



Town Council
Tuesday, August 22, 2023
Public Meeting Room / Eagle Town Hall
200 Broadway Eagle, CO

*This agenda and the meetings can be viewed at www.Townofeagle.org.
Times listed are approximate and are subject to change.*

TOWN COUNCIL MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

1. This will be an in-person meeting with access via Teams.

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 242 229 362 246

Passcode: 9jCo8n

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- **Please note: All participants must remain muted until they are requested to speak. This will reduce background noise disruptions to the meeting attendees.**
- **When it's your turn to speak, you will have three (3) minutes for public comment.**
- **PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on this agenda can be submitted to Jenny Rakow, Town Clerk, and will be included as part of the record.
For technical difficulties, please email jenny.rakow@townofeagle.org and we will do our best to assist you.**

CALL TO ORDER - 6:00 PM

ROLL CALL

ADOPTION OF AGENDA *Opportunity for amendment or deletions to the agenda.*

PUBLIC COMMENT - 6:05 PM *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 per topic unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to state their name and address for the record.*

PRESENTATIONS - 6:10 PM *Presentations are limited to 5 minutes. Invited presentations are limited to 10 minutes if prior arrangements are made with the Town Clerk.*

1. Eagle Valley Community Foundation, Melina Valsecia & Merv Lapin
2. Eagle River Watershed Council, Beyond Lawn Program Funding Request, James Ditzell, Executive Director

CONSENT AGENDA - 6:30 PM *Consent agenda items are routine Town business, items that have received clear direction previously from the council, final land-use file documents after the public hearing has been closed, or which do not require council*

deliberation.

1. Minutes, August 8, 2023
2. Resolution 56, Series 2023 "A Resolution of the Town Council of the Town of Eagle, Colorado Entering Into an Intergovernmental Agreement for a Financial Match With the Colorado Department of Transportation (CDOT) for a Multimodal Transportation and Mitigation Options Fund (MMOF) Grant for the Sylvan Lake Road (SLR) Construction Improvements"

STAFF REPORTS - 6:35 PM *The Town Manager and department staff prepare and provide internal updates to the council.*

1. Town Manager Update
2. Second Quarter Sales Tax

BUSINESS ITEMS - 6:40 PM *Items and / or Public Hearings are listed under Business may be old or new and may require review or action by the council.*

1. PUBLIC HEARING: File # LURA21-02: Amended Land Use and Development Code (ReCode) and the Amended Town of Eagle Zoning Map *(This is a continuation of the Public Hearing held on August 8, 2023 and no further public comment will be taken.)*
 - a. Ordinance 06, Series 2023 "An Ordinance of the Town Council of the Town of Eagle, Colorado Repealing and Reenacting Title 4 of the Eagle Municipal Code and Adopting a New Zoning Map"

COUNCIL DISCUSSION AND FUTURE AGENDA ITEMS - 7:00 PM

1. Future Agenda Items
2. Council Committee Updates

ADJOURN - 7:15 PM

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.



Jenny Rakow, CMC
Town Clerk

PUBLIC WIFI – Eagle Guest

EVCF Update



EAGLE VALLEY
COMMUNITY
FOUNDATION



 **mira**



ELEVATE

Healthy Food. Access to Wellness.

Dignity For All.



Eagle Valley Community Foundation

- **Mision**

- **EVCF provides access to programs and resources that support wellness, healthier food, and other essential needs in our community while embracing individual dignity and a commitment to sustainability and quality.**

- **Vision**

- **A community network that works together to build trust, hope, and wellness for all.**

*We are a unique, untraditional community foundation,
empowering families who are living and working in our Valley
to gain a hand up, not a hand out.*

What Is Food Insecurity?

The USDA defines food insecurity as a lack of consistent access to enough food for every person in a household to live an active, healthy life. This can be a temporary situation for a family or can last a long time. Food insecurity is one way we measure how many people can't afford food.

More than 34 million people, including 9 million children experience food insecurity in the United States.

Many people in our Valley struggle to meet their basic needs, increasing their food insecurity risk. For example, the seasonality of work, unexpected car maintenance, or an accident can suddenly force a family to choose between buying food and paying bills.

The causes of food insecurity are complex. Some of the causes of food insecurity include:

- Poverty, unemployment, or low income
- Lack of affordable housing
- Chronic health conditions or lack of access to healthcare
- Systemic racism and racial discrimination



The Community Market- How do we drive change?

- 2 Markets with hours adapted to local people's need
- Mobile markets visit neighborhoods
- Mobile Markets at early childhood programs and to local college students
- Provide ingredients for senior meals and food boxes
- Robust Food and Grocery Rescue effort- ReCOVER
- Local residents can shop in any location at a time that is convenient for them
- Bringing food to people with transportation and other barriers.
- Offering snack closets, food pantry, and food ingredients for meals to local children and young adults
- Collaborate with volunteers to prepare 50 meals a week and distribute 24 food boxes to seniors
- In 2022, TCM rescued 576,000 pounds of food and prevented it from going to waste



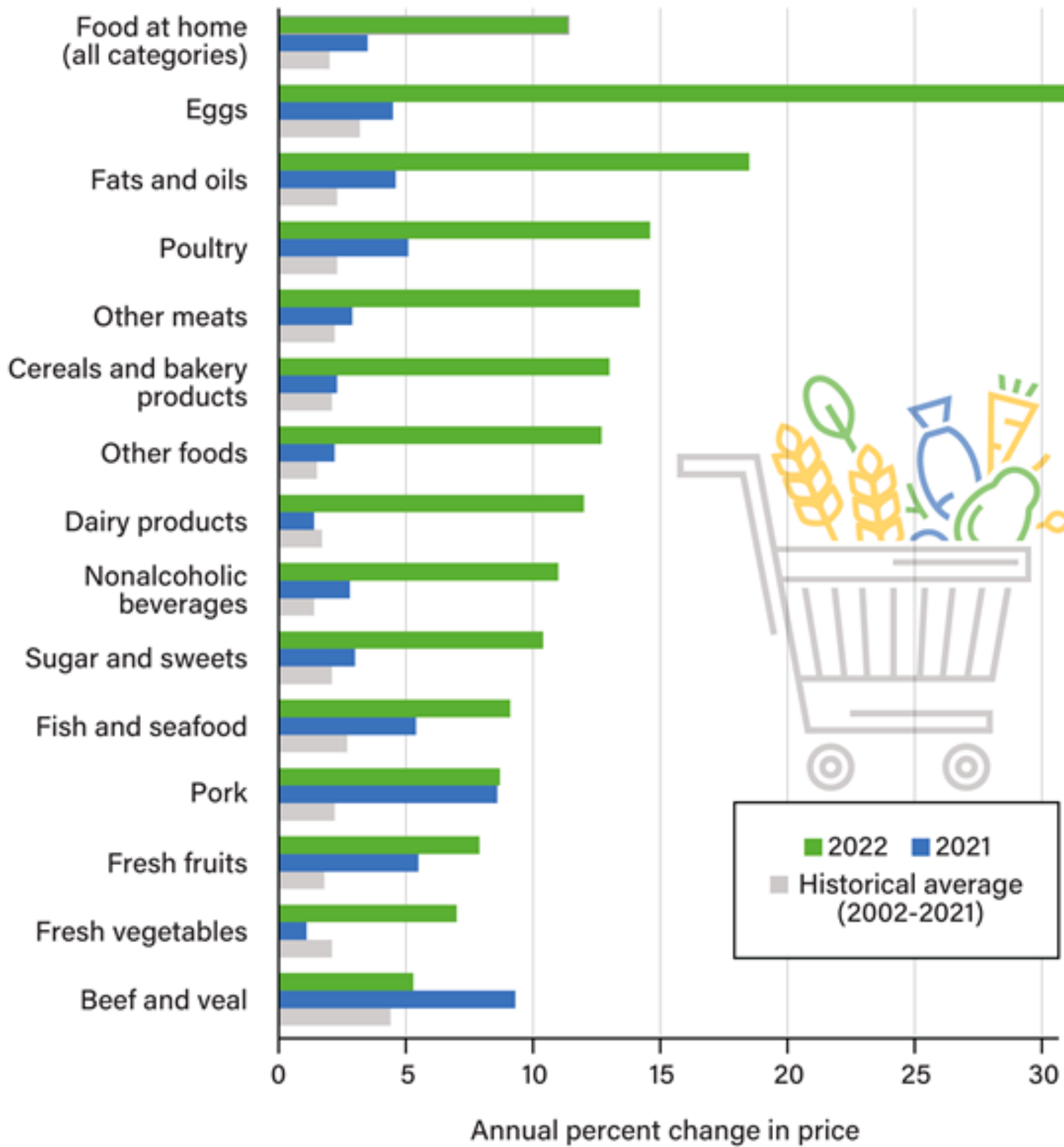
The Community Market- How do we drive change?

- Customer choice and great shopper experience
- School Lunch Debt Payment
- Nutrition, Budgeting, and food safety classes
- The Community Market is turning excess into access.
- Customers are empowered to select and pick the best food for their families.
- Parents in Early Childhood Programs in ECS can have a head start on a new school year without having to choose about lunch debt and other bills. Highschool students can graduate without worrying their parents cannot afford it.
- Behavior changes toward healthy eating, expending money, and supporting our workforce in the restaurant industry.
- Feeding people, and then animals





According to the USDA, the price of food for home consumption rose by **11.4% last year** and it's expected to rise by another **8.6%** in 2023. Compare that to the last two decades, when average year-to-year food price inflation was 2%. **Our neighbors and market are at the limit of what we can afford.**

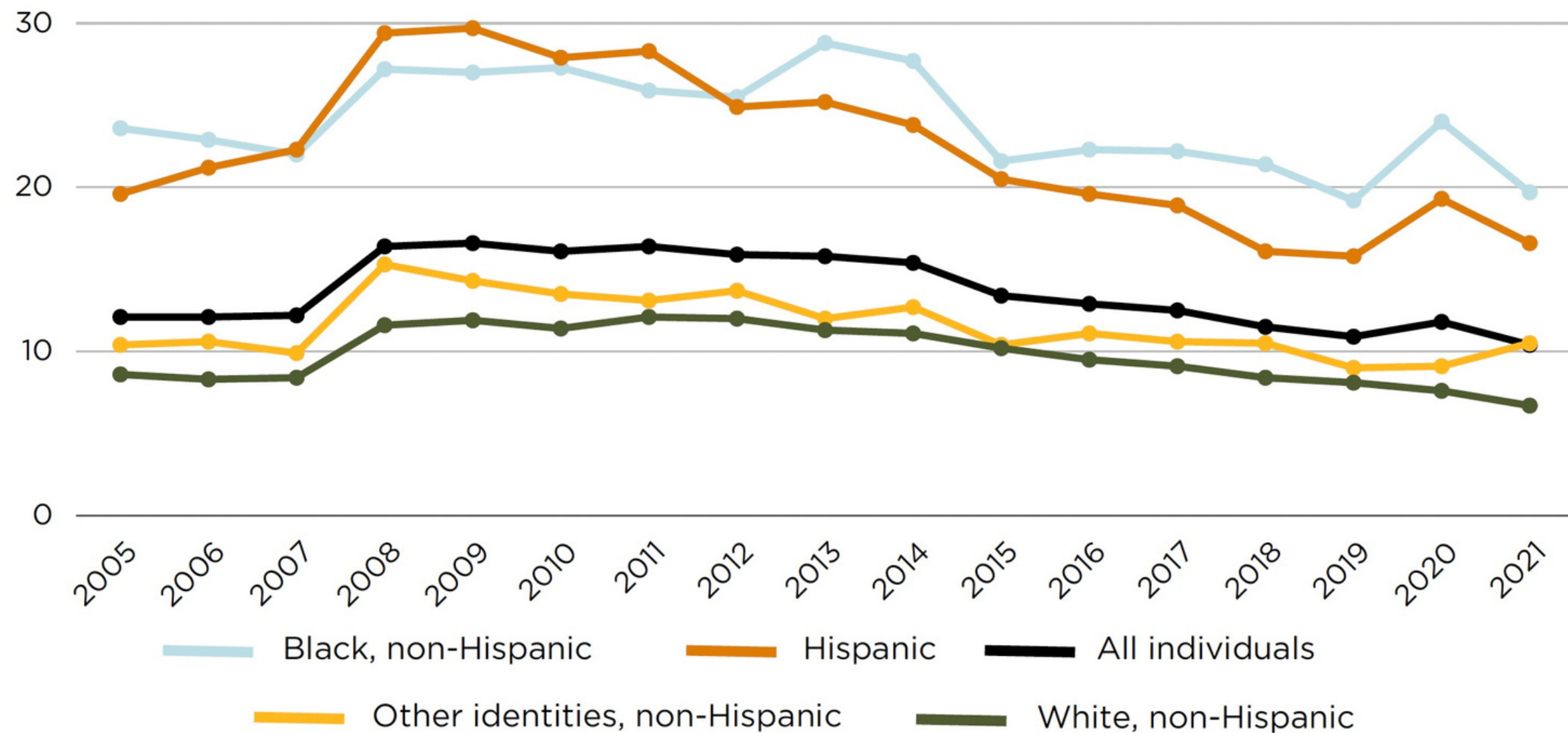


Note: **Food at home** is typically bought from grocery stores or other food stores. The **Other foods** category includes soups, frozen and freeze-dried prepared foods, snacks, spices, seasonings, condiments, baby food, prepared salads, and other miscellaneous foods.

Source: USDA, Economic Research Service using U.S. Bureau of Labor Statistics Consumer Price Index data.

Feeding America: Meal Gap

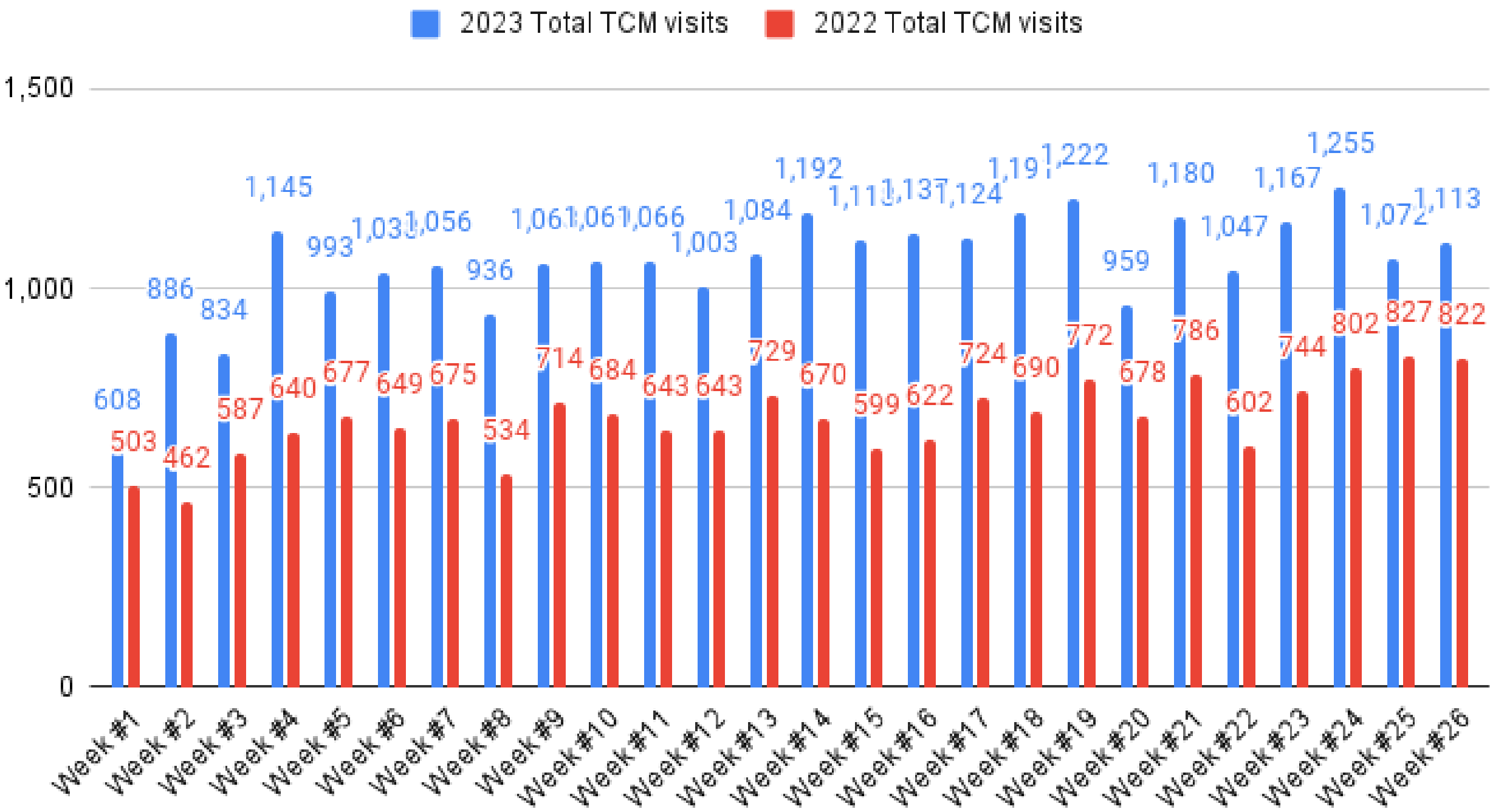
Figure 1. Food Insecurity Among Individuals by Race/Ethnicity, 2005-2021



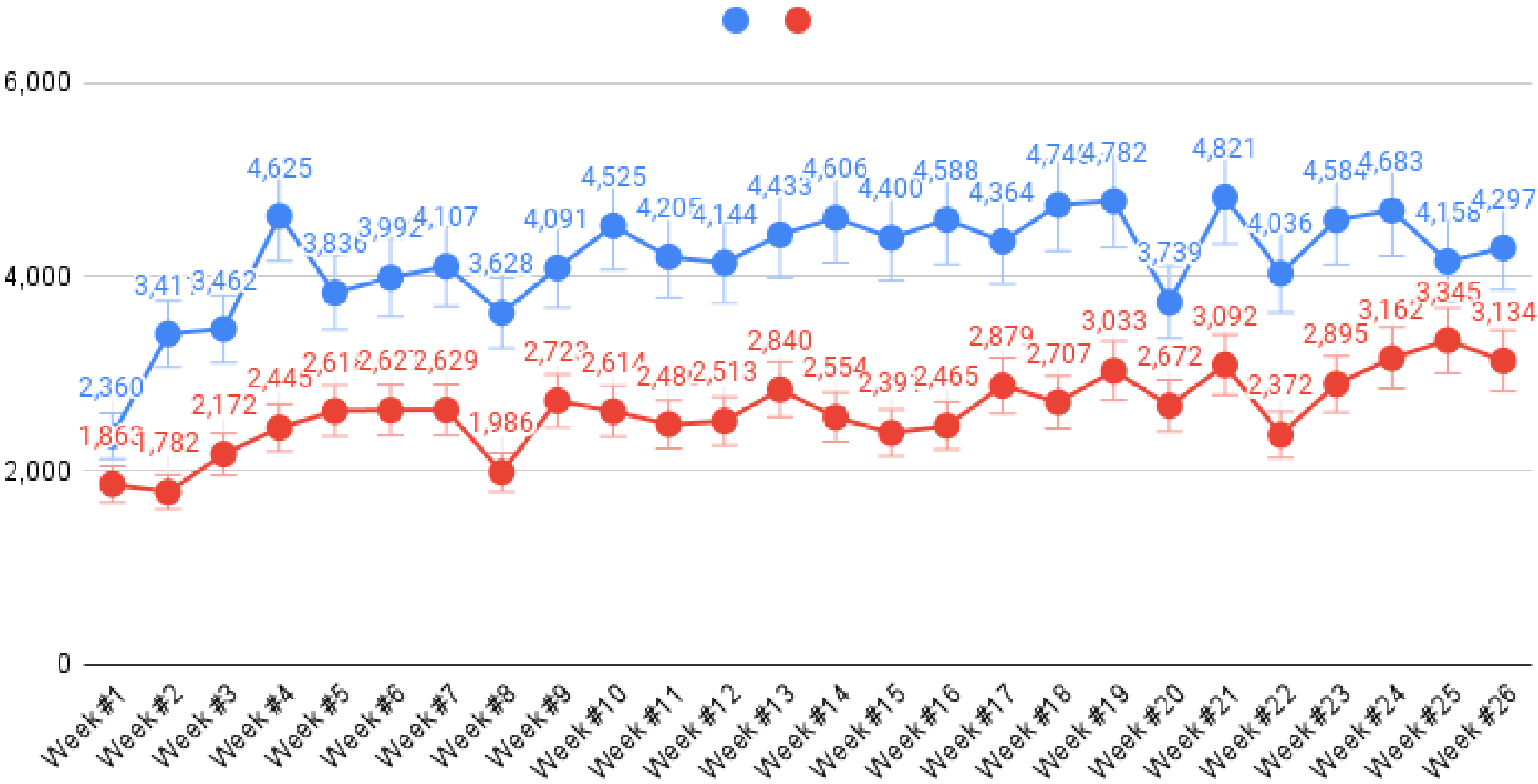
Source: USDA Economic Research Service

Note: the category of "Other identities, non-Hispanic" includes individuals who identify as Native American, Asian, Pacific Islander, or multiple races (non-Hispanic).

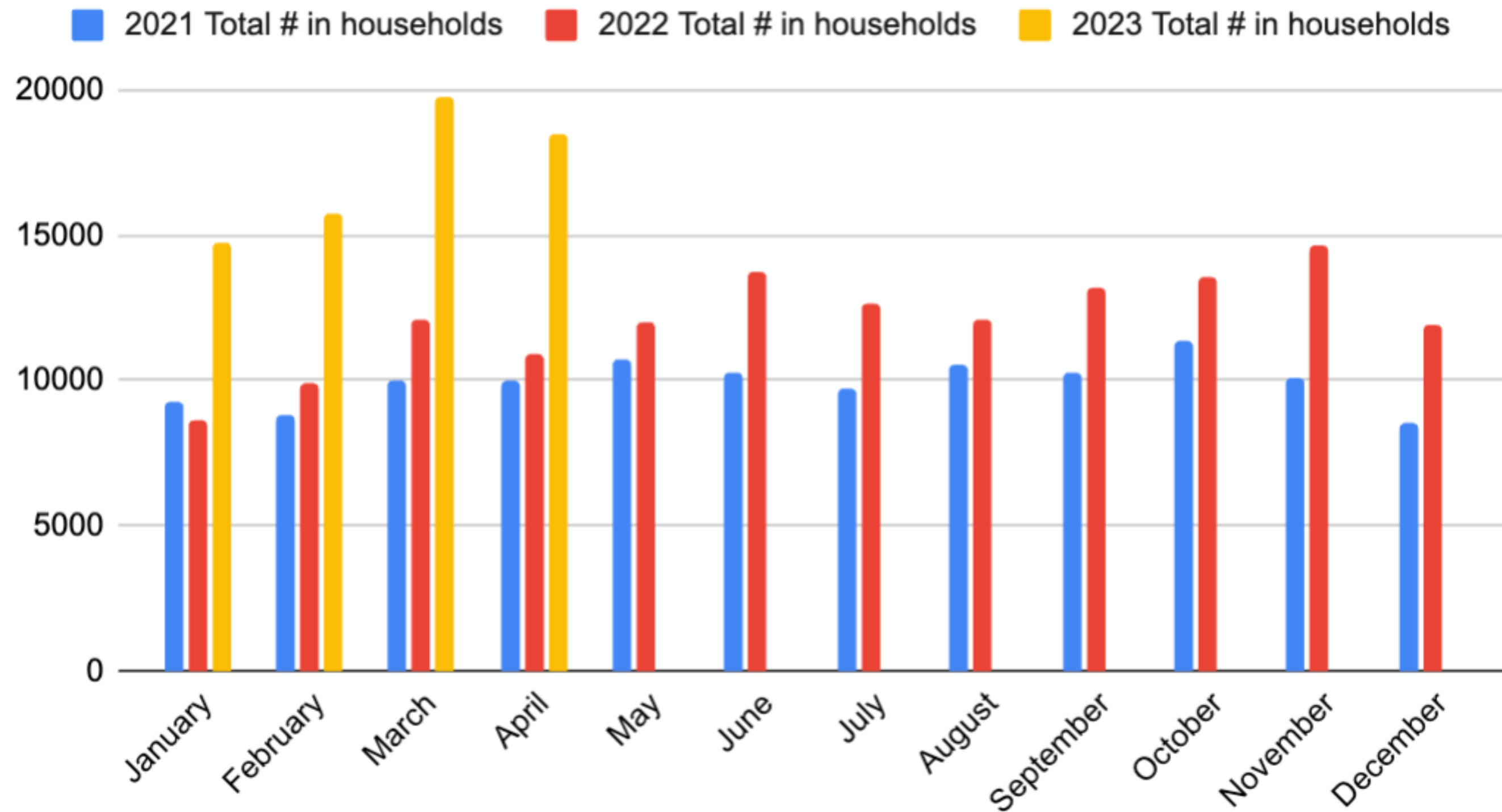
2023 Total TCM visits and 2022 Total TCM visits



2023 Total # of individual benefitted (including household) and 2022 Total # benefitted (including households)



Total Number of people fed per month in 2021, 2022 and 2023





WORKING TOGETHER TO FEED THE VALLEY



More than 50 neighbors were waiting in line at The Community Market in Edwards on Saturday morning. Staff, volunteers and donors are working tirelessly to address critical food insecurity by providing nourishing food at no cost. The Saturday crew, from left, included staff members Cooper Moore and Anthony Andrews; volunteers Kenny Epstein, Jean Mitchell, Kamryn Mitchell and Margo Andrews; and Daniel Heredia, staff. To find out more, including how to get involved with Eagle Valley Community Foundation programs such as The Community Market, go to EagleValleyCF.org.

The Community Market (TCM) General Information:

	2022 TOTAL #	Gypsum (36%)	Edwards (24%)	Eagle (18%)	Avon (15%)	Others (7%)
People checked-in	37,062	13,342	8,895	6,671	5,559	914
Unique Visits	16,581	5,969	3,979	2,984	2,487	1,161
# in Households	145,409	52,347	34,898	26,174	21,811	10,179
Budget spent at TCM (2022)	\$1,318,357.48	\$474,609	\$316,406	\$237,304	\$197,754	\$92,285
Food Cost 2022 (from budget)	\$490,009.23	\$176,403	\$117,602	\$88,202	\$73,501	\$34,301

WEEKLY: July 23-29 2023	TOTAL #	Gypsum (49%)	Edwards (16%)	Eagle (22%)	Avon (6%)	Others (7%)
People checked-in	688	337	110	151	41	914
Unique Visits	651	319	104	143	39	1,161
# in Households	2,601	1,275	416	572	156	10,179

Key Partners

Eagle County Government

Eagle County Public Health

Eagle County Housing Department

ECO Transit

Scott S.Turnipseed A/A Architecture & Construction Inc.

Real State Sales LLC

Eagle Valley Elementary School Students- 3rd graders

City Market

Judy & Carl Kurt	Megan McGee Bonta	Mark White	Jared Walters
Molly Ansfield	Shawna M Topor	Ryan Bush	Carol Walker
Phillip Kirkman	Grace Anshutz	Martha Miller	Linda Tierney
Andrew Atkins	Amber Griggs	Nicole Mosby	William Powell
Vicky Bibler	Anna Williams	Tammy S. Walters	Brian Pope
Graders	Real Estate Sales LLC	Emily McGavin	Anita Ortiz
Brian Lieberman	Sarah Cowell	Elaine Kuntz	Susan Maclachlan
Bart Harst	Keith Klesner	Thomas Allender	Brooke Haygood
Mark Spiers	Charles Baker	The Assembly	Clark Gundlach
Jennifer Beckley	Janet Engle	Sue Nikolai	Phil Goyen
Zoe and Ron Rozga	Jeanine Kenney	Kaley Ruark	Jerry Fedrizzi
David Stull	Barry Smith	Faviola Alderete	James David Crine II
Nicholas Brown	Adrea Mehl	Rayl Zimmerman	Barbara Collett
Don Maclachlan	Jeris Romeo	Vanda Whittaker	Jennifer Barcza

Add Peggy Bair
Courtney Armitage
Elizabeth Adams
Stephanie McCarthy
Anne Marie Ostmeyer
Jennifer Buck
Karla Kerekes
Hannah Irwin
Ida Hancock
Jessica Foulis
Gretchen Ebbeson
Kay Van Ness
Scott Skelton
Amy Pates
Terri Allender
Susan Narduzzi
Kathy Dee
Christine Dent
Jane Lindstrom
Thomas Glimp
Janice Tonz
Laura Tumperi
David Holmgren
Filipowski-Race Family

Jay H. Corr
H. Jane Tully
Barbara Berman
Julie Alt
Amy Salter
Jan Miller
Jeanne McQueeney
Laura Landre
James Harrison
Walking Mountains
Linda Dudley
Carol Carlson
Caroline Bradford
Katherine Schmidt
Jenny Griffis



Mobile Intercultural Resource Alliance

- MIRA is a 40-foot RV that brings resources directly to Eagle County neighborhoods and workplaces
- We continue to build and leverage trust in our community by bringing resources to neighbors in need, changing their health outcomes for the better.
 - MIRA travels to primarily Spanish speaking neighborhoods in the Eagle River Valley and El Jebel/Basalt to connect residents to critical resources that may not be accessible due to transportation and other barriers.
- **Resource connection examples include:**
 - Basic health education and screenings
 - Application support for public assistance programs
 - Food resources
 - Workforce development
 - Early-childhood education coordination
 - Physical activity programming
 - Heart Health & Diabetes Screenings
- **In 2022, MIRA connected more than 2,000 local residents with important resources to support their mental, physical, and emotional health.**



Mobile Intercultural Resource Alliance



201

Life-years Saved



\$14,535,976

Dollars Returned



2,496

Visits



\$35 : \$1

ROI

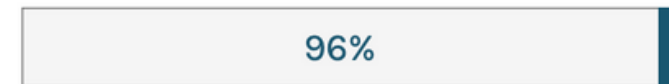


550

ED Visits Avoided

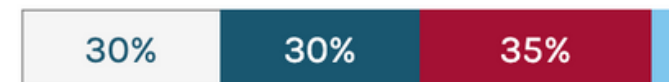
People Served

Race/Ethnicity



□ Hispanic / Latino ■ White

Age Group



□ 0-18 ■ 18-44 ■ 45-64 ■ 65+

Insurance



□ Private ■ Medicaid / CHIP ■ Uninsured

Top Services Delivered

Social determinants of health screening



Influenza immunization



Hypertension screening & treatment



High risk cholesterol screening



Cholesterol screening & treatment



Our Vision & Growth

Equitable



Health Promoting



Proactive



Transparent



Effective & Efficient



HARVARD
MEDICAL SCHOOL



Mobile
Health Map

mIRA

Mobile Intercultural Resource Alliance

- **Referrals and Connections estimated 4,992**
 - Medical Services: 2765 referrals
 - Heart Health & Diabetes- 2333 referrals
 - Mountain Family Health Center- Dental Services- 240
 - EC Paramedics Services- 144
 - Planned Parenthood- 48
- **Health Insurance Options- 876 referrals**
 - Behavioral Health Services: 354 referrals
 - EVBH: Olivia's Fund- 149
 - Bright Future Foundation- 5
 - Your Hope Center- 2
 - SpeakUp ReachOut- 140
 - Homeless Program- 58
- **Food Resources:741 connections**
 - WIC- 31 referrals
 - SNAP- 60 enrolled
 - The Community Market- 650 referrals
- **Early Childhood Programs: 256 referrals**
 - EHS- 20
 - CCAP- 20 referrals
 - YP365- 96 referrals
 - Mountain Rec - 120 referrals

Mobile Intercultural Resource Alliance

- **Medical and Dental Services: 919**
 - Flu and COVID19 Vaccines: 522 individuals
 - Heart Health & Diabetes- 241 patients
 - EC Paramedics Services: 144 individuals
 - Aspen Community Health- Dental Services- 12
- **Health Insurance Options- 80**
- **Behavioral Health Services: 63**
- **Speak Up Reach Out- 12**
- **Homeless Program- 51**
- **Food & Nutrition Resources:478**
 - WIC- 18 services
 - SNAP- 60 enrolled
 - The Community Market- 400 individuals



80 % of MIRA clients are uninsured
Meaning if they didn't receive support on MIRA, they would go without basic healthcare.

ELevar

- EVCF is working collaboratively to support community members of color wanting to start or accelerate their own 501c3 or social enterprise, with a focus on supporting early-stage social and environmental ventures aiming to solve our community's problems and addressing the needs of low-income communities.
- How:
 - **Advisory Board**
 - Share knowledge and experience with startups
 - **Cohort Model**
 - Technical assistance and leadership coaching
 - **Granting**
 - Start-up or accelerator funding through grant making and program-related investments



Actions You Can Take NOW!

- **Donate Today!**

- Whether a \$5 per month gift or a multi-year Foundational Family pledge, all giving amounts support our fight against hunger.

- **Volunteer**

- Individual volunteers: Sign up today to make a hands-on impact. Shifts are available at both locations, Edwards and Gypsum, and start with a 2-hour commitment.
- Group volunteers:
- TCM Associate Sub-Volunteerism: Have staff members sub for a TCM staff for 4 or 6 hours. TCM members would be able to have a paid break of 4 hrs or 6 hrs having one of a volunteer covering for TCM staff shift.
- Tuesday Truck Day: Every Tuesday, TCM receives delivery of 20,000 pounds of food, we invite a group of volunteers to unload the truck and sort the food items. We would ask group to sponsor a lunch and learn on same day.

- **Share Our Message**

- Lunch and Learn: Host a lunch with TCM employees and your employees to learn more about TCM activities and impact.
- Follow our social media channels ([Facebook](#) and [Instagram](#)): Let other community members know about this critical need.
- Share EVCF Newsletter with other partners and/or in your newsletter.

- **10k Challenges:**

- 10k Food Drive Challenge: Donate 10k pounds of food throughout the Summer (3 months) and challenge other local entities to see who donated more until we reach the 10k pounds.
- 10k Dollar Donation: Motivate your personnel to donate from your paycheck for 3 months (summer) and the company will match up to 10k.

Thank you!



EAGLE VALLEY
COMMUNITY
FOUNDATION



 **mIRA**



ELEVAR

LET'S MOVE BEYOND LAWN

James Dilzell
Eagle River Watershed Council

Laura Bohannon
Eagle County Conservation District



**EAGLE COUNTY
CONSERVATION
DISTRICT**



Program Goal

Establish a non-functional turf replacement and irrigation upgrade rebate program, examples of lawn alternatives through research and demonstration gardens, and educational opportunities to change behavior through outdoor water management practices and sustainable landscape conversion skills. Furthermore, we have an objective to synchronize resources & messaging county wide.



Partners



COLORADO
Department of
Natural Resources



EAGLE RIVER
WATER & SANITATION
DISTRICT

Clean Water. Quality Life.™



COLORADO STATE UNIVERSITY
EXTENSION



Context



Beyond Lawn Survey - Key Takeaways



People want:

- help with design
- help navigating their HOA Policies & Management
- Smart controllers & efficient irrigation systems
- Financial incentives that cover approx. 50%
- Good looking & low maintenance yards
- to convert their landscapes!

People have:

- Started this process already
- A desire to do more to save water/money/our environment
- a solid understanding of what low-water-use landscaping can be

UP NEXT:

What opportunities will the Beyond Lawn program will do for our community?

