasable area shall be eligible for a development identification sign. Such sign shall not exceed fifty (50) square feet in area per side of sign for each one hundred (100) feet of street frontage of the lot upon which the development is located, not to exceed one hundred (100) square feet per side of sign.

b) Shopping center developments exceeding a total of fifty thousand (50,000) square feet of total gross leasable area shall be eligible for a development identification sign. Such sign shall not exceed fifty (50) square feet in area per side of sign for each one hundred (100) feet of street frontage of the lot upon which the development is located, not to exceed seventy-two (72) square feet per side of sign.

2. Maximum sign height.

a) A shopping center development identification sign for multiple tenant developments exceeding a total of seventy-five thousand (75,000) square feet of total gross leasable area shall not exceed sixteen (16) feet in height.

b) A shopping center development identification sign for multiple tenant developments exceeding a total of fifty thousand (50,000) square feet of total gross leasable area shall not exceed ten (10) feet in height.

3. Identification signs for shopping center developments containing multiple tenants shall be required to be designed to accommodate space for a minimum of two (2) secondary tenants in addition to the primary major tenant in the development.

b. Major tenant freestanding signs. Major tenants shall be eligible for one (1) freestanding sign per street frontage adjacent to the lot upon which the use is located, up to a maximum number of two (2) freestanding signs for any single commercial or industrial use. In the event that a major tenant is included on a shopping center development identification sign, such sign shall count towards the total number of major tenant freestanding signs allowed.

1. Maximum sign area.

a) The maximum sign area of any freestanding sign that is located adjacent to an arterial

street shall be forty-eight (48) square feet per side of sign if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be sixty (60) square feet per side of sign.

b) The maximum sign area of any freestanding sign that is located adjacent to a collector street shall be thirty-six (36) square feet per side of sign if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be forty-eight (48) square feet per side of sign.

c) The maximum sign area of any freestanding sign that is located adjacent to a local street shall be twenty-four (24) square feet per side of sign if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be thirty-six (36) square feet per side of sign.

2. Maximum sign height.

a) The maximum height of any freestanding sign that is located adjacent to an arterial street shall be eight (8) feet.

b) The maximum height of any freestanding sign that is located adjacent to a collector or local street shall be six (6) feet.

c) In any multiple tenant development, a major tenant sign shall be required to be designed to accommodate space for a minimum of two (2) minor tenants in addition to the major tenant.

d) In addition to the aforementioned major tenant freestanding sign criteria, industrial major tenants which exceed twenty thousand (20,000) square feet in gross leasable area (GLA) shall be allowed to erect a freestanding major tenant sign in accordance with the requirements of this Section even if the industrial major tenant is not the largest tenant, in terms of GLA, in the multiple tenant building that it occupies.

c. Minor tenant freestanding signs.

1. Minor tenants in multiple tenant shopping center developments shall be limited to a portion of the shopping center development identification sign, not to exceed fifty percent (50%) of the total sign area.

2. Minor tenants, including individual single-use minor tenant buildings and multiple tenant buildings which are freestanding on their own lot, shall be allowed to erect one (1) freestanding monument sign to accommodate all tenants subject to the following limitations unless otherwise specified in the subarea standards contained in this Section.

a) No such sign shall exceed six (6) feet in height.

b) No such sign shall exceed twenty-four (24) square feet in sign area per side of sign, exclusive of monument base.

d. Development entrance signs shall be considered to be any freestanding, wall-mounted sign or sign which is constructed on a monument base intended to identify a large-scale residential subdivision or a large-scale commercial or industrial corporate campus-type development, not to be confused with shopping center development identification signs for retail or other commercial shopping centers. For the purposes of this Section, *large-scale residential subdivisions or developments* shall be defined as any subdivision which contains at least fifty (50) lots or contains a land mass of at least twenty-five (25) acres, and *large-scale industrial subdivisions or developments* shall be defined as any industrial development which contains at least two (2) lots and five (5) acres. Such development entrance signs shall be subject to the following criteria:

1. Maximum number of development entrance signs. All large-scale developments shall be allowed to erect development entrance signs at separate entrances to the development. In the event that development entrance signs are proposed for both sides of the street at any one (1) entrance, this "set" of signs shall be considered as one (1) development entrance sign.

2. Maximum heights of walls and monument bases. The height of any wall or monument base upon which a development entrance sign is mounted shall not exceed six (6) feet in height.

3. Maximum heights of signs, letters, numerals and characters. The height of any development entrance sign shall not exceed ten (10) feet. Additionally, this maximum height shall include the wall or the monument base upon which the sign is mounted and shall also include any logos associated with the development entrance sign. The maximum heights of letters, numerals and characters contained within the sign area of development entrance signs shall not exceed twelve (12) inches in height.

4. Maximum sign area. The maximum sign area of development entrance signs which are located adjacent to arterial or major collector streets shall not exceed fifty (50) square feet in area for each one hundred (100) feet of street frontage of the development, but in no event shall the total sign area of any development entrance sign exceed two hundred (200) square feet in area. Development entrance signs shall not be permitted along minor collector or local streets.

5. Construction materials. All walls or monument bases shall be constructed of masonry or similar materials, and all sign components shall be constructed of steel, aluminum, alucabond or similar materials.

6. Setbacks and visibility restrictions. Development entrance signs shall be located in accordance with the sign setback and offset requirements and sight visibility at intersections requirements contained in this Section.

e. Directional signs. Directional signs shall be allowed as necessary. Such signs shall be constructed of materials and colors that are consistent with the materials, colors and architectural elements of the project. The sign area of such signs shall not exceed four (4) square feet in area per side of sign, not to exceed two (2) sides per any one (1) sign and shall not exceed four (4) feet in height. Such signs shall be set back and offset a minimum distance of five (5) feet from all property lines.

(f) Subarea requirements. In addition to the general sign requirements for commercial and industrial signs which apply to all commercial and industrial signs, any sign located within one (1) of the following subareas shall be subject to the following subarea requirements. In cases where a subarea requirement conflicts with a general requirement, the subarea requirement shall control.

(1) Interstate 25 (I-25) Corridor subarea requirements. In addition to all other sign criteria contained in this Section, the I-25 Corridor, defined as that one-mile area east of I-25 to Larimer County Road 5, shall also be subject to the following subarea requirements:

a. Maximum sign area. The maximum sign area of any freestanding sign that is located adjacent to an arterial street within the I-25 Corridor subarea shall be forty-eight (48) square feet per side if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be sixty (60) square feet per side.

b. Maximum sign height.

1. The maximum height of any freestanding sign that is located adjacent to an arterial street within the I-25 subarea shall be ten (10) feet.

2. The maximum height of any freestanding sign that is located adjacent to a collector or local street within the I-25 subarea shall be eight (8) feet.

(2) Downtown Corridor subarea requirements. In addition to all other sign criteria contained in this Section, signs within the downtown corridor, as defined in the Town's Downtown Corridor Plan, shall also be subject to the following requirements:

a. East Town Center, Northwest Commercial and West Town Center subareas.

1. Building-mounted signs. Each tenant shall be allowed building-mounted signs in accordance with the general sign requirements for commercial and industrial signs contained in this Section.

2. Freestanding signs.

a) Multiple tenant development identification signs. Each multiple tenant development or complex of multiple buildings shall be permitted to have one (1) freestanding project identification sign. Such sign shall primarily identify the name of the development. Secondly, such sign shall contain smaller signage for individual tenants which are located within the development or complex.

b) Individual tenant freestanding sign. Individual tenants which are not part of a multiple tenant development are allowed one (1) individual tenant freestanding sign or one (1) freestanding hanging sign constructed of a single post and perpendicular bracket design.

b. Old Town Windsor and Windsor Lake subareas.

1. Building-mounted signs.

a) Each tenant shall be allowed one (1) building-mounted sign for each building elevation (not including window signs). Building signs shall be subordinate in size to the other elements of the building elevation and shall be positioned so as not to obscure existing architectural details. Signs mounted to building elevations shall fit within existing features of the building elevation and shall be designed to integrate with the building architecture.

b) A building-mounted projecting sign. In addition to the building-mounted signs, each business shall also be allowed one (1) building-mounted projecting sign. Such signs shall not exceed four (4) feet in height and twelve (12) square feet in sign area per side of sign, not to exceed two (2) sides. In the downtown area where buildings are constructed on the property line, such projecting signs may extend above the sidewalk, provided that a minimum of eight (8) feet of unobstructed vertical clearance is maintained in accordance with the requirements of this Section.

2. Freestanding signs. Individual tenants shall be allowed one (1) individual tenant freestanding sign, or one (1) freestanding hanging sign constructed of a single post and perpendicular bracket design.

c. General criteria. In addition to all other sign criteria contained in this Section, the following criteria shall apply to the entire Downtown Corridor subarea:

1. Lettering shall be legible and well-proportioned for clear communication.

2. Sign colors shall be compatible with the colors of the building.

3. Illumination. In the event illumination is proposed, the level of illumination of a sign shall not overpower other signs on the street or the facades of nearby buildings. Signs shall be illuminated with discreetly placed spotlights from the front, top or sides or internally illuminated. The following sign lighting types are allowed:

a) Internal illumination of signs if letters are individually illuminated using routed or push-through type letters.

b) Ground-mounted lighting if the light source is concealed through planting, screening or a light shield.

c) Indirect lighting if the light source is concealed or is compatible with the building architecture.

d) Neon lighting.

d. Freestanding sign criteria. In addition to all of the freestanding monument sign criteria contained in this Section, the following criteria shall apply to the entire Downtown Corridor subarea:

1. Sign height. Multiple tenant development identification signs shall not exceed ten (10) feet in height, including the monument base. Individual tenant freestanding signs shall not exceed six (6) feet in height including the monument base.

2. Sign area. The maximum sign area of a multiple tenant development identification sign shall be forty-eight (48) square feet per side. The maximum sign area of an individual tenant freestanding sign shall be twenty-four (24) square feet per side. Such area is exclusive of the sign base.

3. Freestanding hanging signs. Such signs shall be constructed of a single post and perpendicular bracket design. The height of the sign post shall not exceed six (6) feet. The sign area of such signs shall not exceed three (3) feet in height and six (6) square feet in sign area per

side of sign, not to exceed two (2) sides. All such hanging signs shall incorporate a landscape planting bed with low landscape elements placed in front of signage to soften the sign and taller landscape placed behind single-sided signs to offer a backdrop.

4. Setbacks. Freestanding signs shall be located in accordance with the setback and "sight visibility at intersections" requirements of this Chapter.

(g) Temporary signs. Temporary signs shall include banners, H-frame real estate-type signs that advertise special events and any other signs that are not of a permanent nature, not including those signs advertising the sale or lease of the property. The use of temporary signs shall be limited to the promotion of special events associated with particular periods or points in time, including but not limited to: meetings, sales, exhibitions and vacancy announcements. Such temporary signs shall require permit approval to be obtained from the Planning Department. Temporary signs shall be subject to the following minimum requirements:

(1) Sixty-day limit. No temporary sign shall be erected or displayed for longer than sixty (60) days per calendar year. Such sixty (60) days may be utilized consecutively or on intermittent dates as specified in the approved sign permit. The applicant shall remove any temporary signs on or before the expiration date specified in the approved permit.

(2) Temporary signs shall be directly related to the use of the lot on which the sign is located.

(3) Signs constructed of nondurable materials such as cardboard, paper or the like are prohibited. Furthermore, all signs shall be maintained so as not to deteriorate in wind and bad weather conditions.

(4) Temporary signs shall not be mounted to trees or other landscaping, regulatory traffic signage, utility or light poles, fences or other similar structures, and shall not be located within road rights-of-way or easements.

(5) Each business or property owner shall be limited to one (1) temporary sign of any of the following types per business or property. In cases involving multiple tenants on a single property, each tenant shall be allowed one (1) temporary sign.

a. Temporary banner-type signs.

1. Banner-type signs shall only be allowed to be mounted flush to a building wall.

2. Banner-type signs shall not be mounted between building columns, latticework or other architectural features of the building.

3. Banner-type signs shall be limited to a maximum of forty-five (45) square feet and shall not exceed three (3) feet tall by fifteen (15) feet wide. If the building elevation on which the sign is mounted is less than fifteen (15) feet wide, the sign shall not exceed the width of such elevation.

4. Banner-type signs shall be made of high quality material.

5. Freestanding banner signs tied between stakes, trees, regulatory traffic signage, utility or light poles or other structures in landscape areas or elsewhere on the property are prohibited.

b. Temporary freestanding H-frame real estate-type signs that advertise special events, not including those signs advertising the sale or lease of the property.

1. Freestanding real estate-type signs shall be limited to a maximum of six (6) square feet in area per side, up to a maximum of two (2) sides per any one (1) sign.

2. Freestanding real estate-type signs shall be constructed of high quality materials.

c. Temporary signs for daily specials.

1. Signs for daily specials such as menu boards, sandwich boards or A-frame type signs shall be allowed for the purpose of advertising nonrecurring daily specials.

2. Signs for daily specials shall not be limited to twenty (20) days per calendar year; however, such signs shall be taken in each day at the close of business.

3. Signs for daily specials shall be limited to a maximum of six (6) square feet in area per side, up to a maximum of two (2) sides per any one (1) sign.

