



**Planning & Zoning Commission
Tuesday, June 6, 2023, 5:00 PM
Public Meeting Room / Eagle Town Hall
200 Broadway, Eagle, CO 81631**

This agenda and the meetings can be viewed at www.Townofeagle.org.

PUBLIC WIFI – Eagle Guest

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

1. This will be an in-person meeting with access via Microsoft Teams. First-time users of Teams will need to download the app.

Microsoft Teams meeting

Join on your computer, mobile app or room device

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Meeting ID: 283 535 340 297 | Passcode: imm9Lz

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Phone Conference ID: 876 654 718#

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Please Note: All participants must remain muted until they are requested to speak. This will reduce background noise disruptions for all meeting attendees. When it is your turn to speak, you will have three (3) minutes for public comment. For technical difficulties, please email Nikki.Davis@townofeagle.org and we will do our best to assist you.

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on this agenda can be submitted to the Planning Department at Planning@townofeagle.org and will be included as part of the record.

6:00 PM - REGULAR MEETING CALLED TO ORDER

PUBLIC COMMENT

Citizens are invited to comment on any item not on the agenda subject to a public hearing. Please limit your comments to three (3) minutes per person. Those who are speaking are requested to state their name & address for the record.

PUBLIC HEARINGS

1. Project: ReCode Eagle - Town of Eagle Updated Land Use and Development Code - Public Recommendation Hearing

File # LURA21-02
Applicant: Town of Eagle
Location Town of Eagle
Staff Contact: Chad Phillips, Community Development Director/Town Planner
Request: To table the adoption of the updated Land Use and Development Code to the July 18, 2023 Planning & Zoning Commission meeting.

OPEN DISCUSSION

ADJOURN

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.



Nikki Davis
Administrative Technician II



To: Town of Eagle Planning and Zoning Commission

From: Community Development Department Planning Staff
Chad Phillips, Director

Date: June 6, 2023

RE: ReCode – Adoption Recommendation and Further Discussion

The June 6, 2023 Town of Eagle Planning and Zoning Commission meeting was advertised to include the ReCode Adoption Draft Review and Recommendation to Town Council. Due to factors such as 1) ongoing review of sections (LERP, Parking, Design and Use Standards), 2) addressing comments from the Town Attorney, and 3) addressing last-minute public comment, the adoption draft isn't ready for Planning & Zoning Commission consideration at this time. Staff would like to take this ReCode agenda item to bring the Commission up-to-speed on specific modifications and take comments on these sections. Staff will be recommending a motion to table the recommendation date-specific (see below).

Elizabeth Garvin from Clarion Associates will be presenting a slide deck that details the following topics:

Local Employee Residency Program (LERP):

At recent Town Council meetings, Council has directed staff and Clarion to make modifications to the LERP section, including:

- LERP requirements only apply to developments with ten or more units,
- Affordable units will be 15% of total units,
- Resident Only (RO) units will be 35% of total units
- Numbers/percentages of restricted units apply to both rental and for sale product,
- Area Median Income (AMI) averaging has been removed,
- Incentives and Adjustments apply to all (not just where a minimum percentage has been met),
- Height Adjustment on Broadway and CMU2 includes stepback provision, AND
- Clarified Density Bonus

Design Standards:

While the P&Z Commission already provided comments on the Design Standards section ([LINK](#)), there were several members who were absent during this discussion. The team will be highlighting this section so that all members will have the opportunity to provide feedback on this important topic.

Standards for Specific Land Uses and General Criteria:

- Staff and the consultant team have done an additional round of review and edits to the Primary Use Table to consider whether new or revised use-specific standards should trigger and administrative permit and adjacent property owner notice prior to building permit application. The goal of this review was to balance the potential impact of the use on the neighborhood and Town (leans more toward administrative review) versus the time needed to add a new permit review to a use approval (leans more toward just building permit review).
- We have revised the generally applicable use review criteria and this will be the first opportunity for this P&Z Commission to review this language.