Landscape Assessments

- 60 Assessments
- \$100/Assessment
- Goals/Expectations
- QWEL Irrigation Audit



Rebates

- 25% Efficient Irrigation System
 - \$100 Smart Controller
- \$1-2/sqft Turf Replacement



Demonstration Gardens & Volunteer Workshops

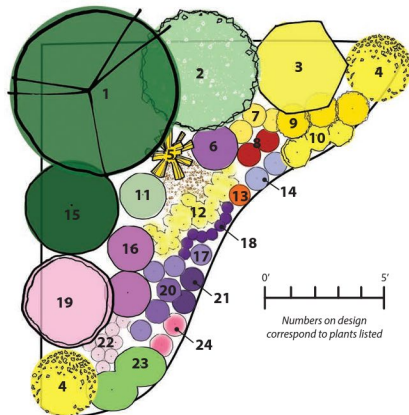


DIY Lawn Conversion & Rain Barrel Workshops



Landscape Design #1

This garden is designed to provide season-long nectar sources for native bees and butterflies, as well as a summer of beauty for the gardener. Placing the shrubs in the direction of the prevailing wind will provide a natural windbreak, which is especially important for butterflies. Garden design by Irene Shonle



HOA & Community Engagement

HB21-1229

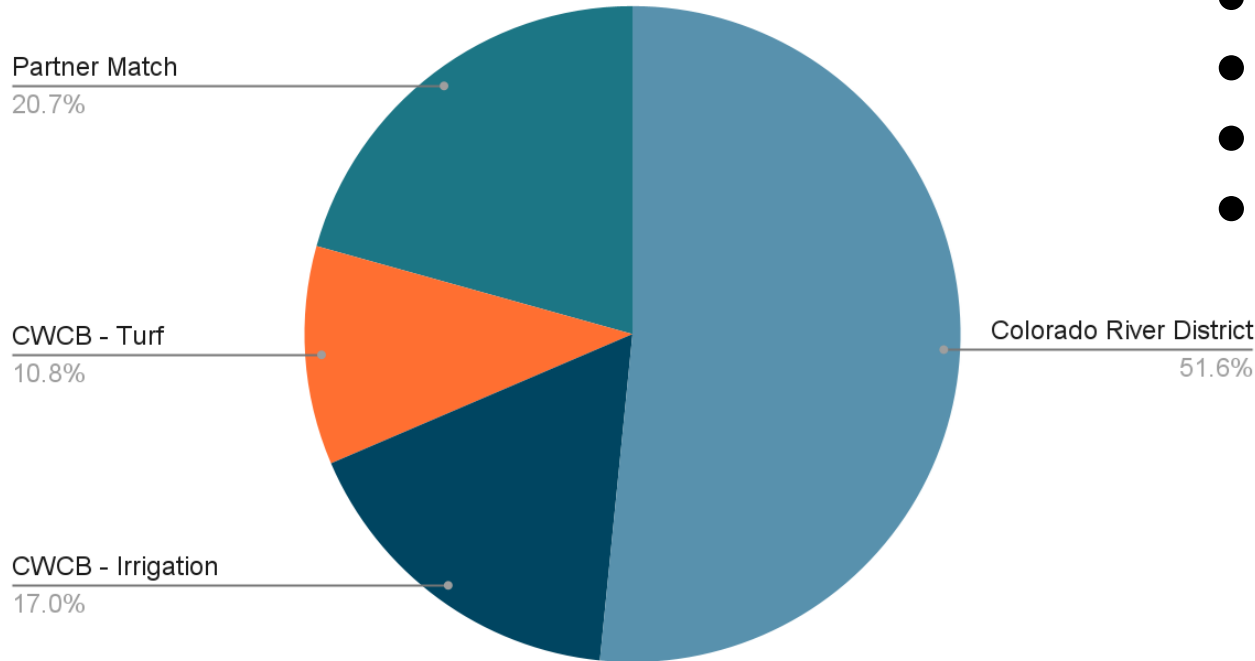
Home Owners' Associations Governance Funding Record Keeping

Concerning increased protections for unit owners in the governance of unit owners' associations under the "Colorado Common Interest Ownership Act".



Funding Structure

% by Funder



- CRD: \$191,554
- CWCB: \$102,999
- Partners: \$76,766
- Town of Eagle: ??

Town of Eagle - Water Efficiency Plan

Table 1. Summary of Planned Water Efficiency Activities

Implementation Period	Water Efficiency Activity	Annual Implementation Costs (\$/yr)	Projected Water Savings in 2027 (ac-ft/yr)
Now-2028	Landscaper certification and training	n/q	n/q
2020	Municipal efficiency improvements	\$25,000	3
2020	Development code updates	-	n/q
2020-2040	Educational activities	\$3,000	3
2020-2025	Irrigation system rebates	\$7,000	4
2020-2025	Rain barrels	\$4,000	1
2021-2026	Outdoor water audits and direct installs	\$31,000	15
2022-2027	Turf replacement	\$23,000	12
2024-2029	Toilet rebates	\$18,000	13
2025-2030	Indoor audits with direct installs	\$14,000	3
2025-2030	Metering upgrades to AMI	\$258,000	50
Total Projected Water Savings in 2027			103 ac-ft/yr

*n/q = Not quantified

Funding Consideration



Description	2024
Turf Rebate	\$23,000
Irrigation Rebate	\$7,000
Audits	\$31,000
Rain Barrels/Education	\$4,000
TOTAL:	\$65,000

Total Projected Water Savings: 32 ac-ft/yr

Thank You!

EAGLE COUNTY CONSERVATION DISTRICT

LAURA BOHANNON,
DISTRICT MANAGER

EAGLECOUNTYCD.COM

EAGLECOUNTYCD@GMAIL.COM

(970) 445-0307



EAGLE RIVER WATERSHED COUNCIL

JAMES DILZELL,
EXECUTIVE DIRECTOR

ERWC.ORG

DILZELL@ERWC.ORG

(970) 827-5406





MEETING MINUTES
Town Council
Tuesday, August 8, 2023
Public Meeting Room / Eagle Town Hall
200 Broadway Eagle, CO

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TOWN COUNCIL MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

1. This was an in-person meeting with access via Teams.

CALL TO ORDER - 6:00 PM

Mayor Turnipseed called the meeting to order at 6:00 p.m.

ROLL CALL

COUNCIL MEMBERS PRESENT

Mikel Kerst, Scott Turnipseed, Ellen Bodenheimier,
Geoffrey Grimmer, Sarah Parrish, Nick Sunday, Jamie
Woodworth Foral

COUNCIL MEMBERS ABSENT

Sarah Parrish

STAFF PRESENT

Larry Pardee, Town Manager
Matt Mire, Town Attorney
Jenny Rakow, Town Clerk
Jill Kane, Finance Director/Treasurer
Chad Phillips, Comm Dev Director/Town Planner
Tom Gosiorowski, Public Works Director
Derek Bos, Police Chief
Cliff Simonton, Senior Planner
Dennis Wike, Engineer
Peyton Heitzman, Planner
Molly Furtado, Special Events Manager
Denise Cardoza, Comm Dev Admin
Tez Hawkins, Planner

ADOPTION OF AGENDA

MOTION: Council Member Mikel Kerst motioned to adopt the agenda as presented. The motion was seconded and passed with a vote of 6 in favor (Kerst, Turnipseed, Bodenheimier, Grimmer, Sunday, and Foral) and 0 opposed.

PUBLIC COMMENT

Mayor Turnipseed opened public comment, there were no comments.

PRESENTATIONS

1. SpeakUp ReachOut Update, Kirby Lemon
The council thanked Kirby for the presentation.
2. Eagle County Animal Control Update, Nathan Lehnert Field Services Manager
Nathan Lehnert presented this item.

Council comments: confirmed that the proposed funding for the 2024 budget has been submitted to the town.

Inquiry on the process for issuing first-time offense citations. Nathan explained the process his staff goes through to determine whether the offense is a citation or a warning.

CONSENT AGENDA

MOTION: Council Member Mikel Kerst motioned to approve the consent agenda. The motion was seconded and Passed with a vote of 6 in favor (Kerst, Turnipseed, Bodenhemier, Grimmer, Sunday, and Foral) and 0 opposed.

1. Minutes - July 25, 2023
2. Bill Pay - July 2023
3. Resolution 53, Series 2023 "A Resolution of the Town Council of the Town of Eagle, Colorado, Amending the 2023 Fee Schedule Pursuant to 2.34 of the Eagle Municipal Code to Increase Refuse Rates to Agree to the Contract with Vail Honeywagon Signed on July 11, 2023"
4. Resolution 55, Series 2023 " A Resolution of the Town Council of the Town of Eagle, Colorado Approving a Reimbursement Agreement with ECG Acquisitions, LLC.

STAFF REPORTS

1. Town Manager Update
Council comments: discussion on Strong Communities Grant application with Eagle County. Request to stay on top of the US Postal Service for improvements. Shout out to Lynette and her niece who is a US Women's soccer player.
2. Department Update for July Activities
Council comments: staff confirmed that they will be placing 17 bear-proof trash containers in town parks and trailheads. Confirmation of nomination petitions being available starting today, August 8th for three seats on the town council.
3. 2nd Quarter 2023 - Budget to Actual Report and Revenue Analysis
4. 2023 Capital Projects Update

BUSINESS ITEMS

1. PUBLIC HEARING: File # LURA21-02: Amended Land Use and Development Code (ReCode) and the Amended Town of Eagle Zoning Map
Mayor Scott Turnipseed opened the Public Hearing for File #LURA21-02: Amended Land Use and Development Code (ReCode) and the Amended Town of Eagle Zoning Map

Elizabeth Garvin from Clarion and Associates and Chad Phillips, Community Development Director presented the public draft overview of ReCode.

Mayor Scott Turnipseed opened public comment.

Annie Eagan 215 Howard Street, inquired about the new trash containers and concerns about them being in the alley due to bear issues. Staff responded they will be bear-resistant. Asked the council to hold off on ReCode until the current development has been built out to determine what infill is needed. Is concerned about increased traffic, and parking, and was opposed to mixed-use development in residential areas. Requested the council to table the decision on this file.

Robyn Spain - 543 McIntire requested clarification on minimum lot size and how many units could be built on that lot, concern with parking, wanted to reduce fee in lieu to 30%, requested pause on voting until more clarification

can be provided and current projects are built out. Asked to have the minimum square footage of land for a triplex in writing.

Todd Morrison, 127 Seven Hermits expressed support for approval of ReCode.

Kelly Bonzer 425 Washington Street. Asked who created Elevate Eagle. Did not think people understood what it was. Concern about property owners selling their homes to developers. Inquired about green space allowance, and evacuation plans, requested that density stay in approved developments in East Eagle, and that the council table the decision.

Steve Gordon 82 Silverspur. Concerned with traffic infrastructure in Eagle and congestion, would like a long-term traffic plan before adding more density.

Dan Leery 204 W Third. Expressed concern with fee in lieu program and what the money is used for. Inquired about the definition of a pitched roof and decision-making on what is appropriate for old town. Would like the Grand Avenue traffic study to be included in the code. Did not believe the ReCode is user-friendly to residents.

Andrew Atkins 306 Howard Street. Expressed concern about traffic and safety. Felt 5-foot setbacks were appropriate. Believed that the cost of homes will price out all employees for this area without infill.

Dawn Koenig 328 Capitol Street. Requested the OTR zoning instead of CMU for Capitol at her address. Expressed concern with consistency in setbacks in zone districts, concern that adding commercial to residential would change the character and not help downtown businesses. Concern about profit motives of landowners driving language in the ReCode. Wanted more time to review setbacks.

Lisa Schober 773 Castle Drive. Expressed concern regarding CMU1 zone in this area and that it was not consistent with the neighborhood and was opposed to zero foot setbacks.

Chris Barbella 236 Capitol Street. Supported ReCode and believe it is looking forward to the next 50 years and that it was protecting the integrity of old town. Stated he would like a vibrant downtown.

Cindy Callicrate 770 Castle Drive. Expressed concern that her neighborhood would be changed to commercial uses and was inconsistent with the character. Inquired about ADUs not being allowed and concerned with Hockett Gulch creating more car trips outpacing current infrastructure.

Jenna Palimeter 441 Washington Street. Requested a 25-foot height limit. Believed the Infill should blend in with the existing neighborhood. Would like more clarification to residents on what can be built on one lot. The parking study may need to be updated.

Paul Duprey 125 E 4th Street. Asked if the town has enough water and sewer infrastructure to do we what we have approved.

Vit Blamar 2044 Eagle Ranch Road. Requested the council to address the split lot between Grand, Capitol and Howard that has CMU1 and OTR zoning. They would like to do underground parking at this location with their project.

Lori Diversey 624 McIntire. Requested the 25-foot height limit. Wants to keep special permits for any civic purposes and not administrative approval. Requested to remove mansion homes from the language. Wants clarification on lot sizes and what can be built on them to preserve the character of the neighborhood.

John Bailey 322 Wall Street. Expressed concern about age diversity and ability to live in the OTR area and is in

support of the proposed plan and is in favor of 5-foot setbacks. Likes the community and does have concerns about increased traffic.

George McCollom 519 McIntire. Would like the council to consider underground parking for projects going forward. Would like more landscaping for multifamily.

Kathy Heicher 641 Wall Street. Stated she was in favor of 10-foot sideyard set back. Requested a sub-area master plan of old town. Liked the 25-foot building height and would like more research on it. Requested special use permits to be publicly noticed. The term mansion house needs to be removed.

Krista Miller 313 East Third. Is in favor of preservation support for old homes in Eagle. Would like to see modeling done on infill projects so residents can visually see what the possibilities are with parking. Requested visuals to help understand what an approved 3-story building looks like on the minimum lot size. Asked what an administrative review is and how is the notification sent to neighbors.

Mayor Scott Turnipseed closed public comment.

Elizabeth Garvin, Chad Phillips, and Tom Gosiorowski responded to public comment inquiries -

Notification - regulations require adjacent property and legal notice in the newspaper. New regulations will require a poster on the property. ReCode also includes more standards for administrative approvals with a bump-up call-up provision to the Council. If staff determines too much public comment opposition, it will go to Council. There is also an appeal process.

With regard to how many townhomes are allowed on one lot, you can only have 3 units on a minimum lot size. The code will be updated to include the minimum lot size.

Question regarding the infill plan. The town does not have a goal or a plan. ReCode addresses what uses and densities are appropriate in certain areas.

Inquiry regarding what fee in lieu is supposed to be used for. The purchase of land for a parking lot was a discussion, however, the money can be spent on cheaper spaces in the public right of way with improvements. Currently, there are 300 spaces available in the public right of way for improvement.

Question regarding what a pitched roof is – that determination is based on what is similar to structures in the neighborhood, with no flat roofs.

East Eagle Plan and residential - there is no category for residential in that area. It is a new zone district called Commercial General East and it has a residential component.

Clarification on lot consolidations; there is no limit on units but is rather determined by the lot size. There is a preference for limiting units instead of lot size. A minimum lot size of 6250 is needed to start a discussion about getting 3 units approved, however, not every application will be approved, and it is not guaranteed.

Confirmed that underground parking is an option for developments.

Clarification on green space and landscaping – code will read 70% lot coverage of building and impervious with 30% for green space.

Question regarding historic preservation, code will have optional standards.

Grand Avenue is not included in ReCode, construction is tracking to begin in 2026. Traffic studies are done for bigger developments. The town has applied for a grant to complete a master traffic and safety plan.

Addressing concerns of the capacity of sewer in the downtown area; we have no known capacity problems. We have replaced every segment of sewer in the downtown area. In West Eagle there are a few segments that will be replaced due to age and material in the next 5 years. There are no concerns about the sewer system in the OTR area.

The Town of Eagle is contributing sales to the Eagle Valley Transit Authority and Eagle is working on accessing free and expanding bus services to alleviate traffic.

Eagle County has a robust evacuation plan for Eagle and it is updated several times a year. All first responders are trained.

ADUs are allowed in CMU1.

If improvements are made on homes that are currently built within the setbacks they may need a variance in order to do so. Add language to the code to grandfather homes built before a certain date.

Staff will work with the consultant to review the neighborhood protection standards, along with setbacks and height step-down standards.

Staff Questions for Council:

Should the side setbacks in the CMU1 be the same as on Broadway? 0' or 5'? 0' too small for the west side CMU1? Council agreed to 5 feet and include grandfather language for homes built before a certain date to make them conforming for improvements.

Should the side yard setback in the OTR be 5' or 10'? Council agreed to 5 feet.

Should "Mansion House (4+ units/structure)" be replaced with "Mansion House (2 or 3 units/structure)" (or deleted because the 3-unit multi-family covers these) Council agreed to delete it entirely.

Should the following be added – "All new residential structures or alterations that result in changes to a roofline shall be of a style that is similar to those residential structures in the zone district. Flat roofed residential structures are not permitted"? Council agreed no flat-roofed residential structures will be permitted.

Should we amend OTR to require Lot Area, Total (min) of 6,250 square feet for 3 unit multi-family Building? Council agreed to amend.

Should we amend Fee in-Lieu so that only 50% of the required residential on-site parking can be accommodated by the Fee in-Lieu? Council discussed a minimum of one parking space on site and off-street per unit, and only 50% can be on-street.

Zone Map Questions for Council

Does the CMU1 District support the West Eagle Sub-area Plan for the "Mixed Use" land use category? (for the West Eagle CMU1) Council agreed to update West Eagle and update ReCode later.

Should the CMU1 on Capitol be extended to 5th St? Council agreed it will stop at 4th Street.

Should the CMU1 be extended to the vacant lots on N. Howard (existing as CBD)? Council agreed to keep the zoning the same for that parcel and extend CMU1.

Council comments: requested the Neighborhood Protection Standards be included and felt the OTR building height reduction seemed arbitrary.

Mayor Scott Turnipseed suggested we table this item until we can clean this up and present it again. Staff confirmed August 22nd would be enough time to prepare for approval. Town Attorney stated it would be the Mayor's discretion to allow public comments.

MOTION: Council Member Scott Turnipseed motioned to continue the Public Hearing on File # LURA21-02: Amended Land Use and Development Code (ReCode) and the Amended Town of Eagle Zoning Map until the August 22, 2023, Town Council Meeting. The motion was seconded and passed with a vote of 6 in favor (Kerst, Turnipseed, Bodenhemier, Grimmer, Sunday, and Foral) and 0 opposed.

- a. Ordinance 06, Series 2023 "An Ordinance of the Town Council of the Town of Eagle, Colorado Repealing and Reenacting Title 4 of the Eagle Municipal Code and Adopting a New Zoning Map"
2. Resolution 54, Series 2023 "A Resolution of the Town Council of the Town of Eagle, Colorado, Approving an Equipment Lease Purchase Agreement with TEQlease Education Finance for Town-Wide Security Cameras and Access Control System Provided by Spectra"
MOTION: Council Member Nick Sunday motioned to approve Resolution 54, Series 2023 "A Resolution of the Town Council of the Town of Eagle, Colorado, Approving an Equipment Lease Purchase Agreement with TEQlease Education Finance for Town-Wide Security Cameras and Access Control System Provided by Spectra". The motion was seconded and passed with a vote of 6 in favor (Kerst, Turnipseed, Bodenhemier, Grimmer, Sunday, and Foral) and 0 opposed.

COUNCIL DISCUSSION AND FUTURE AGENDA ITEMS

1. Future Agenda Items
Request from a group at the ICMA conference to do a documentary about Eagle. They would like to make a video - we can use it. it costs \$25K. Larry will forward sample videos. Council agreed to do it.
2. Council Committee Updates
Council Member Bodenhemier had a great meeting with Eagle Ranch Housing. Grand Avenue Corridor meeting discussed many ideas to cut costs.

Council Member Grimmer stated the Palmer Fund got a grant today.

Council Member Sunday is still working on getting service for Eagle from EVTA.

Council Member Kerst requested to keep the National Night Out budget or increase it for 2024.

ADJOURN – 10:05 PM

MOTION: Council Member Mikel Kerst motioned to adjourn. The motion was seconded and passed with a vote of 6 in favor (Kerst, Turnipseed, Bodenhemier, Grimmer, Sunday, and Foral) and 0 opposed.

Date:

Scott Turnipseed, Mayor

Jenny Rakow, CMC Town Clerk



To: Mayor Turnipseed and Town Council
From: Tom Gosiorowski, Public Works Director
Martha Miller, Project Manager

Date: August 16, 2023

Agenda Item: Sylvan Lake Road Multimodal Transportation and Mitigation Options Fund (MMOF) Grant

REQUEST:

Staff requests the Council's approval to enter into an Intergovernmental Agreement (IGA) with the Colorado Department of Transportation (CDOT) for a Multimodal Transportation and Mitigation Options Fund (MMOF) grant.

BACKGROUND:

Staff submitted a Transportation Alternatives Program (TAP) grant application to CDOT for improvements on Sylvan Lake Road. The Town's applications scored well but due to the volume and size of applications from the five counties in the Intermountain Transportation Planning Region (IMTPR), they were not selected for a TAP grant.

Recently, the Town of Snowmass Village returned \$1M of MMOF funds. CDOT requested that the IMTPR reallocate the returned MMOF funds to the Towns of Frisco and Eagle who were the next two projects on the TAP list. During the July IMTPR meeting, the reallocation was approved by the IMTPR members.

The Sylvan Lake Road improvements fit the MMOF criteria including benefiting seniors by making aging in place more feasible, providing enhanced mobility for persons with disabilities, providing safe routes to schools for children, and reducing emissions of air pollutants and Greenhouse Gases that contribute to adverse environmental effects.

ANALYSIS:

The MMOF grant is for \$1,000,000 with a 50/50 match; therefore, CDOT will provide \$500,000 and the Town's portion is \$500,000.

The conceptual design for the project proposes a sidewalk between Capitol and MacDonald Streets, improves the four intersections between Gamble Street and Eagle Ranch Road with curb extension bulb-outs, and adds an on-street bike lane.

COMMUNITY INPUT:

None required.

BUDGET / STAFF IMPACT:

The Town budgeted 578,000 in 2023 for this project. To date, we have spent approximately \$40,000.

The 2024 and 2025 CIP budgets are being prepared to allocate funds for the remaining design (\$125,000 in 2024) and construction (\$500,000 in 2025).

STRATEGIC PLAN ALIGNMENT/STANDARDS ACHIEVED:

This project aligns with the 2023 Strategic Plan's goal to continue design and engineering work on pedestrian and traffic control improvements for Sylvan Lake Road.

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to approve or deny entering into the IGA with CDOT for MMOF funds.

ATTACHMENTS:

Draft CDOT IGA for MMOF

TOWN OF EAGLE, COLORADO
RESOLUTION NO. 56
(Series of 2023)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT FOR A FINANCIAL MATCH WITH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT) FOR A MULTIMODAL TRANSPORTATION AND MITIGATION OPTIONS FUND (MMOF) GRANT FOR THE SYLVAN LAKE ROAD (SLR) CONSTRUCTION IMPROVEMENTS

WHEREAS, The Town's strategic plan identifies investing in critical infrastructure, assets, and program improvements that increase our residents' quality of life and add to our vibrant economy without creating an undue burden on the residents of the Town as a priority; and

WHEREAS, the Town of Eagle desires to improve pedestrian and bike safety on Sylvan Lake Road between Gamble Street and Eagle Ranch Road; and

WHEREAS, this project aligns with the Town's 2023 goal to continue design and engineering work on pedestrian and traffic control improvements for Sylvan Lake Road; and

WHEREAS, the Town of Eagle was awarded a \$1,000,000 Multimodal Transportation and Mitigation Options Fund (MMOF) grant from the Colorado Department of Transportation (CDOT) for construction improvements on Sylvan Lake Road with a 50% local agency match requirement; and

WHEREAS, the Town's portion of the MMOF grant is \$500,000 and the funds have been proposed in fiscal year 2025 in the Capital Improvement Plan; and

WHEREAS, the Town's match will be subject to annual appropriation by the Council in fiscal year in which disbursement will be required; and

WHEREAS, the Town desires to enter into an Intergovernmental Agreement (IGA) with CDOT to accept the MMOF funds wherein the funds must be encumbered by December 31, 2024, and all construction work must be completed by December 31, 2026.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. The Town Council hereby enters an IGA with CDOT for an MMOF grant for the construction of Pedestrian Improvements on Sylvan Lake Road in the amount not to exceed \$500,000.

Section 2. The obligation of the Town to make \$500,000 available for the project is subject to annual appropriation by the Council.

INTRODUCED, READ, PASSED AND ADOPTED ON AUGUST 22, 2023.

TOWN OF EAGLE TOWN COUNCIL

Scott Turnipseed, Mayor

ATTEST:

Town Clerk, Jenny Rakow

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation		Agreement Routing Number 24-HA3-XC-00191	
Local Agency TOWN OF EAGLE		Agreement Effective Date The later of the effective date or August 03, 2023	
Agreement Description Town of Eagle Sylvan Lake Rd		Agreement Expiration Date August 02, 2033	
Project # MTF M345- 005 (25945)	Region # R3	Contract Writer BH	Agreement Maximum Amount \$1,000,000.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

LOCAL AGENCY TOWN OF EAGLE _____ Signature _____ By: (Print Name and Title) Date: _____	STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director _____ Keith Stefanik, P.E., Chief Engineer Date: _____
2nd State or Local Agency Signature if Needed _____ Signature _____ By: (Print Name and Title) Date: _____	LEGAL REVIEW Philip J. Weiser, Attorney General _____ Assistant Attorney General _____ By: (Print Name and Title) Date: _____
In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Department of Transportation Effective Date: _____	

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1. PARTIES

This Agreement is entered into by and between Local Agency named on the Signature and Cover Page for this Agreement (“Local Agency”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the “State” or “CDOT”). Local Agency and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase (“Phase Performance Period(s)”). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; except as described in **§7.D**; 2) before the encumbering document for the respective phase *and* the official Notice to Proceed for the respective phase; or 3) after the Final Phase Performance End Date, as shown in **Exhibit C**. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in **§7.B.i.e.**, or the expiration of “Special Funding” if applicable, whichever is sooner. The State’s obligation to pay Agreement Funds exclusive of Special Funding will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

B. Initial Term and Extension

The Parties’ respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on August 02, 2033 as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement. Upon request of Local Agency, the State may, in its sole discretion, extend the term of this Agreement by Option Letter pursuant **§7.E.iv**. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in **Exhibit C**.

C. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, and this ARPA Award is not appropriated, or otherwise become unavailable to fund this ARPA Award the State, in its discretion, may terminate this Agreement in whole or in part. This subsection shall not apply to a termination of this Agreement by the State for breach by Local Agency, which shall be governed by **§14.A.i**.

i. Method and Content

The State shall notify Local Agency by providing written notice to Local Agency of the termination and be in accordance with **§16**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Local Agency shall be subject to **§14.A.i.a**

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Local Agency an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Local Agency for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Local Agency which are directly attributable to the uncompleted portion of Local Agency’s obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Local Agency hereunder. This subsection shall not apply to a termination of this ARPA Award by the State for breach by Local Agency.

D. Local Agency Termination Under Federal Requirements

Local Agency may request termination of the ARPA Award by sending notice to the State, which includes the effective date of the termination. If this ARPA Award is terminated in this manner, then Local Agency shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. AUTHORITY

Authority to enter into this Agreement exists in the law as follows:

A. Federal Authority

Pursuant to Title I, Subtitle A, of the “Fixing America’s Surface Transportation Act” (FAST Act) of 2015, and to applicable provisions of Title 23 of the United States Code and implementing regulations at Title 23 of the Code of Federal Regulations, as may be amended, (collectively referred to hereinafter as the “Federal Provisions”), certain federal funds have been and are expected to continue to be allocated for transportation projects requested by Local Agency and eligible under the Surface Transportation Improvement Program that has been proposed by the State and approved by the Federal Highway Administration (“FHWA”).

Pursuant to Title VI of the Social Security Act, Section 602 of the “Coronavirus State and Local Fiscal Recovery Funds”, a part of the American Rescue Plan, provides state, local and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery.

B. State Authority

Pursuant to CRS §43-1-223 and to applicable portions of the Federal Provisions, the State is responsible for the general administration and supervision of performance of projects in the Program, including the administration of federal funds for a Program project performed by a Local Agency under a contract with the State. This Agreement is executed under the authority of CRS §§29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-104.5.

4. PURPOSE

The purpose of this Agreement is to disburse Federal funds to the Local Agency pursuant to CDOT’s Stewardship Agreement with the FHWA and/or USDT as shown in **Exhibit C**.

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “**Agreement**” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. “**Agreement Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- C. “**ARPA**” means American Rescue Plan Act, funded by the US Department of the Treasury (“USDT”). See “SLFRF” below.
- D. “**Award**” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- E. “**Budget**” means the budget for the Work described in **Exhibit C**.
- F. “**Business Day**” means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S..
- G. “**Chief Procurement Officer**” means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202 to procure or supervise the procurement of all supplies and services needed by the State.
- H. “**CJI**” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- I. “**Consultant**” means a professional engineer or designer hired by Local Agency to design the Work Product.
- J. “**Contractor**” means the general construction contractor hired by Local Agency to construct the Work.

- K. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- L. **“Effective Date”** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- M. **“Evaluation”** means the process of examining Local Agency’s Work and rating it based on criteria established in §6, **Exhibit A** and **Exhibit E**.
- N. **“Exhibits”** means the following exhibits attached to this Agreement:
- i. **Exhibit A**, Scope of Work.
 - ii. **Exhibit B**, Sample Option Letter.
 - iii. **Exhibit C**, Funding Provisions
 - iv. **Exhibit D**, Local Agency Resolution
 - v. **Exhibit E**, Local Agency Contract Administration Checklist
 - vi. **Exhibit F**, Certification for Federal-Aid Contracts
 - vii. **Exhibit G**, Disadvantaged Business Enterprise
 - viii. **Exhibit H**, Local Agency Procedures for Consultant Services
 - ix. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts
 - x. **Exhibit J**, Additional Federal Requirements
 - xi. **Exhibit K**, The Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions
 - xii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form
 - xiii. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the “Uniform Guidance”)
 - xiv. **Exhibit N**, Federal Treasury Provisions
 - xv. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds
 - xvi. **Exhibit P**, SLFRF Subrecipient Quarterly Report
 - xvii. **Exhibit Q**, SLFRF Reporting Modification Form
 - xviii. **Exhibit R**, Applicable Federal Awards
 - xix. **Exhibit S**, PII Certification
 - xx. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source
- O. **“Expiration Date”** means the date on which this Agreement expires, as shown on the Signature and Cover Page for this Agreement.
- P. **“Extension Term”** means the period of time by which the ARPA Expiration Date is extended by the State through delivery of an updated ARPA Letter.
- Q. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- R. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. The US Department of the Treasury is the Federal Awarding Agency for the Federal Award, which may be the subject of this Agreement.
- S. **“FHWA”** means the Federal Highway Administration, which is one of the twelve administrations under the Office of the Secretary of Transportation at the U.S. Department of Transportation. FHWA provides stewardship over the construction, maintenance and preservation of the Nation’s highways and tunnels. FHWA is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- T. **“Goods”** means any movable material acquired, produced, or delivered by Local Agency as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Local Agency in connection with the Services.

- U. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- V. **“Initial Term”** means the time period defined in §2.B.
- W. **“Local Funds”** means the funds provided by the Local Agency as their obligated contribution to the federal and/or State Awards to receive the federal and/or State funding.
- X. **“Notice to Proceed”** means the letter issued by the State to the Local Agency stating the date the Local Agency can begin work subject to the conditions of this Agreement.
- Y. **“OMB”** means the Executive Office of the President, Office of Management and Budget.
- Z. **“Oversight”** means the term as it is defined in the Stewardship Agreement between CDOT and the FHWA.
- AA. **“Party”** means the State or Local Agency, and **“Parties”** means both the State and Local Agency.
- BB. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- CC. **“PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- DD. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, et. seq., C.R.S.
- EE. **“Recipient”** means the Colorado Department of Transportation (CDOT) for this Federal Award.
- FF. **“Services”** means the services to be performed by Local Agency as set forth in this Agreement and shall include any services to be rendered by Local Agency in connection with the Goods.
- GG. **“SLFRF”** means State and Local Fiscal Recovery Funds, provided by ARPA, funded by the US Treasury Department.
- HH. **“Special Funding”** means an award by Federal agency or the State which may include but is not limited to one or a combination of Multimodal Transportation & Mitigation Options Funding, Revitalizing Main Streets, Safer Main Streets, Stimulus Funds, Coronavirus Response and Relief Supplemental Funds, ARPA, SLFRF, or COVID Relief.
- II. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII and State personnel records not subject to disclosure under CORA.
- JJ. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).
- KK. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- LL. **“State Purchasing Director”** means the position described in the Colorado Procurement Code and its implementing regulations.

- MM. “**State Records**” means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- NN. “**Sub-Award**” means this Award by the State to Local Agency funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to this Sub-Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- OO. “**Subcontractor**” means third parties, if any, engaged by Local Agency to aid in performance of the Work.
- PP. “**Subrecipient**” means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.
- QQ. “**Tax Information**” means Federal and State of Colorado tax information including, without limitation, Federal and State tax returns, return information, and such other tax-related information as may be protected by Federal and State law and regulation. Tax Information includes but is not limited to all information defined as Federal tax Information in Internal Revenue Service Publication 1075.
- RR. “**Uniform Guidance**” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- SS. “**USDT**” The United States Department of the Treasury (**USDT**) is the national treasury and finance department of the federal government of the United States where it serves as an executive department. The USDT funds ARPA.
- TT. “**Work**” means the delivery of the Goods and performance of the Services in compliance with CDOT’s Local Agency Manual described in this Agreement.
- UU. “**Work Product**” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

6. SCOPE OF WORK

Local Agency shall complete the Work as described in this Agreement and in accordance with the provisions of **Exhibit A**, and the Local Agency Manual. The State shall have no liability to compensate Local Agency for the delivery of any Goods or the performance of any Services that are not specifically set forth in this Agreement. Work may be divided into multiple phases that have separate periods of performance. The State may not compensate for Work that Local Agency performs outside of its designated phase performance period. The performance period of phases, including, but not limited to Design, Construction, Right of Way, Utilities, or Environment phases, are identified in **Exhibit C**. The State may unilaterally modify **Exhibit C** from time to time, at its sole discretion, to extend the Agreement Expiration Date and/or to extend the period of performance for a phase of Work authorized under this Agreement. To exercise these options to extend the Agreement Expiration Date and/or to update the phase performance period extension option, the State will provide written notice to Local Agency in a form substantially equivalent to **Exhibit B**. The State’s unilateral extension of the Agreement Expiration Date and/or the phase performance periods will not amend or alter in any way the funding provisions or any other terms specified in this Agreement, notwithstanding the options listed under **§7.E**

A. Local Agency Commitments

i. Design

If the Work includes preliminary design, final design, design work sheets, or special provisions and estimates (collectively referred to as the “Plans”), Local Agency shall ensure that it and its Contractors comply with and are responsible for satisfying the following requirements:

- a. Perform or provide the Plans to the extent required by the nature of the Work.
 - b. Prepare final design in accordance with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by the State.
 - c. Prepare provisions and estimates in accordance with the most current version of the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by the State.
 - d. Include details of any required detours in the Plans in order to prevent any interference of the construction Work and to protect the traveling public.
 - e. Stamp the Plans as produced by a Colorado registered professional engineer.
 - f. Provide final assembly of Plans and all other necessary documents.
 - g. Ensure the Plans are accurate and complete.
 - h. Make no further changes in the Plans following the award of the construction contract to Contractor unless agreed to in writing by the Parties. The Plans shall be considered final when approved in writing by CDOT, and when final, they will be deemed incorporated herein.
- ii. Local Agency Work
- a. Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA) 42 U.S.C. § 12101, et. seq., and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation Projects".
 - b. Local Agency shall afford the State ample opportunity to review the Plans and shall make any changes in the Plans that are directed by the State to comply with FHWA requirements.
 - c. Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or construction administration. Provided, however, if federal-aid funds are involved in the cost of such Work to be done by such Consultant, such Consultant contract (and the performance provision of the Plans under the contract) must comply with all applicable requirements of 23 C.F.R. Part 172 and with any procedures implementing those requirements as provided by the State, including those in **Exhibit H**. If Local Agency enters into a contract with a Consultant for the Work:
 - 1) Local Agency shall submit a certification that procurement of any Consultant contract complies with the requirements of 23 C.F.R. 172.5(1) prior to entering into such Consultant contract, subject to the State's approval. If not approved by the State, Local Agency shall not enter into such Consultant contract.
 - 2) Local Agency shall ensure that all changes in the Consultant contract have prior approval by the State and FHWA and that they are in writing. Immediately after the Consultant contract has been awarded, one copy of the executed Consultant contract and any amendments shall be submitted to the State.
 - 3) Local Agency shall require that all billings under the Consultant contract comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
 - 4) Local Agency (and any Consultant) shall comply with 23 C.F.R. 172.5(b) and (d) and use the CDOT procedures described in **Exhibit H** to administer the Consultant contract.
 - 5) Local Agency may expedite any CDOT approval of its procurement process and/or Consultant contract by submitting a letter to CDOT from Local Agency's attorney/authorized representative certifying compliance with **Exhibit H** and 23 C.F.R. 172.5(b) and (d).
 - 6) Local Agency shall ensure that the Consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this

reference) for the design/construction of the project. The State is an intended third-party beneficiary of this agreement for that purpose.