4. Signs for daily specials shall be limited to an area within fifteen (15) feet of the entrance to the subject business and shall not impede pedestrian sidewalk circulation. Such signs are prohibited from being located within landscape buffer areas.

(6) Real estate signs that advertise the sale or lease of the commercial or industrial property upon which the sign is located. Subject to all of the temporary sign requirements regarding required sign materials, mounting and location contained in this Section, such real estate signs shall adhere to the following requirements:

a. Notwithstanding any other requirements of this Section, no sign pertaining to the sale or lease of any commercial or industrial property or building shall exceed thirty-two (32) square feet in sign area and a maximum of six (6) feet in height.

b. Downtown subarea requirements. Each property or building shall be allowed one (1) of the following options:

1. One (1) building-mounted sign per building elevation, not to exceed twelve (12) square feet in sign area.

2. One (1) freestanding sign per street frontage, not to exceed twelve (12) square feet in sign area and a maximum of six (6) feet in height, provided that no such sign shall be located on any sidewalk or other pedestrian way.

(7) Temporary signs advertising a construction company utilized during construction of a new business shall be exempt from Subsections (1) and (5) above of the temporary sign requirements. Such signs shall be limited to a maximum of thirty-two (32) square feet (four [4] feet high by eight [8] feet wide) and shall include a lattice or similar base material to give the appearance of a monument base. Such signs shall be limited to one (1) sign per street frontage, not to exceed two (2) such signs, for the general contractor, including all sub-contractors. Such signs shall be removed immediately upon the receipt of any certificate of occupancy for the new business.

(8) Temporary signs advertising a new business "coming soon" utilized during construction of the new business shall be exempt from Subsections (g)(1) and (g)(5) above of the temporary sign requirements. Such signs shall be limited to a maximum of thirty-two (32) square feet (four [4] feet high by eight [8] feet wide) and shall include a lattice or similar base material to give the appearance of a monument base. Such signs shall be limited to one (1) sign per street frontage, not to exceed two (2) such signs, for the new business, including all tenants. Such signs shall be removed immediately upon the receipt of any certificate of occupancy for the new business.

(9) Temporary signs exempt from this Section. The provisions of this Subsection (g) shall not apply to the following signs, provided that such signs conform to all other sign regulations contained in this Section:

a. Traffic control and informational signs erected by national, state, county or municipal government agencies, specifically including school districts and fire protection districts.

b. Community event signs as authorized by the Town.

c. Window signs and other signs erected within the interior of the business.

d. Open house signs, subject to the requirements of Subsection (g)(10) below.

(10) Open house signs shall be allowed to be located off-premises subject to the following minimum requirements:

a. Open house signs shall be limited to a maximum of six (6) square feet in area per side, up to a maximum of two (2) sides per any one (1) sign.

b. Open house signs shall not be erected any sooner than the day before the event and shall be completely removed no later than two (2) hours after the end of the open house. For the purposes of this Section, open houses shall be considered a temporary event, for example during a weekend, rather than taking place for an extended, continuous period of time.

c. Open house signs shall be either freestanding A-frame type signs or mounted in a freestanding manner on either a single stake or on two (2) stakes, with the top of such sign not exceeding four (4) feet in height and placed so as not to obstruct traffic or create an impediment to visibility at street intersections. Such signs shall not be mounted to trees or other landscaping, regulatory traffic signage, utility or light poles or other similar structures.

(h) Public agency signs. The provisions of this Section shall not apply to any regulatory signs erected by national, state, county or municipal government agencies.

(i) Nonconforming signs. Signs erected prior to the date of enactment of this Chapter, which signs do not conform to the sign regulations contained in this Chapter, shall not be expanded, enlarged, modified or changed in any way except in conformity with these sign regulations.

(j) Removal of signs. Any signs existing on or after the date of enactment of this Chapter, which signs identify a business or activity which no longer exists or a product which is no longer sold on the premises, shall be removed by the owner of the premises upon written notice of the Zoning Officer. The Zoning Officer, upon determining that such sign exists, shall notify the owner of the premises in writing to remove such sign within thirty (30) days of the date of the notice.

(k) Sign criteria plan. All new site plan applications shall submit a sign criteria plan for review as part of the site plan submittal. Such sign criteria plan shall ensure a consistent sign theme, design and material palate for the entire development. Sign criteria plans may specify standards more restrictive or specific than this Section, but shall not contain standards less restrictive or less specific. Sign criteria plans shall contain the following information for all signs, including on-site directional and informational signs:

(1) The design materials of construction, colors (graphically depicted), lighting and dimensions shall be clearly depicted.

(2) A plot plan depicting all improved areas, including landscaping and signs drawn to scale to depict the location of each sign.

(3) Elevations. All signs are to be illustrated and dimensioned in elevation drawings. When a sign is attached to a building, the illustration shall be a composite of the sign and the building, rendered to scale.

(4) Side view and any other illustrations required for clarity.

(5) Size standards, if more restrictive than the size standards contained in this Section.

(6) Types of signs and materials allowed.

(l) Sign permits.

(1) No sign, as signs are defined in Section 16-12, shall be erected, enlarged, modified or changed within the Town without a sign permit first being obtained.

(2) Any person, business, association or corporation desiring to erect, modify, enlarge or change a sign shall first submit an application for a sign permit setting out, in such detail as may be reasonably established or requested by the Town, a description of the sign, the nature of the change, enlargement or modification, if applicable, and a drawing of said sign as proposed.

(3) The petition for permit shall be accompanied by a fee to defray the costs of processing the petition and issuing the permit, said fee to be set by resolution by the Board of Trustees from time to time. (Prior code 102-43; Ord. 1991-811, § 1; Ord. 2001-1078, § 1; Ord. 2001-1087, § 1; Ord. 2001-1095, § 1; Ord. 2002-1122, § 1; Ord. 2003-1136, § 1; Ord. 2003-1150, §§ 1-5; Ord. 2003-1155, §§ 1, 2)

Sec. 16-127. Industrial areas; performance standards.

(a) As a condition precedent to the approval of any site plan or the issuance of any building permit for a use in any new or existing industrial area of the Town, the user must establish continuing compliance with the performance standards hereinafter set forth.

(b) The performance standards are as follows:

(1) *Glare and heat.* Any operation producing intense glare or heat shall be conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line.

(2) *Vibration.* Industrial operations shall cause no inherent and recurring generated vibration perceptible without instruments at any point along the property line. Transportation facilities or temporary construction are excluded from this restriction.

(3) *Light.* Exterior lighting, except for overhead street lighting and warning, emergency or traffic signals, shall be installed in such a manner that the light source will be sufficiently obscured to prevent glare on public streets and walkways or into any residential area. The installation or erection of any lighting which may be confused with warning signals, emergency signals or traffic signals shall be unlawful.

(4) *Smoke emissions.*

a. No person shall emit or cause to be emitted into the atmosphere from any contamination source of emission whatsoever any air contaminant which is of such a shade or density as to obscure an observer's vision to a degree in excess of twenty percent (20%) opacity.

b. Exceptions.

1. No person shall emit or cause to be emitted into the atmosphere from any pilot plant and experimental operations any air contaminant for a period or periods aggregating more than three (3) minutes in any sixty (60) consecutive minutes which is of such a shade or density as to obscure an observer's vision to a degree in excess of forty percent (40%) opacity. This emission standard for pilot plants and experimental operations shall be in effect for a period not to exceed one hundred eighty (180) operating days, cumulative total, from the date such operations commence; thereafter, the twenty percent (20%) opacity limitations provided in subparagraph (4) a above shall apply to emissions from pilot plants and experimental operations.

2. Emissions from fireplaces used for noncommercial or recreative purposes shall be exempt from subparagraph (4) a above.

3. Subparagraph (4) a above shall not apply to emissions during the building of a new fire, cleaning of fires, soot blowing, start-up, any process modification or adjustment or occasional cleaning of control equipment, the shade or appearance of which is not darker than and equivalent opacity so as to obscure an observer's view to a degree not greater than forty percent (40%) for a period or periods aggregating no more than three (3) minutes in any one (1) hour.

4. Subparagraph (4) a herein shall not apply to fugitive dust.

(5) *Odor emissions.* No person, wherever located, shall cause or allow the emission of odorous air contaminants from any single source such as to result in detectable odors which are measured in excess of the following limits:

a. For areas used predominantly for residential or commercial purposes, it is a violation if odors are detected after the odorous air has been diluted with seven (7) or more volumes of odor-free air.

b. In all other land use area, it is a violation if odors are detected after the odorous air has been diluted within fifteen (15) or more volumes of odor-free air.

c. When the source is a manufacturing process or agricultural operation, no violation of (5) a and b herein shall be cited by the Town, provided that the best practical treatment, maintenance and

control currently available shall be utilized in order to maintain the lowest possible emission of odorous gases, and, where applicable, in determining the best practical control methods, the Town shall not require any method which would result in an arbitrary and unreasonable taking of property or in the practical closing of any lawful business or activity if such would be without corresponding public benefit.

d. For all areas, it is a violation when odors are detected after the odorous air has been diluted with one hundred twenty-seven (127) or more volumes of odor-free air, in which case provisions of subparagraph (5) c herein shall not be applicable.

(6) *Particle emission.* No particles of fly ash shall exceed two-tenths (0.2) grain per cubic foot of flue gas at a stack temperature of five hundred degrees (500°) Fahrenheit. (Ord. 1990-800)

Secs. 16-128--16-140. Reserved.

ARTICLE X

Application of Individual Lot Regulations

Sec. 16-141. 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 102-44)

Sec. 16-142. 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 102-45)

Sec. 16-143. Minimum lot size.

No building shall be erected on a lot of less size than hereinafter specified by the regulations of the district in which such building is located. (Prior code 102-46)

Sec. 16-144. 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 102-47)

Sec. 16-145. 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, screens and mailboxes.

(b) Offsets. No building shall hereafter be erected, structurally altered or relocated so that any 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 any 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) Roof structures, including eaves, cornices, canopies and similar architectural features, may extend to within two (2) feet of the lot line.

(c) Maintenance and use of setback and offset areas.

(1) All setback and offset areas which are not fully contained within and concealed by a solid fence, wall or other similar screening device 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; and

(2) In addition to the requirements outlined in subparagraph (1) above and regardless of whether or not any such setback or offset area is fully contained within and concealed by a solid fence, wall or other similar screening device, a clear, open passageway *no less than* ten (10) feet wide shall be maintained in all setback and offset areas in order to provide for ingress and egress of emergency vehicles. (Prior code 102-48; Ord. 1991-811, §1; Ord. 2002-1133, §1)

Sec. 16-146. 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 so as to reduce the usable livable open space of such lot to less than that thereafter specified by the regulations of the district in which such building is located.

(b) Usability of required open space. To be considered usable, livable 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 102-49)

Sec. 16-147. Minimum exterior and interior standards.

All single-family detached dwellings shall meet the following minimum exterior and interior standards:

- (1) All dwellings shall be set on and attached to a permanent recessed foundation and shall include a crawl space.
- (2) The pitch of the roof shall be not less than three (3) inches of rise for each one (1) foot of horizontal run.
- (3) Roofing materials shall be asphalt shingles or the equivalent.
- (4) All dwellings shall face the public street.
- (5) The exterior finish of all dwellings shall be of brick, wood, masonite or a cosmetically equivalent finish and shall be of acceptable similarity to the surrounding residential dwellings.
- (6) All dwellings shall have a minimum usable living area of one thousand (1,000) square feet excluding garages.
- (7) All dwellings shall have an attached enclosed garage with a minimum usable area of two hundred (200) square feet.
- (8) All dwelling sites shall provide a minimum of two (2) off-street parking spaces. All parking surfaces shall be hard surfaced. (Prior code 102-51.1)

Sec. 16-148. Minimum setback requirements from existing oil and gas wells for low-density development.

The minimum setback distance between property included in any new land use proposal for low-density surface development and existing oil and gas wells shall be one hundred fifty (150) feet, measured from the nearest exterior property line of any proposed lot. For purposes of this Article, *low-density areas* shall include those areas zoned Estate Residential (E-1) and Limited and Heavy Industrial (I-L and I-H), and *new land use proposal* shall be defined as any proposal that has not yet received preliminary plat approval. (Ord. 2004-1181, §1)

Sec. 16-149. Minimum setback requirements from existing oil and gas wells for high-density development.

The minimum setback distance between property included in any new land use proposal for high-density surface development and existing oil and gas wells shall be three hundred fifty (350) feet, measured from the nearest exterior property line of any proposed lot. For purposes of this Article, *high-density areas* shall include all zoning districts, with the specific exception of those areas identified as low-density in this Article, and *new land use proposal* shall be defined as any proposal that has not yet received preliminary plat approval. (Ord. 2004-1181, §1)

Sec. 16-150. Landscaping and buffering requirements for new land use proposals for surface development of property adjacent to existing oil and gas wells.

As a condition of approval for any new land use proposal for the surface development of any property adjacent to existing oil and gas wells, the Board of Trustees, after consideration by the Planning Commission, may impose reasonable landscaping and other buffering requirements for such proposals to ensure the safety of the citizens of the Town and to mitigate any noise or visual impacts created thereby. (Ord. 2004-1181, §1)

Secs. 16-151—16-160. Reserved.

ARTICLE XI

Single-Family Residential SF-1 District

Sec. 16-161. Intent.