- Level of review for Home Occupations
- Short Term Rentals

Commercial Interchange Zone District:

Located within the East Eagle Sub-area Plan is a specific land use category that envisions specific commercial land uses, size, and intensity that are associated with the type of activity abutting an interstate interchange. While this new district was part of the working draft, the attached includes the following additions:

- Revised intent statement
- Measurement illustration
- District-specific standards

Please review the attachments and share your thoughts with staff and our consultant.

RECOMMENDED MOTION:

“I move to table the recommendation for the ReCode Adoption Draft to the July 18, 2023 Planning & Zoning Commission meeting.”

ATTACHMENTS:

- CI Zone District
- LERP Section
- Land Use Standards
- Short Term Rentals

1CHAPTER 4.1 COMMERCIAL INTERCHANGE (CI)

A. Intent

The Commercial Interchange district is intended for travel-adjacent commercial and tourist uses, including lodging, dining, and retail, that connects to and supports guest and tourism activities in the Town. CI districts shall be located at major interchanges that bring visitors into the Town. Standards for the Commercial Interchange district are focused on creating an enjoyable and safe visitor experience through high quality development and public realm improvements.

B. Permitted Uses

Allowed uses are identified in Table 4.9-1: Primary Use Table and Table 4.9-2: Accessory Use Table.

C. Lot and Building Standards

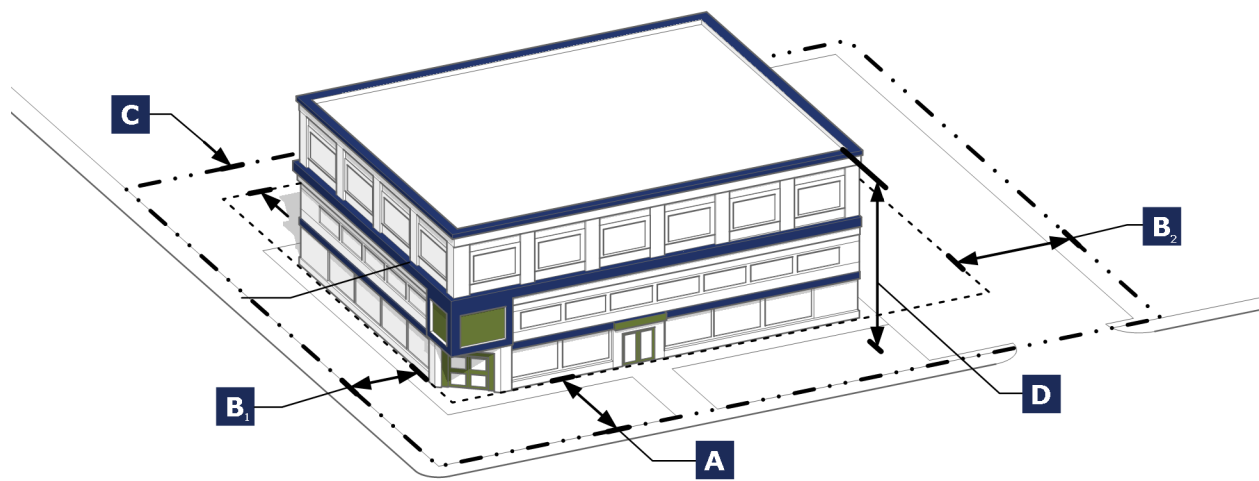


Table 4.5-1: CI Lot and Dimensional Standards

Lot Standards		Building Standards	
Lot Area, total		D	Height (max)
Public Street Frontage (min)			35 ft [1]
Lot Coverage (max)			Building Footprint (max)
			25,000 sf
Building Placement		Parking Standards	
Setbacks		Parking location	
		Side or rear yard	
A	Front (min)	Required parking	
B1	Street Side (min)	Sec. 4.12	
B2/C	Rear (min) or Interior Side	Design Standards	
	Parking lot adjacent	Site layout	
	Com/Ind district adjacent	Sec. 4.10	
	Mixed-use district adjacent	Mixed-use structures	
	Residential dist. adjacent ¹	Sec. 4.10	
		Residential structures	
		Sec. 4.10	
Live Stream Setback			
No disturbance area		75 ft	