- (b) Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.
- (c) The consultant shall review the construction Contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work.
- (d) The State, in its sole discretion, may review construction plans, special provisions and estimates and may require Local Agency to make such changes therein as the State determines necessary to comply with State and FHWA requirements.

iii. Construction

If the Work includes construction, Local Agency shall perform the construction in accordance with the approved design plans and/or administer the construction in accordance with **Exhibit E**. Such administration shall include Work inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing construction Contractor claims; construction supervision; and meeting the quality control requirements of the FHWA/CDOT Stewardship Agreement, as described in **Exhibit E**.

- a. The State may, after providing written notice of the reason for the suspension to Local Agency, suspend the Work, wholly or in part, due to the failure of Local Agency or its Contractor to correct conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
- b. Local Agency shall be responsible for the following:
 - 1) Appointing a qualified professional engineer, licensed in the State of Colorado, as Local Agency Project Engineer (LAPE), to perform engineering administration. The LAPE shall administer the Work in accordance with this Agreement, the requirements of the construction contract and applicable State procedures, as defined in the CDOT Local Agency Manual (https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual).
 - 2) For the construction Services, advertising the call for bids, following its approval by the State, and awarding the construction contract(s) to the lowest responsible bidder(s).
 - (a) All Local Agency's advertising and bid awards pursuant to this Agreement shall comply with applicable requirements of 23 U.S.C. §112 and 23 C.F.R. Parts 633 and 635 and C.R.S. § 24-92-101 et seq. Those requirements include, without limitation, that Local Agency and its Contractor(s) incorporate Form 1273 (Exhibit I) in its entirety, verbatim, into any subcontract(s) for Services as terms and conditions thereof, as required by 23 C.F.R. 633.102(e).
 - (b) Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. Local Agency must accept or reject such bids within three (3) working days after they are publicly opened.
 - (c) If Local Agency accepts bids and makes awards that exceed the amount of available Agreement Funds, Local Agency shall provide the additional funds necessary to complete the Work or not award such bids.
 - (d) The requirements of **§6.A.iii.b.2** also apply to any advertising and bid awards made by the State.

- (e) The State (and in some cases FHWA) must approve in advance all Force Account Construction, and Local Agency shall not initiate any such Services until the State issues a written Notice to Proceed.

iv. Right of Way (ROW) and Acquisition/Relocation

- a. If Local Agency purchases a ROW for a State highway, including areas of influence, Local Agency shall convey the ROW to CDOT promptly upon the completion of the project/construction.
- b. Any acquisition/relocation activities shall comply with all applicable federal and State statutes and regulations, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (49 C.F.R. Part 24), CDOT's Right of Way Manual, and CDOT's Policy and Procedural Directives.
- c. The Parties' respective responsibilities for ensuring compliance with acquisition, relocation and incidentals depend on the level of federal participation as detailed in CDOT's Right of Way Manual (located at <http://www.codot.gov/business/manuals/right-of-way>); however, the State always retains oversight responsibilities.
- d. The Parties' respective responsibilities at each level of federal participation in CDOT's Right of Way Manual, and the State's reimbursement of Local Agency costs will be determined pursuant the following categories:
 - 1) Right of way acquisition (3111) for federal participation and non-participation;
 - 2) Relocation activities, if applicable (3109);
 - 3) Right of way incidentals, if applicable (expenses incidental to acquisition/relocation of right of way – 3114).

v. Utilities

If necessary, Local Agency shall be responsible for obtaining the proper clearance or approval from any utility company that may become involved in the Work. Prior to the Work being advertised for bids, Local Agency shall certify in writing to the State that all such clearances have been obtained.

vi. Railroads

If the Work involves modification of a railroad company's facilities and such modification will be accomplished by the railroad company, Local Agency shall make timely application to the Public Utilities Commission ("PUC") requesting its order providing for the installation of the proposed improvements. Local Agency shall not proceed with that part of the Work before obtaining the PUC's order. Local Agency shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 C.F.R. 646, subpart B, concerning federal-aid projects involving railroad facilities, and:

- a. Execute an agreement with the railroad company setting out what work is to be accomplished and the location(s) thereof, and which costs shall be eligible for federal participation.
- b. Obtain the railroad's detailed estimate of the cost of the Work.
- c. Establish future maintenance responsibilities for the proposed installation.
- d. Proscribe in the agreement the future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- e. Establish future repair and/or replacement responsibilities, as between the railroad company and the Local Agency, in the event of accidental destruction or damage to the installation.

vii. Environmental Obligations

Local Agency shall perform all Work in accordance with the requirements of current federal and State environmental regulations, including the National Environmental Policy Act of 1969 (NEPA) as applicable.

viii. Maintenance Obligations

Local Agency shall maintain and operate the Work constructed under this Agreement at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA. Local Agency shall conduct such maintenance and operations in accordance with all applicable statutes, ordinances, and regulations pertaining to maintaining such improvements. The State and FHWA may make periodic inspections to verify that such improvements are being adequately maintained.

ix. Monitoring Obligations

Local Agency shall respond in a timely manner to and participate fully with the monitoring activities described in **§7.F.vi**.

B. State's Commitments

- i. The State will perform a final project inspection of the Work as a quality control/assurance activity. When all Work has been satisfactorily completed, the State will sign the FHWA Form 1212.
- ii. Notwithstanding any consents or approvals given by the State for the Plans, the State shall not be liable or responsible in any manner for the structural design, details or construction of any Work constituting major structures designed by, or that are the responsibility of, Local Agency, as identified in **Exhibit E**.

7. PAYMENTS

A. Maximum Amount

Payments to Local Agency are limited to the unpaid, obligated balance of the Agreement Funds set forth in **Exhibit C**. The State shall not pay Local Agency any amount under this Agreement that exceeds the Agreement Maximum set forth in **Exhibit C**.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Local Agency in the amounts and in accordance with conditions set forth in **Exhibit C**.
- b. Local Agency shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Local Agency and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Local Agency shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.
- e. If a project is funded in part with Federal or State special funding there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the special funding and invoiced in compliance with the rules outlined in the award of the funding. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

ii. Interest

Amounts not paid by the State within 45 days after the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 46th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Local Agency shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days interest to be paid and the interest rate.

iii. Payment Disputes

If Local Agency disputes any calculation, determination, or amount of any payment, Local Agency shall notify the State in writing of its dispute within 30 days following the earlier to occur of Local Agency's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Local Agency and may make changes to its determination based on this review. The calculation, determination, or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

- a. The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Local Agency beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Agreement Funds, the State's obligation to pay Local Agency shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.C**.
- b. If the agreement funds are terminated, the State can terminate the contract early. Payment due for work done to the date of termination will be processed in a manner consistent with **§2.C**.

v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Local Agency in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Local Agency. The State may recover such payments by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Local Agency, or by any other appropriate method for collecting debts owed to the State. The close out of a Federal Award does not affect the right of FHWA or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period (as defined below in **§9.A.**).

vi. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Local Agency Funds

Local Agency shall provide their obligated contribution funds as outlined in **§7.A.** and **Exhibit C**. Local Agency shall have raised the full amount of their funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Local Agency's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Local Agency and paid into Local Agency's treasury. Local Agency represents to the State that the amount designated "Local Agency Funds" in **Exhibit C** has been legally appropriated for the purpose of this Agreement by its authorized representatives and paid into its treasury. Local Agency may evidence such obligation by an appropriate ordinance/resolution or other authority letter expressly authorizing Local Agency to enter into this Agreement and to expend its match share of the Work. A copy of any such ordinance/resolution or authority letter is attached hereto as **Exhibit D** if applicable. Local Agency does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of

Local Agency. Local Agency shall not pay or be liable for any claimed interest, late charges, fees, taxes, or penalties of any nature, except as required by Local Agency's laws or policies.

D. Reimbursement of Local Agency Costs

The State shall reimburse Local Agency's allowable costs, not exceeding the maximum total amount described in **Exhibit C** and §7. However, any costs incurred by Local Agency prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Local Agency for costs or expenses incurred or performance by the Local Agency prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the Local Agency. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement. The applicable principles described in 2 C.F.R. Part 200 shall govern the State's obligation to reimburse all costs incurred by Local Agency and submitted to the State for reimbursement hereunder, and Local Agency shall comply with all such principles. The State shall reimburse Local Agency for the federal-aid share of properly documented costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and **Exhibit C**. Local Agency costs for Work performed prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Local Agency costs for Work performed after any Performance Period End Date for a respective phase of the Work, is not reimbursable. Allowable costs shall be:

- i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided.
- ii. Actual net cost to Local Agency (i.e. the price paid minus any items of value received by Local Agency that reduce the cost actually incurred).

E. Unilateral Modification of Agreement Funds Budget by State Option Letter

The State may, at its discretion, issue an "Option Letter" to Local Agency to add or modify Work phases in the Work schedule in **Exhibit C** if such modifications do not increase total budgeted Agreement Funds. Such Option Letters shall amend and update **Exhibit C**, Sections 2 or 4 of the Table, and sub-sections B and C of the **Exhibit C**. Option Letters shall not be deemed valid until signed by the State Controller or an authorized delegate. **This is NOT a Notice to Proceed.** Modification of **Exhibit C** by unilateral Option Letter is permitted only in the specific scenarios listed below. The State will exercise such options by providing Local Agency a fully executed Option Letter, in a form substantially equivalent to **Exhibit B**. Such Option Letters will be incorporated into this Agreement. This applies to the entire Scope of Work.

i. Option to Begin a Phase and/or Increase or Decrease the Encumbrance Amount

The State may require by Option Letter that Local Agency begin a new Work phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous Work (but may not include Right of Way Acquisition/Relocation or Railroads) as detailed in **Exhibit A**. Such Option Letters may not modify the other terms and conditions stated in this Agreement and must decrease the amount budgeted and encumbered for one or more other Work phases so that the total amount of budgeted Agreement Funds remains the same. The State may also change the funding sources so long as the amount budgeted remains the same and the Local Agency contribution does not increase. The State may also issue a unilateral Option Letter to increase and/or decrease the total encumbrance amount of two or more existing Work phases, as long as the total amount of budgeted Agreement Funds remains the same, replacing the original Agreement Funding exhibit (**Exhibit C**) with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

ii. Option to Transfer Funds from One Phase to Another Phase.

The State may require or permit Local Agency to transfer Agreement Funds from one Work phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another phase as a result of changes to State, federal, and local match funding. In such case, the original funding exhibit (**Exhibit C**) will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The Agreement Funds transferred from one Work phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a

fully executed Option Letter to Local Agency within thirty (30) days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iii. Option to Exercise Options i and ii.

The State may require Local Agency to add a Work phase as detailed in **Exhibit A**, and encumber and transfer Agreement Funds from one Work phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2, C-3**, etc.) attached to the Option Letter. The addition of a Work phase and encumbrance and transfer of Agreement Funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a fully executed Option Letter to Local Agency within 30 days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iv. Option to Extend Agreement/Phase Term and/or modify the OMB Uniform Guidance. The State, at its discretion, shall have the option to extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2, C-3**, etc.). In order to exercise this option, the State shall provide written notice to the Local Agency in a form substantially equivalent to **Exhibit B**.

F. Accounting

Local Agency shall establish and maintain accounting systems in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme). Such accounting systems shall, at a minimum, provide as follows:

i. Local Agency Performing the Work

If Local Agency is performing the Work, it shall document all allowable costs, including any approved Services contributed by Local Agency or subcontractors, using payrolls, time records, invoices, contracts, vouchers, and other applicable records.

ii. Local Agency-Checks or Draws

Checks issued or draws made by Local Agency shall be made or drawn against properly signed vouchers detailing the purpose thereof. Local Agency shall keep on file all checks, payrolls, invoices, contracts, vouchers, orders, and other accounting documents in the office of Local Agency, clearly identified, readily accessible, and to the extent feasible, separate and apart from all other Work documents.

iii. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. Local Agency shall reimburse the State for the costs of any such services from the budgeted Agreement Funds as provided for in **Exhibit C**. If FHWA Agreement Funds are or become unavailable, or if Local Agency terminates this Agreement prior to the Work being approved by the State or otherwise completed, then all actual incurred costs of such services and assistance provided by the State shall be reimbursed to the State by Local Agency at its sole expense.

iv. Local Agency-Invoices

Local Agency's invoices shall describe in detail the reimbursable costs incurred by Local Agency for which it seeks reimbursement, the dates such costs were incurred and the amounts thereof, and Local Agency shall not submit more than one invoice per month.

v. Invoicing Within 60 Days

The State shall not be liable to reimburse Local Agency for any costs invoiced more than 60 days after the date on which the costs were incurred, including costs included in Local Agency's final invoice. The State may withhold final payment to Local Agency at the State's sole discretion until completion of final audit. Any costs incurred by Local Agency that are not allowable under 2 C.F.R. Part 200 shall be Local Agency's responsibility, and the State will deduct such disallowed costs from any payments due to Local Agency. The State will not reimburse costs for Work performed after the Performance Period End Date for a respective Work phase. The State will not reimburse costs for Work performed prior to Performance

Period End Date, but for which an invoice is received more than 60 days after the Performance Period End Date.

vi. Risk Assessment & Monitoring

Pursuant to 2 C.F.R. 200.331(b), – CDOT will evaluate Local Agency's risk of noncompliance with federal statutes, regulations, and terms and conditions of this Agreement. Local Agency shall complete a Risk Assessment Form (**Exhibit L**) when that may be requested by CDOT. The risk assessment is a quantitative and/or qualitative determination of the potential for Local Agency's non-compliance with the requirements of the Federal Award. The risk assessment will evaluate some or all of the following factors:

- Experience: Factors associated with the experience and history of the Subrecipient with the same or similar Federal Awards or grants.
- Monitoring/Audit: Factors associated with the results of the Subrecipient's previous audits or monitoring visits, including those performed by the Federal Awarding Agency, when the Subrecipient also receives direct federal funding. Include audit results if Subrecipient receives single audit, where the specific award being assessed was selected as a major program.
- Operation: Factors associated with the significant aspects of the Subrecipient's operations, in which failure could impact the Subrecipient's ability to perform and account for the contracted goods or services.
- Financial: Factors associated with the Subrecipient's financial stability and ability to comply with financial requirements of the Federal Award.
- Internal Controls: Factors associated with safeguarding assets and resources, deterring and detecting errors, fraud and theft, ensuring accuracy and completeness of accounting data, producing reliable and timely financial and management information, and ensuring adherence to its policies and plans.
- Impact: Factors associated with the potential impact of a Subrecipient's non-compliance to the overall success of the program objectives.
- Program Management: Factors associated with processes to manage critical personnel, approved written procedures, and knowledge of rules and regulations regarding federal-aid projects.

Following Local Agency's completion of the Risk Assessment Tool (**Exhibit L**), CDOT will determine the level of monitoring it will apply to Local Agency's performance of the Work. This risk assessment may be re-evaluated after CDOT begins performing monitoring activities.

G. Close Out

Local Agency shall close out this Award within 90 days after the Final Phase Performance End Date. If SLFRF Funds are used the Local Agency shall close out that portion of the Award within 45 days after the ARPA Award Expiration Date. Close out requires Local Agency's submission to the State of all deliverables defined in this Agreement, and Local Agency's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If FHWA or US Treasury has not closed this Federal Award within one (1) year and 90 days after the Final Phase Performance End Date due to Local Agency's failure to submit required documentation, then Local Agency may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

8. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §19 or pursuant to any exhibit, for any contract having a term longer than 3 months, Local Agency shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than ten (10) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State. If SLFRF Funds are used the report must be in the format of **Exhibit P**.

B. Litigation Reporting

If Local Agency is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Local Agency's ability to perform its obligations under this Agreement, Local Agency shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in **§16**.

C. Performance and Final Status

Local Agency shall submit all financial, performance and other reports to the State no later than 60 calendar days after the Final Phase Performance End Date or sooner termination of this Agreement, containing an Evaluation of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Local Agency must disclose, in a timely manner, in writing to the State and FHWA, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. Penalties for noncompliance may include suspension or debarment (2 CFR Part 180 and 31 U.S.C. 3321).

9. LOCAL AGENCY RECORDS

A. Maintenance

Local Agency shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Local Agency shall maintain such records for a period (the "Record Retention Period") pursuant to the requirements of the funding source and for a minimum of three (3) years following the date of submission to the State of the final expenditure report, whichever is longer, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Local Agency in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three (3) years following final disposition of such property.

B. Inspection

Records during the Record Retention Period. Local Agency shall make Local Agency Records available during normal business hours at Local Agency's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two (2) Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Local Agency's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. Local Agency shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Local Agency. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. If Local Agency enters into a subcontract with an entity that would also be considered a Subrecipient, then the subcontract entered into by Local Agency shall contain provisions permitting both Local Agency and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

D. Final Audit Report

Local Agency shall promptly submit to the State a copy of any final audit report of an audit performed on Local Agency's records that relates to or affects this Agreement or the Work, whether the audit is conducted

by Local Agency or a third party. Additionally, if Local Agency is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Local Agency shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Local Agency shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Local Agency for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by Local Agency under CORA. Local Agency shall not, without prior written approval of the State, use for Local Agency's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Agreement. Local Agency shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative. If Local Agency or any of its Subcontractors will or may receive the following types of data, Local Agency or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Award as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Award, if applicable. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Local Agency may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Local Agency shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Agreement, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Local Agency shall provide copies of those signed nondisclosure agreements to the State upon request.

C. Use, Security, and Retention

Local Agency shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Local Agency shall provide the State with access, subject to Local Agency's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Local Agency shall return State Records provided to Local Agency or destroy such State Records and certify to the State that it has done so, as directed by the State. If Local Agency is prevented by law or regulation from returning or destroying State Confidential Information, Local Agency warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Local Agency becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Local Agency can establish that none of Local Agency or any of its agents, employees, assigns, or Subcontractors are the cause or source of the Incident, Local Agency shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Local Agency shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which

may include, but is not limited to, developing, and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding Personally Identifying Information "PII"

If Local Agency or any of its Subcontracts will or may receive PII under this agreement, Local Agency shall provide for the security for such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Local Agency shall be a "Third Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as **Exhibit S** on an annual basis Contractor's duty and obligation to certify as set forth in **Exhibit S** shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Local Agency shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Local Agency under this Agreement. Such a conflict of interest would arise when a Local Agency or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement. Officers, employees, and agents of Local Agency may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

B. Apparent Conflicts of Interest

Local Agency acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Local Agency shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Local Agency's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Local Agency is uncertain whether a conflict or the appearance of a conflict has arisen, Local Agency shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

12. INSURANCE

Local Agency shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies with an AM Best rating of A-VIII or better.

A. Local Agency Insurance

Local Agency is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

B. Subcontractor Requirements

Local Agency shall ensure that each Subcontractor that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA. Local Agency shall ensure that each Subcontractor that is not a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement all of the following insurance policies:

i. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Local Agency or Subcontractor employees acting within the course and scope of their employment.

ii. General Liability

Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- a. \$1,000,000 each occurrence;
- b. \$1,000,000 general aggregate;
- c. \$1,000,000 products and completed operations aggregate; and
- d. \$50,000 any 1 fire.

iii. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Protected Information

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$2,000,000 general aggregate.

v. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

vi. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

vii. Cyber/Network Security and Privacy Liability

Liability insurance covering all civil, regulatory and statutory damages, contractual damages, data breach management exposure, and any loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of breach, violation or infringement of right to privacy rights through improper use or disclosure of protect consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and

- b. \$2,000,000 general aggregate.
- C. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Local Agency and Subcontractors. In the event of cancellation of any commercial general liability policy, the carrier shall provide at least 10 days prior written notice to CDOT.
- D. Primacy of Coverage

Coverage required of Local Agency and each Subcontractor shall be primary over any insurance or self-insurance program carried by Local Agency or the State.
- E. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Local Agency and Local Agency shall forward such notice to the State in accordance with §16 within 7 days of Local Agency's receipt of such notice.
- F. Subrogation Waiver

All commercial insurance policies secured or maintained by Local Agency or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Local Agency or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
- G. Certificates

For each commercial insurance plan provided by Local Agency under this Agreement, Local Agency shall provide to the State certificates evidencing Local Agency's insurance coverage required in this Agreement within seven (7) Business Days following the Effective Date. Local Agency shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following the Effective Date, except that, if Local Agency's subcontract is not in effect as of the Effective Date, Local Agency shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following Local Agency's execution of the subcontract. No later than 15 days before the expiration date of Local Agency's or any Subcontractor's coverage, Local Agency shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Local Agency shall, within seven (7) Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

13. BREACH

- A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization, or similar law, by or against Local Agency, or the appointment of a receiver or similar officer for Local Agency or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.
- B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in the Agreement in order to protect the public interest of the State.

14. REMEDIES

- A. State's Remedies

If Local Agency is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in **§13.B**, shall have all of the remedies listed in this **§14.A**, in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Local Agency's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Local Agency shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Local Agency shall not incur further obligations or render further performance past the effective date of such notice and shall terminate outstanding orders and subcontracts with third parties. However, Local Agency shall complete and deliver to the State all Work not canceled by the termination notice and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Local Agency shall assign to the State all of Local Agency's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Local Agency shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Local Agency but in which the State has an interest. At the State's request, Local Agency shall return materials owned by the State in Local Agency's possession at the time of any termination. Local Agency shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Local Agency for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Local Agency was not in breach or that Local Agency's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under **§2.C**.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Local Agency shall remain liable to the State for any damages sustained by the State in connection with any breach by Local Agency, and the State may withhold payment to Local Agency for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Local Agency is determined. The State may withhold any amount that may be due Local Agency as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Local Agency's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Local Agency to an adjustment in price or cost or an adjustment in the performance schedule. Local Agency shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Local Agency after the suspension of performance.

b. Withhold Payment

Withhold payment to Local Agency until Local Agency corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Local Agency's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal from the Work of any of Local Agency's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes a patent, copyright, trademark, trade secret, or other intellectual property right, Local Agency shall, as approved by the State (a) secure that right to use such Work for the State or Local Agency; (b) replace the Work with non infringing Work or modify the Work so that it becomes non infringing; or, (c) remove any infringing Work and refund the amount paid for such Work to the State.

B. Local Agency's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Local Agency, following the notice and cure period in §13.B and the dispute resolution process in §15 shall have all remedies available at law and equity.

15. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Local Agency for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

C. Questions of Fact

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of CDOT. In connection with any appeal proceeding under this clause, Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Local Agency shall proceed diligently with the performance of this Agreement in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals shall be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Agreement, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) by hand with receipt required, (ii) by certified or registered mail to such Party's principal representative at the address set forth below

or (iii) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §16 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

For the State

Colorado Department of Transportation (CDOT)
Jessi Spencer, LA/Planning Support
R3
222 S. 6th St.
Grand Junction, CO 81501
501-412-3860
jessi.spencer@state.co.us

For the Local Agency

Town of Eagle
Martha Miller, Project Manager
PO BOX 609
Eagle, CO 81631
970-328-9624
martha.miller@townofeagle.org

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Local Agency hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Local Agency or any Subcontractors. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Local Agency is under contract with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Local Agency grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Local Agency that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not the Local Agency is under Agreement with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives, or other documents, drawings, models, materials, data, and information shall be the exclusive property of the State (collectively, "State Materials"). Local Agency shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Local Agency's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Local Agency shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Local Agency

Local Agency retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Local Agency including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Local Agency under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Local Agency Property"). Local Agency Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. The following applies through June 30, 2022: no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this §19 shall apply. Local Agency agrees to be governed by and comply with the provisions of §24-106-103, §24-102-206, §24-106-106, §24-106-107 C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Local Agency's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS

A. Assignment

Local Agency's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Local Agency's rights and obligations approved by the State shall be subject to the provisions of this Agreement

B. Subcontracts

Local Agency shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Local Agency shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Local Agency in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in **§20.A.** all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

H. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

I. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

J. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than contract amendments, shall conform to the policies promulgated by the Colorado State Controller.

K. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

L. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. The provisions of the other sections of the main body of this Agreement.
- ii. **Exhibit N**, Federal Treasury Provisions.
- iii. **Exhibit F**, Certification for Federal-Aid Contracts.
- iv. **Exhibit G**, Disadvantaged Business Enterprise.
- v. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts.
- vi. **Exhibit J**, Additional Federal Requirements.
- vii. **Exhibit K**, Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions.
- viii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form.
- ix. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the "Uniform Guidance").
- x. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds.
- xi. **Exhibit R**, Applicable Federal Awards.
- xii. Colorado Special Provisions in the main body of this Agreement.
- xiii. **Exhibit A**, Scope of Work.
- xiv. **Exhibit H**, Local Agency Procedures for Consultant Services.
- xv. **Exhibit B**, Sample Option Letter.
- xvi. **Exhibit C**, Funding Provisions.
- xvii. **Exhibit P**, SLFRF Subrecipient Quarterly Report.
- xviii. **Exhibit Q**, SLFRF Reporting Modification Form.
- xix. **Exhibit D**, Local Agency Resolution.
- xx. **Exhibit E**, Local Agency Contract Administration Checklist.
- xxi. **Exhibit S**, PII Certification.
- xxii. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source.
- xxiii. Other exhibits in descending order of their attachment.

M. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of the Agreement.

N. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other Party.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§20.C**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107 C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Local Agency shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Local Agency's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations.

Local Agency shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Compliance with State and Federal Law, Regulations, and Executive Orders

Local Agency shall comply with all State and Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Agreement.

U. Accessibility

- i. Local Agency shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Local Agency shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. Each Party agrees to be responsible for its own liability incurred as a result of its participation in and performance under this Agreement. In the event any claim is litigated, each Party will be responsible for its own attorneys' fees, expenses of litigation, or other costs. No provision of this Agreement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to either the Local Agency or the State by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. and Article XI of the Colorado Constitution. Nothing in the Agreement shall be construed as a waiver of any provision of the State Fiscal Rules.
- iii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

V. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq., C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Local Agency. Local Agency shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Local Agency may wish to have in place in connection with this Agreement.

21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts. Contractor refers to Local Agency.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

22. FEDERAL REQUIREMENTS

Local Agency and/or their contractors, subcontractors, and consultants shall at all times during the execution of this Agreement strictly adhere to, and comply with, all applicable federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended. A summary of applicable federal provisions are attached hereto as **Exhibit F**, **Exhibit I**, **Exhibit J**, **Exhibit K**, **Exhibit M**, **Exhibit N** and **Exhibit O** are hereby incorporated by this reference.

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Local Agency will comply with all requirements of **Exhibit G** and **Exhibit E**, Local Agency Contract Administration Checklist, regarding DBE requirements for the Work, except that if Local Agency desires to use its own DBE program to implement and administer the DBE provisions of 49 C.F.R. Part 26 under this Agreement, it must submit a copy of its program's requirements to the State for review and approval before the execution of this Agreement. If Local Agency uses any State- approved DBE program for this Agreement, Local Agency shall be solely responsible to defend that DBE program and its use of that program against all legal and other challenges or complaints, at its sole cost and expense. Such responsibility includes, without limitation, determinations concerning DBE eligibility requirements and certification, adequate legal and factual bases for DBE goals and good faith efforts. State approval (if provided) of Local Agency's DBE program does not waive or modify the sole responsibility of Local Agency for use of its program.

EXHIBIT A
SCOPE OF WORK

Name of Project: Town of Eagle Sylvan Lake Rd.
Project Number: MTF M345-005
SubAccount #: 25945

The project will improve pedestrian safety by reducing crossing distances by introducing traffic calming features such as concrete curb extensions and closing a sidewalk gap. Additionally, the project will enhance safety by separating bicycles from pedestrians and adding dedicated bike lanes.

If ARPA funds are used, all ARPA funds must be encumbered by December 31, 2024. All work funded by ARPA must be completed by December 31, 2026 and all bills must be submitted to CDOT for payment by January 31, 2027. These bills must be paid by CDOT by March 31, 2027.

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A constructed under this Agreement at its own cost and expense during its useful life.**

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EXHIBIT B

SAMPLE IGA OPTION LETTER

Date	State Fiscal Year	Option Letter No.
Project Code	Original Agreement #	

Vendor Name:

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous and to update encumbrance amount(s).

Option to unilaterally transfer funds from one phase to another phase.

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous, to update encumbrance amount(s), and to unilaterally transfer funds from one phase to another phase.

Option to unilaterally extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify OMB Guidance.

Option A

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to authorize the Local Agency to add a phase and to encumber funds for the phase based on changes in funding availability and authorization. The total encumbrance is (or increased) by \$0.00. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option B

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to transfer funds based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option C

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to 1) release the Local Agency to begin a phase; 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from phases based on variance in actual phase costs and

original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. This is made part of the original Agreement and replaces the Expiration Date shown on the Signature and Cover Page. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

The effective date of this option letter is upon approval of the State Controller or delegate.

STATE OF COLORADO
Jared S. Polis
Department of Transportation

By: _____
Keith Stefanik, P.E., Chief Engineer
(For) Shoshana M. Lew, Executive Director

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT C- FUNDING PROVISIONS**Town of Eagle MTF M345-005 (25945)****A. Cost of Work Estimate**

The Town of Eagle has estimated the total cost of the Work to be \$1,000,000.00, which is to be funded as follows:

1. FUNDING**MTF M345-005 (25945)**

a.	Federal Funds ARPA US Treasury Expenditure Category EC6 (50% MMO ARPA)	\$500,000.00
b.	Local Agency Funds (50% Local Match)	\$500,000.00

TOTAL FUNDS ALL SOURCES	\$1,000,000.00
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2. OMB UNIFORM GUIDANCE

a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	USDT
c.	Local Agency Unique Entity Identifier	GDB1EPFH8JR9
d.	Assistance Listing # Coronavirus State and Local Fiscal Recovery Funds	ALN 21.027
e.	Is the Award for R&D?	No
f.	Indirect Cost Rate (if applicable)	N/A
g.	Amount of Federal Funds Obligated by this Action:	\$0.00
h.	Amount of Federal Funds Obligated to Date (including this Action):	\$0.00

3. ESTIMATED PAYMENT TO LOCAL AGENCY

a.	ARPA Funds Budgeted	\$500,000.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs	\$ 0.00

TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	50%	\$500,000.00
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY	50%	\$500,000.00

TOTAL PROJECT ESTIMATED FUNDING	100.00%	\$1,000,000.00
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4. FOR CDOT ENCUMBRANCE PURPOSES**MTF M345-005 (25945)**

a.	Total Encumbrance Amount (Only ARPA funds are encumbered)	\$ 500,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$ 0.00

NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS	\$ 500,000.00
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Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.

MTF M345-005 (25945)

WBS Element 25945.10.30	Performance Period Start*/End Date	Design 3020	\$0.00
	TBD-TBD		
WBS Element 25945.20.10	Performance Period Start*/End Date	Const. 3301	\$0.00
	TBD-TBD		

* ARPA the Local Agency should not begin work until both of the following are in place: 1) the execution of the document encumbering funds for the respective phase and 2) Local Agency receipt of the official Notice to Proceed. Any work performed before these two (2) milestones are achieved will not be reimbursable.

B. Funding Ratios

The funding ratio for the federal funds for this Work is 50% federal funds to 50% Local Agency funds, and this ratio applies only to the \$1,000,000.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$1,000,000.00, and additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$1,000,000.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described in **A1. This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$500,000.00. For CDOT accounting purposes, the federal funds of \$500,000.00, will be encumbered, but the Local Agency funds of \$500,000.00 will NOT be encumbered. The total budget of this project is \$1,000,000.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work. ARPA Funds can only originate from and after May 18, 2021.**

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

i. Expenditure less than \$750,000

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

ii. Expenditure of \$750,000 or more-Highway Funds Only

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

iii. Expenditure of \$750,000 or more-Multiple Funding Sources

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

iv. Independent CPA

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT D

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

Exhibit E-**Local Agency Contract Administration Checklist**

COLORADO DEPARTMENT OF TRANSPORTATION			
LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST			
Project No. MTF M345-005	STIP No. SR37015.035	Project Code 25945	Region 3
Project Location Town of Eagle			Date 07/26/2023
Project Description Sylvan Lake Road			
Local Agency Town of Eagle	Local Agency Project Manager Martha Miller		
CDOT Resident Engineer John Kronholm	CDOT Project Manager Jessi Spencer/Mark Rogers		
INSTRUCTIONS: This checklist shall be used to establish the contractual administrative responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency Agreement. Section numbers (NO.) correspond to the applicable chapters of the <i>CDOT Local Agency Desk Reference (Local Agency Manual)</i>. LAWR numbers correspond to the applicable flowchart in the Local Agency Web Resource. The checklist shall be prepared by placing an X under the responsible party, opposite each of the tasks. The X denotes the party responsible for initiating and executing the task. Only one responsible party should be selected. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, # will denote that CDOT must concur or approve. Tasks that will be performed by Headquarters staff are indicated with an X in the CDOT column under Responsible Party. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT. The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist. Note: Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.			