The Single-Family Residential SF-1 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 102-50)

Sec. 16-162. Use regulations.

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

- (1) Principle uses permitted by right.
 - a. All single-family detached dwellings including manufactured homes which otherwise meet the minimum standards set forth in Section 16-147.
 - b. Public parks and recreation areas.
 - 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 16-122.
 - d. Service buildings and facilities normally incidental to the use of a public park or recreation area.
 - 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. Child care centers.
- b. Nursing and rest homes.
- c. Churches.
- d. Private commercial outdoor recreational facilities.
- e. Public administrative offices and service buildings.
- f. Public utility installations, including transmission lines and substations.
- g. Any use which is compatible for inclusion within this district and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-85 of this Code.

(4) Small group living facilities as conditional use. Small group living facilities as defined by this Code shall be permitted as a conditional use in all residential districts. Such conditional use shall be subject to approval by the Board of Trustees of the conditions hereinafter specifically set forth, rather than those conditions applicable to conditional uses generally as set forth in Article VII of this Code:

- a. Such conditional use shall conform to the lot size, building location, building size, open space, height limitations, setback limitations, lot coverage limitations and exterior signage requirements applicable to this district. Such conditional use shall be architecturally compatible with the character of the surrounding neighborhood.
- b. Such conditional use shall not permit the conducting of ministerial activities of any private or public organization or agency, or the rendering of services in a manner substantially inconsistent with the activities otherwise permitted in this district.
- c. Appropriate consideration shall be given to the specific location of the small group home facility and the availability and proximity of commercial services, transportation and public recreation facilities.
- d. Such conditional use shall comply with all applicable regulations of the Department of Public Health and Environment or other state or local regulations pertaining to the proposed conditional use.
- e. Adequate provision for parking, loading and circulation facilities.
- f. Evaluation of the operator of the proposed small group living facility for the purposes of ensuring the cleanliness and safety of the residents of the facility and a minimum level of comfort for such residents. (Prior code 102-51; 2002-1118, § 4)

Sec. 16-163. Density.

Minimum lot area per dwelling unit shall be six thousand (6,000) square feet. (Prior code 102-52)

Sec. 16-164. Building location.

Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet. (Prior code 102-53)

Sec. 16-165. Open space.

As a part of the minimum lot area of six thousand (6,000) square feet per dwelling unit, a minimum of three thousand (3,000) square feet thereof shall be livable open space. (Prior code 102-54; Ord. 2002-1131, §§ 1,2)

Sec. 16-166. Off-street parking requirements.

See the provisions of Section 16-123. (Prior code 102-55)

Secs. 16-167--16-180. Reserved.

ARTICLE XII

Single-Family Attached Residential SF-2 District

Sec. 16-181. Intent.

The Single-Family Attached Residential SF-2 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 102-56)

Sec. 16-182. 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) Permitted accessory uses. Any accessory use permitted in the Single-Family Residential District.
- (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. Any conditional use permitted in Single-Family Residential District.
 - b. Any use which is compatible for inclusion within this district and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-85 of this Code. (Prior code 102-57)

Sec. 16-183. Density.

Minimum lot area per dwelling unit shall be four thousand five hundred (4,500) square feet. (Prior code 102-58)

Sec. 16-184. Building location.

Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet. (Prior code 102-59)

Sec. 16-185. Open space.

As a part of the minimum lot area of four thousand five hundred (4,500) square feet per dwelling unit, a minimum of two thousand (2,000) square feet thereof shall be livable open space. (Prior code 102-60; Ord. 2002-1131, §§ 1,3)

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

See the provisions of Section 16-123. (Prior code 102-61)

Secs. 16-187--16-200. Reserved.

ARTICLE XIII

Estate Residential Districts

Division 1. Estate Residential E-1 District

Sec. 16-201. Intent.

The Estate Residential E-1 District (E-1 District) is intended to provide for large lot residential subdivisions permitting the keeping of certain large domestic animals as accessory uses and providing for the maximum usage of topographic features to promote a balance of residential zoning by creating a semi-rural environment. (Ord. 1993-852, § 2; Ord. 1999-1044)

Sec. 16-202. Uses permitted by right.

The following uses shall be permitted by right in the Estate Residential E-1 District:

- (1) Single-family detached dwellings.
- (2) Public parks and recreation areas.
- (3) Public and private schools.
- (4) Golf courses. (Ord. 1993-852, § 2; Ord. 1999-1044)

Sec. 16-203. Permitted accessory uses.

As defined by this Code, all of the following accessory uses shall be permitted in the Estate Residential E-1 District:

(1) All permitted accessory uses set forth in Article XI of this Chapter as outlined in the Single-Family Residential SF-1 District.

(2) Keeping of animals. Contrary provisions of this Code notwithstanding, large domestic animals shall be permitted as an accessory use in the Estate Residential E-1 District.

(3) For the purpose of this Section only, *large domestic animals* are defined as and shall be limited to horses, ponies, mules, donkeys and llamas. For each permitted animal, one (1) acre of lot area inclusive of improvements shall be required. Offspring shall be allowed until the weaning process is complete. (Ord. 1993-852, § 2; Ord. 1999-1044)

Sec. 16-204. Conditional uses.

(a) The following shall be permitted conditional uses in the Estate Residential E-1 District, subject to the approval of a conditional use grant as provided in Article VII of this Chapter:

(1) Churches.

(2) Public utility installations, including transmission lines and substations.

(3) Private commercial outdoor recreation facilities.

(4) Any use which is compatible for inclusion within this District and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-85 of this Chapter.

(b) Small group living facilities as defined by this Code shall be permitted as a conditional use in all residential districts. Such conditional use shall be subject to approval by the Board of Trustees of the conditions hereinafter specifically set forth, rather than those conditions applicable to conditional uses generally as set forth in Article VII of this Code:

(1) Such conditional use shall conform to the lot size, building location, building size, open space, height limitations, setback limitations, lot coverage limitations and exterior signage requirements applicable to this district. Such conditional use shall be architecturally compatible with the character of the surrounding neighborhood.

(2) Such conditional use shall not permit the conducting of ministerial activities of any private or public organization or agency, or the rendering of services in a manner substantially inconsistent with the activities otherwise permitted in this district.

(3) Appropriate consideration shall be given to the specific location of the small group home facility and the availability and proximity of commercial services, transportation and public recreation facilities.

(4) Such conditional use shall comply with all applicable regulations of the Department of Public Health and Environment or other state or local regulations pertaining to the proposed conditional use.

(5) Adequate provision for parking, loading and circulation facilities.

(6) Evaluation of the operator of the proposed small group living facility for the purposes of ensuring the cleanliness and safety of the residents of the facility and a minimum level of comfort for such residents. (Ord. 1993-852, § 2; Ord. 1999-1044; Ord. 2002-1118, § 4)

Sec. 16-205. Density.

Minimum lot area per dwelling unit in the E-1 District shall be one (1) acre, except where individual sewage disposal systems have been authorized and approved by the Town. Where individual disposal systems have been approved and authorized by the Town, all lots within any subdivision containing individual sewage disposal systems shall contain a minimum lot size of two and one-half (2½) acres. Common areas and public parks or facilities are excluded from the minimum lot size requirement set forth herein. (Ord. 1993-852, § 2; Ord. 1999-1044)

Sec. 16-206. Building location.

No building or structure may be located within twenty-five (25) feet of any property line. The foregoing notwithstanding, no accessory building housing domestic animals may be located within thirty-five (35) feet of any property line, and such accessory buildings may not be located closer than seventy-five (75) feet from any residential dwelling. (Ord. 1993-852, § 2; Ord. 1999-1044)

Sec. 16-207. Minimum exterior and interior standards.

All single-family detached dwellings in the Estate Residential E-1 District shall meet the following minimum exterior and interior standards:

- (1) All dwellings shall be set on and attached to a permanent recessed foundation and shall include a crawl space.
- (2) The pitch of the roof shall not be less than three (3) inches of rise for each one (1) foot of horizontal run.
- (3) Roofing materials shall be asphalt shingles or the equivalent.
- (4) All dwellings shall face the public street.
- (5) The exterior finish of all dwellings shall be of brick, wood, masonite or a cosmetically equivalent finish, and shall be of acceptable similarity to the surrounding residential dwellings.
- (6) All dwellings shall have a minimum useable living area of two thousand five hundred (2,500) square feet, excluding garages.
- (7) All dwellings shall have an enclosed two-car garage. (Ord. 1993-852, § 2; Ord. 1999-1044)

Sec. 16-208. Curb, gutter and sidewalk.

The Town may, in its sole discretion, approve the construction of public streets in the Estate Residential E-1 District without accompanying curbs, gutters or sidewalks. All streets constructed in the Estate Residential E-1 District, regardless of whether or not curbs, gutters and sidewalks are constructed in conjunction therewith, shall meet all specifications of construction as set forth in this Code. (Ord. 1993-852, § 2; Ord. 1999-1044)

Sec. 16-209. Off-street parking requirements.

See the provisions of Section 16-123. (Ord. 1993-852, § 2; Ord. 1999-1044)

Sec. 16-210. Individual sewage disposal systems.

(a) The Town may, in its sole discretion, approve individual sewage disposal systems in the Estate Residential E-1 District subject to approval of such systems by the State Department of Health and such other state or local agencies whose approval may be required for the installation of such systems. The Town may consider the following criteria in approving individual sewage disposal systems:

- (1) Proximity of public sewer.
- (2) The topography, size and location of the property.
- (3) Practicality and economic feasibility of connecting to public sewer.
- (4) Engineering and technological issues which may impact the use and safety of individual sewage disposal systems.

(b) Approval of individual sewage disposal systems by the State Department of Health or other appropriate state or local agencies shall be a condition precedent to the approval of such systems by the Town, but shall not require the Town to approve the use of such systems in the Town. No building permit shall be issued by the Town until an individual sewage disposal system permit is obtained from the State Department of Health or other appropriate state or local agency; and no certificate of occupancy shall be issued by the Town until a final inspection and approval of the system by the State Department of Health or other appropriate state or local agency has been obtained. (Ord. 1993-852, § 2; Ord. 1999-1044)

Division 2. Estate Residential E-2 District

Sec. 16-211. Intent.

(a) The Estate Residential E-2 District (E-2 District) is intended to provide for single-family residential subdivision development which utilizes public water and sewer services and provides for such development to be served by community facilities which are compatible with the District, while at the same time providing for the maximum usage of topographic features to promote a balance of residential zoning, open space features and a semi-rural environment which will utilize urban-level services and improvements which are required in the Single-Family Residential District.

(b) The use of the E-2 District is also intended to encourage the clustering of homes on lots which may be smaller than one (1) acre in size to encourage both open space areas and active and passive recreational uses, provided that any such lots meet all of the density requirements outlined in Section 16-215 herein. (Ord. 1999-1044)

Sec. 16-212. Uses permitted by right.

The following uses shall be permitted by right in the Estate Residential E-2 District:

- (1) All single-family dwellings permitted as uses by right in the SF-1, SF-2 and E-1 zoning districts set forth in Articles XI, XII and XIII of this Chapter.

- (2) Public parks and recreation areas.
- (3) Public and private schools.
- (4) Golf courses. (Ord. 1999-1044)

Sec. 16-213. Permitted accessory uses.

As defined by this Code, all permitted accessory uses set forth in Article XI of this Chapter as outlined in the Single-Family Residential SF-1 District shall be permitted accessory uses in the Estate Residential E-2 District. (Ord. 1999-1044)

Sec. 16-214. Conditional uses.

(a) The following shall be permitted conditional uses in the Estate Residential E-2 District, subject to the approval of a conditional use grant as provided in Article VII of this Chapter:

- (1) Churches.
- (2) Public utility installations, including transmission lines and substations.
- (3) Private commercial outdoor recreation facilities.

(4) Any use which is compatible for inclusion within this District and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-85 of this Chapter.

(b) Small group living facilities as defined by this Code shall be permitted as a conditional use in all residential districts. Such conditional use shall be subject to approval by the Board of Trustees of the conditions hereinafter specifically set forth, rather than those conditions applicable to conditional uses generally as set forth in Article VII of this Code:

(1) Such conditional use shall conform to the lot size, building location, building size, open space, height limitations, setback limitations, lot coverage limitations and exterior signage requirements applicable to this district. Such conditional use shall be architecturally compatible with the character of the surrounding neighborhood.

(2) Such conditional use shall not permit the conducting of ministerial activities of any private or public organization or agency, or the rendering of services in a manner substantially inconsistent with the activities otherwise permitted in this district.

(3) Appropriate consideration shall be given to the specific location of the small group home facility and the availability and proximity of commercial services, transportation and public recreation facilities.

(4) Such conditional use shall comply with all applicable regulations of the Department of Public Health and Environment or other state or local regulations pertaining to the proposed conditional use.

(5) Adequate provision for parking, loading and circulation facilities.

(6) Evaluation of the operator of the proposed small group living facility for the purposes of ensuring the cleanliness and safety of the residents of the facility and a minimum level of comfort for such residents. (Ord. 1999-1044; Ord. 2002-1118, § 4)

Sec. 16-215. Density.