Table Notes:

A. Inclusionary Residential Requirements for Local Employee Residency Housing and Affordable Housing**1. Purpose**

- a. The purpose of this section is to mitigate the impact of market rate housing construction on the limited supply of available land suitable for housing, and to increase the supply of housing that is affordable and available to a broad range of persons who live and/or work in the Town. In recent years, the impacts of the cost of housing increasing at a rate much faster than wage increases for most households and especially low to moderate income households, changes to in-person work requirements, and continued population in-migration to Colorado have significantly affected housing availability in Eagle. This section will help ensure the provision of housing that meets the needs of all economic groups within Eagle.
- b. The Town of Eagle is committed to increasing the supply of affordable housing in the community to expand the economic vitality that is derived from having a range of housing types, costs, and household incomes. Eagle will benefit from an enhanced community vibrancy generated by the inclusion of inventory of for-sale housing for the local workforce that earns 140 percent of the Area Median Income (AMI) or less, and rental housing for the local workforce that earns 80 percent or less of the AMI.
- c. The Town recognizes that affordable and local employee resident housing is a valuable community resource that needs to remain available not only for current residents and employees, but also for those who may come to the area in the future. For this reason, deed restrictions or other methods that assure that prices remain affordable over time are necessary.

2. Eligibility

- a. Affordable Housing: Housing that is affordable to households with incomes that qualify for the AMI levels:
 - i. For sale units shall be affordable to households whose earnings do not exceed 140% of the AMI.
 - ii. For rent units shall be affordable to households whose earnings do not exceed 80% of the AMI.
- b. Local Employee Resident: A resident of the Town of Eagle who meets the employment qualifications of the Local Employee Resident Requirements and Guidelines (LERP Guidelines).¹
- c. Resident Occupied (RO) Unit: A unit that is deed restricted for availability to persons who meet Local Employee Resident requirements.

¹ The Town will update the LERP Guidelines following adoption of the LUDC. Changes will include establishing a timeframe for offering RO units to the general public and creation of a qualification priority “waterfall” that specifies the order in which housing applicants qualify for units.

3. Applicability

- a. Residential units that meet the requirements of Section A.5 shall be required as a condition of approval for all residential development, including:
 - i. New units,
 - ii. Redevelopment that creates new units in excess of any units that originally existed on the site, and
 - iii. Infill that is either new development or redevelopment.
- b. A residential development applicant shall not avoid the mandatory provision of affordable or RO units by submitting piecemeal applications or approval requests. Any applicant may submit a development application that intends construction of dwelling units, including applications for preliminary plats, site plans, preliminary development plans, or building permits, for less than the applicable number of dwelling units at any time; but the applicant shall agree in writing that upon the next such application or request, the applicant will comply with this section when the total number of dwelling units at one location has reached the applicable number of dwelling units.
- c. Development that was fully and finally approved prior to the effective date of this section shall only be required to comply with these requirements if an amendment is requested to provide 10 or more additional units in an existing development. When calculating the total number of affordable and RO units required, the total number of units proposed shall only be the additional units and shall not include the existing units.

4. Exemptions

The following development is exempt from the requirements of this section:

- a. Affordable units that meet the eligibility requirements of this section shall not be included in the total unit count.
- b. Accessory dwelling units.
- c. Proposed rental or for-sale residential development of less than ten units.
- d. Development which is exempt by virtue of a vested property right pursuant to a site-specific development plan as defined and established in accordance with C.R.S. § 24-68-103 and Chapter 4.17 prior to the effective date of the ordinance from which this section is derived, or which is otherwise specifically exempt pursuant to an ordinance of the Town.