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
		TIP / STIP AND LONG-RANGE PLANS		
	2.1	Review Project to ensure it is consistent with Statewide Plan and amendments thereto		x
		FEDERAL FUNDING OBLIGATION AND AUTHORIZATION		
	4.1	Authorize funding by phases (Requires FHWA concurrence/involvement if Federal-aid Highway funded project.). <i>Please write in "NA", if Not Applicable.</i>	N/A	x
		PROJECT DEVELOPMENT		
1	5.1	Prepare Design Data - CDOT Form 463		x
	5.2	Determine Delivery Method	x	
	5.3	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		x
2	5.4	Conduct Consultant Selection/Execute Consultant Agreement - Project Development - Construction Contract Administration (including Fabrication Inspection Services)	x x	
3,3A	5.5	Conduct Design Scoping Review Meeting	x	
3,6	5.6	Conduct Public Involvement	x	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
3	5.7	Conduct Field Inspection Review (FIR)	X	
4	5.8	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	X
5	5.9	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	
3	5.10	Obtain Utility and Railroad Agreements	X	
3	5.11	Conduct Final Office Review (FOR)	X	
3A	5.12	Justify Force Account Work by the Local Agency	X	
3B	5.13	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	X
3	5.14	Document Design Exceptions - CDOT Form 464		X
	5.15	Seek Permission for use of Guaranty and Warranty Clauses	X	
3	5.18	Prepare Plans, Specifications, Construction Cost Estimates and Submittals	X	
	5.19	Comply with Requirements for Off-and On-System Bridges & Other Structural Work	X	
	5.20	Update Approvals on PS&E Package if Project Schedule Delayed	X	
	5.21	Ensure Authorization of Funds for Construction		X
	5.22	Use Electronic Signatures	X	
	5.23	File Project Development Records/Documentation in ProjectWise		X
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE				
3	6.1	Set Disadvantaged Business Enterprise (DBE) Goals for Consultant and Construction Contracts (CDOT Region Civil Rights Office).		X
	6.2	Determine Applicability of Davis-Bacon Act This project ☐ is ☒ is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) John Kronholm 06/27/2023 _____ CDOT Resident Engineer Date		X
	6.3	Set On-the-Job Training Goals (CDOT Region Civil Rights Office) "NA", if Not Applicable		X
	6.4	Enforce Prompt Payment Requirements	X	X
	6.5	Use Electronic Tracking and Submission Systems – B2GNow ☒ LCPtracker ☒	X	
3	6.6	Prepare/submit Title VI Plan and Incorporate Title VI Assurances	X	
6,7		Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)	X	
ADVERTISE, BID AND AWARD of CONSTRUCTION PROJECTS				
Federal Project (use 7.1 series in Chapter 7) ☒ Non-Federal Project (Use 7.2 series in Chapter 7) ☐				
6,7		Obtain Approval for Advertisement Period of Less Than Three Weeks;	X	X
7		Advertise for Bids	X	
7		Concurrence to Advertise		X
7		Distribute "Advertisement Set" of Plans and Specifications	X	
7		Review Worksite & Plan Details w/ Prospective Bidders While Project Is Under Ad	X	
7		Open Bids	X	
7		Process Bids for Compliance		
		Check CDOT Form 1415 – Commitment Confirmation when the low bidder meets DBE goals. (Please write in "NA", if Not Applicable)		X
		Evaluate CDOT Form 1416 - Good Faith Effort Report and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals. "NA", if Not Applicable.		X
		Submit required documentation for CDOT award concurrence	X	
		Concurrence from CDOT to Award		X
		Approve Rejection of Low Bidder		X
7,8		Award Contract (federal)	X	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
8		Provide "Award" and "Record" Sets of Plans and Specifications (federal)	x	
		CONSTRUCTION MANAGEMENT		
8	Intro	File Project Construction Records/Documentation in ProjectWise or as directed	x	
8	8.1	Issue Notice to Proceed to the Contractor	x	
8	8.2	Project Safety	x	x
8	8.3	Conduct Conferences:		
		Pre-construction Conference (Appendix B)	x	
		• Fabrication Inspection Notifications	x	
		Pre-survey	x	
		• Construction staking	x	
		• Monumentation	x	
		Partnering (Optional)	x	
		Structural Concrete Pre-Pour (Agenda is in <i>CDOT Construction Manual</i>)	x	
		Concrete Pavement Pre-Paving (Agenda is in <i>CDOT Construction Manual</i>)	x	
		HMA Pre-Paving (Agenda is in <i>CDOT Construction Manual</i>)	x	
8	8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	x	
9	8.5	Supervise Construction		
		A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision."		
		Martha Miller 970-343-2903	x	
		Local Agency Professional Engineer or CDOT Resident Engineer Phone number		
		Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	x	
		Construction inspection and documentation (including projects with structures)	x	
		Fabrication Inspection and documentation	x	
9	8.6	Review and Approve Shop Drawings	x	
9	8.7	Perform Traffic Control Inspections	x	
9	8.8	Perform Construction Surveying	x	
9	8.9	Monument Right-of-Way	x	
9,9A	8.10	Prepare and Approve Interim and Final Contractor Pay Estimates. Collect and review CDOT Form 1418 (or equivalent) or use compliance software system.		
		Provide the name and phone number of the person authorized for this task.		
		Martha Miller 970-343-2903		x
		Local Agency Representative Phone number		
9	8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	x	
9B	8.12	Prepare and Authorize Change Orders	x	#
9B	8.13	Submit Change Order Package to CDOT	x	
9A	8.14	Prepare Local Agency Reimbursement Requests	x	
9	8.15	Monitor Project Financial Status	x	x
9	8.16	Prepare and Submit Monthly Progress Reports	x	
9	8.17	Resolve Contractor Claims and Disputes	x	
	8.18	Conduct Routine and Random Project Reviews		
		Provide the name and phone number of the person responsible for this task.		
		John Kronholm 970-328-9963		x
		CDOT Resident Engineer Phone number		
9	8.19	Ongoing Oversight of DBE Participation	x	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
		MATERIALS		
9,9C	9.1	Discuss Materials at Pre-Construction Meeting Buy America documentation required prior to installation of steel	x	
9,9C	9.2	Complete CDOT Form 250 - Materials Documentation Record - Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project - Update the form as work progresses - Complete and distribute form after work is completed	x x	x
9C	9.3	Perform Project Acceptance Samples and Tests	x	
9C	9.4	Perform Laboratory Acceptance Tests	x	
9C	9.6	Accept Manufactured Products Inspection of structural components: - Fabrication of structural steel and pre-stressed concrete structural components - Bridge modular expansion devices (0" to 6" or greater) - Fabrication of bearing devices	x N/A x	
9C	9.6	Approve Sources of Materials	x	
9C	9.7	Independent Assurance Testing (IAT) Local Agency Procedures ☐ CDOT Procedures ☒ - Generate IAT schedule - Schedule and provide notification - Conduct IAT	x x x	
9C	9.8	Approve mix designs - Concrete - Hot mix asphalt	x x	x x
9C	9.9	Check Final Materials Documentation	x	x
9C	9.10	Complete and Distribute Final Materials Documentation	x	
		CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE		
9	10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	x	
8,9	10.2	Process CDOT Form 205 - Sublet Permit Application and CDOT Form 1425 – Supplier Application Approval Request. Review & sign completed forms, or review/approve in compliance software system, as applicable, & submit to Region Civil Rights Office.	x	x
9	10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	x	
9	10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	x	
9	10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. - Complete CDOT Form 1337 – Contractor Commitment to Meet OJT Requirements. - Complete CDOT Form 838 – OJT Trainee / Apprentice Record. - Complete CDOT Form 200 - OJT Training Questionnaire	x x x	
9	10.6	Check Certified Payrolls (Contact the Region Civil Rights Office for training reqmts.)	x	x
9	10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	x	
	10.8	Contract Compliance and Project Site Reviews		x
		FINALS		
	11.1	Conduct Final Project Inspection & Final Inspection of Structures, if applicable	x	x
10	11.2	Write Final Project Acceptance Letter	x	
10	11.3	Advertise for Final Settlement	x	
11	11.4	Prepare and Distribute Final As-Constructed Plans	x	
11	11.5	Prepare EEO Certification and Collect EEO Forms	x	
11	11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	x	

LA WK	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
11	11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	x	
	11.8	Review CDOT Form 1419		x
	11.9	Submit CDOT Professional Services Closeout Report Form	x	
	11.10	Complete and Submit CDOT Form 1212 LA – Final Acceptance Report (by CDOT)		x
11	11.11	Process Final Payment	x	x
	11.12	Close out Local Project	x	
	11.13	Complete and Submit CDOT Form 950 - Project Closure		x
11	11.14	Retain Project Records	x	
11	11.15	Retain Final Version of Local Agency Contract Administration Checklist	x	

cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region Civil Rights Office

CDOT Region Materials Engineer
CDOT Contracts and Market Analysis Branch
Local Agency Project Manager

EXHIBIT F
CERTIFICATION FOR FEDERAL-AID CONTRACTS

The Local Agency certifies, by signing this Agreement, to the best of its knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, Agreement, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of Congress, or an employee of a Member of Congress in connection with this Federal contract, Agreement, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

EXHIBIT G

DISADVANTAGED BUSINESS ENTERPRISE

SECTION 1. Policy.

It is the policy of the Colorado Department of Transportation (CDOT) that disadvantaged business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement, pursuant to 49 CFR Part 26. Consequently, the 49 CFR Part IE DBE requirements the Colorado Department of Transportation DBE Program (or a Local Agency DBE Program approved in advance by the State) apply to this agreement.

SECTION 2. DBE Obligation.

The recipient or the Local Agency agrees to ensure that disadvantaged business enterprises as determined by the Office of Certification at the Colorado Department of Regulatory Agencies have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all participants or contractors shall take all necessary and reasonable steps in accordance with the CDOT DBE program (or a Local Agency DBE Program approved in advance by the State) to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT assisted contracts.

SECTION 3 DBE Program.

The Local Agency (sub-recipient) shall be responsible for obtaining the Disadvantaged Business Enterprise Program of the Colorado Department of Transportation, 1988, as amended, and shall comply with the applicable provisions of the program. (If applicable).

A copy of the DBE Program is available from and will be mailed to the Local Agency

upon request: Business Programs Office

Colorado Department of Transportation

2829 West Howard Place Denver,

Colorado 80204

Phone: (303) 757-9007

REQUIRED BY 49 CFR
PART 26

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

Title 23 Code of Federal Regulations (CFR) 172 applies to a federally funded Local Agency project agreement administered by CDOT that involves professional consultant services. 23 CFR 172.1 states “The policies and procedures involve federally funded contracts for engineering and design related services for projects subject to the provisions of 23 U.S.C. 112(a) and are issued to ensure that a qualified consultant is obtained through an equitable selection process, that prescribed work is properly accomplished in a timely manner, and at fair and reasonable cost” and according to 23 CFR 172.5 “Price shall not be used as a factor in the analysis and selection phase.” Therefore, local agencies must comply with these CFR requirements when obtaining professional consultant services under a federally funded consultant contract administered by CDOT.

CDOT has formulated its procedures in Procedural Directive (P.D.) 400.1 and the related operations guidebook titled "Obtaining Professional Consultant Services". This directive and guidebook incorporate requirements from both Federal and State regulations, i.e., 23 CFR 172 and CRS §24-30-1401 et seq. Copies of the directive and the guidebook may be obtained upon request from CDOT's Agreements and Consultant Management Unit. [Local agencies should have their own written procedures on file for each method of procurement that addresses the items in 23 CFR 172].

Because the procedures and laws described in the Procedural Directive and the guidebook are quite lengthy, the subsequent steps serve as a short-hand guide to CDOT procedures that a Local Agency must follow in obtaining professional consultant services. This guidance follows the format of 23 CFR 172. The steps are:

1. The contracting Local Agency shall document the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting Local Agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.
3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.
4. The Local Agency shall not advertise any federal aid contract without prior review by the CDOT Regional Civil Rights Office (RCRO) to determine whether the contract shall be subject to a DBE contract goal. If the RCRO determines a goal is necessary, then the Local Agency shall include the goal and the applicable provisions within the advertisement. The Local Agency shall not award a contract to any Contractor or Consultant without the confirmation by the CDOT Civil Rights and Business Resource Center that the Contractor or Consultant has demonstrated good faith efforts. The Local Agency shall work with the CDOT RCRO to ensure compliance with the established terms during the performance of the contract.
5. The Local Agency shall require that all contractors pay subcontractors for satisfactory performance of work no later than 30 days after the receipt of payment for that work from the contractor. For construction projects, this time period shall be reduced to seven days in accordance with Colorado Revised Statute 24-91-103(2). If the Local Agency withholds retainage from contractors and/or allows contractors to withhold retainage from subcontractors, such retainage provisions must comply with 49 CFR 26.29.
6. Payments to all Subconsultants shall be made within thirty days of receipt of payment from [the Local Agency] or no later than ninety days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify [the Local Agency] no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include the Consultant's failure to submit an invoice to the Local Agency or to deposit payments made.
7. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

The short-list is based on the following evaluation factors:

- a. Qualifications,

- b. Approach to the Work,
- c. Ability to furnish professional services.
- d. Anticipated design concepts, and
- e. Alternative methods of approach for furnishing the professional services. Evaluation factors for final selection are the consultant's:

- a. Abilities of their personnel,
 - b. Past performance,
 - c. Willingness to meet the time and budget requirement,
 - d. Location,
 - e. Current and projected work load,
 - f. Volume of previously awarded contracts, and
 - g. Involvement of minority consultants.
8. Once a consultant is selected, the Local Agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than \$50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.
9. A qualified Local Agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the Local Agency prepares a performance evaluation (a CDOT form is available) on the consultant.

CRS §§24-30-1401 THROUGH 24-30-1408, 23 CFR PART 172, AND P.D. 400.1, PROVIDE ADDITIONAL DETAILS FOR COMPLYING WITH THE PRECEEDING EIGHT (8) STEPS.

EXHIBIT I

FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:

The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding (29 CFR 5.5)

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records (29 CFR 5.5)

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or

subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees (29 CFR 5.5)

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State

Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the

corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor

set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility (29 CFR 5.5)

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

3. Withholding for unpaid wages and liquidated damages.

The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or

equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance

with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant

who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is

submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier

subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**
This provision is applicable to all Federal-aid projects funded
under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

Federal laws and regulations that may be applicable to the Work include:

Executive Order 11246

Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by the Local Agencies and their contractors or the Local Agencies).

Copeland "Anti-Kickback" Act

The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and sub-Agreements for construction or repair).

Davis-Bacon Act

The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by the Local Agencies and the Local Agencies when required by Federal Agreement program legislation. This act requires that all laborers and mechanics employed by contractors or sub-contractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).

Contract Work Hours and Safety Standards Act

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by the Local Agency's in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

Clean Air Act

Standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and sub-Agreements of amounts more than \$100,000).

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

OMB Circulars

Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.

Hatch Act

The Hatch Act (5 USC 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.

Nondiscrimination

The Local Agency shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color national origin, sex, age or disability. Prior to the receipt of any Federal financial assistance from CDOT, the Local Agency shall execute the attached Standard DOT Title VI assurance. As appropriate, the Local Agency shall include Appendix A, B, or C to the Standard DOT Title VI assurance in any contract utilizing federal funds, land, or other aid. The Local Agency shall also include the following in all contract advertisements:

The [Local Agency], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (79 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, DBEs will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award.

ADA

In any contract utilizing federal funds, land, or other federal aid, the Local Agency shall require the federal-aid recipient or contractor to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of the Agreement).

Drug-Free Workplace Act

The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et seq.).

Age Discrimination Act of 1975

The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et. seq. and its implementing regulation, 45 C.F.R. Part 91; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

23 C.F.R. Part 172

23 C.F.R. Part 172, concerning "Administration of Engineering and Design Related Contracts".

23 C.F.R Part 633

23 C.F.R Part 633, concerning "Required Contract Provisions for Federal-Aid Construction Contracts".

23 C.F.R. Part 635

23 C.F.R. Part 635, concerning "Construction and Maintenance Provisions".

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973. The requirements for which are shown in the Nondiscrimination Provisions, which are attached hereto and made a part hereof.

Nondiscrimination Provisions:

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees, and successors in interest, agree as follows:

i. Compliance with Regulations

The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

ii. Nondiscrimination

The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.

iii. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.

iv. Information and Reports

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.

v. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: **a.** Withholding of payments to the Contractor under the contract until the Contractor complies, and/or **b.** Cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provisions §22

The Contractor will include the provisions of this Exhibit J in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interest of the State and in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

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SAMPLE

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances for Local Agencies

DOT Order No. 1050.2A

The [Local Agency] (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Colorado Department of Transportation and the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the FHWA, FTA, or FAA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non- discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated or will be (with regard to a "facility") operated or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
3. "The [Local Agency] in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity

4. to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
5. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
6. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
7. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
8. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
9. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
10. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
11. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
12. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the [Local Agency] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review

upon request to CDOT, FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Local Agency] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on [Local Agency], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the [Local Agency], CDOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the [Local Agency], CDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the non-discrimination provisions of this contract, the [Local Agency] will impose such contract sanctions as it, CDOT or FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the [Local Agency], CDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the [Local Agency] will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of (*Name of Appropriate Program*), and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the [Local Agency] all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto [Local Agency] and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the [Local Agency] its successors and assigns.

The [Local Agency], in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the [Local Agency] will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the [Local Agency] pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the [Local Agency] will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the [Local Agency] and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by [Local Agency] pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, [Local Agency] will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will there upon revert to and vest in and become the absolute property of [Local Agency] of Transportation and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

EXHIBIT K

FFATA SUPPLEMENTAL FEDERAL PROVISIONS

**State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
Revised as of 3-20-13**

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. “Award” means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award *does not* include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. “Contract” means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.

1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpartC;

- 1.5.1.** A governmental organization, which is a State, local government, or Indian Tribe;
- 1.5.2.** A foreign public entity;
- 1.5.3.** A domestic or foreign non-profit organization;

- 1.5.4. A domestic or foreign for-profit organization; and
- 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
- 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109- 282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
- 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 1.17 **“Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
 - 3.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2. In the preceding fiscal year, Contractor received:
 - 4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
7. **Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

7.1 To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

7.1.1 Subrecipient DUNS Number;

7.1.2 Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

7.1.3 Subrecipient Parent DUNS Number;

7.1.4 Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

7.1.5 Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

7.1.6 Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

7.2 To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

7.2.1 Subrecipient's DUNS Number as registered in SAM.

7.2.2 Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. Exemptions.

8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

8.2 A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

8.3 Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.

8.4 There are no Transparency Act reporting requirements for Vendors.

Event of Default. Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

	CDOT SUBRECIPIENT RISK ASSESSMENT	Date:		
Name of Entity (Subrecipient):				
Name of Project / Program:				
Estimated Award Period:				
Entity Executive Director or VP:				
Entity Chief Financial Officer:				
Entity Representative for this Self Assessment:				
Instructions: (See "Instructions" tab for more information) 1. Check only one box for each question. All questions are required to be answered. 2. Utilize the "Comment" section below the last question for additional responses. 3. When complete, check the box at the bottom of the form to authorize.				
		Yes	No	N/A
EXPERIENCE ASSESSMENT				
		Yes	No	N/A
1 Is your entity new to operating or managing federal funds (has not done so within the past three years)?		☐	☐	
2 Is this funding program new for your entity (managed for less than three years)? <i>Examples of funding programs include CMAQ, TAP, STP-M, etc.</i>		☐	☐	
3 Does your staff assigned to the program have at least three full years of experience with this federal program?		☐	☐	
MONITORING/AUDIT ASSESSMENT				
		Yes	No	N/A
4 Has your entity had an on-site project or grant review from an external entity (e.g., CDOT, FHWA) within the last three years?		☐	☐	☐
5 a) Were there non-compliance issues in this prior review?		☐	☐	☐
b) What were the number and extent of issues in prior review?		☐ 1 to 2	☐ >3	☐
OPERATION ASSESSMENT				
		Yes	No	N/A
6 Does your entity have a time and effort reporting system in place to account for 100% of all employees' time, that can provide a breakdown of the actual time spent on each funded project? <i>If No, in the comment section please explain how you intend to document 100% of hours worked by employees and breakdown of time spent on each funding project.</i>		☐	☐	
FINANCIAL ASSESSMENT				
		Yes	No	N/A
7 a) Does your entity have an indirect cost rate that is approved and current?		☐	☐	
b) If Yes, who approved the rate, and what date was it approved?				
8 Is this grant/award 10% or more of your entity's overall funding?		☐ >10%	☐ <10%	
9 Has your entity returned lapsed* funds? *Funds "lapse" when they are no longer available for obligation.		☐	☐	☐
10 Has your entity had difficulty meeting local match requirements in the last three years?		☐	☐	☐
11 What is the total federal funding your entity has been awarded for the last federal fiscal year, and what is your entity's fiscal year end?				

INTERNAL CONTROLS ASSESSMENT		Yes	No	N/A
12	Has your entity had any significant changes in key personnel or accounting system(s) in the last year? (e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.	☐	☐	☐
13	Does your entity have financial procedures and controls in place to accommodate a federal-aid project?	☐	☐	
14	Does your accounting system identify the receipts and expenditures of program funds separately for each award?	☐	☐	
15	Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget?	☐	☐	
16	Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? If Yes, in the comment section, please explain your current process for reviewing costs.	☐	☐	☐
17	How many total FTE perform accounting functions within your organization?	☐ ≥ 6	☐ 2 to 5	☐ < 2
IMPACT ASSESSMENT		Yes	No	N/A
18	For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. (*Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)	☐	☐	
19	For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? Response options: YES = Check if have one or more violation(s) and have either disclosed previously to CDOT or as part of this form. In the comment section, list all violations with names of supporting documentation and submit with this form. NO = Check if have one or more violation(s) and have not disclosed previously or will not disclose as part of this form. Explain in the comment section. N/A = Check if have no violations.	☐	☐	☐
PROGRAM MANAGEMENT ASSESSMENT		Yes	No	N/A
20	Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? If Yes, please submit with this form.	☐	☐	☐
21	Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? If Yes, please submit with this form. (*The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)	☐	☐	☐
22	a) Is your staff familiar with the relevant CDOT manuals and federal program requirements?	☐	☐	☐
	b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? If Yes, please submit with this form.	☐	☐	☐
	c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? If Yes, please submit with this form.	☐	☐	☐

d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. <i>If Yes, please submit with this form.</i>	☐	☐	☐
e) Does your entity have a written policy or certification statement approved by your governing board assuring that only US manufactured steel will be incorporated into the project (<i>Buy America requirements</i>)? <i>If Yes, please submit with this form.</i>	☐	☐	☐
Comments - As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.			
☐ By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct.  Tool Version: v2.0 (081816)			

EXHIBIT M

OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS

**Subject to
The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and
Audit Requirements for Federal Awards (“Uniform Guidance”),
Federal Register, Vol. 78, No. 248, 78590**

The agreement to which these Uniform Guidance Supplemental Provisions are attached has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the agreement or any attachments or exhibits incorporated into and made a part of the agreement, the provisions of these Uniform Guidance Supplemental Provisions shall control. In the event of a conflict between the provisions of these Supplemental Provisions and the FFATA Supplemental Provisions, the FFATA Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

- 1.1. “Award”** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38
- 1.2. “Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- 1.3. “Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. 2 CFR §200.37
- 1.4. “FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 1.5. “Grant” or “Grant Agreement”** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.
- 1.6. “OMB”** means the Executive Office of the President, Office of Management and Budget.
- 1.7. “Recipient”** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86
- 1.8. “State”** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.
- 1.9. “Subrecipient”** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.
- 1.10. “Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

- 1.11. “Uniform Guidance Supplemental Provisions”** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.
- 2. Compliance.** Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3. Procurement Standards.**
- 3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation,
§§200.318 through 200.326 thereof.
- 3.2 Procurement of Recovered Materials.** If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient’s records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 5. Single Audit Requirements.** If Subrecipient expends \$750,000 or more in Federal Awards during Subrecipient’s fiscal year, Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
- 5.1 Election.** Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program’s statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 5.2 Exemption.** If Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government

Accountability Office.

- 5.3 Subrecipient Compliance Responsibility.** Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

- 6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

- 6.1 Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments

under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled,

terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

6.2 Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40

U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6.3 Rights to Inventions Made Under a Contract or Agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

6.4 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection

Agency (EPA).

6.5 Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAMExclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

6.6 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

7. Certifications. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

7.1 Event of Default. Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

8. Effective Date. The effective date of the Uniform Guidance is December 26, 2013. 2 CFR §200.110. The procurement standards set forth in Uniform Guidance §§200.317-200.326 are applicable to new Awards made by Recipient as of December 26, 2015. The standards set forth in Uniform Guidance Subpart F-Audit Requirements are applicable to audits of fiscal years beginning on or after December 26, 2014.

9. Performance Measurement. The Uniform Guidance requires completion of OMB-approved standard information collection forms (the PPR). The form focuses on outcomes, as related to the Federal Award Performance Goals that awarding Federal agencies are required to detail in the Awards.

Section 200.301 provides guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones (200.210). Also, must require the recipient to relate financial data to performance accomplishments of the Federal award.

Exhibit N

Federal Treasury Provisions

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Entity" means:
 - 2.1.2.1. a Non-Federal Entity;
 - 2.1.2.2. a foreign public entity;
 - 2.1.2.3. a foreign organization;
 - 2.1.2.4. a non-profit organization;
 - 2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);
 - 2.1.2.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
 - 2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).
 - 2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.
 - 2.1.4. "Expenditure Category (EC)" means the category of eligible uses as defined by the US Department of Treasury in "Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

- 2.1.5. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.6. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.7. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.8. “Non-Federal Entity” means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.9. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
- 2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.9.2. Is not organized primarily for profit; and
 - 2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.12. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.13. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.15. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.15.1. Salary and bonus;
 - 2.1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the

fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;

- 2.1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.16. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.17. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.18. “Unique Entity ID” means the Unique Entity ID established by the federal government for a Grantee at <https://sam.gov/content/home>.

3. COMPLIANCE.

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID (UEI) REQUIREMENTS.

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually.
- 4.2. UEI. Grantee shall provide its Unique Entity ID to its Prime Recipient, and shall update Grantee’s information in Sam.gov at least annually.

5. TOTAL COMPENSATION.

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Grantee received:

- 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. Grantee shall report as set forth below.
 - 8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Exhibit P to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC 1 – Public Health

All Public Health Projects

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

COVID-19 Small Business Economic Assistance (1.8)

- a) Number of small businesses served

COVID-19 Assistance to Non-Profits (1.9)

- a) Number of non-profits served

COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)

- a) Sector of employer
- b) Purpose of funds

EC 2 – Negative Economic Impacts

All Negative Economic Impacts Projects

- a) Description of project structure and objectives
- b) Description of project's response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan (*not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36*)
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

Household Assistance (2.1-2.8)

- a) Number of households served

- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*

Healthy Childhood Environments (2.11-2.13)

- a) Number of children served by childcare and early learning *(Federal guidance may change this requirement in July 2022)*
- b) Number of families served by home visiting *(Federal guidance may change this requirement in July 2022)*

Education Assistance (2.14, 2.24-2.27)

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs *(Federal guidance may change this requirement in July 2022)*

Housing Support (2.15, 2.16, 2.18)

- a) Number of people or households receiving eviction prevention services *(Federal guidance may change this requirement in July 2022)*
- b) Number of affordable housing units preserved or developed *(Federal guidance may change this requirement in July 2022)*

Small Business Economic Assistance (2.29-2.33)

- a) Number of small businesses served

Assistance to Non-Profits (2.34)

- a) Number of non-profits served

Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity

Payroll for Public Health and Safety Employees (EC 3.1)

- a) Number of government FTEs responding to COVID-19

Rehiring Public Sector Staff (EC 3.2)

- a) Number of FTEs rehired by governments

EC 4 – Premium Pay

All Premium Pay Projects

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county’s average annual wage

- e) Number of workers to be served with premium pay in K-12 schools

EC 5 – Infrastructure Projects

All Infrastructure Projects

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
 - i. Prevailing wage certification or detailed project employment and local impact report
 - ii. Project labor agreement certification or project workforce continuity plan
 - iii. Prioritization of local hires
 - iv. Community benefit agreement description, if applicable

Water and sewer projects (EC 5.1-5.18)

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

Broadband projects (EC 5.19-5.21)

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
 - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
 - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
 - i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
 - ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously

lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

- iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

All Expenditure Categories

- a) Program income earned and expended to cover eligible project costs
- 8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.
- 8.1.2.1. Subrecipient Unique Entity ID;
 - 8.1.2.2. Subrecipient Unique Entity ID if more than one electronic funds transfer (EFT) account;
 - 8.1.2.3. Subrecipient parent's organization Unique Entity ID;
 - 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

- 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
- 8.1.3.1. Subrecipient's Unique Entity ID as registered in SAM.
 - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
 - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. This requirement is applicable to all projects in Expenditure Categories 1 and 2.
 - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. See section 8.1.1 for relevant Expenditure Categories.
 - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
 - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.
 - 8.1.3.7. For infrastructure projects (EC 5), or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and location (for broadband, geospatial location data). For projects over \$10 million:
 - 8.1.3.8. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less

than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.

- 8.1.3.8.1. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.
 - 8.1.3.8.2. Whether the project prioritizes local hires.
 - 8.1.3.8.3. Whether the project has a Community Benefit Agreement, with a description of any such agreement.
- 8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit Q – SLFRF Reporting Modification Form.

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

- 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
 - 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
 - 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.
- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Contract with the Enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Contract with the Enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

- 12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

- 13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit E and submit to State Agency with signed grant agreement.
- 13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.
- 15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
- 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
- 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
- 15.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT O

AGREEMENT WITH SUBSUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of Colorado has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the General Assembly and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name _____

Authorized Representative: _____

Title: _____

Signature: _____

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS
TERMS AND CONDITIONS

1. Use of Funds.
 - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
 - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and Office of the State Controller.
4. Maintenance of and Access to Records
 - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and Office of the State Controller.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Subrecipient.
8. Conflicts of Interest. The State of Colorado understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy

is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.

9. Compliance with Applicable Law and Regulations.

- a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - i. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - ii. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - iii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - iv. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

- v. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of Colorado by the U.S. Department of the Treasury.”

14. Debts Owed the Federal Government.

- a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
- b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.
- b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;

- iii. The Government Accountability Office;
- iv. A Treasury employee responsible for Agreement or grant oversight or management;
- v. An authorized official of the Department of Justice or other law enforcement agency;
- vi. A court or grand jury; or
- vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

1. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and Contractorsto adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.
9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of

discrimination, please so state.

10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXHIBIT P

SLFRF SUBRECIPIENT QUARTERLY REPORT

1. SLFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK

- 1.1 The SLFRF Subrecipient Quarterly Report Workbook must be submitted to the State Agency within ten (10) days following each quarter ended September, December, March and June. The SLFRF Subrecipient Quarterly Report Workbook can be found at:

<https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates tab)

EXHIBIT Q
SAMPLE SLFRF REPORTING MODIFICATION FORM

Local Agency:		Agreement No:	
Project Title:		Project No:	
Project Duration:	To:	From:	
State Agency:	CDOT		

This form serves as notification that there has been a change to the reporting requirements set forth in the original SLFRF Grant Agreement.

The following reporting requirements have been (add/ remove additional rows as necessary):

Updated Reporting Requirement (Add/Delete/Modify)	Project Number	Reporting Requirement

By signing this form, the Local Agency agrees to and acknowledges the changes to the reporting requirements set forth in the original SLFRF Grant Agreement. All other terms and conditions of the original SLFRF Grant Agreement, with any approved modifications, remain in full force and effect. Grantee shall submit this form to the State Agency within 10 business days of the date sent by that Agency.

Local Agency

Date

CDOT Program Manager

Date

EXHIBIT R
APPLICABLE FEDERAL AWARDS

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

Federal Awarding Office	US Department of the Treasury
Grant Program	Coronavirus State and Local Fiscal Recovery Funds
Assistance Listing Number	21.027
Federal Award Number	SLFRP0126
Federal Award Date *	May 18, 2021
Federal Award End Date	December 31, 2024
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount of Federal Award (this is <u>not</u> the amount of this grant agreement)	\$3,828,761,790

* Funds may not be available through the Federal Award End Date subject to the provisions in §2 and §5 below.

EXHIBIT S

PII Certification

STATE OF COLORADO

LOCAL AGENCY CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of Local Agency) (the “Local Agency”), hereby certify under the penalty of perjury that the Local Agency has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Local Agency.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT T

CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

Checklist for required exhibits due to funding sources. Required Exhibits are dependent on the source of funding. This is a guide to assist in the incorporation and completion of Exhibits in relation to funding sources.

Exhibit	Funding only from FHWA	Funding only from ARPA	FHWA and ARPA Funding
EXHIBIT A, SCOPE OF WORK	✓	✓	✓
EXHIBIT B, SAMPLE OPTION LETTER	✓	✓	✓
EXHIBIT C, FUNDING PROVISIONS	✓	✓	✓
EXHIBIT D, LOCAL AGENCY RESOLUTION (IF APPLICABLE)	✓	✓	✓
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST	✓	✓	✓
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS	✓		✓
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE	✓		✓
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES	✓		✓
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS	✓		✓
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS	✓		✓
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS	✓	✓	✓
EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM	✓	✓	✓
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS	✓		✓

EXHIBIT N, FEDERAL TREASURY PROVISIONS		✓	✓
EXHIBIT O, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS		✓	✓
EXHIBIT P, SLFRF SUBRECIPIENT QUARTERLY REPORT		✓	✓
EXHIBIT Q, SLFRF REPORTING MODIFICATION FORM		✓	✓
EXHIBIT R, APPLICABLE FEDERAL AWARDS		✓	✓
EXHIBIT S, PII CERTIFICATAION	✓	✓	✓
EXHIBIT T, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	✓	✓	✓



To: Mayor and Town Council
From: Larry Pardee, Town Manager
Date: August 22, 2023
Re: Town Manager Report

Outreach & Meetings – *This report will provide an overview of recent participation in community outreach opportunities and regional and project-specific meetings. These events offer valuable opportunities to collaborate with stakeholders, stay informed on the latest developments, and contribute to the local community.*

I met Bill Ray on Thursday, August 10, to outline our Quality of Life (QOL) Initiatives in Eagle. We briefly discussed a potential approach to engage, educate, and inspire our community to invest in current and future well-being and implement a survey to better gauge our communities interest and desires. I shared with Bill that we're looking forward to receiving feedback on our core Quality of Life priorities.

Grand Avenue - Multimodal Transportation Improvements: As our community flourishes, so does the need for seamless multimodal transportation options. We're keen on transforming our corridor into a connectivity hub that serves our residents and those passing through.

Sustainability – Pioneering: Sustainability is at the heart of our vision. We're committed to implementing sustainable practices to benefit us today and safeguard our environment for future generations.

Affordable Housing: A thriving community is one where everyone has access to safe and affordable housing. We're determined to make this a reality for Eagle's residents.

Open Space: Preserving open spaces is vital to nurturing a sense of well-being. We aim to create and protect these spaces that encourage recreation, relaxation, and a connection to nature.

Other QOL Opportunities: **Besides our core priorities, should we be open to exploring other avenues to enhance our community's quality of life?** An example maybe considers multimodal needs relating to additional sidewalk installation for pedestrian mobility, e-bike pathway enhancements, and safety improvements.

On Thursday, August 10, the Eagle Valley Transit Authority convened its monthly assembly in Avon, marking a pivotal juncture for strategic deliberations. The comprehensive assessment of ECO Transit's quarterly and winter service planning initiatives is at the forefront of discussions. The meeting served as an instrumental platform for presenting a comprehensive overview of the organization's current staffing capacity while also candidly addressing pertinent challenges concerning the bus fleet's maintenance and replacement schedule. As stakeholders engaged in rigorous dialogue, it became evident that proactive measures are imperative to address the prevailing scheduling disparities and ensure ECO Transit services' continued efficiency and reliability. This session underscored the Authority's unwavering commitment to enhancing public transportation accessibility within the Eagle Valley community and the broader region.

The Eagle County Mayors and Managers convened on Friday, August 11, with an informative session that commenced with David Reid, the Director of Aviation. In his opening presentation, Reid offered a comprehensive overview of the ongoing updates to the Airport's Master Planning. The meeting's next discussion area was by Eric Heil, representing Avon, who elucidated the progress in regional housing planning, particularly highlighting the grant through DOLA. Eric has spearheaded these efforts and formally expressed interest by submitting a letter of intent to DLOA.

The collaborative spirit of the gathering was evident as Chris Romer, from Vail Valley Partnership & Edwards Metropolitan District, extended an invitation. This forthcoming session intends to congregate the county's property taxing entities, facilitating a dialogue revolving around Proposition HH and its implications on property tax mill levies. Notably, this panel discussion forum fosters open conversation among these taxing entities, devoid of any intention to exert undue pressure regarding their mill levies. Emphasizing a balanced discourse, Romer underlined the session's constructive nature.

In a final highlight of the meeting, Kevin Sharkey delivered an update on the progress of the Eagle Valley Trail project. The convergence of these updates underscored the commitment of the Eagle County Mayors and Managers to efficient governance, proactive planning, and collaborative progress.

The collaboration between the Town staff and Eagle County's Tori Franks, along with her dedicated development team, remains active and productive in advancing the West Eagle project. Recent meetings between key members of Tori's team and Town staff focused on comprehensively addressing the project's submittal requirements. In this regard, specific attention was given to onsite infrastructure enhancements, leading to constructive exchanges that addressed inquiries and sought valuable feedback from the Town. Flexibility has been a guiding principle, with Town representatives assuring Tori and her team that the level of design and completeness required for public improvements and drainage will be adaptable and appropriately conditioned during the Final Plat phase.

In parallel, significant efforts have been invested in exploring grant opportunities to support the West Eagle development. Conversations were held with a representative from the Department of Local Affairs (DOLA), namely Lisa Loranger, with insights indicating that the most promising avenue for securing the competitive Strong Communities grant lies in a focused approach. Specifically, directing the grant application towards bolstering the West Eagle development's infrastructure proves most aligned with the grant's explicit objective of promoting infill development. While broader funding endeavors for the complete Brush Creek Road extension are ongoing, the Town wholeheartedly endorses a strategic application strategy that prioritizes funding for the project-specific infrastructure of the West Eagle endeavor. This reflects the commitment to the project's success and the collaborative spirit between all stakeholders involved.

While the DLOA Strong Communities Grant maximum allocation stands at \$4M, it is prudent to anticipate awards predominantly within the \$1M-\$3M bracket, as indicated by DOLA representatives—an initial projection of approximately \$7M for West Eagle's infrastructure for onsite development. The letters of intent deadline was on Friday, August 18.

Administration & Organization update

We are pleased to report significant headway in developing our draft Strategic Grant Funding Roadmap. The initial draft, prepared by KLJ, has been diligently circulated amongst our dedicated staff for a comprehensive review and insightful commentary. In a seamless exchange of ideas, our team shared their valuable feedback with KLJ, initiating a collaborative process wherein they adeptly integrated our suggestions into an enhanced plan. This feedback loop reflects our commitment to crafting a robust and effective roadmap that aligns with our strategic grant funding objectives.