The following uses shall be permitted by right in the Estate Residential E-2 District:

(1) The minimum net lot area per dwelling unit in the E-2 District shall be one (1) acre, with this minimum net lot area only including the land mass situated entirely within the boundary of the subject lot. This minimum net lot area shall not include any tracts, easements or rights-of-way which are shown on the master plan or subdivision plat for any public or private streets, alleys, detention areas, etc., which are required and earmarked to serve the entire development. However, the area of any drainage and/or utility easements which are situated entirely within the boundary of any individual dwelling lot shall be included in the calculation of the minimum net lot area for any such individual dwelling lot.

To encourage the clustering of homes along with open space and/or passive and active recreational uses within the E-2 District, bonus units may be granted which will allow more than one (1) dwelling unit per acre. For the purposes of this Section, the term *open space and/or passive and active recreational uses* shall only include common open space and/or passive and recreational use areas not included within individual building lots. The criteria for granting the bonus units within a master plan or a preliminary plat are as follows:

Amount of Open Space and/or Recreational Uses	Amount of Bonus Units Granted
Less than 10%	0
Equal to or greater than 10%	5%
Equal to or greater than 20%	10%
Equal to or greater than 30%	15%
Equal to or greater than 40%	20%
Equal to 50%	25%
Greater than 50%*	
*In the event more than 50 percent (50%) of the land mass of any development is earmarked for open space and/or recreational uses, the amount of bonus units which may be granted will be determined by the Planning Commission.	

(2) In no event shall the minimum net lot area for any single-family detached dwelling be less than seven thousand five hundred (7,500) square feet, with this minimum net lot area only including the land mass situated entirely within the boundary of the subject lot. This minimum net lot area shall not include any tracts, easements or rights-of-way which are shown on the master plan or subdivision plat for any public or private streets, alleys, detention areas, etc., which are required and earmarked to serve the entire development.

(3) In no event shall the minimum net lot area for any single-family attached dwelling be less than six thousand (6,000) square feet, with this minimum net lot area only including the land mass situated entirely within the boundary of the subject lot. This minimum net lot area shall not include any tracts, easements or rights-of-way which are shown on the master plan or subdivision plat for any

public or private streets, alleys, detention areas, etc., which are required and earmarked to serve the entire development.

(4) Common areas and public parks or facilities are excluded from the minimum lot size requirement set forth herein. (Ord. 1999-1044)

Sec. 16-216. Building location.

(a) For single-family detached dwelling units: minimum setback shall be twenty (20) feet; minimum offset shall be five (5) feet.

(b) For single-family attached dwelling units: minimum setback shall be twenty (20) feet; minimum offset for any wall not adjoining another dwelling unit wall shall be five (5) feet; and there shall not be any minimum offset requirement for any walls which adjoin any other dwelling unit wall. (Ord. 1999-1044; Ord. 2004-1168)

Sec. 16-217. Open space.

Minimum livable open space as defined in Article II of this Chapter per dwelling unit shall be three thousand (3,000) square feet. (Ord. 1999-1044)

Sec. 16-218. Minimum exterior and interior standards.

(a) All single-family detached dwellings in the Estate Residential E-2 District shall meet the following minimum exterior and interior standards:

(1) All dwellings shall be set on and attached to a permanent recessed foundation and shall include a crawl space.

(2) The pitch of the roof shall not be less than three (3) inches of rise for each one (1) foot of horizontal run.

(3) Roofing materials shall be asphalt shingles or the equivalent.

(4) All dwellings shall face, abut and have access to a public or private street approved by the Town.

(5) The exterior finish of all dwellings shall be of brick, wood, masonite or a cosmetically equivalent finish, and shall be of acceptable similarity to the surrounding residential dwellings.

(6) All dwellings shall have a minimum usable living area of one thousand five hundred (1,500) square feet, excluding garages.

(7) All dwellings shall have an attached enclosed garage with a minimum usable area of two hundred (200) square feet.

(b) All single-family attached dwellings in the Estate Residential E-2 District shall meet the following minimum exterior and interior standards:

(1) All dwellings shall be set on and attached to a permanent recessed foundation and shall include a crawl space.

(2) The pitch of the roof shall not be less than three (3) inches of rise for each one (1) foot of horizontal run.

(3) Roofing materials shall be asphalt shingles or the equivalent.

(4) All dwellings shall face, abut and have access to a public or private street approved by the Town.

(5) The exterior finish of all dwellings shall be of brick, wood, masonite or a cosmetically equivalent finish, and shall be of acceptable similarity to the surrounding residential dwellings.

(6) All dwellings shall have a minimum usable living area of one thousand (1,000) square feet, excluding garages.

(7) All dwellings shall have an attached enclosed garage with a minimum usable area of two hundred (200) square feet. (Ord. 1999-1044)

Sec. 16-219. Off-street parking requirements.

All dwelling units shall have a minimum of two (2) off-street parking spaces. (Ord. 1999-1044)

Sec. 16-220. Reserved.

ARTICLE XIV

Multifamily Residential MF-1 District

Sec. 16-221. Intent.

The Multifamily Residential MF-1 District is intended to provide for residential development of multifamily dwellings in areas where such development would be compatible with surrounding uses and where such intensive use would not create service problems. (Prior code 102-62)

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.
 - b. Public parks and recreation areas.
- (2) Permitted accessory uses.
 - a. Private garages, carports and paved parking areas.
 - b. Signs, subject to the provisions of Section 16-126.
 - 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.

e. Any other structures 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. Private commercial outdoor recreational facilities.

b. Private lodge or club.

c. Any use which is compatible for inclusion within this district and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-85 of this Code.

(4) Small group living facilities as defined by this Code shall be permitted as a conditional use in all residential districts. Such conditional use shall be subject to approval by the Board of Trustees of the conditions hereinafter specifically set forth, rather than those conditions applicable to conditional uses generally as set forth in Article VII of this Code:

a. Such conditional use shall conform to the lot size, building location, building size, open space, height limitations, setback limitations, lot coverage limitations and exterior signage requirements applicable to this district. Such conditional use shall be architecturally compatible with the character of the surrounding neighborhood.

b. Such conditional use shall not permit the conducting of ministerial activities of any private or public organization or agency, or the rendering of services in a manner substantially inconsistent with the activities otherwise permitted in this district.

c. Appropriate consideration shall be given to the specific location of the small group home facility and the availability and proximity of commercial services, transportation and public recreation facilities.

d. Such conditional use shall comply with all applicable regulations of the Department of Public Health and Environment or other state or local regulations pertaining to the proposed conditional use.

e. Adequate provision for parking, loading and circulation facilities.

f. Evaluation of the operator of the proposed small group living facility for the purposes of ensuring the cleanliness and safety of the residents of the facility and a minimum level of comfort for such residents. (Prior code 102-63; Ord. 2002-1118, § 4)

Sec. 16-223. Density.

Minimum lot area per dwelling unit shall be two thousand four hundred (2,400) square feet. (Prior code 102-64)

Sec. 16-224. Building location.

Minimum setback shall be twenty (20) feet. Minimum offset shall be six (6) inches for every foot of building height. (Prior code 102-65)

Sec. 16-225. Open space.

Minimum livable open space per dwelling unit shall be nine hundred (900) square feet. (Prior code 102-66)

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

See the provisions of Section 16-123. (Prior code 102-67)

Secs. 16-227--16-240. Reserved.

ARTICLE XV

High-Density Multifamily Residential MF-2 District

Sec. 16-241. Intent.

The High-Density Multifamily Residential MF-2 District is intended to provide for more intensive development of multifamily residential district in areas where such development would be compatible with surrounding areas and where such intensive use would not create service problems. (Prior code 102-68)

Sec. 16-242. Use regulations.

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

- (1) Principal uses permitted by right.
 - a. Multifamily dwelling of four (4) or more units.
 - b. Public parks and recreation areas.
- (2) Permitted accessory uses. Any accessory use permitted in the Multifamily Residential District.
- (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. Any conditional use permitted in the Multifamily Residential District.
 - b. Any use which is compatible for inclusion within this district and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-85 of this Code. (Prior code 102-69)

Sec. 16-243. Density.

Minimum lot area per dwelling unit shall be one thousand four hundred (1,400) square feet. (Prior code 102-70)

Sec. 16-244. Building location.

Minimum setback shall be twenty (20) feet. Minimum offset shall be six (6) inches for every foot of building height. (Prior code 102-71)

Sec. 16-245. Open space.

Minimum livable open space per dwelling unit shall be four hundred fifty (450) square feet. (Prior code 102-72)

Sec. 16-246. Off-street parking requirements.

See the provisions of Section 16-123. (Prior code 102-73)

Secs. 16-247--16-260. Reserved.

ARTICLE XVI

Neighborhood Commercial NC District

Sec. 16-261. Intent.

The Neighborhood Commercial NC District is intended to provide for appropriately located groups of retail stores and service establishments serving the daily needs of a local neighborhood and of such character, scale, appearance and operation as to be compatible with the character of the surrounding residential areas. (Prior code 102-74)

Sec. 16-262. Use regulations.

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

- (1) Principal uses permitted by right. The following uses shall be permitted:
 - a. Retail stores, including but not limited to the following:
 1. Food store, supermarket.
 2. Food store, convenience.
 3. Delicatessen.
 4. Bakery goods store.
 5. Liquor store.
 6. Hardware store.

7. Drug stores.

b. Customer service establishments, including but not limited to the following:

1. Barber and beauty shops.
2. Restaurant and bar.
3. Laundromat and coin-operated dry-cleaning establishment.
4. Laundry and dry-cleaning pickup station.
5. Fine art studio.

c. Business, professional or public service offices, not in excess of one thousand five hundred (1,500) square feet per establishment.

(2) Permitted accessory uses.

- a. Garages for storage of vehicles used in conjunction with the operation of a business.
- b. Off-street parking and loading areas.
- c. Signs, subject to the provisions of Section 16-126.

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. Gasoline service stations.
- b. Public utility installations.

c. Any use which is compatible for inclusion within this district and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-85 of this Code. (Prior code 102-75; Ord. 1991-811, § 1)

Sec. 16-263. Size and location criteria.

The size and location of Neighborhood Commercial NC Districts shall be based on the following criteria:

- (1) Evidence of justifiable community need.
- (2) Adequate customer potential.
- (3) Satisfactory relationship to the pedestrian and vehicular circulation system.

(4) Potential contribution to the economic welfare of the community. (Prior code 102-76)

Sec. 16-264. Lot size.

Minimum lot area shall be twenty thousand (20,000) square feet. (Prior code 102-77)

Sec. 16-265. Building location.

Minimum setback shall be twenty-five (25) feet. Minimum offset shall be twenty-five (25) feet. (Prior code 102-78)

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

See the provisions of Section 16-123. (Prior code 102-79)

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

See the provisions of Section 16-124. (Prior code 102-80)

Secs. 16-268--16-280. Reserved.

ARTICLE XVII

Central Business CB District

Sec. 16-281. Intent.

The Central Business CB 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 102-81)

Sec. 16-282. Use regulations.

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

- (1) Principal uses permitted by right.
 - a. Any principal use permitted by right in the Neighborhood Commercial District.
 - b. Retail stores.
 - c. Customer service establishments.
 - d. Business and professional offices.
 - e. Banks and saving and loan offices.
 - f. Medical and dental clinics.
 - g. Public administrative offices and service buildings.

- h. Public utility offices and installations.
 - i. Public library.
 - j. Private club or lodge.
 - k. Commercial lodging.
 - l. Theater.
 - m. Minor repair, rental and servicing establishments.
 - n. Passenger transportation terminals, not including truck terminals.
 - o. One-family residential dwellings subject to the regulations set forth in Sections 16-147, 16-162(2), 16-163, 16-164, 16-165 and 16-166.
 - p. Automobile sales.
 - q. Plumbing and heating contractors.
- (2) Permitted accessory uses.
- a. Any accessory uses permitted in the Neighborhood Commercial District.
 - b. Signs, subject to the provisions of Section 16-126.
- (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.
 - b. Gasoline service stations.
 - c. Any use which is compatible for inclusion within this district and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-85 of this Code. (Prior code 102-82)

Sec. 16-283. Off-street parking requirements.

See the provisions of Section 16-123. (Prior code 102-83)

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

See the provisions of Section 16-124. (Prior code 102-84)

Secs. 16-285--16-300. Reserved.

ARTICLE XVIII

General Commercial – Planned Unit Development GC – PUD District

Sec. 16-301. Use regulations.

(a) Principal uses permitted by right. The following principal uses shall be permitted in the General Commercial GC District:

- (1) Drive-in restaurants.
- (2) Grocery stores and supermarkets.
- (3) Gasoline service stations.
- (4) Car washes.
- (5) Commercial lodging.
- (6) Restaurants and bars.
- (7) Outdoor sales areas, such as garden shops.
- (8) Automobile sales and service establishments, including used car lots.
- (9) Lumber and building supply yards.
- (10) Public, private, commercial and private group outdoor recreational facilities.
- (11) Bowling alleys.
- (12) Business and professional offices.

(b) Permitted accessory uses. Any accessory use permitted in the Central Business CB District.

(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) Outdoor theater.
- (2) Nonaccessory signs.

(3) Any use which is compatible for inclusion within this district and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-85 of the Code. (Prior code 102-85; Ord. 1991-811, § 1)

Sec. 16-302. Lot size.

Minimum lot area shall be twenty thousand (20,000) square feet. (Prior code 102-86)

Sec. 16-303. Building location.