5. Residential Development Requirements

a. Number of Local Employee Residences Required

All residential development with 10 or more for-sale or rental units, approved after the Effective Date, shall set aside the following units:

- i. Affordable Units: 15 percent, and
- ii. Resident Occupied Units: 35 percent

b. Calculation of Units Proposed

The affordable and RO housing calculation shall be made with the approval of a preliminary plat, development plan, PUD final plan, or other similar planning approval. If the final calculation of the number of required units includes a fractional unit, if the fraction is 0.5 or higher, the number of units is rounded up to the nearest whole number, and if the fraction is below 0.5 the number of units is rounded down to the nearest whole number.

c. Planned Unit Development Alternative²

An applicant may propose a PUD that provides at least 50 percent of the required affordable and RO units in conjunction with the provision of an additional identified community benefit.

d. Credits for Development of Excess Affordable Housing**i. Award of Credit³****(a) By Agreement**

At the time of affordable or RO unit calculation, an applicant may enter into an agreement with the Town that the applicant shall develop more affordable or RO units than would otherwise be required under this section.

(b) Certificate of Credit

Provided that such housing is actually developed, and a certificate of occupancy issued, the Town shall award the developer a credit for each unit in excess of the minimum number required.

(c) Exceptions

No credit shall be available for any affordable or RO housing built on land donated or sold at a significant discount for the purpose of developing affordable housing in satisfaction of this section or any prior affordable housing requirements of the Town; or for any affordable housing receiving any Town-funded or Town-administered assistance whether financial subsidy, tax relief or other credits or incentives from the Town. However, a development's use of a loan from the U.S. Department of Housing and Urban Development shall not disqualify its affordable housing from generating a credit.

ii. Redemption of Credit

Credit may be redeemed to offset an equivalent number of affordable or RO housing units that would otherwise be required under this section. Credit shall be freely transferable to any other developer, but shall be transferred in a manner acceptable to the Director so as to ensure accurate tracking of the transfer of credits by the Town.⁴ A credit shall expire ten years after it is awarded unless, within that time, the Town executes an agreement with the holder of the credit to apply the credit to a specified development. Before the credit expires, the Director may, upon request, in writing, and for good cause, extend the term of the credit by one additional term of two years.

6. Options to Satisfy Requirement

² PZC: Proposed new provision to allow an applicant some flexibility in meeting LERP requirement.

³ Should we separate rental credits from ownership credits, should this just be price related? Should we set a base for credits created by Habitat or LIHTC housing?

⁴ Community Development will create an administrative tracking program.

a. On-Site Construction

- i. On-site affordable or RO unit construction shall be provided to the maximum extent feasible. The affordable or RO units shall be provided at the same site as market-rate units.
- ii. Phasing of construction of affordable or RO units and securities for each phase shall be detailed in a development agreement approved by the Town.
- iii. Affordable units must be placed on a fair and equal footing as market-rate units within the governing documents of any homeowners' association or similar entity.

b. Alternative Compliance⁵

At the sole discretion of the Town Council, a project's affordable or RO housing requirement may be met through alternative compliance in one or a combination of the following ways:

i. Housing Fee in-Lieu

- (a) Applicants may pay a fee in- lieu to the Town for each required affordable unit. The fee shall be established by Town Council by resolution during annual fee adoptions or at such time as may be determined by Town Council.
- (b) The in-lieu fee shall be paid at the time of site plan approval, but before any subsequent permits are issued. The fee paid shall be the fee in effect at the time of the final site plan for the development.
- (c) Fee in lieu funds shall be used by the Town for the purposes of planning for, subsidizing, acquisition of properties for, or developing affordable housing in partnership with other organizations and developers whose interest is to provide these housing options.
- (d) The fee in lieu shall be reviewed by the Town annually and, if necessary, a recommendation shall be made to Town Council on whether an adjustment to the fee is warranted in order to meet the purpose of this section.