We continued discussing with Dr. Karah Maloley a comprehensive culture and leadership development program on how best to implement this program. We have received a draft proposal and are

working through the details and hope to finalize it in the next few weeks and place it in our draft 2024 budget document. Our overarching objective entails crafting a strategic program spanning 3 to 5 years dedicated to the perpetual enhancement of culture and leadership development within the Town of Eagle organization. Central to this endeavor is formulating a Town of Eagle Culture Statement, serving as a testament to our organizational principles and aspirations. We intend to engage a diverse cross-section of Town team members to ensure a holistic approach in formulating this statement.

Cultivating an authentic organizational culture aligned with Eagle's essence demands a collective effort where every team member's input holds significance. The synergy of positive conduct, ethical norms, shared values, streamlined processes, well-defined objectives, adept managerial strategies, and rational expectations can pave the way for a harmonious and flourishing culture. A robust organizational culture resonating with our employees' convictions and aligned with their anticipations stands to significantly elevate our overall performance and enhance the quality of life for our community.

Through implementing the Culture and Leadership program, we are steadfastly committed to fostering an environment conducive to employee engagement, enabling individuals to realize their full potential, and igniting innovation and excellence. We will nurture a culture of transparency, trust, and mutual respect by laying the groundwork for a unified and forward-looking Town of Eagle.

Together, we aim to nurture our collective strengths, value our diversity, and propel ourselves toward a brighter horizon. The time has arrived to shape the present and future culture of the Town of Eagle. With our dedicated team and a strategic focus on culture and leadership, there is no doubt that we will achieve remarkable success.

Town Department Directors and staff are still crafting the 2024 fiscal budget blueprint. This showcases their commitment to financial planning, resource allocation, and meeting community needs with foresight. We seek to create a budget that reflects progress through expertise and innovation while ensuring transparency, accountability, and fiscal responsibility. Their diligent work demonstrates dedication to Town betterment, evident in the forthcoming budget's pursuit of excellence.

The Town has filled twenty-one critical positions vital for maintaining and improving life in Eagle. These roles provide essential daily municipal services to our residents. We welcome our new hires and believe in their capabilities to enhance our commitment to excellence—special thanks to Lynette for her dedicated efforts in filling these vacancies.

Economic Development:

The Economic Vailtiy Committee held its monthly meeting on Thursday, August 17. Nikki and Chad provided Town staff updates on ReCode status and updates on housing projects in Eagle. Currently no new updates at this time on the Economic Plan process. We continue to make strides in collaboration with EPS and RRC as we refine our draft Economic Development Plan. Central to this progress are two essential components: mobility data and an economic dashboard. These tools empower the Eagle Council, business owners, and community members to track and boost our economic development efforts actively. By integrating an Economic Development Strategy Plan and Dashboard, we enhance our ability to make informed decisions that foster economic growth and prosperity for every resident. This important work helps us to better align with one of our Major Objectives: *Stimulate Economic Vitality and development - The Town focuses on development that follows the Elevate Eagle Comprehensive Plan to ensure results that maximize the economic benefits. The economic impact of visitors and business investments results in positive benefits in terms of amenities, job creation, wage increases, infrastructure, and the overall quality of life.* Together, these approaches pave the way for a more prosperous and thriving community.

WORK SESSIONS:

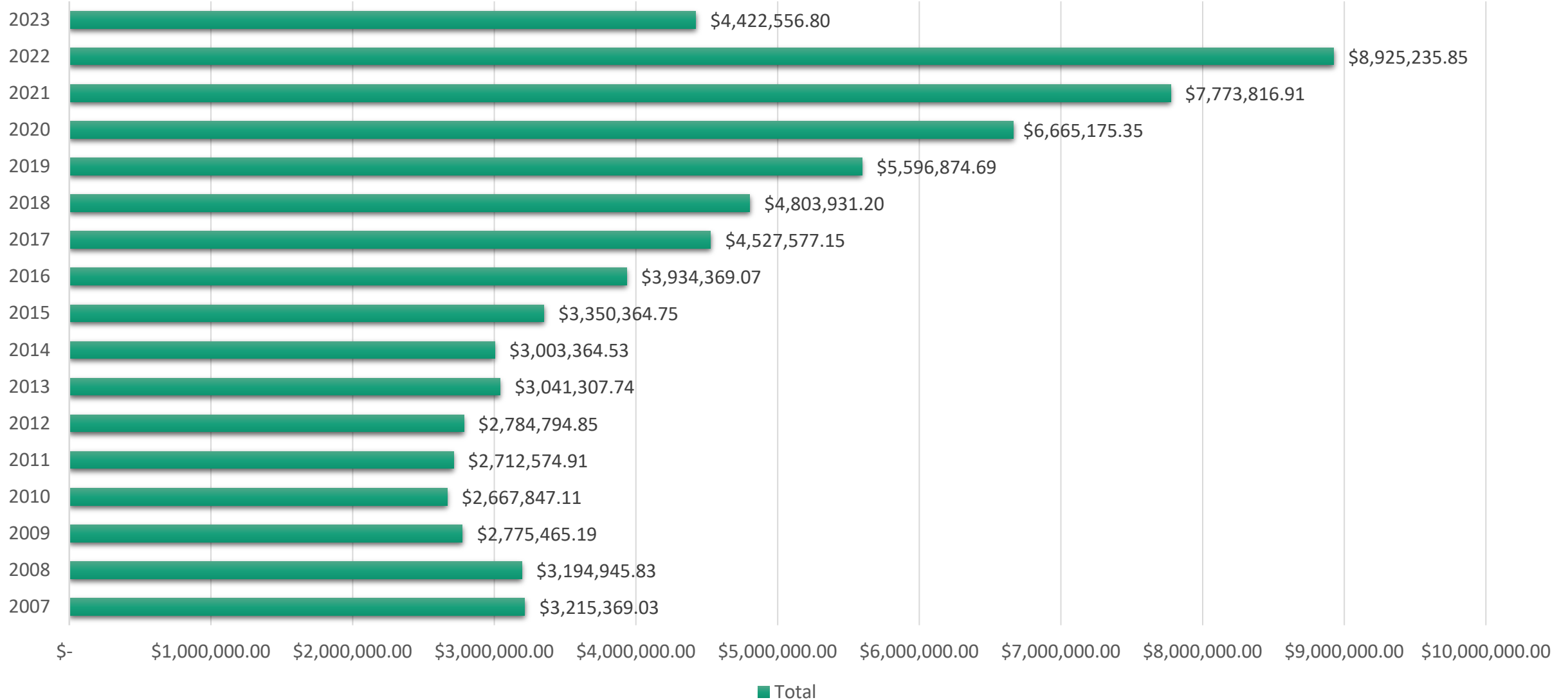
To help the Town Council keep track of upcoming work sessions, below is a table of topics to discuss over

the next several months. Preparing in advance is helpful since it takes planning to execute a work session. Staff will keep this table in this report and make changes as needed. The topics are subject to change:

Date	Topic
July 4, 2023	<i>(Meeting Cancelled)</i>
August 1, 2023 (COMPLETED)	<i>Affordable Housing items to discuss on guidelines for LERP</i>
September 5, 2023	2023 – 2027 Capital Improvement Plan – Work Session
October 3, 2023	2023 – 2024 Operating Budget – Work Session
November 7, 2023	
December 5, 2023	
Request for Additional Work Sessions	Topic
September 26, 2023	Budget Work Session

ANNUAL TOTAL SALES TAX 2007-2023 REVENUE PERIOD TOTALS

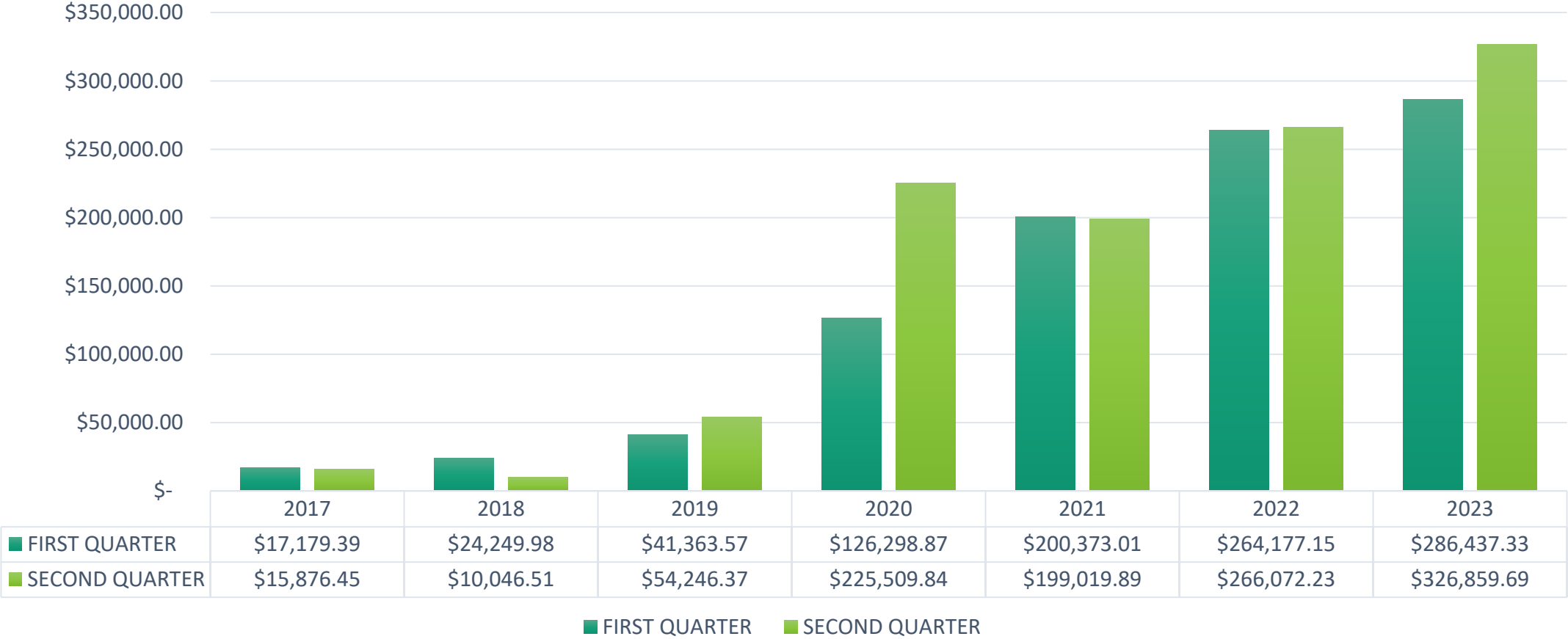
**2016 - PRESENT INCLUDE .5% SALES TAX INCREASE*



TOTAL SALES TAX BY QUARTER
2016-2023
REVENUE PERIOD TOTALS

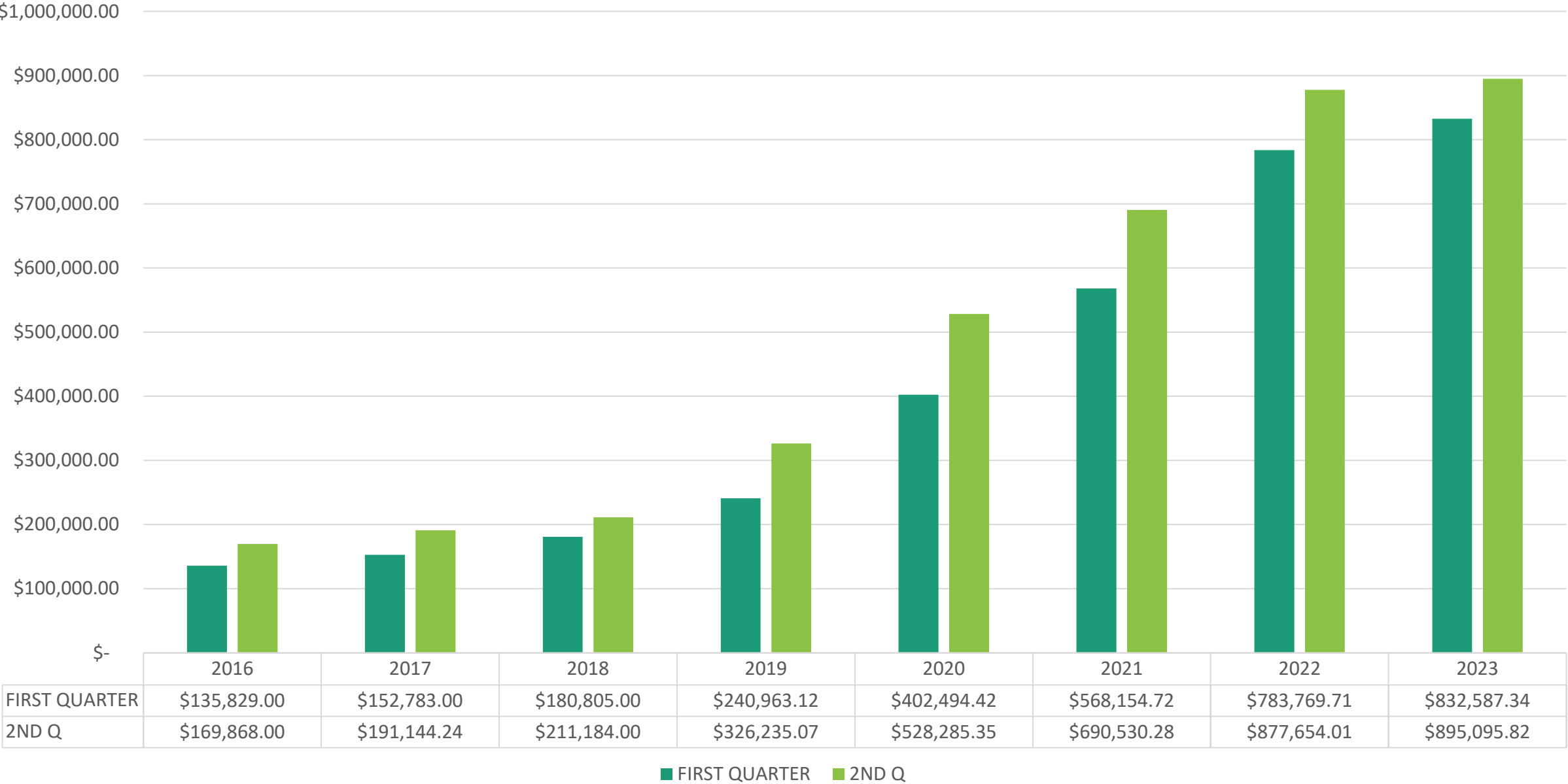


ONLINE SALES TAX BY QUARTER 2017-2023 REVENUE PERIOD TOTALS

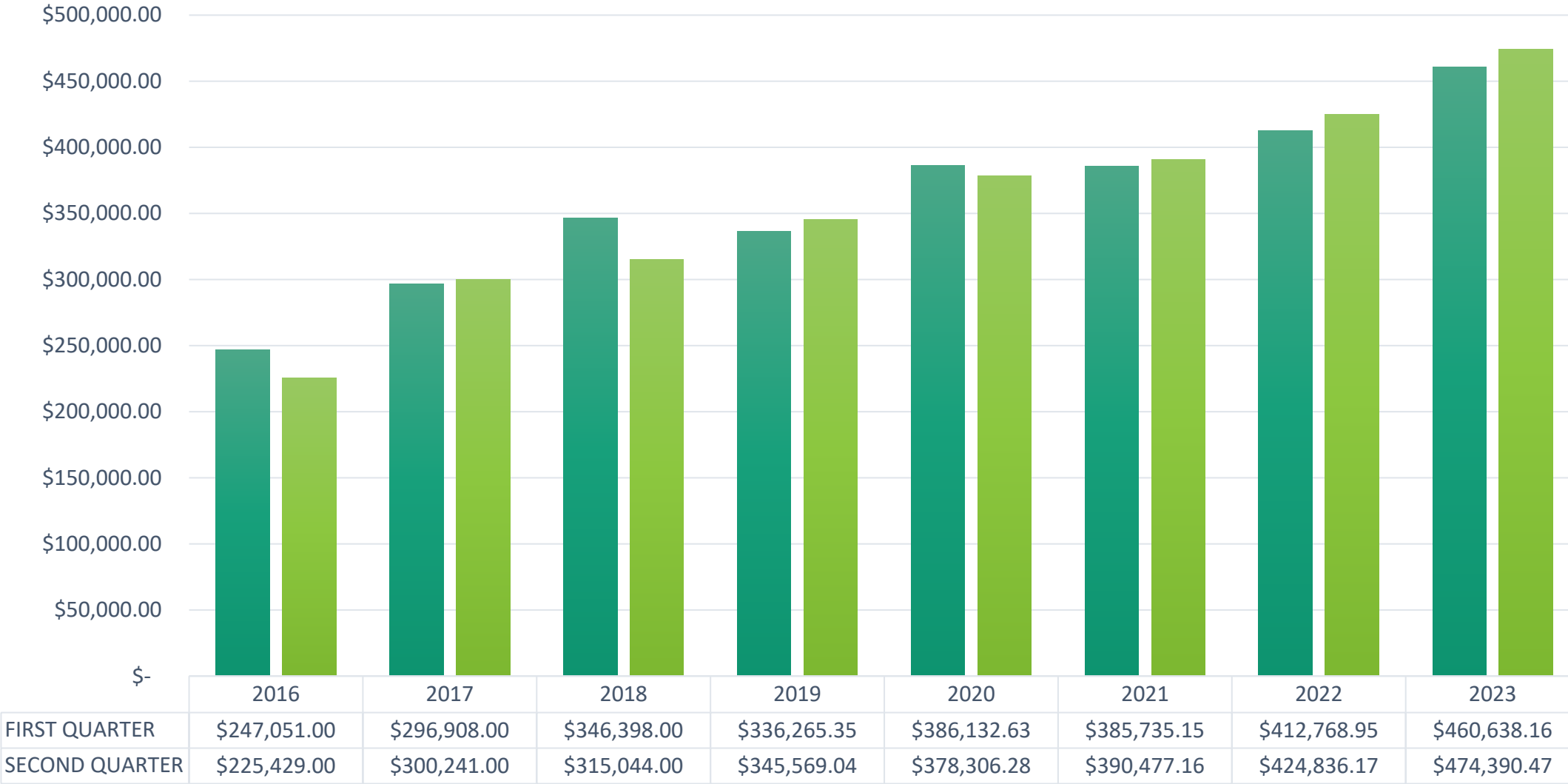


Online sales are included in the retail and out of area sectors.