Minimum setback shall be twenty-five (25) feet. Offset requirements shall be established in accordance with the Planned Unit Development Regulations of this Code. (Prior code 102-87; Ord. 1999-1014 § 2)

Sec. 16-304. Off-street parking requirements.

See the provisions of Section 16-123. (Prior code 102-88)

Sec. 16-305. Off-street loading requirements.

See the provisions of Section 16-124. (Prior code 102-89)

Secs. 16-306--16-320. Reserved.

ARTICLE XIX

Heavy Industrial I-H District

Sec. 16-321. Intent.

The Heavy Industrial I-H District is intended to identify and preserve land suitable for heavy industrial use and to provide for the orderly grouping of such uses in an appropriate setting. The further intent of this district to establish such regulatory controls as are deemed necessary to promote a harmonious relationship between heavy industrial uses and the community at large. (Ord. 1990-799)

Sec. 16-322. Use regulations.

(a) All uses in this zone are conditioned upon the Town's approval of appropriate plans pursuant to the Site Plan Regulations of the Town as set forth elsewhere in this Code. In addition to the site plan requirement, proposed users shall submit evidence satisfactory to the Town that the proposed use will comply in all respects with the Performance Standards for Industrial Zones as set forth in this Chapter. The proposed user shall be responsible for all costs incurred by the Town in the evaluation and analysis of the evidence presented by the user of compliance with the Performance Standards for Industrial Zones. This shall include, but shall not be limited to, costs incurred for services rendered by the Weld County Health Department or similar public or private agencies.

(b) Uses by right. Subject to the requirements set forth in subparagraph (a) above, the following uses shall be permitted in the Heavy Industrial I-H District:

- (1) Open or surface mining operations for the development or extraction of solid materials.
- (2) Petrochemical industries.
- (3) Rubber refining industries.
- (4) Primary metal and related industries.
- (5) Trucking operations.

- (6) Slaughter houses.
- (7) Foundries.
- (8) Automobile, farm equipment and machinery sales.
- (9) Any use otherwise permitted in Limited Industrial I-L Zoning District.
- (10) Any use otherwise permitted in a General Commercial GC Zoning District.

(c) Accessory uses. Assuming approval of designated uses by right as aforesaid, the following shall be permitted accessory uses in the Heavy Industrial I-H District:

- (1) Office, storage, power supply and other such uses normally auxiliary to the principal industrial use.
- (2) Parking and service areas.
- (3) Accessory signs as otherwise regulated by this Code or state laws.
- (4) Residential quarters for guards or caretakers.
- (5) Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right, conditioned upon the approval of such accessory use pursuant to the site plan requirements set forth herein.

(d) Conditional uses.

- (1) Kennels.
- (2) Any use which is compatible for inclusion within the District and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-85 of this Code. (Ord. 1990-799; Ord. 2001-1077, §3; Ord. 2004-1179, §1)

Sec. 16-323. Lot size.

Minimum lot area shall be sixty thousand (60,000) square feet. (Ord. 1990-799)

Sec. 16-324. Building location.

Except as otherwise specified in this Section, minimum setback shall be thirty (30) feet, and minimum offset shall be twenty (20) feet. Should a Heavy Industrial H-I District adjoin any residential district, all structures located in the Heavy Industrial H-I 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. 1990-799)

Sec. 16-325. Off-street parking requirements.

Uses in the Heavy Industrial I-H District shall comply in all respects with the off-street parking requirements as set forth in Section 16-123 of this Code. (Ord. 1990-799)

Sec. 16-326. Off-street loading requirements.

Uses in the Heavy Industrial I-H District shall comply in all respects with the off-street loading requirements as set forth in Section 16-124 of this Code. (Ord. 1990-799)

Sec. 16-327. Landscaping requirements.

Appropriate landscaping shall be required in accordance with this Code and any regulations adopted by the Town. All landscaping plans shall be submitted as part of the site plan herein required and shall be subject to approval by the Town. (Ord. 1990-799)

Secs. 16-328--16-340. Reserved.

ARTICLE XX

Limited Industrial I-L District

Sec. 16-341. Intent.

The Limited Industrial I-L District is intended to identify and preserve land suitable for limited industrial use and to provide for the orderly grouping of such uses in an appropriate setting. The intent of this district is to establish such regulatory controls as are deemed necessary to promote a harmonious relationship between limited industrial uses and the community at large. (Ord. 1990-799)

Sec. 16-342. Use regulations.

(a) All uses in this zone are conditioned upon the Town's approval of appropriate plans pursuant to the Site Plan Regulations of the Town as set forth elsewhere in this Code. In addition to the site plan requirement, proposed users shall submit evidence satisfactory to the Town that the proposed use will comply in all respects with the Performance Standards for Industrial Zones as set forth in this Chapter.

(b) Uses by right. Subject to the requirements set forth in subparagraph (a) above, the following uses shall be permitted in the Limited Industrial I-L District:

- (1) Manufacture of electronic instruments.
- (2) Preparation of food products.
- (3) Pharmaceutical manufacturing.
- (4) Research and scientific laboratories.
- (5) Manufacturing, assembly, processing and fabrication plants.
- (6) Transportation terminals.
- (7) General warehousing.
- (8) Enclosed storage facilities.
- (9) Printing and publishing houses.

- (10) Automobile body repair shops.
- (11) Plumbing and heating contractors.
- (12) Painting and decorating contractors.
- (13) Electrical contractors.
- (14) Glazing, insulation, carpentry and masonry contractors.
- (15) Public utility offices and installations.
- (16) Any use otherwise permitted in the General Commercial GC District.

(c) Accessory uses. Assuming approval of designated uses by right as aforesaid, the following shall be permitted accessory uses in the Limited Industrial I-L District:

- (1) Office, storage, power supply and other such uses normally auxiliary to the principal industrial use.
- (2) Parking and service areas.
- (3) Accessory signs as otherwise regulated by this Code or the laws of the State.
- (4) Residential quarters for guards and caretakers.
- (5) Any other structure or use clearly incidental to and commonly associated with the operation of a principal use permitted by right, conditioned upon the approval of such accessory use pursuant to the site plan requirements set forth herein.

(d) Conditional uses. Any use which is compatible for inclusion within this district and which meets the standards and requirements of conditional use grants as set forth in Section 16-81 through 16-85 of the Code of the Town. (Ord. 1990-799)

Sec. 16-343. Lot size.

Minimum lot area shall be the equivalent of two (2) times the total floor area of constructed improvements, but in no event shall such area be less than twenty thousand (20,000) square feet. (Ord. 1990-799)

Sec. 16-344. Building location.

Except as otherwise specified in this Section, minimum setback shall be thirty (30) feet and minimum offset shall be twenty (20) feet. Should a Limited Industrial I-L Zoning District adjoin any residential zoning district or residential property, all of the following requirements shall be met for all such lots which adjoin any such residential zoning district or residential property:

- (1) Any property line abutting a residential zoning district or residential property shall maintain a minimum setback and offset distance of thirty (30) feet, with said thirty-foot setback or offset distance being used for a substantial landscape buffer that adequately protects the adjoining residential properties from any negative impacts associated with the limited industrial use;

(2) The maximum height of any structure located within two hundred (200) feet of the respective residential zoning district boundary shall not exceed either the maximum height permitted for structures in the adjoining residential zoning district or, where applicable, the maximum height permitted for structures in any applicable Corridor Plan of the Town, whichever height is less;

(3) Gravel surfaces shall be allowed, subject to all of the following conditions being met: a) no such surface shall be permitted to be used in lieu of the paving requirements for parking and circulation areas on the site or within the subdivision which are currently required by the Municipal Code; b) no such surface shall be permitted to be any closer than two hundred (200) feet from the nearest residential zoning district boundary; c) in accordance with all county health department regulations and approvals, all such surfaces will be required to be treated on an ongoing basis for dust control and abatement; and d) decorative rocks and stones that are fully contained within landscaping islands and that are permitted by the Town's landscaping requirements will not be defined as gravel surfaces;

(4) With the exception of vehicles entering or exiting through open overhead doorways and the respective overhead doors being closed immediately following each such event of ingress and egress, all overhead doors which face the respective residential zoning district shall remain closed at all other times;

(5) To allow for landscape buffers and tree lawns, all paved areas for parking lots, interior drives which connect parking lots and any paved storage areas shall be set back a minimum distance of thirty-five (35) feet from any property lines which abut state highways, and shall be set back a minimum of thirty (30) feet from all other property lines;

(6) As part of the landscaping requirements of Section 16-347 of this Chapter, the applicant shall provide a detailed drawing of a landscaping buffer strip, which shall include all associated specifications, that will be planted along the entire length of any property line which adjoins any residential zoning district. Said landscaping buffer strip shall be approved by the Town as part of the site plan review process and shall also: a) be planted entirely within the property lines of the limited industrial zoning district lot; b) be required to be planted regardless of any fencing that may be installed on the lot; and c) be supplemental to, and not in lieu of, all other landscaping requirements associated with the limited industrial zoning district lot; and

(7) Any such use located on any such limited industrial zoning district lot shall also be required to adhere to all of the industrial performance standards relative to glare and heat, vibration, light, smoke emissions, odor emissions and particle emissions as outlined in Section 16-127 of this Chapter. (Ord. 2002-1105, § 1)

Sec. 16-345. Off-street parking requirements.

Uses in the Limited Industrial I-L District shall comply in all respects with the off-street parking requirements as set forth in Section 16-123 of this Code. (Ord. 1990-799)

Sec. 16-346. Off-street loading requirements.

Uses in the Limited Industrial I-L District shall comply in all respects with the off-street loading requirements as set forth in Section 16-124 of this Code. (Ord. 1990-799)

Sec. 16-347. Landscaping requirements.

Appropriate landscaping shall be required in accordance with this Code and any regulations adopted by the Town. All landscaping plans shall be submitted as part of the site plan herein required and shall be subject to approval by the Town. (Ord. 1990-799)

Secs. 16-348--16-360. Reserved.

ARTICLE XXI

Recreation and Open Space O District

Sec. 16-361. Intent.

The Recreation and Open Space O 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 was planned to overlay the previous Recreation and Open Space O District area. (Prior code 102-97)

Sec. 16-362. Use regulations.

(a) Principal uses permitted by right.

(1) Public parks and recreation areas.

(2) Public schools.

(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.

(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 services buildings.

(2) Public utility installations, including transmission lines and substations.

(3) Any use which is compatible for inclusion within this district and which meets the standards and requirements of conditional use grants as set forth in Sections 16-81 through 16-84 of this Code. (Prior code 102-98)

Sec. 16-363. Lot size.

Minimum lot area shall be one hundred twenty thousand (120,000) square feet. (Prior code 102-99)

Sec. 16-364. Off-street parking requirements.

See the provisions of Section 16-123. (Prior code 102-100)

Secs. 16-365--16-380. Reserved.

ARTICLE XXII

Planned Unit Development Regulations

Sec. 16-381. Intent.

(a) The planned unit development (hereinafter called PUD) provisions contained herein are intended to provide for the planning and development of substantial tracts of land, suitable in location and character for the uses proposed, as unified and integrated entities in accordance with detailed development plans.

(b) Such planned unit developments are to be permitted as amendments to the Official Zoning District Map upon approval of a specific development proposal which complies with the requirements and standards set forth in this Chapter.

(c) The regulations contained herein, which are based on sound comprehensive planning principles, are adapted to unified planning and development and are intended to accomplish the purposes of public control to the same extent as do zoning and other regulations applicable to conventional lot-by-lot development, while simplifying, integrating and coordinating land development controls and providing necessary flexibility to encourage design innovation and creative community development.

(d) Specifically, the PUD provisions are intended to further the following objectives:

(1) To provide flexibility in land planning and development, resulting in amenable relationships between buildings and ancillary uses and permitting more intensive use of land where well-related open space and recreational facilities are integrated into the overall design.

(2) To encourage unity and diversity in land development, resulting in convenient and harmonious groupings of uses, structures and common facilities, varied type, design and layout of housing and other buildings and appropriate relationships of open spaces to intended uses and structures.

(3) To encourage unified and planned development of a site without customary subdivision into single lots and without specific application of the district regulations as provided for individual lots, subject to the regulations set forth herein.

(4) To provide for and encourage the preservation and enhancement of desirable natural landscape and other features unique to a development site.

(5) To provide reasonable standards and criteria by which the specific proposals for a PUD can be evaluated.

(6) To provide a procedure which can relate the design and layout of unified residential, commercial or industrial developments to the particular site and demand for such development in a

manner consistent with the preservation of property values within established residential areas. (Prior code 102-101)

Sec. 16-382. General location and planning requirements.

(a) Relation to major transportation system. Planned development districts shall be so located with respect to major streets and highways or other transportation facilities as to be directly accessible without creating traffic on minor streets in residential areas outside such districts.

(b) Relation to public utilities and community facilities. Planned development districts shall be so located in relation to public utilities and community facilities and services, either existing or to be available by the time development reaches the stage where they will be required, that such facilities can be provided at reasonable public cost.

(c) Relation to general pattern of urban development. Planned development districts shall be planned and located in general compliance with the Comprehensive Development Plan and shall relate the major elements of the urban pattern, including housing, commercial facilities and principal places of employment, by physical proximity of major streets so as to provide for the convenience and amenity of residents of the community and reduce general traffic congestion by a close relationship between origins and destinations. (Prior code 102-102)

Sec. 16-383. Physical character of site.