ii. Off Site Location

- (a) A developer may seek to provide affordable units within the Town in a different location than the development of the market-rate units.
- (b) The developer shall provide no less quantity of affordable housing than would have been required on-site.
- (c) The affordable units may not be located in a low to moderate income area as designated by the U.S. Department of Housing and Urban Development.
- (d) Existing homes may be acquired and deed restricted as affordable if they are in good repair in the determination of the Director based on an inspection paid for by the developer but commissioned by the Town, carry a warranty of sufficient scope and duration to protect the resident from significant preexisting deficiencies, and are not already burdened by restrictions requiring them to be kept affordable or restrictions similar in effect.

⁵ PZC: Colorado statutes only require alternative compliance for affordable housing. Should this section be applied to RO units also?

- (e) No preliminary plat, development plan, or PUD preliminary plan shall be executed for the location of the market-rate units until a preliminary plat sufficient to facilitate the development of the affordable units, and development plan, PUD preliminary plan, if necessary, have been recorded. Phasing and security shall be governed in the same manner as development of on-site locations. The affordable housing agreement shall run with the land and shall be recorded against the off-site location.
- (f) Approval of the use of this option does not guarantee approval of any land use application or building permit for the off-site location. The developer risks forfeiture of security if unable to build the off-site units as proposed.

iii. Land Dedication

A developer may seek to provide land to the Town in lieu of the development of affordable units. Dedicated land must meet the following standards:

- (a) All off-site infrastructure necessary or proper for the development of the land as affordable housing either:
 - (i) Must already be in place, and any outstanding obligations paid to neighboring landowners for public infrastructure they installed;
 - (ii) The developer must agree to build the infrastructure within a timeframe that will not delay the development of the affordable housing and the developer may be required to post securities for the infrastructure via a public improvement agreement; or
 - (iii) The land donation must be accompanied with additional compensation to the Town sufficient to construct such infrastructure.
- (b) The land must be able to support at least the quantity of affordable housing as would be required on-site, without the need for a variance, modification, rezoning, or reliance on any incentive for affordable housing found in this section, such as a density or height bonus. The developer shall submit a concept plan illustrating how it complies.
- (c) The land must not be encumbered in any manner, including, but not limited to, any lien, outstanding tax or fee accrued, or floodplain, hazards/sustainability/wildlife/ which in any way jeopardizes the Town's ability to develop that quantity of housing.
- (d) The land may not be located in a low to moderate income area as designated by the U.S. Department of Housing and Urban Development.
- (e) The land must be dedicated to the Town at the time of execution of the plat or plan allowing the development of the market-rate units.
- (f) The land dedication must be in fee simple and by general warranty deed.

c. Redemption of Credits

A developer may acquire, and redeem credits generated as described in subsection 3 of this section to offset an equivalent quantity of required affordable housing.

7. Incentives and Adjustments

a. Applicability

Development projects that provide a total of 60 percent affordable and RO units may qualify for the following incentives and adjustments. Community Development staff will work with the applicant to identify a combination of incentives and adjustments that will accommodate the development on the site while resulting in the least detrimental impact to the neighborhood and adjoining properties.

b. Incentives

In qualifying developments where affordable units will be constructed on-site, the following incentives shall apply:

i. Fee Reduction

Applications shall receive a development review fee reduction of \$2,500 per unit⁶ for required affordable and RO units, not to exceed 50 percent of the total Community Development fee obligation. This fee reduction shall be applied as a rebate to the total of any fees listed in the Community Development Fee Schedule incurred by a project across all required applications. For example, if a final plat and site plan are required, the rebate would be applied to the combined total fees of those two procedures. The rebate would be provided at the time a certificate of occupancy is released for all on-site affordable units required for that particular phase of development.