RETAIL QUARTERLY COLLECTIONS
2016-2023

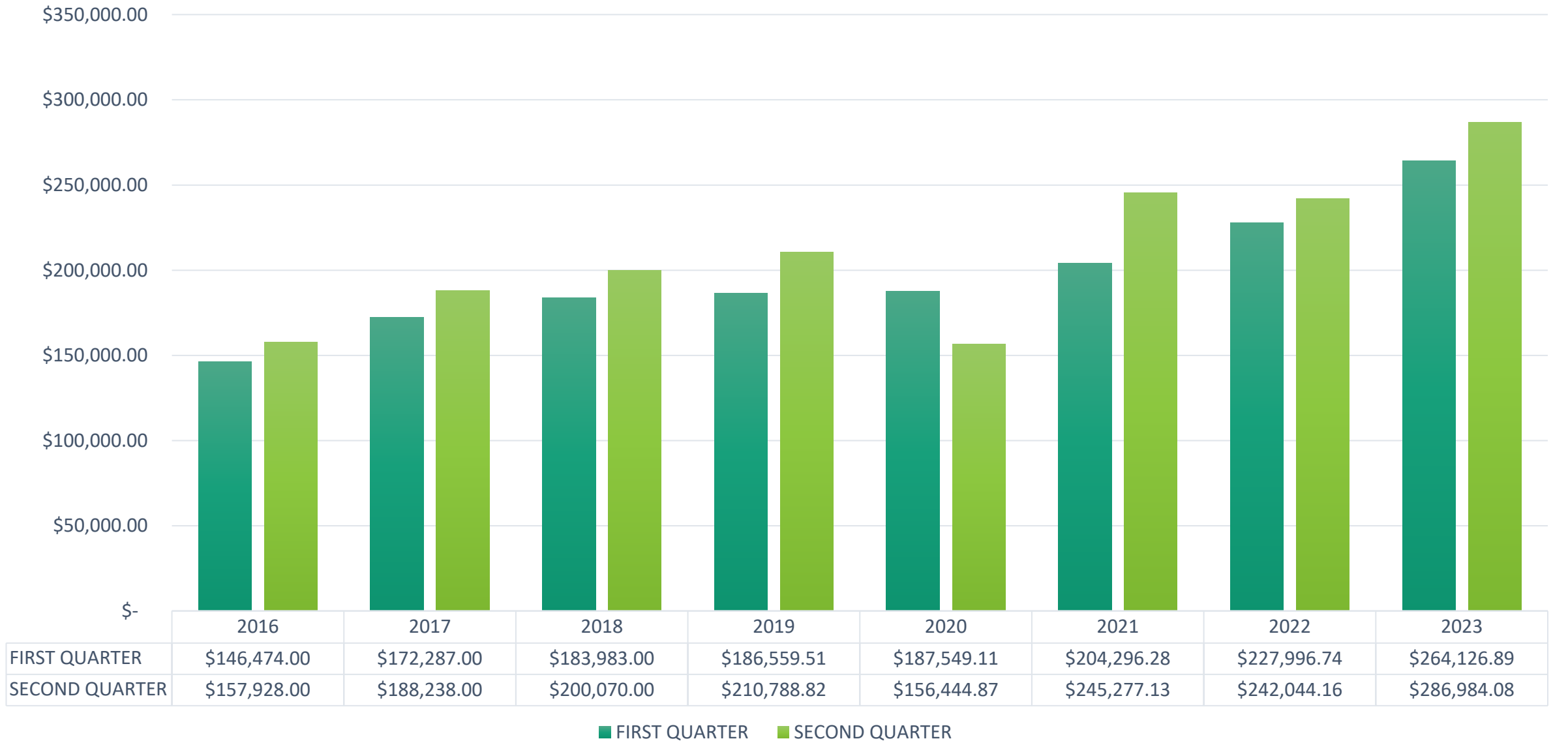


FOOD QUARTERLY COLLECTIONS
2016-2023



RESTAURANTS & BARS QUARTERLY COLLECTIONS

2016-2023



LIQUOR STORES QUARTERLY COLLECTIONS
2016-2023



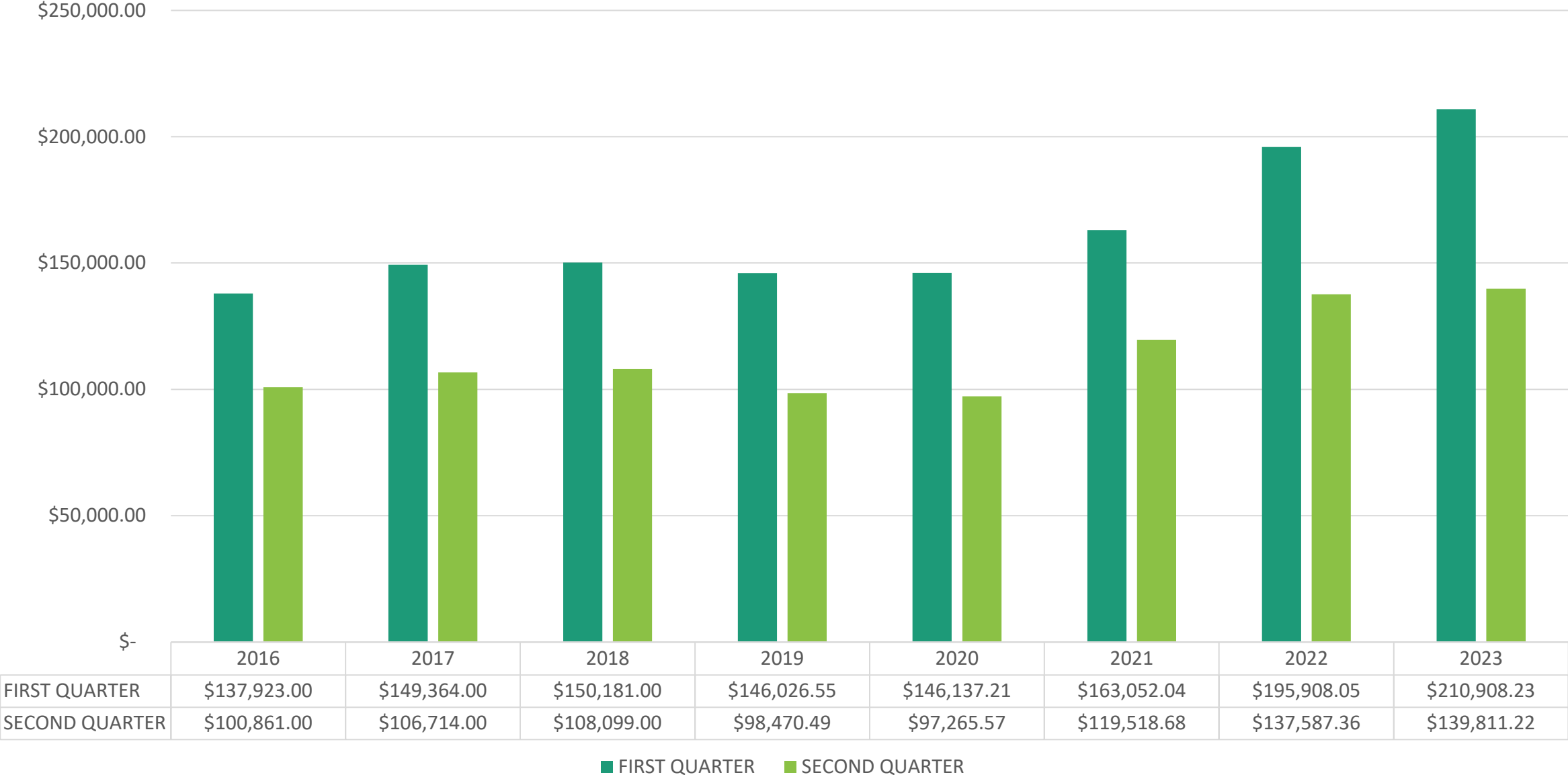
■ FIRST QUARTER ■ SECOND QUARTER

LODGING QUARTERLY COLLECTIONS

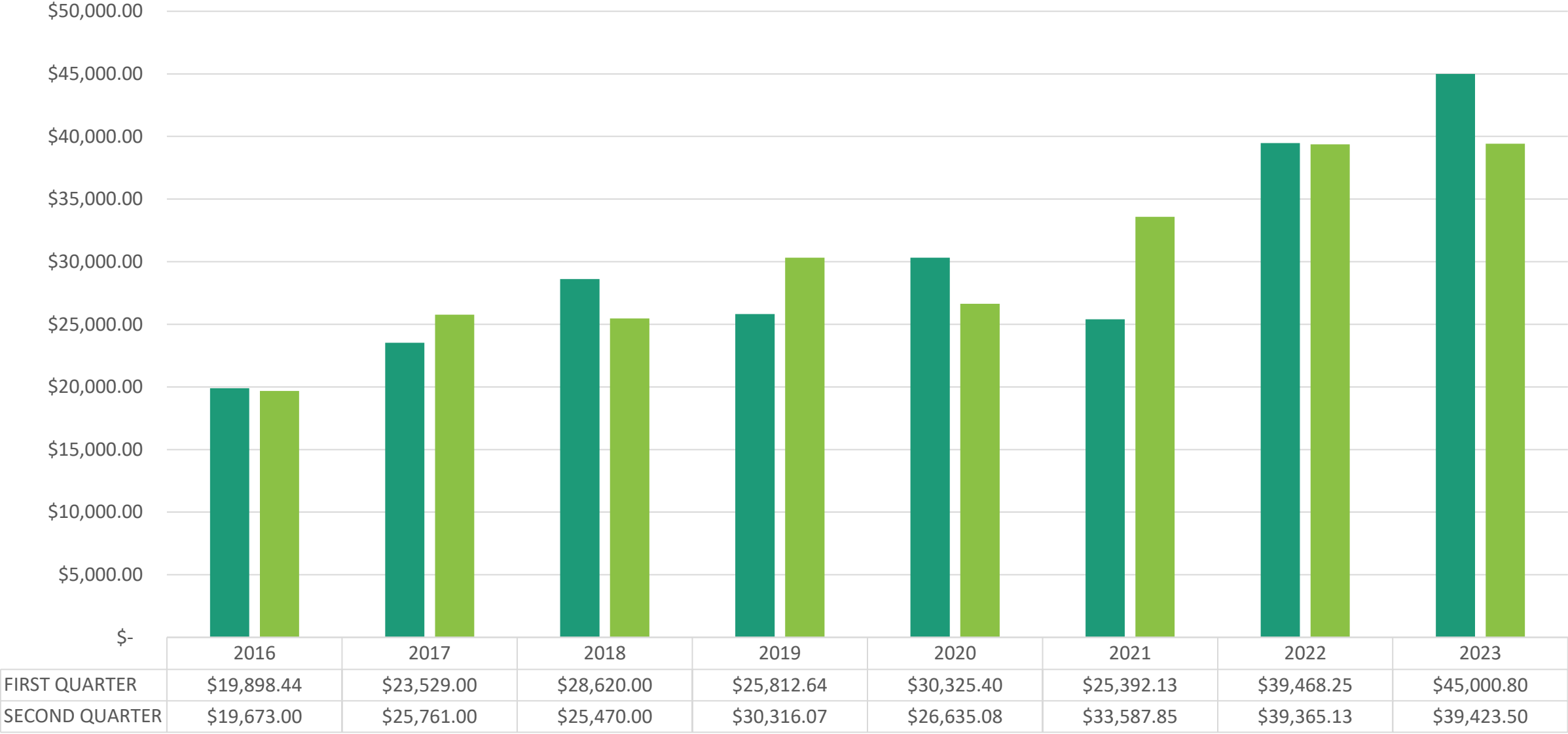
2016-2023



UTILITIES QUARTERLY COLLECTIONS
2016-2023

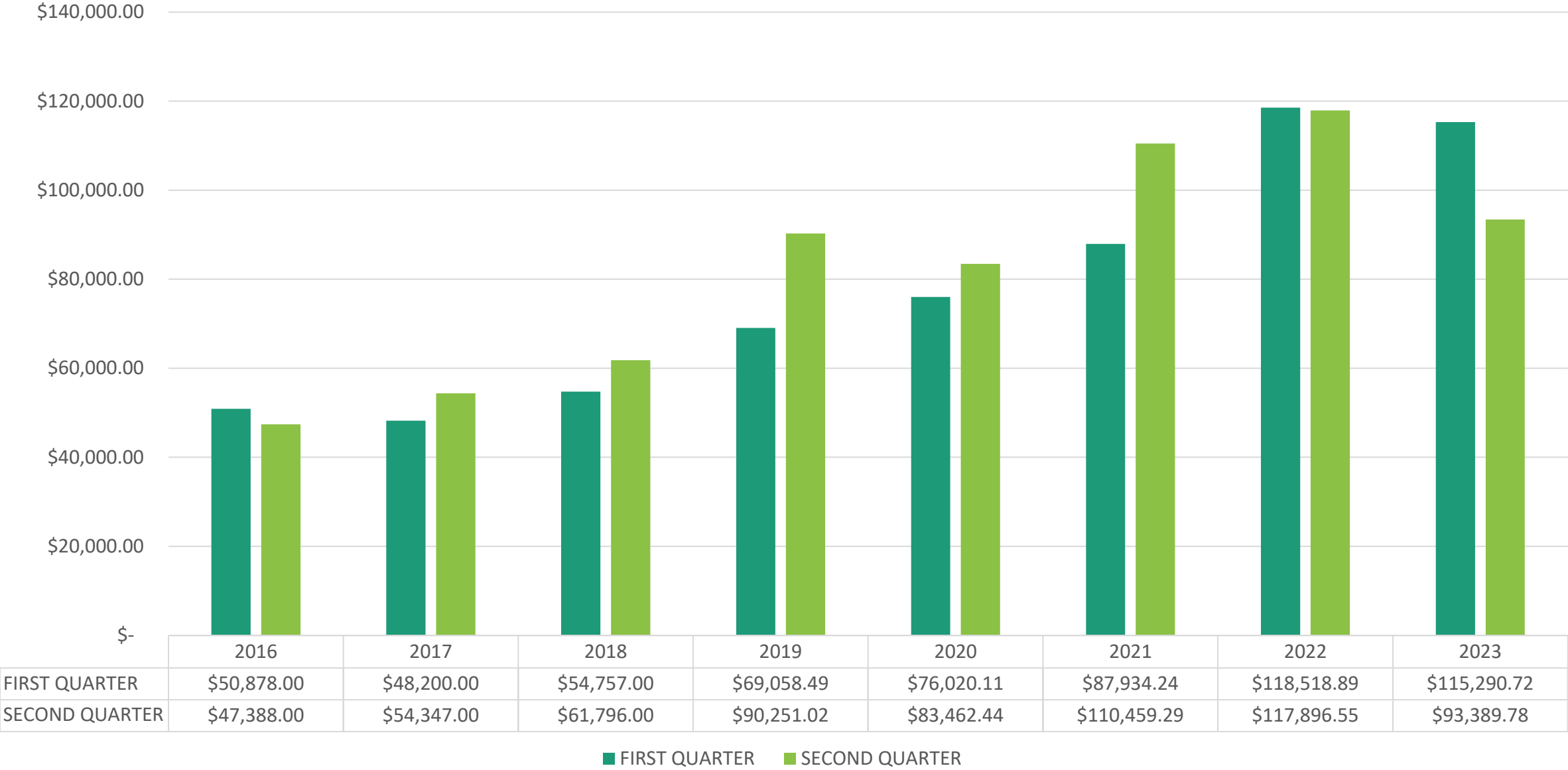


AUTOMOTIVE QUARTERLY COLLECTIONS
2016-2023

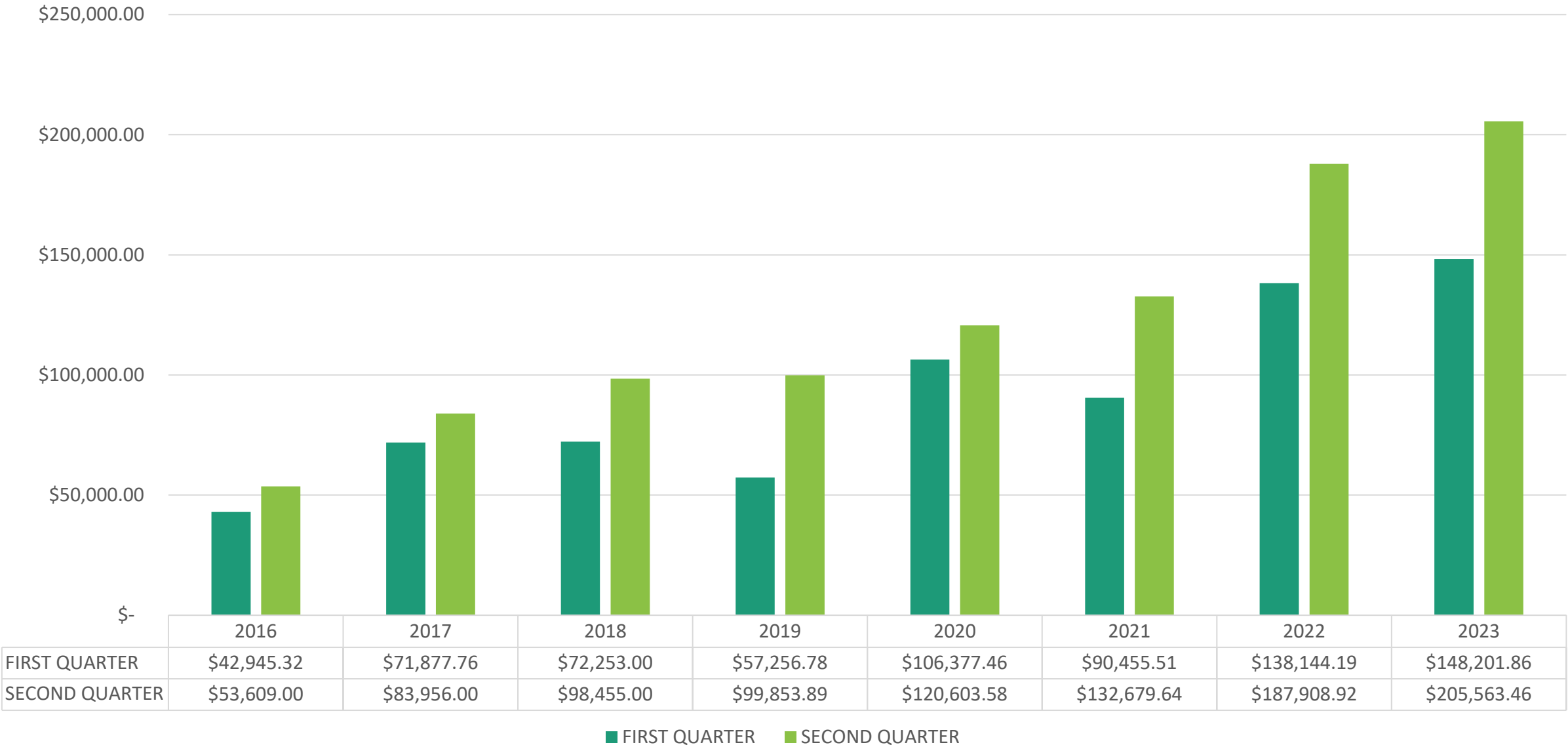


FIRST QUARTER SECOND QUARTER

MISCELLANEOUS QUARTERLY COLLECTIONS
2016-2023



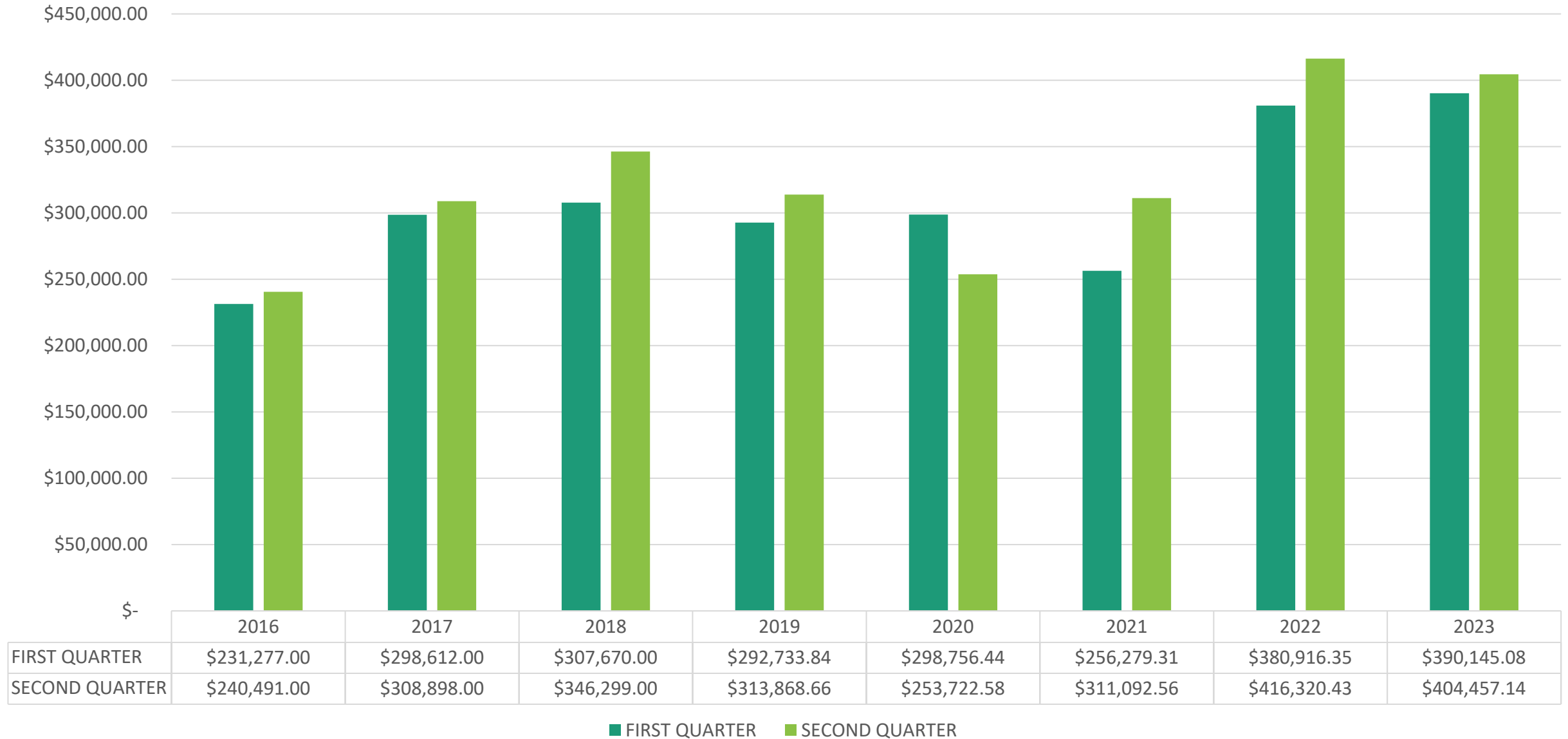
BUILDING/CONSTRUCTION QUARTERLY COLLECTIONS
2016-2023



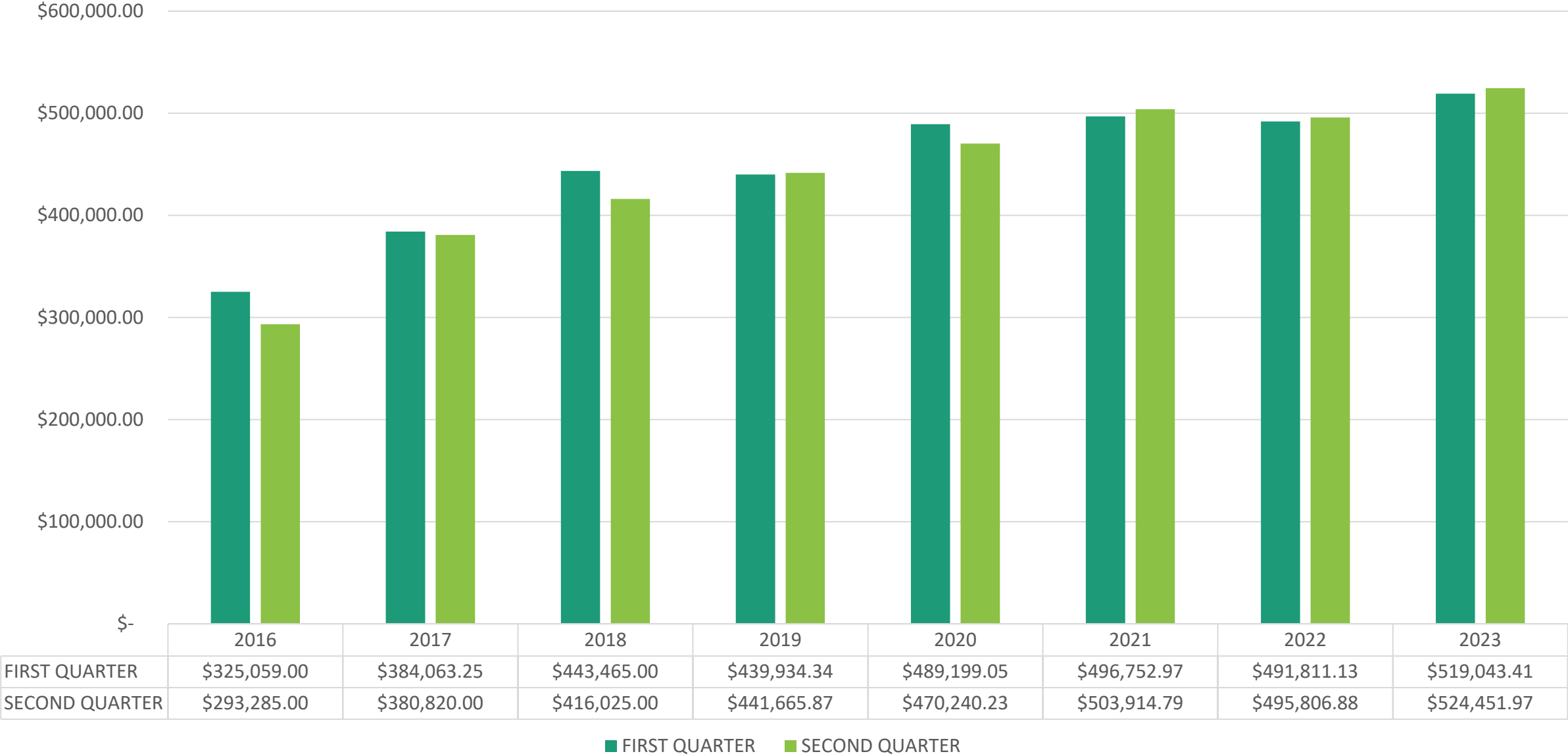
DOWNTOWN DISTRICT QUARTERLY
2016-2023



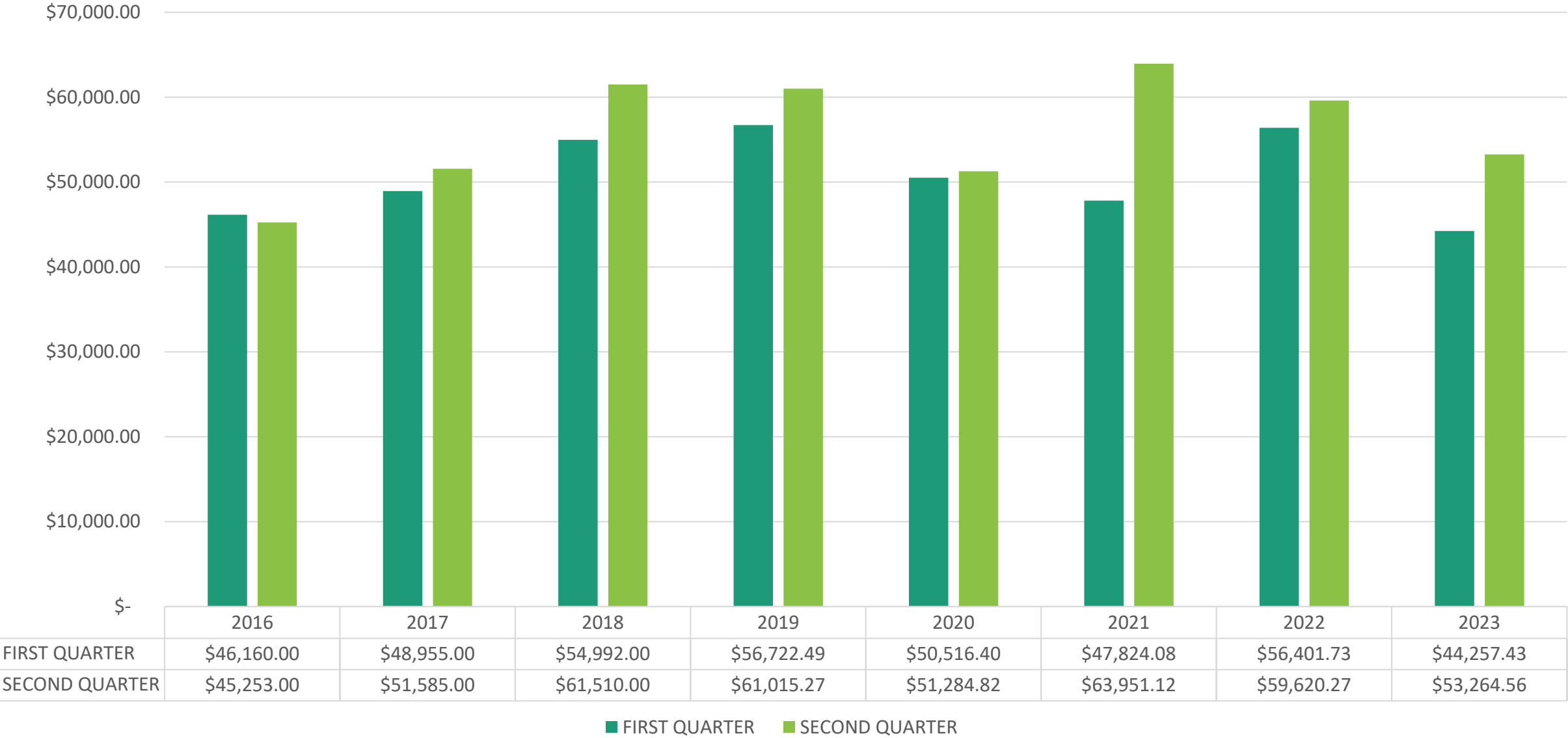
CHAMBERS AVENUE QUARTERLY 2016-2023



MARKET STREET QUARTERLY
2016-2023



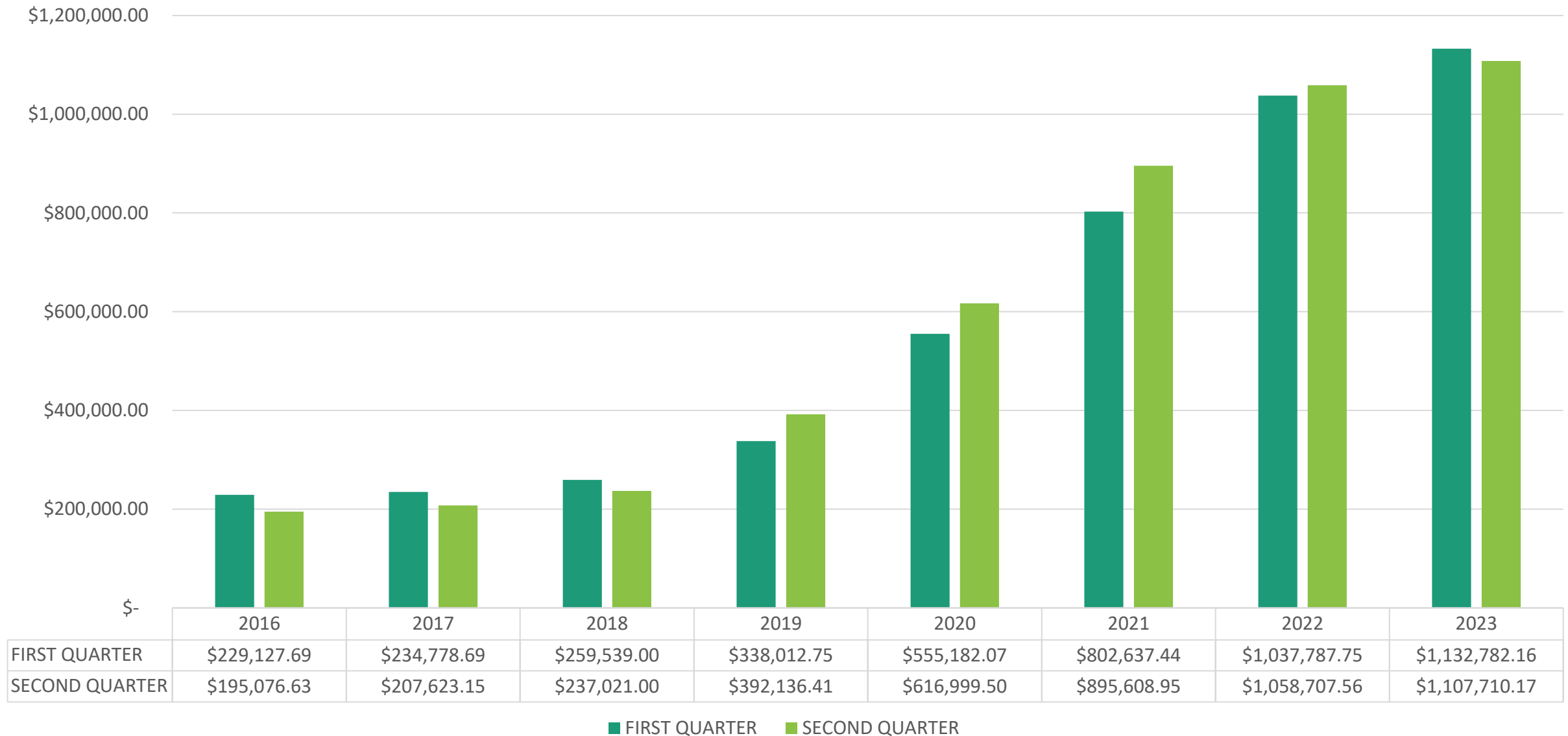
HIGHWAY 6/GRAND AVE. QUARTERLY
2016-2023



EAGLE RANCH QUARTERLY
2016-2023



OTHER AREAS QUARTERLY 2016-2023





To: Mayor and Town Council

From: Community Development Planning Staff
Chad Phillips, A.I.C.P., Director

Date: August 22, 2023 (Tabled from August 8, 2023)

Agenda Item: Ordinance 6, Series 2023 "An Ordinance of the Town Council of the Town of Eagle, Colorado Repealing and Reenacting Title 4 of the Eagle Municipal Code and Adopting a New Zoning Map"

REQUEST:

To approve the ordinance repealing and reenacting the Land Use and Development Code (ReCode), Title 4 of the Town of Eagle Municipal Code and adopting a new zoning map.

BACKGROUND:

On August 8, 2023, Town Council voted to table the adoption of ReCode. As seen in the draft minutes: *Mayor Scott Turnipseed suggested we table this item until we can clean this up and present it again. Staff confirmed August 22nd would be enough time to prepare for approval. Town Attorney stated it would be the Mayor's discretion to allow public comments. MOTION: Council Member Scott Turnipseed motioned to continue the Public Hearing on File # LURA21-02: Amended Land Use and Development Code (ReCode) and the Amended Town of Eagle Zoning Map until the August 22, 2023, Town Council Meeting. The motion was seconded and passed with a vote of 6 in favor (Kerst, Turnipseed, Bodenhemier, Grimmer, Sunday, and Foral) and 0 opposed.*

Information regarding the ReCode and Zone Map process can be found [here](#).

ANALYSIS:

Staff has read through the changes to the adoption draft and concluded that the amended draft ([LINK](#)) includes all of the modifications as supported by Council at the August 8th hearing. A redline version of the amended draft that captures the changes from the last hearing can be accessed through this [LINK](#).

COMMUNITY INPUT:

Community input received throughout the public hearing process can accessed through this [LINK](#). Please note, comments received after the last public hearing can be found on page 3 of the link.

BUDGET / STAFF IMPACT:

N/A

STRATEGIC PLAN ALIGNMENT/STANDARDS ACHIEVED:

The adoption of ReCode will align with the following Major Objectives from the Strategic Plan:

- Stimulate Economic Vitality and Development
- Improve Community Responsive Services
- Match Infrastructure to Quality of Life
- Attract Visitors

- Invest in Environmental and Energy Sustainability
- Diversify the Attainable Housing Stock

RECOMMENDED ACTION OR PROPOSED MOTION:

ReCode Eagle and the Town of Eagle Zoning Map - Recommended Motion:

I move to approve Ordinance 6, Series 2023 "An Ordinance of the Town Council of the Town of Eagle, Colorado Repealing and Reenacting Title 4 of the Eagle Municipal Code and Adopting a New Zoning Map"

ATTACHMENTS:

- ReCode Adoption Draft ([LINK](#))
- Zone Map Adoption Draft ([LINK](#))
- Public Comment ([LINK](#))

TOWN OF EAGLE, COLORADO
ORDINANCE NO. 6
(Series of 2023)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO
REPEALING AND REENACTING TITLE 4 OF THE EAGLE MUNICIPAL CODE AND
ADOPTING A NEW ZONING MAP

WHEREAS, at a public meeting on July 18, 2023, the Planning Commission reviewed an ordinance repealing and reenacting Title 4 of the Eagle Municipal Code and the revised Town of Eagle Zoning Map, and recommended that the Town Council approve the ordinance and the revised Map;

WHEREAS, at a properly-noticed public hearing on August 22, 2023, the Town Council considered the ordinance and the revised Map; and

WHEREAS, the Town Council finds that it is in the best interest of the public health, safety and welfare to adopt the ordinance and the revised Map.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Title 4. Title 4 of the Eagle Municipal Code is hereby repealed in its entirety and reenacted in the form attached hereto. Prior to the Effective Date of this Ordinance, the Town Attorney is authorized to make minor, non-substantive changes to the attached document, as necessary.

Section 2. Zoning Map. The attached Town of Eagle Zoning Map is adopted as the official zoning map of the Town.

Section 3. Severability. If this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 4. Safety. The Town Council finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 5. Effective Date. This Ordinance shall take effect on October 23, 2023.

INTRODUCED, READ, PASSED AND ADOPTED ON AUGUST 22, 2023.

TOWN OF EAGLE, COLORADO

Scott Turnipseed, Mayor

ATTEST:

Jenny Rakow, Town Clerk



RECODE EAGLE
LAND USE AND DEVELOPMENT
CODE Adoption Version Draft
August 2023

Chapter 4.01 General Provisions	2
4.01.010 Title and Reference	2
4.01.020 Effective Date and Archived LUDC	2
4.01.030 Purpose and Intent	2
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Chapter 4.01 General Provisions

4.01.010 TITLE AND REFERENCE

This Title 4 may be cited and referred to as the "Town of Eagle Land Use and Development Code," and is referred to internally in this document as the LUDC.

4.01.020 EFFECTIVE DATE AND ARCHIVED LUDC

- A. This LUDC became effective on October 23, 2023 (Effective Date).
- B. The Land Use and Development Code that was effective immediately prior to this Code shall be retained and referred to as the 1976 LUDC. One copy of the 1976 LUDC shall remain of record in the Community Development office and one copy shall be stored in the Town Clerk's office, either in hard copy or electronically. An unofficial public copy may also be maintained on the Town's website. All copies of the 1976 LUDC that are publicly available shall be clearly identified as replaced by this LUDC.

4.01.030 PURPOSE AND INTENT

A. Purpose

This LUDC is adopted to promote the health, safety, and welfare of the Town.

B. Intent

This LUDC is intended to:

1. Extend greater opportunities for traditional community living, working, housing, and recreation to all citizens and residents of the Town;
2. Maintain property values by stabilizing expectations and ensuring predictability in development while encouraging the development of a range of housing types to provide safe living opportunities for all residents across the community;
3. Preserve the historic, small-town character of the community by directing new development to appropriate locations and by minimizing the visual impact of development;
4. Reduce development sprawl and the excessive segregation of land uses that cause unnecessary traffic congestion and increase the costs of provided adequate public facilities and services;
5. Promote energy and water conservation and facilitate the provision of adequate transportation, water, sewage, schools, businesses, parks and other public facilities and services;
6. Establish regulatory options that encourage the incorporation of climate-friendly, sustainable, and, as needed, resilient development design in the Town;
7. Encourage a more efficient use of land and public services and to direct new development in a more traditional pattern of mixed- and multiple-use and varied housing types;
8. Guard against loss from natural hazards such as flooding, falling rock, landslides, snowslides, debris flow, and unstable soils, while protecting the natural environment and wildlife habitat;

9. Protect water resources including outstanding water quality, instream and riparian habitat, and recreational uses of Brush Creek, Eagle River, and local tributaries;
10. Provide a procedure which can relate the type, design, and layout of residential development to the particular site, the particular need for housing at a particular time, and to the Town's goal of encouraging mixed-use development while preserving and protecting existing residential areas; and
11. Establish processes that effectively and fairly apply the regulations and standards of this LUDC and respect the rights of property owners and the interests of citizens.

4.01.040 AUTHORITY, APPLICABILITY, AND JURISDICTION

A. Authority

This LUDC is adopted pursuant to the authority established by the Town of Eagle Home Rule Charter, C.R.S. § 29-20-101, *et seq.* (the Colorado Land Use Control Enabling Act), and Article XX of the Colorado Constitution.

B. Applicability

The provisions of this LUDC shall apply to the development and use of all land within the Town unless specifically provided otherwise in this LUDC.

C. Compliance Required

1. No permit, certificate, or approval of any use that is subject to this LUDC shall be issued or granted by any department, agency, Town official, or Town employee without a finding of compliance with this LUDC.
2. No lot of record that did not exist on the Effective Date shall be created by subdivision or otherwise unless it complies with this Code.

4.01.050 MINIMUM STANDARDS

- A. The provisions of this LUDC are the minimum standards necessary to accomplish its stated purposes.
- B. Where the conditions imposed by any provision of this LUDC are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this LUDC or of any other Town, state, or federal law, ordinance, resolution, rule, or regulation of any kind, the regulations that are more restrictive or that impose higher standards or requirements shall govern.
- C. Whenever any provision of this LUDC conflicts with other provisions of the Municipal LUDC, the stricter provision shall govern.
- D. If any provisions of this LUDC conflict with the Home Rule Charter, the Charter shall govern.

4.01.060 PRIVATE AGREEMENTS

- A. It is not the intent of this LUDC to interfere with, abrogate, or annul any private easement, covenant, deed restriction, or other agreement between private parties.

- B. When this LUDC imposes a greater restriction than imposed by such private agreements, this LUDC shall control.
- C. The Town shall not enforce private agreements, nor is the Town obligated to adopt regulations consistent with private agreements.

4.01.070 SCHEDULE OF FEES, CHARGES, AND EXPENSES

The Town Council shall establish, by resolution, a schedule of fees, charges, and expenses and a collection procedure for appeals and other matters pertaining to this LUDC.

4.01.080 TRANSITIONAL PROVISIONS

A. Violations Continue

Any violation occurring under the 1976 LUDC will continue to be a violation under this LUDC, unless the use, development, construction, or other activity complies with this LUDC.

B. Nonconformities Under 1976 LUDC

Any legal nonconformity under the 1976 LUDC will be a legal nonconformity under this LUDC, as long as the situation that resulted in the nonconforming status under the 1976 LUDC continues to exist. If a nonconformity under the 1976 LUDC becomes conforming because of the adoption of this LUDC, then the situation will no longer be a nonconformity.

C. Approved Projects and Permits

1. Validity

- a. Permits and approvals that are valid on the Effective Date shall remain valid until their expiration date. Projects with valid approvals, except for planned unit developments per Section 4.01.080C.3, may be carried out in accordance with the code in effect at the time of approval.
- b. When a building permit for a building or structure has been validly issued prior to the Effective Date and construction is begun within 180 days of the Effective Date and diligently prosecuted to completion, the building or structure may be completed in accordance with the existing building permit.

2. Prior Approval Expiration, Revocation, and Extension

If a prior approval expires based on an expiration established in the 1976 LUDC, or the project development approval is revoked or otherwise becomes invalid, any subsequent use or development of the property shall comply with this LUDC.

3. Planned Unit Developments Fully Approved Prior to the Effective Date

- a. A PUD that has been fully approved for all phases and specific application types prior to the Effective Date shall remain valid. PUDs that refer to zone districts not included in this LUDC shall use the 1976 LUDC requirements.
- b. A PUD approval that predates the Effective Date shall be narrowly interpreted and limited to the specified terms of approval. Where a term was not included in the PUD approval, the most closely similar provision of this LUDC shall be applied. For example, if a PUD does not specify a process for amendment, the process for amending PUD approvals in this LUDC will control.

4. Reapplication

Any reapplication for an expired or revoked project approval or permit shall meet the standards in effect at the time of reapplication.

D. Applications in Progress**1. Complete Applications**

- a. Complete applications that require only a single approval that were submitted before the Effective Date and are pending approval as of the Effective Date may, at the applicant's option, be reviewed wholly under the terms of the 1976 LUDC. If approved, these projects may be carried out in accordance with the 1976 LUDC.
- b. Complete applications for the first approval of a multiple application process submitted prior to the Effective Date shall continue to be processed pursuant to the 1976 LUDC. Incomplete applications pending on the Effective Date and applications filed after the Effective Date shall be processed pursuant to the 1976 LUDC if the first approval was design specific, and pursuant to the 2023 LUDC if the first approval was conceptual, as described in Table 4.01-1: LUDC Applicability to Multiple Application Processes:

Table 4.01-1: LUDC Applicability to Multiple Application Processes

Initial Approval	1976 LUDC	Subsequent Application [1]	2023 LUDC	1976 LUDC
Special Use Permit				
SUP Application	x	Development Plan	x	
Planned Unit Development				
Zoning Plan	x	Development Plan(s)	x	
Development Plan, Preliminary Plan (including subdivision)	x	Final Plat [2]		x
Subdivision				
Preliminary Plan	x	Final Plat [2]		x
Notes				
[1] Processed pursuant to 1976 LUDC only if initial approval has not expired.				
[2] Applicant may elect review under 2023 LUDC.				

2. No Applications Submitted

Projects for which no complete application has been submitted prior to the Effective Date shall be subject to all requirements and standards of this LUDC.

3. Submission Pursuant to 2023 LUDC

Any application may be submitted for review pursuant to the 2023 LUDC.

E. Revocation or Expiration

1. Regardless of the date of application, any permit or approval issued following the adoption of this LUDC shall be subject to the revocation provisions of Section [4.17.070](#).
2. If an approval was granted pursuant to the 1976 LUDC, and under the 1976 LUDC that type of approval did not have an expiration date, but under this LUDC that type of approval is subject to a expiration date, then the permit or approval shall be subject to expiration pursuant to the

terms of this LUDC; provided that the expiration period shall be deemed to begin running on the date of approval of this LUDC, not the date of the prior permit or approval.

4.01.090 SEVERABILITY

If any portion of this LUDC or the application of this LUDC is found to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of this LUDC that can be given effect without the invalid portion or application; provided such remaining portions or applications are not determined by the court to be inoperable, and to this end the provisions of the LUDC are declared to be severable.

Chapter 4.02 Zone Districts: General Standards

4.02.010 ZONE DISTRICTS CREATED

A. Purposes

To carry out the purpose and provisions of this Chapter, the Town is hereby divided into the following zone districts:

Current Zone District	New District Name or New Zone District	Section
Residential		
Residential Single Family (R1)	Residential Low Density (R1)	4.03.030
Residential Medium Density (RM)	Residential Medium Density (R2)	4.03.040
Residential Multifamily (RMF)	Residential Multi-Family (R3)	4.03.050
Residential High Density (RH)	Residential High-Density (R4)	4.03.060
new	Old Town Residential (OTR)	4.03.070
Mixed-Use		
new	Commercial Mixed-Use 1 (CMU1)	4.04.040
Commercial Limited (CL)	Commercial Mixed-Use 2 (CMU2)	4.04.050
Commercial Business District (CBD)	Broadway District (BD)	4.04.060
Commercial and Industrial		
General Commercial (CG)	Commercial General (CG)	4.05.030
new	Commercial East (CGE)	4.05.040
new	Commercial Interchange (CI)	4.05.050
Light Industrial (I)	Light Industrial (IND)	4.05.060
Public		
PA	Public & Civic Campus (PC1)	4.06.020
new	Public & Civic Open Space (PC2)	4.06.030
Rural		
Residential Low (RL)	Rural Residential-1 (RR1)	4.07.030
Rural Residential	Rural Residential-2 (RR2)	4.07.040
Resource	Resource (RSC)	4.07.020

B. Comprehensive Plan Consistency

All approvals granted under this LUDC shall be consistent with the Town's comprehensive plan and adopted land use and sub area plans. Town plans can be accessed on the [Town's website](#). The Future Land Use Map is part of the Elevate Eagle Comprehensive Plan.

Table 4.02-1: Comprehensive Plan Consistency																		
	Zone District																	
Future Land Use Plan	R1	MHP	R2	R3	R4	OTR	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	RR1	RR2	RSC
Rural Residential															●		●	●
Low Density Residential	●														●	●		
Medium Density Residential			●	●										●	●			
High Density Residential				●	●									●	●			
Downtown									●						●			
Downtown Neighborhoods						●									●			
Mixed-Use							●		●					●	●			
Commercial							●	●		●	●				●			
Interstate Commercial												●	●		●			
Commercial/ Light Industrial													●		●			
Public/ Institutional														●	●			
Open Space															●			

4.02.020 ZONE DISTRICT COMPLIANCE

Except as hereinafter provided, within the municipal boundaries of the Town:

- A. No building or structure shall be erected, nor shall any existing building or structure be moved, removed, altered, or extended, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner except in conformity with the lot area, lot coverage, , setback, and height provisions provided in the zone district regulations for the district in which the land, building or structure is located.
- B. No lot area, frontage, yard or other open space, or parking space provided for any building or structure for purposes of compliance with provisions of this LUDC shall be considered as providing lot area, frontage, yard or other open space for any other principal building or structure on the same lot or on any other lot except where multiple structures are permitted on a lot.

4.02.030 OFFICIAL ZONING MAP

A. Incorporation of Map

The location and boundaries of the zone districts established by this LUDC are shown on the "Zone District Map" of the Town, which, together with all data shown on the map and all amendments to the map, is incorporated into this LUDC by reference. Changes in zone districts shall be promptly entered on the Zone District Map. An electronic copy of the official Zone District Map is located on the Town's website and a physical copy is available for inspection at Town Hall during regular business hours. If there is a conflict between the electronic copy and the physical copy, the physical copy shall control.

B. District Boundaries

The following rules shall be applied as necessary to interpret the official Zone District Map.

1. Except where otherwise indicated, zone district boundaries shall follow Town boundaries, section lines, lot lines, centerlines of stream beds, and public right-of-way centerlines or extensions thereof.
2. On unsubdivided land or where a zone district boundary divides a lot or parcel, the location of the boundary shall be determined by scale of the Zone District Map.
3. Where a zone district boundary coincides with a public right-of-way line and the public right-of-way is subsequently abandoned, the zone district boundary shall then follow the centerline of the former public right-of-way.
4. Land not part of a public right-of-way and which is not indicated as being in any zone district shall be considered to be included in the most restrictive adjacent zone district even when the district is separated from the land in question by a public right-of-way.
5. A single parcel or lot shall not be zoned in two different zone districts.

4.02.040 DIMENSIONAL STANDARDS APPLICABLE TO ALL ZONE DISTRICTS

A. Clear Vision Areas**1. Description**

A clear vision area is a triangular area, two sides of which are lot lines measured from the corner intersection of the property lot lines for a distance of 30 feet, or at an intersection including an alley, ten feet; where the lot lines have rounded corners, the lot lines shall be extended in a straight line to a point of intersection and so measured. The third side of the triangle shall be the straight line across the corner of the lot connecting the non-intersecting ends of the other two sides. See Figure 4.02-A: Clear vision area.

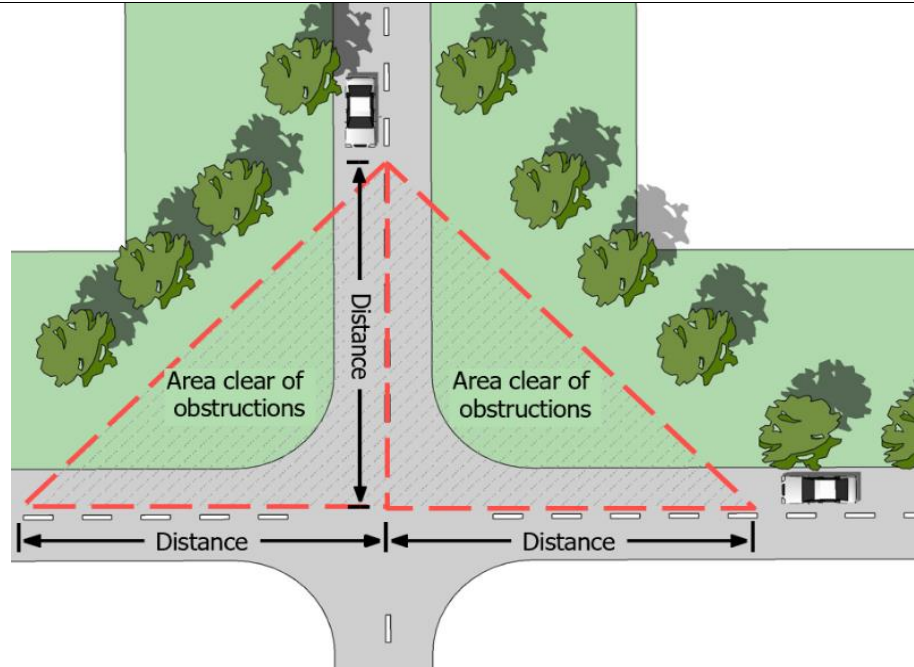


Figure 4.02-A: Clear vision area

2. Applicability

- a. Clear vision areas shall be maintained on the corners of all property at the intersection of two streets, a street and an alley, or a street and a railroad except in zone districts with a required build-to zone or line.
- b. The maximum height for all potential visual obstructions in the clear vision area is 2.5 feet, including plants, fences, walls, structures, and any potential temporary visual obstructions such as parking. Trees exceeding 2.5 feet may be planted in a clear vision area, provided all branches and foliage can be removed to a height of eight feet above the grade when the tree is sufficiently established.
- c. No fence or wall shall be located so as to obstruct traffic sight distances. In a clear vision area, the maximum fence or wall height is 2.5 feet.
- d. The maximum height for any potential obstruction is measured from the top of the curb, or where no curb exists, from the established street centerline grade.