The site shall be suitable for the development proposed without hazards to structures, occupants or any property from probability of flooding on the site or on adjacent lands, erosion or deposition of eroded material on adjacent lands, subsidence of the soil or other dangerous conditions. Soil, groundwater level, drainage and topography shall be appropriate to both kind and pattern of use intended. (Prior code 102-103)

Sec. 16-384. Site planning; external relationships.

(a) Vehicular access. Entrances and exits for vehicles shall be designed to encourage smooth traffic flow with minimum hazards to passing traffic or to traffic entering or leaving the development. Merging or turnout lanes may be required where anticipated traffic flows from or to the planned development indicate the need for such lanes. In no case shall streets within a planned development district connect to streets outside the district in such a way as to encourage use of any minor streets for through traffic.

(b) Perimeter setback and screening. If topographical or other barriers do not provide adequate buffer between the planned development and adjacent uses, structures on the perimeter of the planned development shall be set back a distance equal to the minimum setback requirement of the adjoining district or shall be permanently screened by fences, walls or plantings as required to sufficiently protect the privacy and amenity of adjacent uses, to protect the planned development from potentially adverse external influences, such as a major street or highway and as necessary to make transition from adjoining districts. (Prior code 102-104)

Sec. 16-385. Modifications of subdivision regulations.

(a) The improvements required under Article IX of Chapter 17, including streets, storm drainage, sanitary sewerage and potable water systems, shall be provided in each type of planned unit development. (See Ch. 17, Subdivision)

(b) The requirements and standards for the construction of streets and utilities set forth in the subdivision regulations shall be subject to modification where the plan and program for a PUD make adequate provision for vehicular and pedestrian access and circulation, recreation, utility and service needs of the tract when fully developed and occupied and which also provide such covenants, easements or other legal documents and provisions as will assume conformity to and successful implementation of the plan. (Prior code 102-105)

Secs. 16-386--16-400. Reserved.

ARTICLE XXIII

Residential Mixed Use Development Regulations

Sec. 16-401. Intent.

The intent of the residential mixed use zoning district (hereinafter referred to as the RMU zoning district) is to (1) provide for the development of mixed land uses in areas designated as such on the Land Use Plan Map of the Windsor Comprehensive Plan; (2) encourage the creation of a desirable mix of residential dwelling classifications which are compatible with, complimentary to and located on the same parcel as common recreational uses, open spaces and commercial and light industrial uses which are similar to those outlined below in Section 16-403; (3) provide for improved vehicular and pedestrian traffic circulation and access; and (4) facilitate land use arrangements which preserve desirable natural landscape features. (Prior code 102-107; Ord. 1998-994, § 2)

Sec. 16-402. Where permitted.

Subject to the general requirements set forth in this Code as well as the specific requirements set forth herein, an RMU zoning district may be established either in any area designated as such on the Land Use Plan Map of the Windsor Comprehensive Plan or in any area zoned or rezoned as such by the Board of Trustees. (Prior code 102-108; Ord. 1998-994, § 2)

Sec. 16-403. Use regulations.

The following uses shall be permitted in the RMU zoning district:

- (1) Any principal, accessory or conditional use permitted in any residential district, provided that such use, as proposed to be located, scaled and operated, meets the intent of the RMU zoning district as defined in Section 16-401 above;
- (2) Recreational and open space uses;
- (3) Office buildings and facilities required for the operation, administration and maintenance of the RMU development;
- (4) Fully enclosed light industrial uses such as research and development facilities; light manufacturing and assembly facilities; electronics manufacturing facilities; printing and publishing firms; public and semipublic utility offices and installations, etc.; and
- (5) Convenience centers, including retail stores and customer service establishments, subject to the following conditions:

a. Convenience centers shall be designed to serve as integral parts of the development plans of RMU zoning districts, with the principal functions of convenience centers being to serve the residents of the development;

b. By reason of their location, construction, method of operation, signs, lighting, parking arrangements or other characteristics, convenience centers shall not cause adverse effects to the residential uses which are located either within or adjacent to the RMU zoning district, and, likewise, the convenience centers shall not create traffic congestion problems or traffic hazards for either vehicular traffic or pedestrians; and

c. Convenience stores and shops may be located within multiple-use buildings or a multiple-use building complex which contains residential dwelling units, administrative offices, recreational uses or common facilities which are designed to be used primarily by the residents of the development. (Prior code 102-109; Ord. 1998-994, § 2)

Sec. 16-404. Lot, area and height requirements.

The lot, area and height requirements in the RMU zoning district shall be as follows:

(1) Residential uses. All residential uses shall meet all of the density, setback and offset requirements set forth in this Code for each respective type of dwelling unit. For example, all single-family dwelling units in an RMU zoning district shall have a minimum lot size of six thousand (6,000) square feet, a minimum setback requirement of twenty (20) feet and a minimum offset requirement of five (5) feet. Likewise, all other residential uses shall meet all of these similar types of requirements for the respective types of dwelling units.

(2) Commercial and light industrial uses. All commercial and light industrial uses in an RMU zoning district shall be required to be set back a minimum of twenty-five (25) feet, and shall meet all of the offset requirements set forth in this Code for each respective type of commercial or light industrial land use. The density requirements for all commercial and light industrial uses shall meet all of the building coverage requirements outlined in Subsection 16-406(a)(1) of this Chapter.

(3) Maximum lot area for commercial and light industrial uses. No more than twenty-five percent (25%) of the total lot area in an RMU zoning district may be used for any commercial and/or light industrial uses.

(4) Maximum height requirements. Except as otherwise provided for in any of the corridor plans, etc. of the Town, the maximum height of any building in an RMU zoning district shall not exceed thirty-five (35) feet in height. Additionally, ornamental architectural elements or appurtenances such as clock towers or cupolas which are an integral part of any principal structure shall not exceed forty-five (45) feet in height.

(5) Minimum parcel size. The minimum parcel size required for an RMU development site shall be any size parcel which will accommodate all of the density, setback, offset, open space and building coverage requirements outlined herein for residential mixed use developments. (Prior code 102-110; Ord. 1998-994, § 2; Ord. 2002-1126, § 1)

Sec. 16-405. Site planning; internal relationships.

(a) Vehicular access.

(1) The design and layout of the street system within an RMU zoning district shall provide for an efficient, cost-effective and safe transportation system that will meet the Town's needs for convenient movement of people, goods and services.

(2) Single-family detached and attached dwelling units may have direct access from accessory off-street parking areas to a street. Vehicular access to off-street parking and loading areas accessory to multiple-family dwelling units shall be so designed, limited, combined and located so as to minimize traffic congestion on streets and promote safe and efficient traffic flow without excessive interruptions from driveways and entrances to parking areas.

(b) Pedestrian access.

(1) Pedestrian walkways shall be provided and shall form a logical, safe and convenient system for pedestrian access to all dwelling units and principal pedestrian destinations, such as churches and schools. Intersections of pedestrian walkways and street intersections shall be held to a minimum, and such walkways shall be otherwise located and designed so as to minimize contact with vehicular traffic.

(2) A building or lot shall not be required to have frontage on a public street, provided that every structure containing dwelling units which does not have frontage on a public street shall have access to a pedestrian walkway, court or other area designated as and guaranteed for general public use.

(3) Trails. See Section 16-406(b)(4) below.

(c) Off-street parking and loading.

(1) The off-street parking requirements in the RMU zoning district shall be in compliance with the provisions outlined in Section 16-123 herein.

(2) The off-street loading area requirements in the RMU zoning district shall be in compliance with the provisions outlined in Section 16-124.

(d) Yards, courts and open spaces between buildings. Yards, courts and open spaces between buildings shall be designed and arranged in such a manner so as to ensure that all of the following requirements are met: adequate privacy and ventilation; access to and around buildings, off-street parking areas and loading areas; adequate space for landscaping; adequate spacing between buildings for security and visibility; and adequate space for recreational purposes and other functions being provided in the residential areas of the development site. (Prior code 102-111; Ord. 1998-994, § 2)

Sec. 16-406. Open space and landscaping.

(a) Open space requirement. The minimum livable open space and landscaping requirements in the RMU zoning district shall be as follows:

(1) The total building coverage for all principal and accessory uses on any given RMU development site shall not exceed forty percent (40%) of the site area and shall preferably cover no more than thirty-three percent (33%) of the site area.

(2) In order to allow for landscape buffers in all multifamily, commercial and light industrial uses, the minimum setback distances for all paving in an RMU zoning district shall be as follows: twenty-five (25) feet from arterial streets; twenty (20) feet from major collector streets; fifteen (15)

feet from minor collector streets; ten (10) feet from local streets; and five (5) feet from all other property lines.

(3) Open landscape areas on any given RMU development site shall be at least twenty percent (20%) of the site area. In appropriate circumstances, however, the open landscape area may be reduced to a minimum of fifteen percent (15%) of the site area if the landscaping is of adequate density.

(b) Use and location.

(1) Open space required under this provision shall be located in a manner that will be convenient for use by the residents of the RMU development, with the location and purpose of such open space being consistent with both the character of the site and the location and use of other established open spaces in adjoining neighborhoods.

(2) Access to open space. Insofar as is reasonably practical, common livable open spaces for pedestrian use shall be located so as to be accessible from dwelling units with a minimum of street crossings. Pedestrian walkways and open spaces shall form an interconnected system, serving also as accessways to major pedestrian destinations, such as schools. The open space and walkway system shall be located in block interiors, and, except for all of the standards and requirements for parks which are outlined in the Windsor Parks and Recreation Master Plan and are referred to below in paragraph (3), said open space and walkways shall be oriented away from exposure to automobile traffic.

(3) Parks. Upon review and recommendation by the Windsor Parks and Recreation Advisory Board, any development within an RMU zoning district shall provide for parks and/or park land dedications in accordance with all of the standards and requirements outlined in the Windsor Parks and Recreation Master Plan.

(4) Trails. Pedestrian and bicycle trails shall be (a) encouraged in all RMU zoning districts, and (b) required in any RMU zoning district in which trails are depicted in the Windsor Parks and Recreation Master Plan.

(5) Legal maintenance. Provision shall be made through covenants, easements, homeowners' associations or other means for the continuing maintenance of any common open spaces and private pedestrian ways not intended to be dedicated to the Town. (Prior code 102-112; Ord. 1998-994, § 2)

Sec. 16-407. Submittal requirements.

In addition to all other subdivision and site planning requirements required by the Town, including, but not limited to, all corridor site planning requirements, the developer shall also be responsible for submitting all relevant plats, plans, documentation, calculations, etc. to address all of the development requirements of the RMU zoning district outlined in Sections 16-401 through 16-406 herein. (Ord. 1998-994, § 2)

Secs. 16-408--16-420. Reserved.

ARTICLE XXIV

Planned Mobile Home Park Development Regulations

Sec. 16-421. Intent.

The planned mobile home park development (hereinafter called PD-MHP) provision is intended to encourage the unified planning and development of permanent mobile home parks providing all facilities and amenities appropriate to the need 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 102-113)

Sec. 16-422. Where permitted.

Subject to the general requirements set forth in Article XXII of this Chapter and additional requirements set forth herein, a PD-MHP may be established in any area indicated as a single-family residential area on the Proposed Land Use Plan. (Prior code 102-114)

Sec. 16-423. Location restrictions.

(a) Any mobile home parked on any lot, parcel or tract in the Town but not included within an approved PD-MHP shall, after a period of forty-five (45) days, have the wheels removed and be 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-MHP, 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 improvements thereto. (Prior code 102-115)

Sec. 16-424. Use regulations.

The following uses will be permitted in the Planned Mobile Home Park Development PD-MHP District.

- (1) Mobile home dwelling units as defined in Section 16-12 of this Chapter.
- (2) Single-family dwellings for occupancy by the mobile home park owner, manager or caretaker.
- (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 102-116)

Sec. 16-425. Minimum area.

The minimum required land area for a PD-MHP shall be five (5) contiguous acres. (Prior code 102-117)

Sec. 16-426. Site planning; internal relationships.

(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 accessways.

(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-MHP.

(2) Convenient access shall be provided to each mobile home stand by an accessway at least fifteen (15) feet in width. Such accessway 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 from a paved 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 on the space immediately adjacent to the mobile home stand, and the remainder shall be located in parking bays adjacent to the street or adjacent to a vehicular accessway connected to a street.

(2) Parking spaces shall be provided at the rate of at least one (1) car space 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-MHP 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 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-MHP 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 ones shall be set back and offset from the PD-MHP boundaries a minimum distance of twenty (20) feet.

(g) Common facilities and uses.

(1) Not less than eight percent (8%) of the total land area of the PD-MHP shall be devoted to space for common facilities and uses, such as a 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 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 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-MHP boundary lines, refuse collection points, common recreation areas and playgrounds and at such other points as necessary for screening of objectionable views. (Prior Code 102-118)

Secs. 16-427--16-440. Reserved.

ARTICLE XXV

Vested Property Rights

Sec. 16-441. Purpose.

The purpose of this Article is to provide the procedures necessary to implement Article 68 of Title 24, C.R.S. (Prior code 102-125)

Sec. 16-442. Definitions.