ii. Projects with All Affordable Units

If the proposed development is for construction of all affordable units, a developer may propose alternative adjustments to any numerical bulk or height standard required by the zoning district provided the resulting development complies with the overall purpose of the district and the objectives of this section. Approval of these adjustments are at the discretion of the Town Council and must be approved by the Town Council before the initial approval of the development.

c. Adjustments

Community Development staff may apply any combination of the following adjustments to accommodate the inclusion of affordable housing units:

- i.** Minimum lot setbacks or lot widths may be adjusted by up to 20 percent, not including riparian setbacks or buffers;
- ii.** Maximum lot coverage may be increased by up to 20 percent;
- iii.** Minimum lot size may be reduced by 20 percent;
- iv.** Maximum height may be increased:
 - (a)** Original residential zoning district limit of 35 feet may be increased to 40 feet;
 - (b)** Structure height for buildings facing Broadway or in the CMU2 district may be increased by 1 story, not to exceed an additional 15 feet above the original maximum height, in compliance with the stepback requirements in Section <> [x-ref site and structure standards]; and
- v.** If a public park or open space are located within 1,320 feet and safely accessible to the development site, any required open space dedication or in-lieu fee, but not applicable impact fees, may be reduced by 50%.

⁶ PZC: Should this apply to both affordable and RO or just affordable?

d. Density Bonus

An applicant may request one additional market-rate residential unit per affordable unit to the maximum density permitted by the comprehensive plan. For example, where a single-family detached unit is allowed, a duplex may be allowed. Density bonus requests shall be submitted to the Town Council for review and decision through a Section <> Development Plan request.

8. Character of Local Employee Residences

Affordable and RO units shall be a mix of unit types and sizes on site that are distributed throughout the proposed development, to the extent possible. A mix of unit types and sizes in multifamily development shall include a range of unit sizes and number of bedrooms. The proposed character and density of affordable and RO units shall be compatible with the surrounding land uses and neighborhood character, and suitable for the proposed site. Development and construction of affordable and RO units shall comply with all other requirements of this LUDC.

9. Schedule for Construction of Local Employee Residences

A developer shall construct the required affordable or RO units prior to, or concurrently and proportionally with, the production of market rate housing or the sale of market rate lots. Prior to receiving development approval, the developer shall provide the Town with a proposed construction schedule for approval by the Town that clearly delineates the start and completion dates of the production of market rate units and/or the sale of market rate lots and the construction of affordable or RO units in accordance with the Town's LERP Guidelines.

10. Deed Restrictions

All affordable and RO units required by this section shall be deed restricted, in accordance with the requirements of the LERP Guidelines, and as approved by the Town Attorney, as to rental or ownership and occupancy by persons and as to the resale price of the unit. The deed restriction shall be provided to the developer for review at the time of approval of the developer's local employee residency plan. Prior to the issuance of any building permit within the development, the Town shall have an approved, executed, and recorded deed restriction for all affordable and RO lots or units in the project or phase of the project, if applicable. The deed restrictions shall not be subject to any recorded liens or encumbrances.

11. Local Employee Residency Plan

- a. All applications for approval of residential projects that are required to comply with this section shall be accompanied by an affordable and local employee residency plan, unless otherwise determined by the Director. The plan shall contain sufficient information to allow the Town to determine the plan's compliance with this section and the Town's LERP Guidelines. The affordable and local employee residency plan shall include, but shall not be limited to, the information specifically required by the Town's LERP Guidelines.
- b. Upon receipt of a complete proposed affordable and local employee residency plan, the Director shall evaluate the plan for compliance with this section and the Town's Local Employee Residency Requirements and Guidelines. The Director may make a recommendation of approval, recommendation of approval with appropriate conditions, or a recommendation of denial. Following receipt of the Director's recommendation, and as a part of the Town's procedures for review and final approval of the application, the reviewing body may decide on the plan.