B. Maximum Density Not Guaranteed

The number of dwelling units allowed on a site is based on the presumption that all other applicable standards will be met. The maximum density established for a zone district is not a guarantee that such densities may be obtained, nor a valid justification for varying other dimensional or development standards.

C. Setback Projections and Encroachments

1. Setback encroachments are building and site elements that project into or are located on the “non-buildable” side of a setback line, typically in a required setback area.

2. Permitted encroachments, identified below, are allowed where the required dimension is measured by a setback line, not a build-to line.
3. Screening may be required as described in Section 4.11.060.
4. Measurement
 - a. Each setback encroachment shall be measured from the minimum required setback line towards the lot line; setback encroachments are always measured from the same point and are not cumulative.
 - b. No permitted setback encroachment shall be closer than two feet to any lot line with the exception of fences and walls and gardens and landscaping.
 - c. The following encroachments shall meet the specified standards:

Table 4.02-1 Permitted Setback Encroachments

Projection	Front or Street Side Setback (max, feet)	Internal or Rear Setback (max, feet)
Building Element		
Approved accessibility ramps	Any distance	Any distance
Bay windows	4	4
Belt courses, sills, lintels, pilasters, pediments	1	1
Breezeways, unenclosed	Not permitted	Not permitted
Corner detail, Broadway District only	Per 4.04.060	Not permitted
Chimneys not greater than 6 ft. in width	2	2
Eaves, roof overhangs, cornices, gutters, and downspouts	2	2
Porches, stoops, decks, terraces, balconies, and associated stairs (uncovered and no more than 30" above natural grade)	8	5
Shading devices such as awnings and canopies	5	5
Stairs and fire escapes (unenclosed)	4 (rear also)	1.5 (side only)
Window wells	Any distance	3
Site Elements		
Accessory Structure	Not Permitted	Per zone district requirements
Clothes lines and poles	Not permitted	Any distance
Fences and walls	Any distance	Any distance
Flagpoles and signs	Any distance	Any distance
Flatwork	Any distance	Any distance
Gardens and landscaping	Any distance	Any distance
Ornamental lights	Any distance	Any distance
Play equipment	Not permitted	Any distance
Swimming pools and hot tubs including mechanical equipment and deck	Not permitted	Any distance
Trash containers	Not permitted	Any distance
Mechanical, Electric, and Plumbing Elements		
Evaporative coolers or air conditioners (window)	2	2
Evaporative coolers or air conditioners (ground)	Not permitted	Not Permitted

Table 4.02-1 Permitted Setback Encroachments

Projection	Front or Street Side Setback (max, feet)	Internal or Rear Setback (max, feet)
Gas and electric meters	2	2
Solar energy collectors and heat storage units of up to 200 sq. ft. of collector surface area	Not permitted	Not Permitted
Transformers	Not permitted	Not Permitted

D. Height Limit Exceptions

- Height limit exceptions are building and site elements that project above the maximum height limit allowed in a zone district.
- Screening may be required as described in Section 4.11.060.
- Measurement.
 - Each height limit exception shall be measured from the maximum building height.
 - Height limit exceptions are not cumulative in that they are always measured from the same point.
- The following height limit exceptions shall meet the following standards:

Table 4.02-2 Height Limit Exceptions

Projection	Height Increase, max (% or feet)
Chimneys, stacks, vents, and flues	30% over zone district max height
Antennas and towers (except as provided in Sec. 4.09.110, Wireless Communication Facilities)	30'
Emergency sirens and similar devices	Any distance
Mechanical, electrical, and plumbing equipment; solar panels; air conditioner and evaporative coolers	30% over zone district max height
Parapet walls, safety railings, and screening walls	4'
Architectural features such as unoccupied belfries, flagpoles, spires, silos, domes, and windmills	30% over zone district max height

E. Ground Level First Floor

In new construction, the first floor shall be placed at ground level.

4.02.050 INCLUSIONARY HOUSING REQUIREMENTS FOR AFFORDABLE AND LOCAL EMPLOYEE RESIDENCY (LERP)

A. Purpose

- 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 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 the Town. This section will help ensure the provision of housing that meets the needs of all economic groups in the Town.

2. The Town 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. The Town 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.
3. 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.

B. Definitions

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

C. Applicability

1. Residential units that meet the requirements of Section B.1 shall be required as a condition of approval for all residential development, including:
 - a. New units,
 - b. Redevelopment that creates new units in excess of any units that originally existed on the site, and
 - c. Infill that is either new development or redevelopment.
2. 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.

3. 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.

D. Exemptions

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

1. Affordable units that meet the eligibility requirements of this section shall not be included in the total unit count.
2. Accessory dwelling units.
3. Proposed rental or for-sale residential development of less than ten units.
4. 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 this LUDC, or which is otherwise specifically exempt pursuant to an ordinance of the Town.

E. Residential Development Requirements

1. 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:

- a. Affordable Units: 15 percent, and
- b. Resident Occupied Units: 35 percent

2. 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.

3. Planned Unit Development Alternative

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.

4. Credits for Development of Excess Affordable Housing

a. Award of Credit

i. By Agreement

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

ii. Certificate of Credit

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

iii. 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, use of a loan from the U.S. Department of Housing and Urban Development shall not disqualify its affordable housing from generating a credit.

b. 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 applicant 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. 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 written request, for good cause, extend the term of the credit by one additional term of up to two years.

F. Options to Satisfy Requirements

1. On-Site Construction

- a. On-site affordable units or RO units shall be provided to the maximum extent feasible.
- b. Phasing of construction of affordable or RO units shall be detailed in development agreement approved by the Town.
- c. Affordable units must be placed on fair and equal footing with market-rate units in the governing documents of any homeowners' association or similar entity.

2. Alternative Compliance

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:

a. Housing Fee in-Lieu

- i. 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.
- ii. 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.
- iii. 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 applicants whose interest is to provide these housing options.
- iv. 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.

b. Off Site Location

- i. An applicant may seek to provide affordable units within the Town in a different location than the development of the market-rate units.
- ii. The applicant shall provide no less quantity of affordable housing than would have been required on-site.
- iii. 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.
- iv. 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 applicant, 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.
- v. 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.
- vi. Approval of the use of this option does not guarantee approval of any land use application or building permit for the off-site location.

c. Land Conveyance

An applicant may seek to provide land to the Town in lieu of the development of affordable units. Conveyed land must meet the following standards:

- i. All off-site infrastructure necessary or proper for the development of the land as affordable housing:
 - (a) Must already be in place, and any outstanding obligations paid to neighboring landowners for public infrastructure they installed;
 - (b) The applicant must agree to build the infrastructure within a timeframe that will not delay the development of the affordable housing and the applicant may be required to post securities for the infrastructure via a public improvement agreement; or
 - (c) The land donation must be accompanied with additional compensation to the Town sufficient to construct such infrastructure.
- ii. 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 applicant shall submit a concept plan illustrating how it complies.
 - (a) The land must be free and clear of all encumbrances that would hinder development, including without limitation any lien, outstanding tax or fee accrued, or floodplain, hazards/sustainability/wildlife issues.
 - (b) 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.

(c) 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.

(d) The land conveyance must be in fee simple and by general warranty deed.

3. Redemption of Credits

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

G. Incentives

1. 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.

2. Incentives

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

a. By Town Council

- i. If the proposed development is for construction of all affordable units, a applicant may propose alternative adjustments to any numerical bulk or height standard required by the zone 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.
- ii. 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 4.17.080C, Major Development Plan request.

b. By Director:

- 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 zone 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 where applicable.

- 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 percent.

H. 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.

I. Schedule for Construction of Local Employee Residences

An applicant 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 applicant shall submit a proposed construction schedule for approval by the Town that clearly delineates the start and completion dates of the units and the sale of market rate lots in accordance with the Town's LERP Guidelines.

J. Deed Restrictions

All affordable and RO units required by this Section shall be deed restricted, in accordance with the requirements of the LERP Guidelines, 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 applicant for review at the time of approval of the LERP 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.

K. Local Employee Residency Plan

1. 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. 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.
2. 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 4.03 Residential Districts

4.03.010 DISTRICTS ESTABLISHED

The following Residential zone districts are established:

Table 4.03-1: Residential Districts		
Abbreviation	Zone District Name	Legacy District
R1	Residential Low Density	Residential Single Family (R1)
R2	Residential Medium Density	Residential Medium Density (RM)
R3	Residential Multi-Family	Residential Multifamily (RMF)
R4	Residential High Density	Residential High Density (RH)
OTR	Old Town Residential	new

4.03.020 PURPOSE AND INTENT

A. Purpose

The Residential zone districts are intended to:

1. Implement the vision, goals, policies, and actions of the Comprehensive Plan;
2. Provide appropriately located areas for residential development at scales and densities that support a vibrant, walkable community;
3. Protect the character of existing residential neighborhoods and the overall community; and
4. Allow for the development of a range of housing types in appropriate locations across the Town.

4.03.030 RESIDENTIAL LOW DENSITY (R1)

A. Intent

The Residential Low Density (R1) zone district is intended to provide for single-family and duplex residential development. R1 is appropriate for existing neighborhoods developed at this scale and to serve as a transition between agricultural or rural residential development patterns and smaller lot, denser residential areas.

B. Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

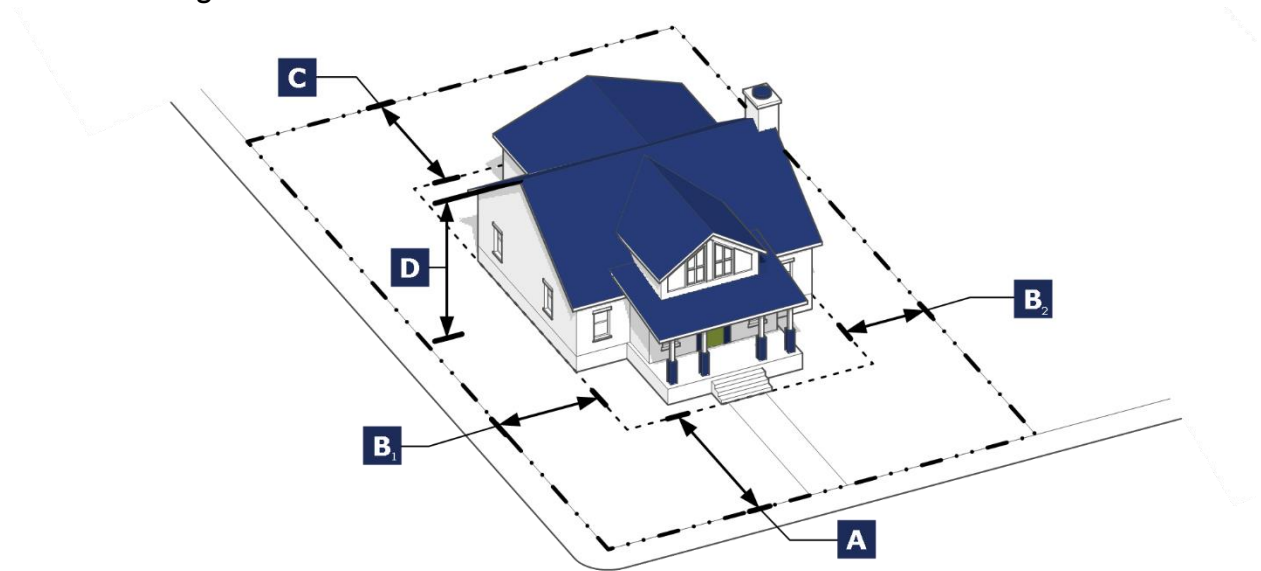


Table 4.03-2: R1 Lot and Dimensional Standards

Lot Standards		Building Placement/Setbacks		
Density (max)	Up to 4 du/ac	A	Front	25
Lot Area, total (min)		B ₁	Street-Adjacent Side	15 [1]
Single-family	6,000 sf	B ₂	Interior Side	12.5
Duplex (per unit)	6,000 sf	C	Rear, Principal Bldg.	20 ft
Lot Coverage (max)	60%		Rear, Accessory Bldg.	5 ft
Live Stream Setback		Building Standards		
No disturbance area	75 ft	Height, (ft, max)		
		D	Principal Building	35 ft
			Accessory Building	35 ft

Table Notes:

[1] May match block face average where applicable. See Chapter. 4.20.

D. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.03-3: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.03.040 RESIDENTIAL MEDIUM DENSITY (R2)

A. Intent

The Residential Medium Density (R2) zone district is intended to provide for a range of housing types at a medium density range in keeping with applicable land use plan densities. R2 is characterized by a predominance of older residential homes and traditional neighborhood development, which typically will include smaller single-family residential lots, a grid street pattern, and alleys. R2 is also intended to be applied to new and infill areas of the community which are intended to be developed in a similar pattern. R2 is an appropriate transition between lower density residential development and mixed-use or non-residential development.

B. Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

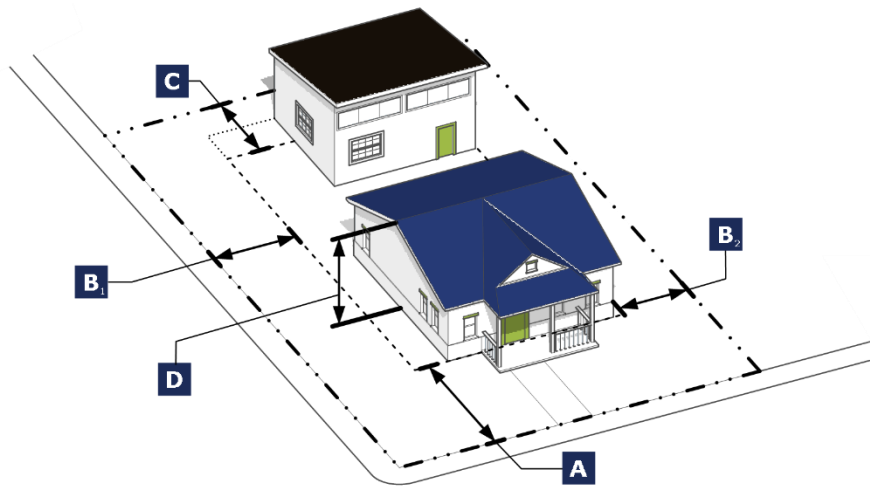


Table 4.03-4: R2 Lot and Dimensional Standards

Lot Standards		Building Placement/Setbacks	
Density (min/max)	4-16 du/ac	A	Front 10
Lot Area, total (min)		B ₁	Street-Adjacent Side 10 [1]
Single-family	5,000 sf	B ₂	Interior Side 5
Duplex (per unit)	2,500 sf	C	Rear, Principal Bldg. 10 ft
			Rear, Accessory Bldg. 5 ft
Attached Dwellings (per unit)	2,000 sf	Building Standards	
Lot Coverage (max)	70%	Height, (ft, max)	
Live Stream Setback		D	Principal Building 35 ft
No disturbance area	75 ft		Accessory Building 35 ft

Table Notes:

[1] May match block face average where applicable. See Chapter 4.20.

D. Other Applicable Provisions

All development shall comply with all applicable provisions of this Code. Cross-references to some of the key provisions are provided below.

Table 4.03-5: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.03.050 RESIDENTIAL MULTI-FAMILY (R3)

A. Intent

The Residential Multi-Family (R3) district is intended for a range of small- and mid-scale multiple-unit homes from three to eight units, in small neighborhood nodes. The buildings are oriented to the streets and designed in walkable blocks. A mix of lot sizes is allowed to establish development density in keeping with applicable land use plans. R3 is an appropriate transition between lower density residential development and mixed-use or non-residential development.

B. Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

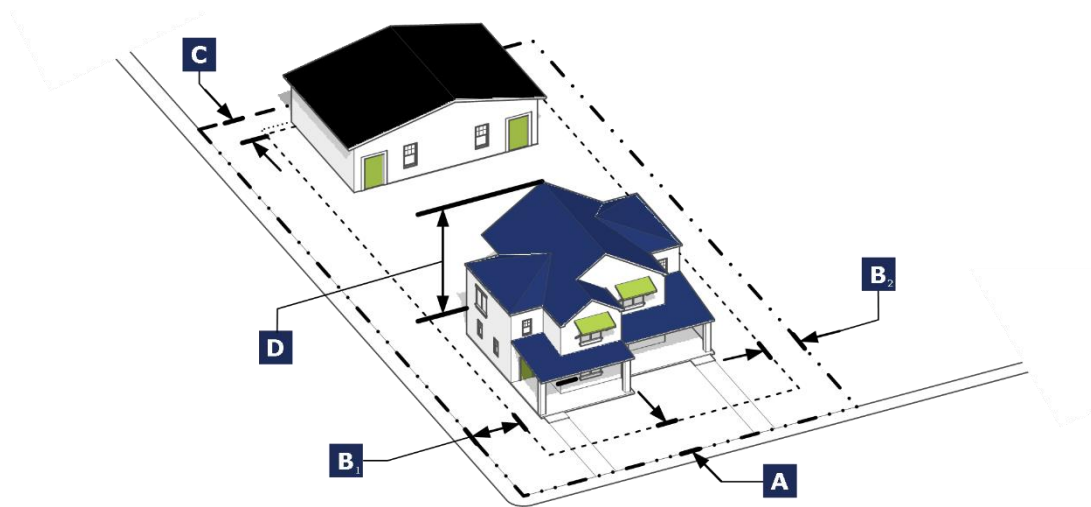


Table 4.03-6: R3 Lot and Dimensional Standards

Lot Standards		Building Placement/Setbacks		
Density (min/max)	4-16 du/ac	A	Front	10
Lot Area, total (min)		B ₁	Street-Adjacent Side	10 [1]
Single-family	4,000 sf	B ₂	Interior Side	5 ft
Duplex (per unit)	2,000 sf		Rear, Principal Bldg.	10 ft
		C	Rear, Accessory Bldg.	5 ft [2]
Attached Dwellings (per unit)	1,500 sf	Building Standards		
Multiunit Bldg, up to 8 units	n/a	Height, (ft, max)		
Lot Coverage (max)	70%	D	Principal Building	35 ft
Live Stream Setback			Accessory Building	35 ft
No disturbance area	75 ft			

Table Notes:

[1] May match block face average where applicable. See Sec. 4.20.020.

[2] Turning radius standards shall apply.

D. Other Applicable Provisions

All development shall comply with all applicable provisions of this Code. Cross-references to some of the key provisions are provided below.

Table 4.03-7: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.03.060 RESIDENTIAL HIGH DENSITY (R4)

A. Intent

The Residential High Density (R4) district is intended for a mix of attached units, large-scale multiple-unit homes in larger neighborhood nodes, and, apartment buildings with more than eight units per building, with an internal private street system for access throughout the larger node with walkable blocks, and buildings that are oriented to the street, and parking/garages that are located behind the buildings. Covered parking may include rows of canopies or enclosed garages. Common open space, shared recreational facilities, or central gathering spaces are generally provided for residents.

B. Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

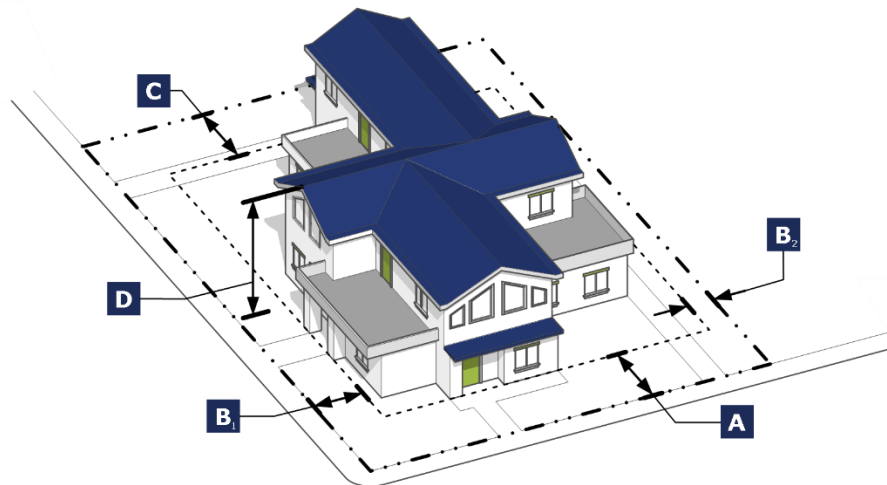


Table 4.03-8: R4 Lot and Dimensional Standards

Lot Standards		Building Placement/Setbacks	
Density (min/max)	10-18 du/ac	A	Front 10
Lot Area, total (min)		B	Street-Adjacent Side 10 [1]
Attached Dwellings (per unit)	1,000 sf	B	Interior Side 5
Multiunit Bldg, up to 8 units	n/a	C	Rear, Principal Bldg. 10 ft
9 or more units	n/a		Rear, Accessory Bldg. 5 ft [2]
Lot Coverage (max)	70%	Building Standards	
Live Stream Setback		Height, (ft, max)	
No disturbance area	75 ft	D	Principal Building 45 ft [3]
			Accessory Building 35 ft

Table Notes:

[1] May match block face average where applicable. See Sec. 4.20.020.

[2] Turning radius standards shall apply.

[3] Maximum of three stories permitted in this height limit.

D. Other Applicable Provisions

All development shall comply with all applicable provisions of this Code. Cross-references to some of the key provisions are provided below.

Table 4.03-9: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.03.070 OLD TOWN RESIDENTIAL (OTR)

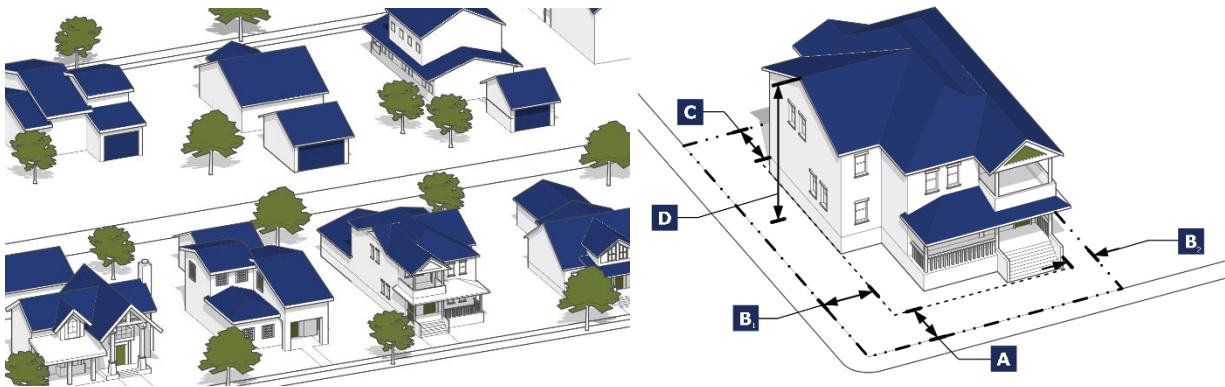
A. Intent

The Old Town Residential (OTR) district promotes traditional small lot residential in a highly walkable neighborhood setting adjacent to and around Downtown Eagle, with infill and residential redevelopment at the current neighborhood building scale and street layout.

B. Uses

Allowed uses are identified in: Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards



1. New Development and Redevelopment

New development and redevelopment shall comply with the following dimensional standards:

Table 4.03-10: OTR Lot and Dimensional Standards

Lot Standards		Building Placement/Setbacks		
Density (min/max)	4-16 du/ac	A	Front	10
Lot Area, total (min)		B ₁	Street-Adjacent Side	10
Single-family	3,500 sf	B ₂	Interior Side	5
Duplex (per unit)	1,750		Interior Side, Accessory Bldg.	2.5
Attached Dwellings (per structure, max 3 units)	6,250	C	Rear, Principal Bldg.	10
Multiunit Building (per structure, max 3 units)	6,250		Rear, Accessory Bldg.	2 [2]
Lot Coverage (max)	70%	Building Standards		
Live Stream Setback		Height, (ft, max)		
No disturbance area	75 ft	D	Principal Building	35 ft
			Accessory Building	35 ft

Table Notes:

[1] May match block face average where applicable. See Chapter 4.20.

[2] Turn radius standards apply to all alleys; which may require that a accessory building be setback on the property further than the minimum requirements.

D. Infill and Redevelopment Standards**1. Building Footprint**

The maximum building footprint size is 3,000 square feet.

2. Change in Structure Type

Redevelopment from single-family to multi-unit development may be approved where the new structure conforms to the lot and building standards.

E. Roof Design

All new residential roofs or alterations to existing structures that result in changes to a roofline shall be provided a roof in a style that is similar to those residential structures in the zone district. Flat roofs are prohibited on residential structures.

F. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.03-11: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

Chapter 4.04 Mixed-Use Districts

4.04.010 DISTRICTS ESTABLISHED

The following Mixed-Use zone districts are established:

Table 4.04-1: Mixed-Use Districts		
Abbreviation	Zone District Name	Legacy District
CMU1	Commercial Mixed-Use 1	Commercial Limited (CL)
CMU2	Commercial Mixed-Use 2	new
BD	Broadway District	Commercial Business District (CBD)

4.04.020 PURPOSE AND INTENT

A. Purpose

The Mixed-Use districts are intended to:

1. Implement the vision, goals, policies, and actions of the currently adopted Comprehensive Plan;
2. Create and enhance neighborhoods with an intermixed variety residential and commercial uses at a scale that complements the established surrounding areas;
3. Allow for a variety of mixed-use centers of activity that support but do not compete with each other;
4. Allow for different types of compatible land uses close together in appropriate locations to shorten transportation trips and facilitate multi-modal development; and
5. Encourage infill and redevelopment of commercial, residential, and mixed-use development within surrounding uses.

4.04.030 GENERALLY APPLICABLE MIXED-USE STANDARDS

A. Neighborhood Protection Standards

1. Screening, Buffering, and Site Layout

- a. Mechanical equipment, including without limitation air conditioning units, air-handling units, back-up power generators, installed at ground level or on a roof must be fully screened from view. The screening shall be at least the height of the mechanical equipment. Mechanical equipment that generates or is expected to generate noise in excess of 55 decibels within three feet of the equipment location must provide sound abatement or suppression, which may require the equipment to be enclosed in a structure.
- b. Loading shall be done from alleys when possible. If the property adjoins an arterial street, the loading dock shall be set back far enough such that no trucks will be loading, unloading, or backing within the street. If loading is required within the street, a permit shall be required from the Public Works department for any temporary street closures.
- c. Outdoor storage of merchandise or equipment shall be within an area enclosed with a sight-obscuring fence at least six feet in height that is architecturally coordinated in color and

design with the building. Plant materials may be displayed outside of an approved building or enclosed area so long as they are on the same site wherein the business displays the bulk of its goods for sale. Outside promotional displays are allowed during business hours only.

- d. Outdoor waste storage shall be screened with fencing materials that are weather resistant and similar to the materials used on the primary structure or used on other fencing on the property and of a height to fully screen the waste storage containers. Plant material of varying heights shall be used around the fence. Waste and recycling receptacles and/or storage enclosures shall be wildlife resistant.

2. Sound

No permanent outdoor announcement system or music system is permitted.

B. Design Standards

Design standards applicable to mixed-use structures are located in Section [4.10.050](#).

4.04.040 COMMERCIAL MIXED-USE (CMU1)

A. Intent

The Commercial Mixed-Use (CMU1) district is intended to accommodate residential uses with limited low-impact commercial uses located along walkable neighborhood corridors where shops and services are accessible to pedestrians. CMU1 development should include residential and/or may include limited commercial uses focused on daily needs primarily for adjacent neighborhood residents, such as corner stores, personal services, and small restaurants.

B. Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Dimensional Standards

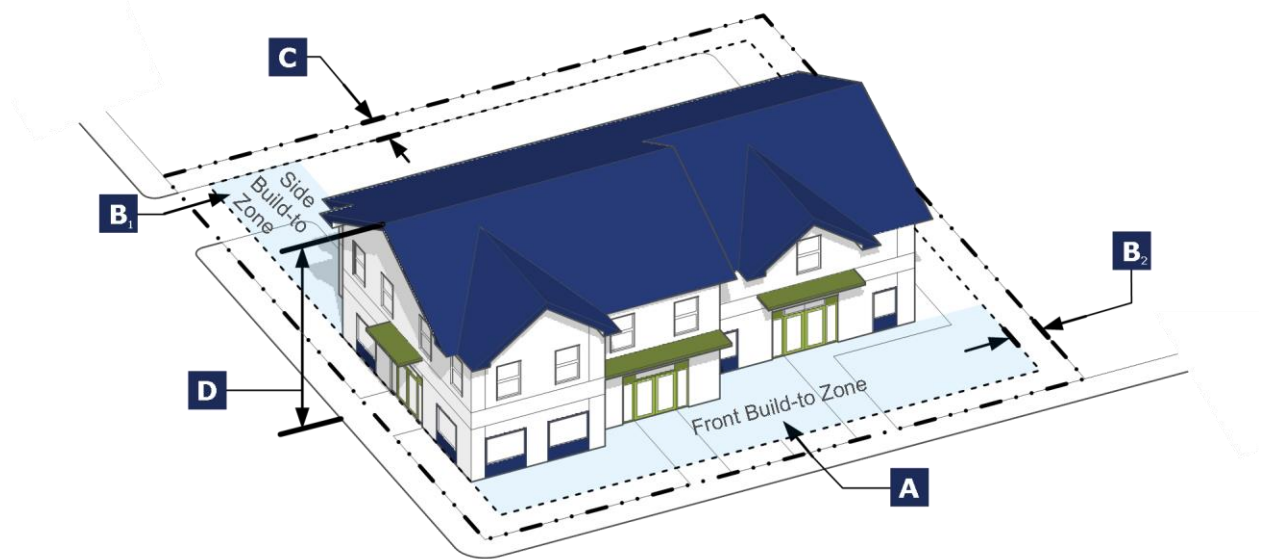


Table 4.04-2: CMU1 Lot and Dimensional Standards

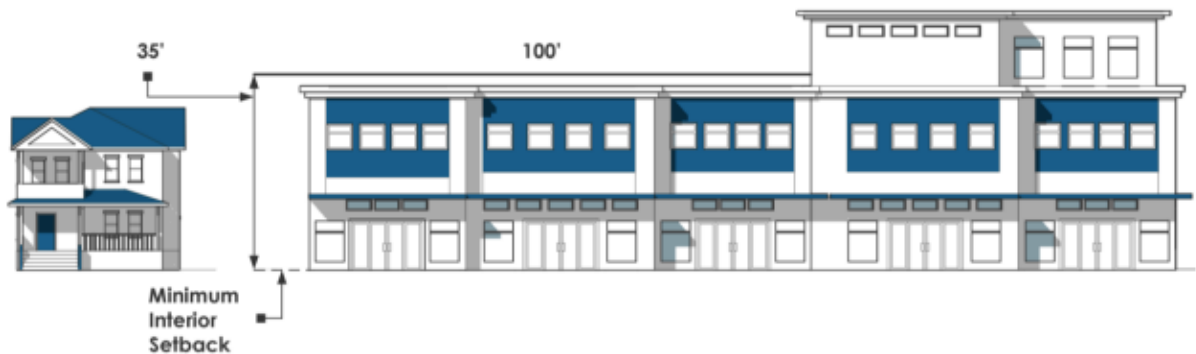
Mixed-Use Lot Standards			Live Stream Setback	
Lot Area, total (min)			No disturbance area	75 ft
Lot coverage (max)			Building Standards	
Building Placement			D	Height (max)
Build-to/Setbacks				35 ft [2]
A	Front Build-to Zone	5-20 feet	Parking Standards	
Front Build-to Line Coverage			Location	Sec. 4.04.040D
B1	Street Side Build-to Zone	5-20 feet	Required parking	Sec. 4.12
B2	Interior Side Setback (min)	5 ft [2]	Table Notes:	
C	Rear Setback (min)	5 ft [2]	[1] Percentage of the front building line that must be located within the build-to zone.	
Accessory Structure, Side, Interior Setback		2.5 ft	[2] Abutting R1 or N2, see Sec.4.04.030A.	
Accessory Structure, Rear Setback		2 ft		

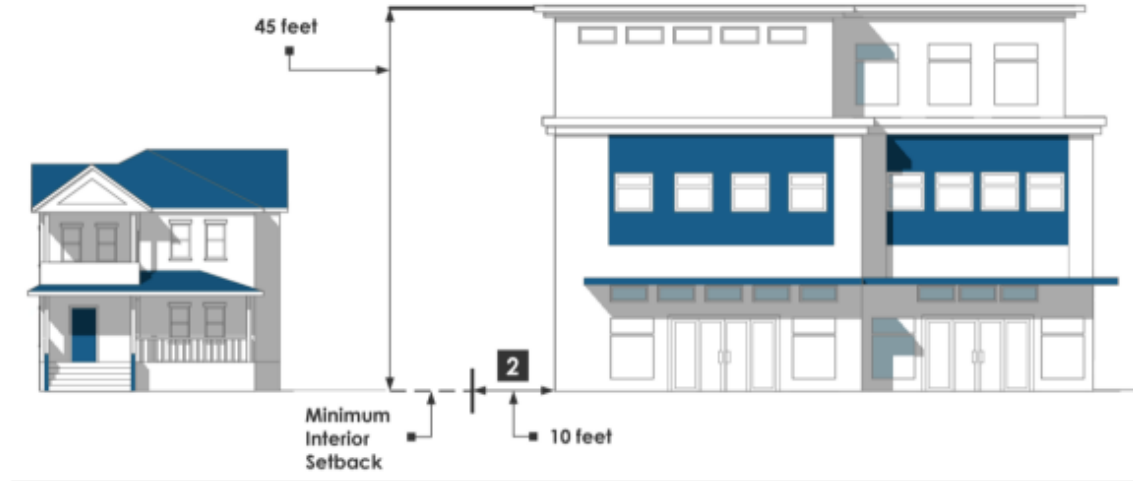
D. Parking Location

1. Alley access to parking is required for lots where an alley exists.
2. Lots without an alley are permitted to access rear or side parking from a local or arterial street.
3. Up to 30 percent of parking may be located between the front lot line and the front of the primary structure.

E. Neighborhood Protection

1. All CMU1 districts located within 50 feet of any R1 or OTR zone district, including a planned development that allows single unit residential use, shall comply with these site development standards.
2. New primary buildings with a height greater than 35 feet shall reduce the perceived height of the building when viewed from the adjacent R1 lots by using at least one of the following techniques.
 - a. “Stepping down” building height of any portion of the building within 20 feet of the side and rear lot lines abutting a lot zoned in any R1 district to a maximum of 35 feet; or
 - b. Increasing the side yard and rear yard setbacks abutting R1-zoned lots by at least 10 feet beyond that otherwise required.



**F. Merchandise Display**

Bufferyards and required landscaping areas shall not be used for the displaying of merchandise.

G. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.04-3: Cross-References

LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.04.050 COMMERCIAL MIXED-USE (CMU2)

A. Intent

The Commercial Mixed-Use (CMU2) district, generally located outside of the Broadway District along major commercial corridors and at community and employment activity centers, is intended to encourage the primary development of automobile and transit-oriented commercial, tourism, and employment uses supplemented by medium to high density residential development located at the interior or to the rear of the site.

B. Uses

1. Allowed uses are identified in Table 4.09-1: Primary Use Table and Table 4.09-2: Accessory Use Table.
2. Structures that front on Grand Avenue shall have at least 75% of the ground floor in commercial use. The remaining floorspace may be used for residential uses, including a lobby for entry to upper floor residential uses.