(a) *Site specific development plan* means, for those developments for which the landowner wishes the creation of vested rights:

(1) The approval by the Town of the project at a hearing conducted at the request of the landowner, which hearing follows the successful approval of the development at all other required stages of the development review process; or

(2) The conditional approval by the Town of the project at a hearing conducted at the request of the landowner, which hearing follows approval of the development at all other required stages of the development review process, except for the submission of: a) a final architectural plan; b) public utility filings; and/or c) final construction drawings and related documents specifying materials and methods for construction of improvements. Approval of such a site specific development plan shall be expressly conditioned upon the approval of all further submissions ordinarily required in the development review process. Such conditional approval shall result in a vested property right; however, the landowner's or developer's failure to abide by such terms and conditions shall result in a forfeiture of the vested property rights.

(b) *Vested property right* means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. (Prior code 102-126; Ord. 1999-1040, §§ 1, 2)

Sec. 16-443. Notice of hearing.

No site specific development plan shall be approved until after a public hearing, preceded by written notice of such hearing. Such notice may, at the Town's option, be combined with the notice required by state law for zoning regulations or with any other required notice. At such hearing, interested persons shall have an opportunity to be heard. (Prior code 102-127)

Sec. 16-444. Approval - effective date - amendments.

A site specific development plan shall be deemed approved upon the effective date of the Board of Trustees approval action relating thereto, as set forth at Section 16-442. In the event amendments to a site specific development are proposed and approved, the effective date of such amendments for purposes of duration of a vested property right shall be the date of the approval of the original site specific development plan, unless the Board of Trustees specifically finds to the contrary and incorporates such findings in its approval of the amendment. If a site specific development plan is conditionally approved, the effective date of the site specific development plan shall be the date of the conditional approval action by the Board of Trustees, unless the vested property rights are thereafter forfeited by the landowner's or developer's failure to abide by the terms and conditions of the approval of the site specific development plan. (Prior code 102-128; Ord. 1999-1040, § 3)

Sec. 16-445. Notice of approval.

(a) Each map, plat or site plan or other document constituting a site specific development plan shall contain the following language:

Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S.

(b) Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcel of property affected and stating that a vested property right has been created shall be published once, but not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation with the Town. (Prior code 102-129)

Sec. 16-446. Payment of costs.

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay all costs occasioned to the Town as a result of the site specific development plan review, including publication of notices, public hearing and review costs. (Prior code 102-130)

Sec. 16-447. Other provisions unaffected.

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the development and use of property. (Prior code 102-131)

Sec. 16-448. Limitations.

Nothing in this Chapter is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said article or a judicial determination that said article is invalid or unconstitutional, this Chapter shall be deemed to be repealed and the provisions hereof no longer effective. (Prior code 102-132)

Secs. 16-449--16-460. Reserved.

ARTICLE XXVI

Flood Damage Prevention

Sec. 16-461. Statutory authorization.

The Legislature of the State, pursuant to Title 31, C.R.S., has delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. (Ord. 1991-813, § 1.1)

Sec. 16-462. Findings of fact.

(a) The flood hazard areas of the Town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 1991-813, § 1.2)

Sec. 16-463. Statement of purpose.

It is the purpose of this Article to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard;
and
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 1991-813, § 1.3)

Sec. 16-464. Methods of reducing flood losses.

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

(1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 1991-813, § 1.4)

Sec. 16-465. Definitions.

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

(1) *Appeal* means a request for a review of the Town Administrator's interpretation of any provisions of this Article or a request for a variance.

(2) *Area of special flood hazard* means the land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year.

(3) *Base flood* means the flood having a one percent (1%) chance of being equalled or exceeded in any given year.

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

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

a. The overflow of inland or tidal waters and/or

b. The unusual and rapid accumulation or runoff of surface waters from any source.

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

(7) *Flood Insurance Study* means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

(8) *Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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

(10) *Manufactured home* means a structure as defined in Section 16-12 of this Code.

(11) *Mobile home* means a structure as defined in Section 16-12 of this Code.

(12) *New construction* means structures for which the "start of construction" commenced on or after the effective date of the original ordinance codified in this Article, and includes any subsequent improvements to such structures.

(13) *Planned mobile home park* means a development as is defined in Section 16-12 of this Code.

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

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

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

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

(18) *Substantial improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(19) *Variance* means a grant of relief from the requirements of this Article which permits construction in a manner that would otherwise be prohibited by this Article. (Ord. 1991-813, § 2.0)

Sec. 16-466. Applicability of Article.

This Article shall apply to all areas of special flood hazard within the jurisdiction of the Town. (Ord. 1991-813, § 3.1)

Sec. 16-467. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Windsor" dated September 27, 1991, with an accompanying Flood Insurance Rate Map (FIRM), is hereby adopted by reference and declared to be a part of this Article. The Flood Insurance Study and FIRM are on file at the Town Hall, 301 Walnut Street, Windsor, Colorado 80550. (Ord. 1991-813, § 3.2)

Sec. 16-468. Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations. (Ord. 1991-813, § 3.3)

Sec. 16-469. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 1991-813, § 3.4)

Sec. 16-470. Interpretation.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 1991-813, § 3.5)

Sec. 16-471. Warning and disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Article does not

imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder. (Ord. 1991-813, § 3.6)

Sec. 16-472. Establishment of development permit.

(a) A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 16-467.

(b) Application for a development permit shall be made on forms furnished by the Town Administrator and may include, but shall not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 16-477(2); and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 1991-813, § 4.1)

Sec. 16-473. Designation of the Town Administrator.

The Town Administrator is hereby appointed to administer and implement this Article by granting or denying development permit applications in accordance with its provisions. (Ord. 1991-813, § 4.2)

Sec. 16-474. Duties and responsibilities of the Town Administrator.

Duties of the Town Administrator shall include, but shall not be limited to:

- (1) Permit review.
 - a. Review all development permits to determine that the permit requirements of this Article have been satisfied;
 - b. Review all development permits to determine that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required;
 - c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 16-478(1) are met.
- (2) Use of other base flood data. When base flood elevation data has not been provided in accordance with Section 16-467, the Town Administrator shall obtain, review and reasonably utilize

any base flood elevation and floodway data available from any federal, state or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A are administered in accordance with Section 16-477.

(3) Information to be obtained and maintained.

a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

b. For all new or substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

2. Maintain the floodproofing certifications required in Section 16-472(3).

c. Maintain for public inspection all records pertaining to the provisions of this Article.

(4) Alteration of watercourses.

a. Notify adjacent communities and the State prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

b. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Interpretation of FIRM boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 16-475. (Ord. 1991-813, § 4.3)

Sec. 16-475. Variance procedure.

(a) Appeal Board.

(1) The Board of Adjustment, as established by the Town, shall hear and decide appeals and requests for variances from the requirements of this Article.

(2) The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Town Administrator in the enforcement or administration of this Article.

(3) Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decisions to the County District Court, as provided by state law.

(4) In passing upon such appeals, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article and:

- a. The danger that materials may be swept onto other lands to the injury of others;
- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with the existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(5) Upon consideration of the facts of Subsection (4) above and the purposes of this Article, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.

(6) The Town Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

(b) Conditions for variances.

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that items a through k in Subsection (a)(4) above have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this Section.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in Subsection (a)(4) above, or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation. (Ord. 1991-813, § 4.4)

Sec. 16-476. General standards.

In all areas of special flood hazard, the following standards are required:

(1) Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and shall be capable of resisting the hydrostatic and hydrodynamic loads.

b. All manufactured homes and mobile homes must be elevated and anchored to resist flotation, collapse or lateral movement and must be capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

1. That over-the-top ties be provided at each of the four (4) corners of the manufactured home or mobile home, with two (2) additional ties per side at intermediate locations, with manufactured homes or mobile homes less than fifty (50) feet long requiring one (1) additional tie per side.

2. That frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes and mobile homes less than fifty (50) feet long requiring four (4) additional ties per side.

3. That all components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds.

4. That any additions to the manufactured home or mobile home be similarly anchored.

(2) Construction materials and methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less). (Ord. 1991-813, § 5.1)

Sec. 16-477. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 16-467 or 16-474, the following provisions are required:

(1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation.

(2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water.

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 16-474(3)b.

(3) Manufactured homes and mobile Homes.

a. Manufactured homes and mobile homes shall be anchored in accordance with Section 16-476(1)b.

b. All manufactured homes placed or substantially improved on a site shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

c. All mobile homes placed or substantially improved on a site shall be elevated so that either: (1) the lowest floor of the mobile home is at or above the base flood elevation; or (2) the mobile home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade. All mobile homes shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(4) Recreational vehicles. Recreational vehicles shall: (1) be on the site for fewer than one hundred eighty (180) consecutive days; (2) be fully licensed and ready for highway use; or (3) meet the permit requirements and elevation and anchoring requirements for resisting wind forces. (Ord. 1991-813, § 5.2)

Sec. 16-478. Floodways.

Located within areas of special flood hazard established in Section 16-467 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If Subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 16-476 through 16-478. (Ord. 1991-813, § 5.3)

Secs. 16-479--16-490. Reserved.

ARTICLE XXVII

Historic Preservation

Sec. 16-491. Designation of landmarks and historic districts.

Pursuant to the procedures hereinafter set forth, the Board of Trustees may by ordinance make the following designations of landmarks and historic districts:

- (1) Designate as a landmark an individual structure or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value, and designate a landmark site for each landmark;
- (2) Designate as an historic district an area containing a number of structures having a special historical or architectural value.

Each such designating ordinance shall include a description of the characteristics of the landmark or historic district which justify its designation and a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the landmark site or historic district. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this Article. The property included in any such designation shall be subject to the controls and standards set forth in this Article. (Ord. 1995-914, § 1)

Sec. 16-492. Procedures for designating structures and districts for preservation.

A nomination for designation may be made by any member of the Board of Trustees or by any citizen by filing an application with the Town. The Town Administrator, or his or her designee, shall contact the owner of such landmarks or property within a landmark district, outlining the reasons and effects of designation as a landmark and, if possible, shall secure the consent of the owner to such designation before the nomination is accepted for review.

(1) Board review with owner's consent. The Board of Trustees shall hold a public hearing on any proposal not more than sixty (60) days after the filing of an application for designation. The Board of Trustees shall review the application for conformance with the established criteria for designation. Within thirty (30) days after the conclusion of the public hearing, but in no event more than sixty (60) days after said hearing, the Board of Trustees shall either approve, modify and approve or disapprove the proposal.

(2) Board review without owner's consent. If the owner of the property nominated for designation does not consent to the review, the Board of Trustees shall hold a public hearing on the proposal not more than sixty (60) days after the filing of the application. Notice of time, date and place of such hearing, and a brief summary or explanation of the subject matter of the hearing, shall be given by at least one (1) publication in a newspaper of general circulation within the Town not less than fifteen (15) days prior to the date of the hearing. In addition, at least fifteen (15) days prior to the hearing date, the Town shall:

a. Post the property in the application so as to indicate that a landmark or historic district designation has been applied for; and

b. Mail written notice of the hearing to record owners, as reflected by the records of the county assessor, of all property included in the proposed designation. Failure to send notice by mail to any

such property owner where the address of such owner is unknown and not a matter of public record shall not invalidate any proceedings in connection with the proposed designation.

The Board of Trustees shall review the application for conformance with the established criteria for designation. Within thirty (30) days after the conclusion of the public hearing, but in no event more than sixty (60) days after that date, the Board of Trustees shall either approve, modify and approve or disapprove the proposal. In this instance, approval shall require the affirmative vote of three-fourths ($\frac{3}{4}$) of the members of the Board of Trustees. (Ord. 1995-914, § 2)

Sec. 16-493. Criteria for designation.

The Board of Trustees shall consider the following criteria in reviewing nominations of properties for designation:

(1) Landmarks. Landmarks must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, social or geographic/environmental significance hereinafter described. A landmark could be exempt from the age standard if it is found to be exceptionally important in other significant criteria.

- a. Historic sites shall meet one (1) or more of the following:
 1. Architectural.
 - a) Exemplifies specific elements of an architectural style or period.
 - b) Example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally or locally.
 - c) Demonstrates superior craftsmanship or high artistic value.
 - d) Represents an innovation in construction, materials or design.
 - e) Style is particularly associated with the Windsor/Northern Colorado area.
 - f) Represents a built environment of a group of people in an era of history.
 - g) Pattern or grouping of elements representing at least one (1) of the above criteria.
 - h) Significant historic remodel.
 2. Social.
 - a) Site of historic event that had an effect upon society.
 - b) Exemplifies cultural, political, economic or social heritage of the community.
 - c) An association with a notable person or the work of a notable person.
 3. Geographic/environmental.
 - a) Enhances sense of identity of the community.

- b) An established and familiar natural setting or visual feature of the community.
- b. Prehistoric and historic archaeological sites shall meet one (1) or more of the following:
 - 1. Architectural.
 - a) Exhibits distinctive characteristics of a type, period or manner of construction.
 - b) A unique example of structure.
 - 2. Social.
 - a) Potential to make an important contribution to the knowledge of the area's history or prehistory.
 - b) An association with an important event in the area's development.
 - c) An association with a notable person or work of a notable person.
 - d) A typical example/association with a particular ethnic group.
 - e) A unique example of an event in Windsor/Northern Colorado's history.
 - 3. Geographic/environmental. Geographically or regionally important.