CHAPTER 4.1 STANDARDS APPLICABLE TO ALL USES¹

A. Applicability²

In all zone districts, except as otherwise specified herein, all uses shall be designed and operated in compliance with the following minimum standards:

B. Water and Sanitation Service

All uses shall have water and sanitation service based on accepted engineering standards and approved by the Town and the State Department of Public Health and Environment.

C. Operational Performance Standards³

1. Applicability

- a. All uses in any district of the Town shall conform in operation, location and construction to the subjective performance standards herein specified so that the public health, safety, and welfare will be protected.
- b. The Director shall require such evidence of ability to comply with appropriate performance standards and mitigation measures as deemed necessary by the Director prior to issuance of a building permit and certificate of occupancy.

2. Exemption

The following are exempt from the performance standards of this section:

- a. Temporary construction, excavation and grading associated with development for which applicable permits have been issued and with the installation of streets or utilities; and
- b. Demolition activities that are necessary and incidental to permitted development on the same lot, on another of several lots being developed at the same time or in the public right-of-way or easement.

3. General

- a. Health, Safety, and Welfare: The use shall be consistent with public health, safety and welfare.
- b. Comprehensive Plan: The use shall be consistent with the comprehensive plan and all applicable sub-area plans.
- c. Local, State, and Federal Regulations and Standards: It is the intent of the Town to avoid unnecessary and duplicative regulations. Every use shall be operated in conformance with all applicable federal, state, and local regulations and standards. Failure to comply with any and all applicable federal, state, and local regulations and standards may be cause for review and/or revocation of any use approval granted pursuant to this LUDC.
- d. LUDC Standards: The use shall comply with applicable standards in this LUDC.

¹ Current 4.04.100.J

² Drafting note: this standard will be moved to the parking and loading section: “

³ Drafting note: additional standards related to sensitive lands, hazard areas, and wildlife have been included in Chapter 4.14, Sustainability, Resilience, and Hazards.

- e. Infrastructure Standards: The use and site shall comply with applicable infrastructure standards.
- f. Significant Negative Impacts: The proposed use shall not create any significant negative impact in surrounding areas. Significant negative impacts are generally considered to be impacts that do not meet regulatory and/or generally accepted performance and environmental standards. If the Director, Planning & Zoning Commission, or Town Council determine that an application has the potential to create a significant negative impact in the surrounding area, mitigation may be required. If adequate mitigation cannot be accomplished, the proposed use shall not be permitted. Issues that may be reviewed for potentially significant negative impacts include, but are not limited to:
 - (a) Public Roads
 - (b) Services and Infrastructure
 - (c) Road Capacity
 - (d) Traffic, and traffic safety
 - (e) Natural Hazards
 - (f) Wildlife and Wildlife Habitat
 - (g) Water Quality and Quantity
 - (h) Air Quality Visual Amenities and Scenic Qualities
 - (i) Wildland Fire
 - (j) Noise
 - (k) Wetlands
 - (l) Land Use Compatibility
 - (m) Odors
 - (n) Vibration
 - (o) Snow Storage
 - (p) Historical Significance
 - (q) Reclamation and Restoration
 - (r) Noxious weeds

Short-Term Rentals

1. Short-Term Rentals¹

a. Maximum Number Permitted

The maximum number of STR registrations issued for full-home rentals shall not exceed 2% of the total number of residential units [single-family residential units] in the Town as calculated by the Director. Short-term rentals in full time owner occupied rentals are exempt from this cap.

b. Short-Term Rentals Prohibited

The use of permanently affordable housing for short-term rentals is prohibited.

c. Registration Required

A current, valid registration is required for each STR in the Town, as well as a Town business license pursuant to Section 5.04.020.

d. Registration Procedure

At least ten (10) days prior to any advertising of an STR, the owner or property management firm shall register the STR with the Director on forms supplied by the Town. For professionally managed STRs, registration for multiple STRs may be made by filing a complete list of all the STRs in the Town managed by such firm, on forms supplied by the Town, and the list shall be updated at least quarterly.

¹ Current standards, adopted in 2020