Buried human remains will be handled in as culturally sensitive and appropriate manner as possible.

c. All properties will be evaluated for their physical integrity using the following criteria (a property need not meet all of the following criteria):

- 1. Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, State or nation.
- 2. Retains original design features, materials and/or character.
- 3. Original location or same historic context after having been moved.
- 4. Has been accurately reconstructed or restored based on documentation.

(2) Districts.

a. For the purposes of this Section, a *district* is a geographically definable area including a concentration, linkage or continuity of subsurface sites, buildings, structures and/or objects. A district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria to the patterns and unifying elements. Nominations will not be considered unless the application contains written approval of sixty percent (60%) of the property owners within the district boundaries. Properties that do not contribute to the significance of the historic district may be included within the boundaries, as long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historical development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location and/or information potential.

b. District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in site type or site density as established through testing or survey.

c. In addition to meeting at least one (1) of the criteria outlined in Subsections 1 through 4 below, the district must be at least fifty (50) years old. The district could be exempt from the age standard if the resources are found to be exceptionally important in other significant criteria.

d. Historic districts shall meet one (1) or more of the following criteria:

1. Architectural.

- a) Exemplifies specific elements of an architectural style or period.
- b) Example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally or locally.
- c) Demonstrates superior craftsmanship or high artistic value.
- d) Represents an innovation in construction, materials or design.
- e) Style particularly associated with the Windsor/Northern Colorado area.
- f) Represents a built environment of a group of people in an era of history.
- g) Pattern or grouping of elements representing at least one (1) of the above criteria.
- h) Significant historic remodel.

2. Social.

- a) Site of historic event that had an effect upon society.
- b) Exemplifies cultural, political, economic or social heritage of the community.
- c) An association with a notable person or the work of a notable person.

3. Geographic/environmental.

- a) Enhances sense of identity of the community.
- b) An established and familiar natural setting or visual feature of the community.

4. Archaeology/subsurface.

- a) Potential to make an important contribution to the area's history or prehistory.
- b) An association with an important event in the area's development.
- c) An association with a notable person or work of a notable person.
- d) Distinctive characteristics of a type, period or manner of construction.

- e) Geographical importance.
- f) A typical example/association with a particular ethnic group.
- g) A typical example/association with a local cultural or economic activity.
- h) A unique example of an event or structure. (Ord. 1995-914, § 3)

Sec. 16-494. Revocation of designation.

(a) If a building or special feature on a designated landmark site was lawfully removed or demolished, the owner may apply to the Board of Trustees for a revocation of the designation.

(b) The Board of Trustees shall revoke a landmark designation upon determination that without the demolished building or feature the site as a whole no longer meets the purposes and standards for designation. (Ord. 1995-914, § 4)

Sec. 16-495. Amendment of designation.

Designation of a landmark or historic district may be amended to add features or property to the site or district. Whenever a designation has been amended, the Town shall promptly notify the owners of the property included therein and shall record a copy of the amending ordinance with the County Clerk and Recorder. (Ord. 1995-914, § 5)

Sec. 16-496. Landmark alteration certificate required.

(a) No person shall carry out or permit to be carried out on a designated landmark site or in a designated historic district any new construction, alteration, removal or demolition of a building or other designated feature without first obtaining a landmark alteration certificate for the proposed work under this Section as well as any other permits required by this Code or other ordinances of the Town.

(b) The Town shall maintain a current record of all designated landmark sites and historic districts and pending designations. If the Building Department receives an application for a permit to carry out any new construction, alteration, removal or demolition of a building or other designated feature on a landmark site or in an historic district or in an area for which designation proceedings are pending, the Building Department shall promptly forward such application to the Town Administrator and the Board of Trustees. (Ord. 1995-914, § 6)

Sec. 16-497. Construction on proposed landmark sites or in proposed districts.

No person shall receive a permit to construct, alter, remove or demolish any structure or other feature on a proposed landmark site or in a proposed historic district after the date an application has been filed to initiate the designation of such landmark site or district. (Ord. 1995-914, § 7)

Sec. 16-498. Landmark alteration application and review.

(a) An owner of property designated as a landmark or located in an historic district may apply for a landmark alteration certificate, including all information which the Planning Department determines is necessary to consider the application, including without limitation, plans and specifications showing the proposed exterior appearance, with texture, materials and architectural design and detail, and the names and addresses of the abutting property owners.

(b) Upon receipt of an application for an alteration certificate, the Planning Department shall submit that application, together with a recommendation thereon, to the Board of Trustees for final approval. (Ord. 1995-914, § 8)

Sec. 16-499. Unsafe or dangerous conditions exempted.

Nothing in this Section shall be construed to prevent any measures of construction, alteration, removal or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature or parts thereof where such condition is declared unsafe or dangerous by the Town and where the proposed measures have been declared necessary by the Town Administrator to correct the condition. (Ord. 1995-914, § 9)

Sec. 16-500. Criteria for review of an alteration certificate.

(a) The Board of Trustees shall issue an alteration certificate for any proposed work on a designated historical site or district only if the Board of Trustees determines that the proposed work would not detrimentally alter, destroy or adversely affect any architectural or landscape feature which contributes to the original historical designation. The Board of Trustees must find a proposed development is visually compatible with designated historic structures located on the property in terms of design, finish, material, scale, mass and height. When the subject site is an historic district, the Board of Trustees must also find that the proposed development is visually compatible with the development on adjacent properties. For purposes of this Section, the term *compatible* shall mean consistent with, harmonious with and/or enhances the mixture of complementary architectural styles, either of the architecture of an individual structure or the character of the surrounding structures.

(b) The Board of Trustees will use the following criteria to determine compatibility:

(1) The effect upon the general historical and architectural character of the structure and property.

(2) The architectural style, arrangement, texture and material used on the existing and proposed structures and their relation and compatibility with other structures.

(3) The size of the structure, its setbacks, its site, location and the appropriateness thereof, when compared to existing structures and the site.

(4) The compatibility of accessory structures and fences with the main structure on the site, and with other structures.

(5) The effects of the proposed work in creating, changing, destroying or otherwise impacting the exterior architectural features of the structure upon which such work is done.

(6) The condition of existing improvements and whether they are a hazard to public health and safety.

(7) The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property.

(8) Compliance with the Secretary of the Interior's Standards for Rehabilitation as listed below:

a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

c. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. When the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

h. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

1. New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property. To protect the historic integrity of the property and its environment, the new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features.

2. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. (Ord. 1995-914, § 10)

Sec. 16-501. Relocation criteria.

The Board of Trustees shall use the following criteria in considering alteration certificate applications for relocating a landmark, a structure on an historic site, a building or structure within an historic district, a structure onto a landmark site or a structure to property in an historic district:

(1) For consideration of the original site, the Board of Trustees will review for compliance with all of the following criteria:

a. Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property;

b. The contribution the structure makes to its present setting;

c. Whether plans are specifically defined for the site to be vacated, and have been approved by the Town staff;

d. If the structure can be moved without significant damage to its physical integrity and the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure;

e. Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and resiting; and

f. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.

(2) For consideration of the new location, the Board of Trustees will review for compliance with all of the following criteria:

a. Whether the building or structure is compatible with its proposed site and adjacent properties, and if the receiving site is compatible in nature with the structure or structures proposed to be moved;

b. The structure's architectural integrity and its consistency with the character of the neighborhood;

c. Whether the relocation of the historic structure would diminish the integrity or character of the neighborhood of the receiving site; and

d. If a relocation plan has been submitted and approved by the Town staff, including posting a bond, to ensure the safe relocation, preservation and repair (if required) of the structure, site preparation and infrastructure connections as described in this Code. (Ord. 1995-914, § 11)

Sec. 16-502. Exemptions from alteration certificate requirements.

An applicant may request an exemption from the alteration certificate requirements set forth herein. The applicant must provide adequate documentation to establish qualification for one (1) of the following exemptions:

(1) Economic hardship exemption. Exemptions are granted only to the specific owner and use and are not transferable.

a. For investment or income producing properties: the owner's inability to obtain a reasonable rate of return in its present condition or if rehabilitated.

b. For nonincome-producing properties consisting of owner occupied single-family dwellings and/or nonincome-producing institutional properties not solely operating for profit: the owner's inability to convert the property to institutional use in its present condition or if rehabilitated.

c. The consideration for economic hardship shall not include willful or negligent acts by the owner, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants or failure to provide normal tenant improvements.

(2) Undue hardship. An applicant requesting an exemption based on undue hardship must show that the application of the criteria creates a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues. (Ord. 1995-914, § 12)

Sec. 16-503. Enforcement and penalties.

(a) No person shall violate or permit to be violated any of the requirements of this Article or the terms of a landmark certificate.

(b) Violations of this Article are punishable as is otherwise provided in this Code and, in addition, are subject to the following penalties:

(1) Alterations to a designated landmark or district without an approved landmark alteration certificate will result in a one-year moratorium on all building permits for the subject property; and

(2) Moving or demolishing a designated structure without an approved landmark alteration certificate will result in a five-year moratorium on all moving, demolition or building permits for the structure and for the property at the structure's original location. (Ord. 1995-914, § 13)

Secs. 16-503--16-520. Reserved.

Article XXVIII

Adult Businesses

Sec. 16-521. Definitions.

As used in this Article, the following terms shall have the meanings ascribed to each of them below except where the context of this Article clearly indicates a different meaning.

(1) *Adult book store* means a commercial establishment which devotes a significant or substantial portion of its stock in trade, or interior floor space, to the sale, rental or viewing of books, magazines, periodicals, or other printed matters, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." Regardless of the stock in trade or interior floor space devoted to the activities described herein, an *adult book store* shall also include a commercial establishment wherein a significant or substantial portion of the revenues earned or a significant or substantial portion of its advertising expenditures are used for the promotion of the activities described herein.

(2) *Adult business* includes, but shall not be limited to, adult motion picture theaters, nude entertainment, adult book stores and other similar businesses.

(3) *Adult motion picture theater* means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(4) *Appearing in a state of nudity*. A person appears in a state of nudity when such person is unclothed or in such attire, costume or clothing as to expose any portion of the female breasts below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(5) *Nude entertainment* includes any type of entertainment where a person appears in a "state of nudity."

(6) *Specified anatomical areas* include any of the following:

a. Less than completely or opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.

b. Human male genitals in a discernible turgid state even if completely and opaquely covered.

(7) *Specified sexual activities* include any of the following:

a. Human genitals in a state of sexual stimulation or arousal.

b. Acts of human masturbation, sexual intercourse or sodomy. (Ord. 2000-1061, § 1)

Sec. 16-522. Location restrictions.

(a) The operation of adult businesses shall be limited to those areas of the Town zoned Heavy Industrial (IH) and Limited Industrial (IL).

(b) No adult business, service or entertainment establishment shall be operated or maintained within seven hundred fifty (750) feet of any school certified or licensed by the State, any church property, any residentially zoned property, public park, cemetery or an existing adult business. For purposes of this Section, distance shall be measured in a straight line without regard to intervening structures and shall be measured from the closest property line of the adult business to the property of the uses identified in this Section. (Ord. 2000-1061, § 2)

Sec. 16-523. Times of operation.

(a) With the specific exception of adult book stores, all other adult businesses as defined by this Article shall be open for business only during the hours of 7:00 a.m. and 12 midnight Monday through Saturday of each week.

(b) There shall be no restrictions on the hours of adult book stores. (Ord. 2000-1061, § 3)

Sec. 16-524. Age restrictions.

(a) With the exception of adult book stores, no one under twenty-one (21) years of age shall be admitted to any adult business, nor shall any employee, agent, servant or independent contractor working on the premises be under the age of twenty-one (21) years.

(b) No one under the age of eighteen (18) years shall be admitted to any adult book store, nor shall any employee, agent, servant or independent contractor working on the premises be under the age of eighteen (18) years. (Ord. 2000-1061, § 4)

Sec. 16-525. Buffering.

Adult businesses shall be adequately buffered through the use of facade treatment, landscaping and fencing to minimize negative secondary impact on other commercial uses, residential uses, public parks, churches or public or private schools certified or licensed by the State which are present in the vicinity.

Buffering requirements shall be determined for the perimeter of adult businesses on a case-by-case basis by reviewing the intensity of the establishment and comparing it to the type and location of surrounding land uses. (Ord. 2000-1061, § 5)

Sec. 16-526. Lighting and signage.

The lighting and signage for adult businesses shall be arranged, shielded and restricted so as to prevent negative secondary impacts on adjacent streets, other commercial uses, residential uses, public parks, churches or public or private schools certified or licensed by the State which are present in the vicinity. Lighting and signage requirements shall be determined on a case-by-case basis by reviewing the intensity of the establishment and comparing it to the type and location of surrounding land uses. The lighting and signage requirements set forth herein shall be in addition to those requirements otherwise set forth in this Code. (Ord. 2000-1061, § 6)

Sec. 16-527. Form of expression.

Nothing in this Article shall be construed so as to apply to the presentation, showing or performance of any play, drama, ballet or motion picture in any theater, concert hall, museum, school or similar establishment, as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of a state of nudity for the purposes of advancing the economic welfare of a commercial or business establishment. (Ord. 2000-1061, § 7)

Secs. 16-528--16-540. Reserved.