C. Lot and Building Standards

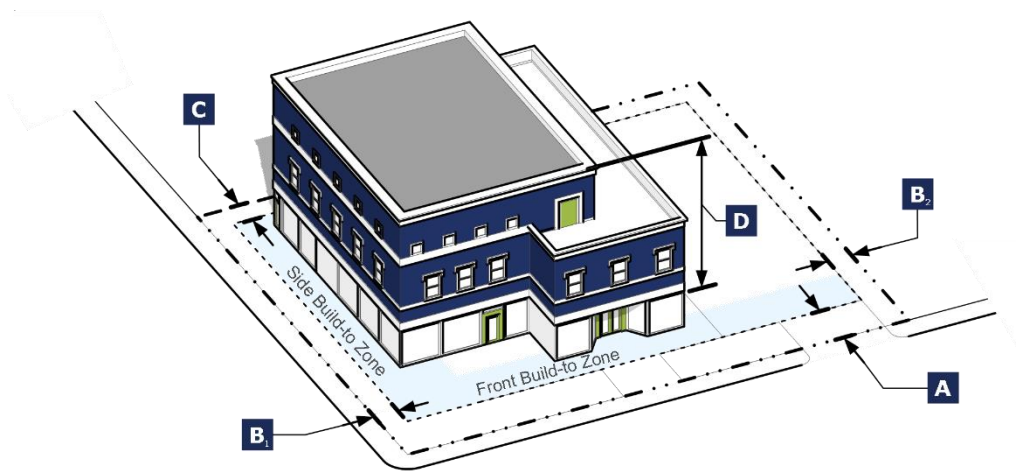


Table 4.04-4: CMU2 Lot and Dimensional Standards

Residential Dimensional Standards		Live Stream Setback	
Applicable district standards	R3	No disturbance area	75 ft
Mixed-Use Lot Standards		Building Standards	
Lot Area, total (min)	7,500 sf	D Height (max)	35 ft [2]
Lot coverage (max)	70%		
Building Placement		Parking Standards	
Build-to/Setbacks		Location	Sec. 4.04.050D
A Front Build-to Zone	10-20 feet	Required parking	Sec. 4.12
Front Build-to Line Coverage	50% [1]		
B₁ Street Side Build-to Zone	5-20 feet	Design Standards	
		Site layout	Sec. 4.10
B₂ Interior Side Setback (min)	5 ft [2]	Mixed-use structure	Sec. 4.10
C Rear Setback (min)	5 ft [2]	Residential structure	Sec. 4.10

Table 4.04-4: CMU2 Lot and Dimensional Standards**Table Notes:**

[1] Percentage of the front building line that must be within the front build-to zone.

[2] Abutting R1, see Sec. 4.04.030A.

D. Parking Location

1. Alley access to parking is required for lots where an alley exists.
2. Lots without an alley are permitted to access rear or side parking from a local or arterial street.
3. Up to 30 percent of parking may be located between the front lot line and the front of the primary structure.

E. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.04-5: Cross-References

LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.04.060 BROADWAY DISTRICT (BD)

A. Intent

The Broadway (BD) district is the downtown mixed-use core of the Town. The BD district is intended to guide growth and development in a manner that continues the existing character and design of the highly walkable downtown commercial area with storefronts on the ground story and upper story residential, lodging, and office uses.

B. Permitted Uses

1. Allowed uses are identified in Table 4.09-1: Primary Use Table and Table 4.09-2: Accessory Use Table.
2. Structures that front on Broadway shall have at least 75 percent of the ground floor in commercial use. The remaining floorspace may be used for residential uses, including a lobby for entry to upper floor residential uses.

C. Lot and Building Standards

Table 4.04-6: BD Lot and Dimensional Standards

Dimensional Standards		Broadway
Lot Standards		
Lot area (sf, min)		--
Lot Coverage (% max)		100 [1]
Building Placement		
Build-to Zone		
A	Front Build-to Zone (feet)	0-15
	Front Build-to Line Coverage (min, %)	70 [2]
B1	Street Side Build-to Zone (feet)	0-15
Setbacks		
B2	Side Setback (feet)	0
C	Rear Setback (feet)	25 [3]
Building Standards		
Building Height (feet, max) [4]		35
Building Footprint (sf, max)		15,000
Parking Standards		
Surface parking location		At least 30' behind front façade

Table Notes:

[1] Building coverage may exceed the 80 percent maximum lot coverage in the Broadway District (refer to Section 4.10.050C.1 for specific guidelines and standards).

[2] Up to 30% or 50' (whichever is less) of the front façade may be courtyard.

[3] Rear setback may be reduced when parking is provided per Sec. 4.10.050C.1

[4] Corner treatments at street intersections may exceed the height limit when compliant with Section 4.10.050C.1.

D. Other Applicable LUDC Section

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.04-7: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

Chapter 4.05 Commercial and Industrial Districts

4.05.010 DISTRICTS ESTABLISHED

The following Commercial and Industrial zone districts are established:

Table 4.05-1: Commercial and Industrial Districts		
Abbreviation	Zone District Name	Legacy District
CG	Commercial General	General Commercial (CG)
CGE	Commercial General East	new
CI	Commercial Interchange	new
IND	Light Industrial	Industrial (I)

4.05.020 PURPOSE AND INTENT

A. Purpose

The Commercial and Industrial districts are intended to:

1. Implement the vision, goals, strategies, and actions of the currently adopted Eagle comprehensive plan and related land use plans;
2. Preserve important Town assets such as employment centers and active industrial areas;
3. Provide appropriate locations for a mix of industrial and intensive non-residential uses;
4. Prevent encroachment from residential structures and uses that are inappropriate in commercial and industrial districts;
5. Ensure the availability of appropriate locations with convenient access to existing and future arterial thoroughfares, railway lines, and the airport; and
6. Allow the development of large commercial sites to accommodate parking, screening, and buffering.

4.05.030 COMMERCIAL GENERAL (CG)

A. Intent

The Commercial General (CG) district is intended primarily for automobile-oriented commercial uses, including heavy commercial, wholesale, warehouse-distribution/flex space facilities, research facilities, artisan and light manufacturing, and contractor commercial uses, which may include outdoor storage. CG districts may be located adjacent to other commercial, mixed-use, and high-density neighborhood districts.

B. Permitted Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

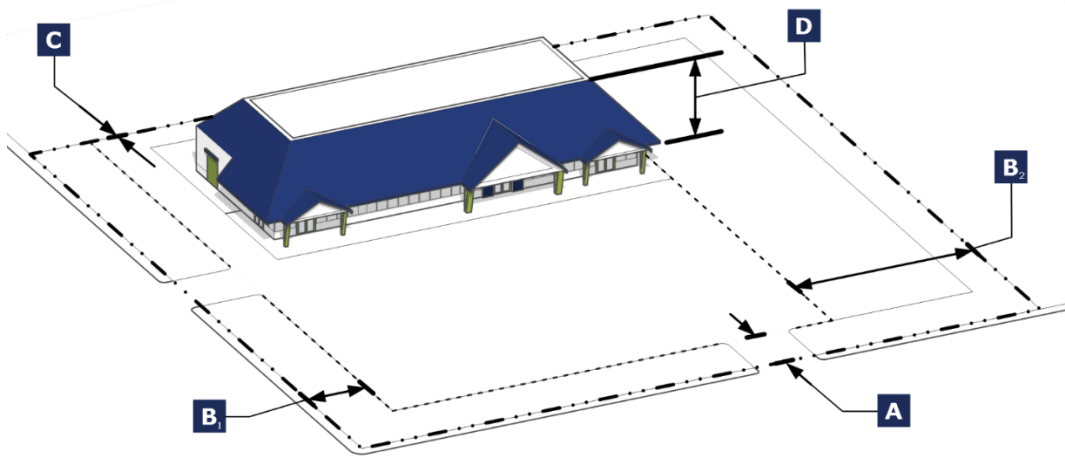


Table 4.05-2: CG Lot and Dimensional Standards

Lot Standards		Building Standards	
Lot Area, total		D Height (max)	35 ft [1]
Public Street Frontage (min)		Building Footprint (max)	
Lot Coverage (max)		25,000 sf	
Building Placement		Parking Standards	
Setbacks		Required parking	
A Front (min)		Sec. 4.12	
B1	Street Side (min)		
B2/C	Rear (min) or Interior Side		
	Parking lot adjacent	0 ft	
	Com/Ind district adjacent	12.5 ft	
	Mixed-use district adjacent	25 ft	
Live Stream Setback		Design Standards	
No disturbance area		Site layout	Sec. 4.10
		Mixed-use structures	Sec. 4.10
		Residential structures	Sec. 4.10

D. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.05-3: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.05.040 COMMERCIAL GENERAL EAST (CGE)

A. Intent

The Commercial General East (CGE) district is intended for heavy commercial, wholesale, warehouse-distribution/flex space facilities, research facilities, artisan and light manufacturing, and contractor commercial uses, including outdoor storage and truck traffic. The CGE district is intended to be located along corridors where proximity to residential and walkable mixed-use development is limited.

B. Uses

1. Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.
2. Residential uses shall be located in areas that are safe for pedestrians and bicyclists and that provide access to trail connections.

C. Lot and Building Standards

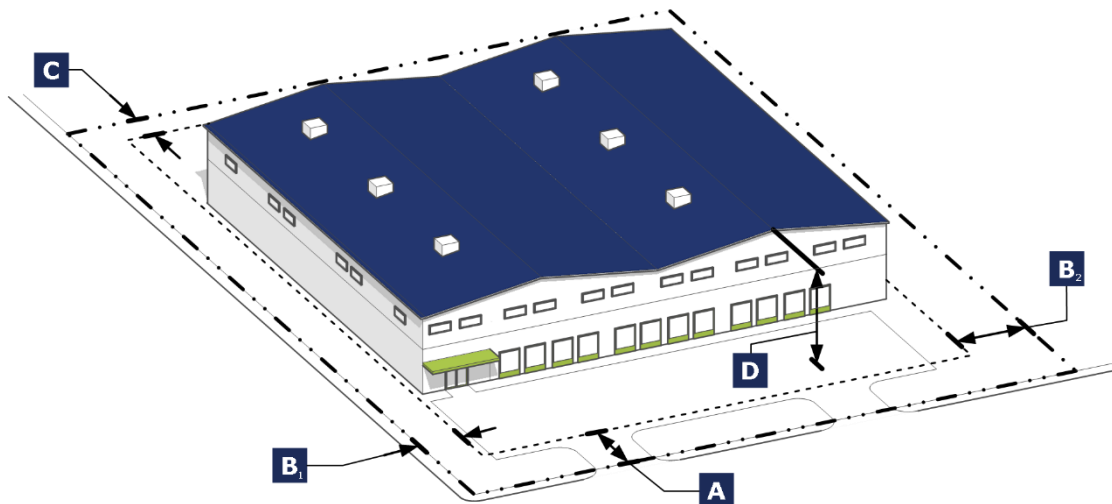


Table 4.05-4: CGE Lot and Dimensional Standards

Lot Standards		Building Standards	
Lot Area, total		D Height (max)	35 ft [1]
Public Street Frontage (min)		Parking Standards	
Lot Coverage (max)		Required parking	Sec. 4.12
Building Placement		Design Standards	
Setbacks		Site layout	Sec. 4.10
A	Front (min)	Mixed-use structures	Sec. 4.10
B ₁	Street Side (min)	Residential structures	Sec. 4.10
B ₂ /C	Rear or Interior Side (min)		
Adjacent to:	Parking lot		
	Com or Ind district		
	Mixed-use district		
	Residential district		
Live Stream Setback			
No disturbance area			

Table Notes:

D. Other Applicable Provisions

All development shall comply with all applicable sections of this LUDC. Cross-references to some of the key sections are provided below.

Table 4.05-5: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.05.050 COMMERCIAL INTERCHANGE (CI)

A. Intent

The Commercial Interchange (CI) 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 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

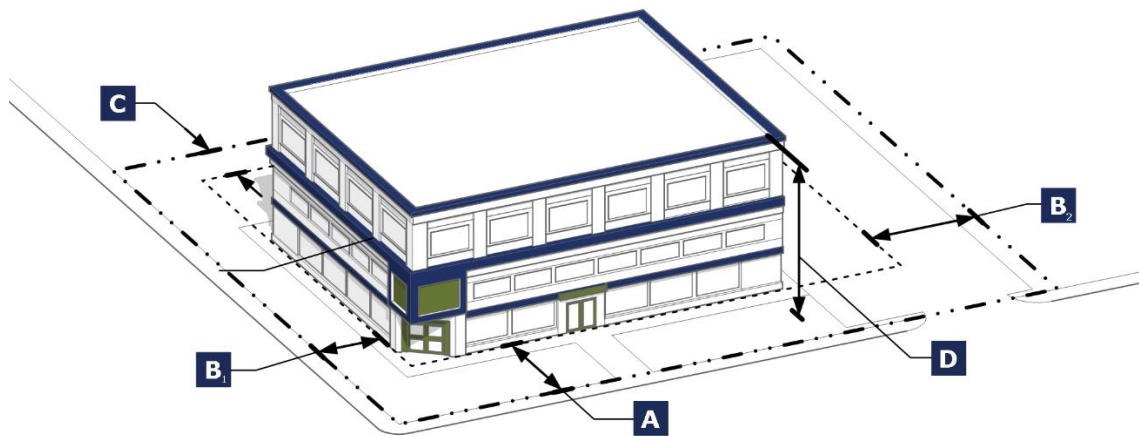


Table 4.05-6: CI Lot and Dimensional Standards

Lot Standards		Building Standards	
Lot Area, total		D Height (max)	35 ft [1]
Public Street Frontage (min)		Building Footprint (max)	25,000 sf
Lot Coverage (max)		Parking Standards	
Building Placement		Parking location	Max. 30% front [1], remainder side or rear yard
Setbacks		Required parking	Sec. 4.12
A	Front (min)	Design Standards	
B ₁	Street Side (min)	Site layout	Sec. 4.10
B ₂ /C	Rear (min) or Interior Side	Mixed-use structures	Sec. 4.10
Adjacent to:	Parking lot	Residential structures	Sec. 4.10
	Com/Ind district		
	Mixed-use district		
Live Stream Setback			
No disturbance area			

Table Notes:

[1] Measured between the front building line and the public right-of-way across the entire front side of the lot.

D. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.05-7: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.05.060 LIGHT INDUSTRIAL (IND)

A. Intent

The Light Industrial (IND) district is intended to provide for a variety of light, clean manufacturing businesses, including artisan or “maker” spaces, assembly, research and development, and a range of light manufacturing that takes place entirely indoors. This district may include supporting office and commercial uses where appropriate. The IND district is intended to be located away from residential development but can be compatible with adjacent commercial zones. Ind zoning should provide locations directly accessible to arterial and other transportation systems that can conveniently serve both Town and County business and industrial centers.

B. Permitted Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

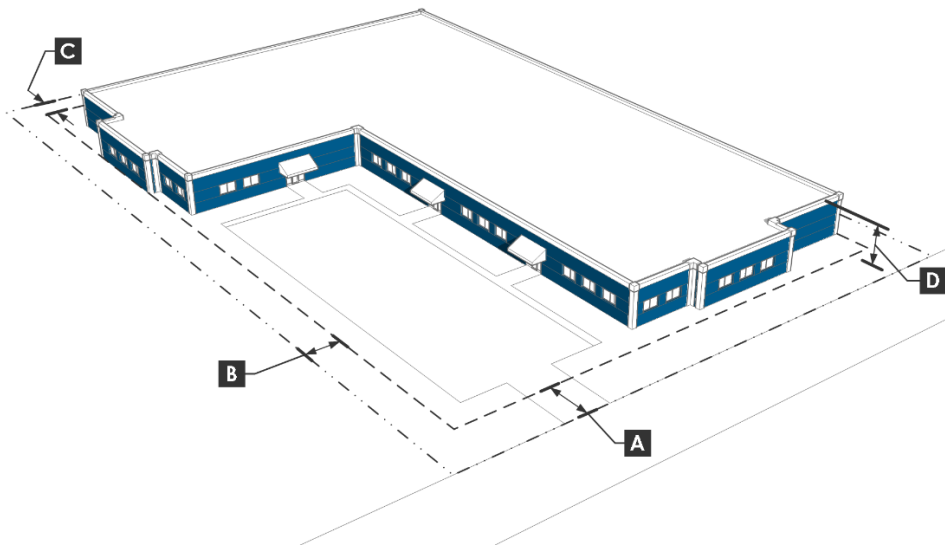


Table 4.05-8: IND Lot and Dimensional Standards

Lot Standards		Building Standards	
Lot Area, total	--	Height (max)	35 ft [1]
Public Street Frontage (min)	50 lin. ft.	Parking Standards	
Lot Coverage (max)	80%	Required parking	Sec. 4.12
Building Placement	[1]	Design Standards	
Setbacks		Site layout	Sec. 4.10
Front (min)	15 ft	Mixed-use structures	Sec. 4.10
Street Side (min)	10 ft	Residential structures	Sec. 4.10
Rear or Interior Side (min)		Table Notes	
Parking lot adjacent	0 ft	[1] Abutting R1 districts, see Sec. 4.04.030A	
Com/Ind adjacent	12.5 ft		
Mixed-use adjacent	25 ft		
Residential adjacent	75 ft		

D. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.05-9: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

Chapter 4.06 Public and Civic Districts

4.06.010 DISTRICTS ESTABLISHED

The following Public and Civic Districts are established:

Table 4.06-1: Public and Civic Districts		
Abbreviation	Zone District Name	Legacy District
PC1	Public and Civic Campus	Public Area (PA)
PC2	Public and Civic Open Space	new

4.06.020 PUBLIC AND CIVIC CAMPUS (PC1)

A. Intent

The Public and Civic Campus (PC1) district is intended to be used for small-scale civic and community service campuses with multiple structures and uses, such as civic assembly, medical, public safety facilities, or schools, along with associated structures and uses such as housing, training, or meeting facilities.

B. Permitted Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

Table 4.06-2: PC1 Lot and Dimensional Standards	
Residential Standards	
Residential development shall comply with R2 or R3 standards; single-family residential structures are not allowed.	
Lot Standards	
Lot Area, total (sf, min)	7,500
Lot Coverage (% ,max)	80
Building Placement	
Setbacks	Measured at lot boundary only, internal building separation shall meet life safety code standards.
Front (ft, min)	25
Street Side (ft, min)	15
Interior Side (ft, min)	12.5
Rear (ft, min)	25
Live Stream Setback (ft, min)	75
Building Standards	
Height (ft, max)	35
Parking	
Location	Parking shall be located internal to the campus and at least 50 feet from any exterior property line.

D. District Specific Standards**1. Permanent Structures**

All buildings constructed shall be permanent, without a chassis, hitch, or wheels, or other features that would make the structure mobile.

2. Residential Unit

- a. Residential structures may not be subdivided and sold separately from the public or civic campus.

E. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.06-3: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.06.030 PUBLIC AND CIVIC OPEN SPACE (PC2)

A. Intent

The Public and Civic Open Space (PC2) district is intended to protect and preserve open spaces that are held in either public or private ownership. PC2 districts may include parks, open spaces, trails, wetlands, floodplains, environmentally sensitive areas, and unique habitats and landscapes. To preserve access to clean air, pure water, natural recreation areas, and scenic natural beauty, the development of land is highly restricted in PC2 districts.

B. Permitted Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

Chapter 4.07 Rural and Agricultural Districts

4.07.010 DISTRICTS ESTABLISHED

The following Rural and Agricultural zone districts are established:

Table 4.07-1: Rural and Agricultural Districts

Abbreviation	Zone District Name	Legacy District
R	Resource	Resource (R)
RR1	Rural Residential-1	Residential Low Density (RL)
RR2	Rural Residential-2	Rural Residential (RR)

4.07.020 RESOURCE (R)

A. Intent

The Resource (R) district is intended for applicability to maintain and protect the natural resources and appropriate existing uses in the undeveloped areas of Town, including agricultural land, water, hillsides and other open spaces, which areas may be available for future development. The R district is intended to be a setting for extremely low-density and very large lot residential development.

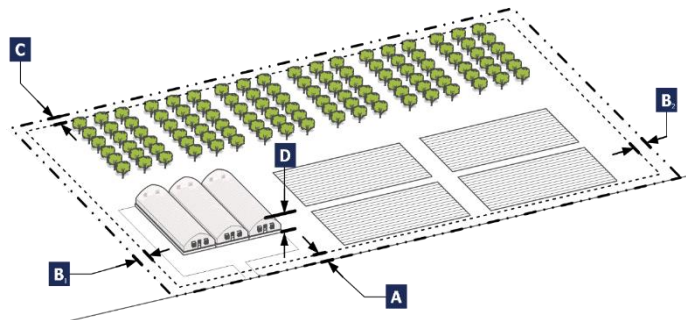
B. Permitted Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table ,and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

Table 4.07-2: R Lot and Dimensional Standards

Lot Standards		
Lot Area, total (min)		35 acres
Lot Area per DU (min)		35 acres
Setbacks (min)		
A	Front	25 ft
B ₁	Street Side	25 ft
B ₂	Interior Side	25 ft
C	Rear	20 ft
Live Stream Setback		75 ft
Building Standards		
D	Height (max)	35 ft



D. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key sections are provided below.

Table 4.07-3: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.07.030 RURAL RESIDENTIAL 1 (RR1)

A. Intent

The Rural Residential 1 (RR1) district is intended to provide for low-density, detached single-family development. RR1 can serve as a transition between very low-density rural development patterns and smaller lot, denser residential areas.

B. Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

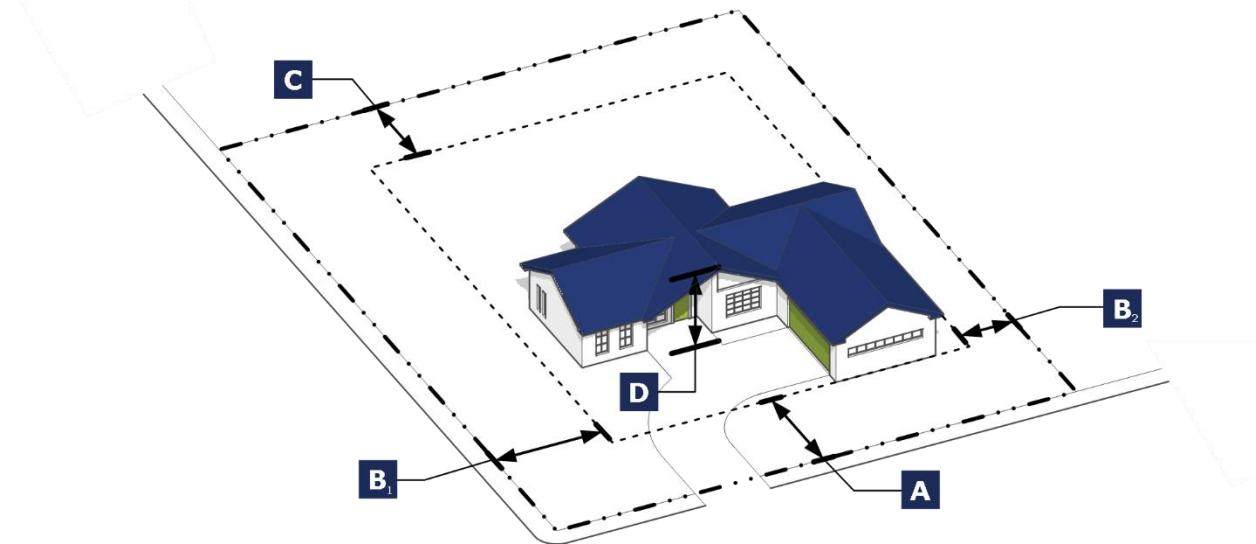


Table 4.07-4: RR1 Lot and Dimensional Standards

Lot Standards		Building Placement/Setbacks	
Density (max)	Up to 4 du/ac	A	Front Setback 25
Lot Area, total (min)		B ₁	Street-Adjacent Side 25 [1]
Single-family	10,000 sf	B ₂	Interior Side 12.5 [2]
Two Unit (per structure)	10,000 sf	C	Rear, Principal Bldg. 20 ft
Lot Coverage (max)	50%		Rear, Accessory Bldg. 7.5 ft
Live Stream Setback		Building Standards	
No disturbance area	75 ft	Height, (ft, max)	
		D	Principal Building 35 ft
			Accessory Building 35 ft

Table Notes:

[1] May match block face average where applicable. See Sec. 4.20.020.

[2] Or ½ building height, whichever is greater

D. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.07-5: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

4.07.040 RURAL RESIDENTIAL-2 (RR2)

A. Intent

The Rural Residential 2 (RR2) district is intended for the creation of rural-density dwellings, compatible agricultural, and other open space uses, including recreation. The RR2 district is intended to provide for very low-density, large lot residential development. The RR2 district can be located on existing development at this density and designated as a transitional district between Resource development and smaller lot size residential development. Cluster development is permitted in this district to allow for smaller lot sizes in combination with preservation of open space and sensitive lands.

B. Permitted Uses

Allowed uses are identified in Table 4.09-1: Primary Use Table, and Table 4.09-2: Accessory Use Table.

C. Lot and Building Standards

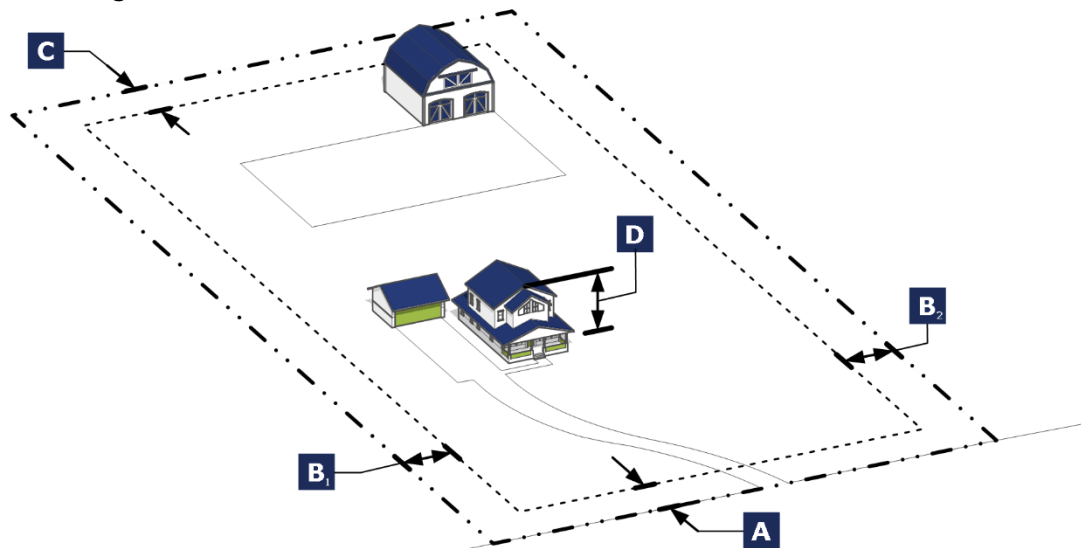


Table 4.07-6: RR2 Lot and Dimensional Standards

Lot Standards		
Lot Area, total (sf, min)		2 acres
Lot Area per DU (sf, min)		2 acres
Setbacks		
A	Front (ft, min)	25
B ₁	Street Side (ft, min)	25
B ₂	Interior Side (ft, min)	25
C	Rear (ft, min)	20
Live Stream Setback (ft, min)		75
Building Standards		
D	Height (ft, max)	35

D. Other Applicable Provisions

All development shall comply with all applicable provisions of this LUDC. Cross-references to some of the key provisions are provided below.

Table 4.07-7: Cross-References	
LUDC Category	Reference
Dimensional Standards Applicable to all Zone Districts	Section 4.02.040
Use-Specific Standards	Chapter 4.09
Site Layout and Structure Design Standards	Chapter 4.10
Inclusionary Residential Requirements for Local Employee Residency	Section 4.02.050
Landscaping and Buffering Standards	Chapter 4.11
Parking and Loading	Chapter 4.12
Outdoor Lighting	Chapter 4.13
Sustainability, Resilience, and Hazards	Chapter 4.14
Subdivision Design and Improvement Standards	Chapter 4.15
Signs	Chapter 4.16
Administration and Procedures	Chapter 4.17

Chapter 4.08 Planned Unit Development

4.08.010 AUTHORITY

The Planned Unit Development provisions in this LUDC are authorized by C.R.S. § 24-67-101, *et seq.*, as amended.

4.08.020 PURPOSES

The purposes of this chapter are to:

- A. Provide the opportunity to create a zone district unique to a particular location that customizes the mix of uses allowed and/or that modifies the densities or dimensional limitations that would otherwise be required through application of one of the Town's base zone districts, to the benefit of the community.
- B. Encourage innovations in residential, commercial and industrial development so that the needs of the population may be met by greater variety in type, design and layout of buildings and land uses and by the conservation and more efficient use of open space;
- C. Support the Comprehensive Plan while providing flexibility by allowing projects that do not comply with standards of an established zone district;
- D. Promote the most appropriate use of the land;
- E. Improve the design, character, and quality of new development;
- F. Facilitate the adequate and efficient provisions of streets, utilities, and government services;
- G. Facilitate efficient provision of solar access;
- H. Achieve beneficial relationships with the surrounding area;
- I. Preserve the unique, natural, and scenic features of the landscape;
- J. Preserve open space as development occurs;
- K. Provide for necessary commercial, recreational, and educational facilities conveniently located to housing; and
- L. Lessen the burden of traffic on streets and highways.

4.08.030 COMMUNITY BENEFIT

All PUDs shall provide a community benefit. To be deemed as an acceptable alternative to the Town's established zone districts, each PUD shall include one of the following community benefits:

A. Affordable Housing

The PUD shall be designed to provide twice the amount of affordable housing required by Section 4.02.050, Inclusionary Housing Requirements for Affordable and Local Employee Residency (LERP)

B. Sustainable/Resilient Design

The PUD shall include project, site, or building design features demonstrated to achieve two or more of the following reductions in resource consumption or trip generation when compared to those levels anticipated for developments of a similar type under the reference base district:

1. A reduction in water consumption of at least 25 percent; or
2. A reduction in non-renewable energy use of at least 25 percent; or
3. A reduction in average daily motor vehicle trip generation of at least 25 percent

C. Park or Trail Dedication to Remedy Current Deficiencies

The PUD design shall include at least 20 percent more open space above than that required in Section 4.08.040C.

4.08.040 STANDARDS

This section shall apply to all PUDs and shall take precedence over other standards and requirements. In a PUD, design standards may be varied where the Planning and Zoning Commission and Town Council find that the variation will be in conformance with the Comprehensive Plan, produce a public benefit over strict application of the regulation varied from, and that the variation does not impair the intent and purposes of this LUDC.

A. Applicability

1. Every PUD shall have a minimum gross area of five acres, unless the Town Council, upon recommendation from the Planning and Zoning Commission at the time of PUD Concept Plan approval, finds that the PUD size and PUD Concept Plan on a smaller parcel of land are in conformance with the intent and purposes of this LUDC and the Town's plans.
2. PUD zoning may not be used to provide a site-specific solution to a single issue that can be resolved through a more appropriate administrative means.

B. Density, Uses and Base Zone Districts

1. A PUD is established through the identification of applicable base zone district(s) that are modified according to specific adjustments approved through the PUD review and approval process. Requested adjustments to the standards of the base zone district(s) or other applicable standards such as landscaping, uses, or parking shall be identified both by location on the site plan and in an accompanying narrative summary. Where an adjustment has not been requested, the requirements of the base zone district(s) or original standards shall be applied.
2. The density allowed in a PUD shall not exceed the density permitted for the area by the comprehensive plan.
3. Uses not allowed in the base district may be allowed through the PUD approval.
4. Unless specified in the approved PUD Final Plan, additional application and review of Special, Conditional, or Administrative permits is not required. Uses that require a use permit approval may be allowed as part of the PUD Final Plan approval or through the PUD Amendment process.

C. Open Space

1. A minimum of 20 percent of the total gross area of a PUD shall consist of open space. This may be counted toward applicable subdivision open space requirements. Open space restrictions shall be permanent.
 - a. In Affordable Housing or Sustainable/Resilient Design PUD applications, the Town may consider a request by the applicant to provide less than 20 percent common open space when deemed appropriate because of size, location, or nature of the proposed development. In its consideration of a reduction in the amount of open space, the Town may require compensation in the form of a cash-in-lieu of open space payment or construction of appropriate amenities, including off-site improvements.
2. 75 percent of the common open space contained in a PUD shall have a slope of 10 percent or less and shall be designed as open space for recreational purposes. At least one-half of the open space shall be developed for active recreation which may include play fields, sport courts, picnic sites, boating areas, and similar recreation sites.
3. Open space areas shall be located to make or complete connections to off-site trails that abut the PUD boundaries.
4. Adequate water rights dedication and tap fee payment shall be provided pursuant to Title 12.
 - a. For irrigation systems using treated water, tap fees shall be paid and water rights dedicated to the Town. Irrigation system development shall be conveyed to the entity responsible for the ongoing maintenance of the open space.
 - b. For irrigation systems using raw water, water rights and irrigation system development shall be conveyed to the entity responsible for the ongoing maintenance of the open space.
5. An organization that is responsible for ownership, permanent care and maintenance of open spaces and recreational areas and facilities shall be established and is subject to approval of the Town.

D. PUD Perimeter

The boundary between a PUD and adjacent land uses shall be landscaped so as to adequately buffer potential incompatibility between land uses.

E. Infrastructure and Utilities

Infrastructure and utilities shall be provided as required by Section 4.17.140.

4.08.050 PHASING

- A. Where a PUD is developed in phases, a proportional amount of the required open space and recreation areas shall be included in each phase, such that the project as it is built will comply with the overall density and open space requirements of this LUDC at the completion of each phase of development. Phasing shall be accomplished such that at the completion of any phase the development is consistent with the Town's goals and policies.
- B. Vesting for PUDs that are anticipated to have a phased build-out of 10 years or longer shall be addressed in the development agreement.

4.08.060 REVIEW

A. Overview

1. Applications shall be reviewed in two stages: (1) the PUD Concept Plan, and (2) the PUD Final Plan.
2. Review of a subdivision sketch plan, per Section 4.17.100.D.2, may be waived by the Director when the PUD Concept Plan incorporates the information required for subdivision sketch plan.

B. PUD Concept Plan**1. Review Procedures**

Applications shall meet the common review procedures and shall include the information identified in Section 4.17.130A.

2. Public Notice and Public Hearing Requirements

The application shall be scheduled for a public hearing before the Planning and Zoning Commission and Town Council that shall be noticed pursuant to Section 4.17.050.

C. Review Criteria and Decision-Making

- a. The Planning and Zoning Commission shall review and recommend, and Town Council shall review and decide on the application based on the following criteria:
 - i. **Comprehensive Plan**
The PUD Concept Plan is consistent with the provisions of applicable adopted comprehensive plan policies and any adopted area or corridor plans.
 - ii. **Land Use and Development LUDC Standards**
The PUD Concept Plan meets the requirements of this LUDC, including the provision of a sufficient Community Benefit per Section [4.08.030](#).
- b. A Planning and Zoning Commission recommendation of approval of the PUD Concept Plan is a recommendation for approval of the proposed base zone districts, densities, and uses within the PUD and their general locations.

D. Post-Decision Actions**a. Modification or Amendment**

Requests for modification or amendment shall be reviewed per Section 4.08.060D.a.

b. Lapsing and Extension of Approvals

PUD Concept Plan approvals lapse and may be extended as follows:

- i. Within two years of PUD Concept Plan approval, the applicant shall submit a PUD Final Plan for all or part of the project area for review.
- ii. The applicant may request and the Town Council may grant an extension to the PUD Concept Plan approval, based on a request made by the applicant prior to the expiration of the two-year period.
- iii. If more than two years elapse from the PUD Concept Plan approval date without submission of a PUD Final Plan and no extension has been granted, the PUD Concept Plan approval shall lapse and be considered void and of no effect.

E. PUD Final Plan**1. Application Submission**

- a. A PUD Final Plan shall be submitted with a Section [4.17.080D](#), Rezoning application.
- b. Where a PUD or any phase of a PUD involves a subdivision of land, the subdivision application shall be reviewed per Section [4.17.100](#), Subdivision.
- c. The subdivision review may run concurrently with the PUD Final Plan review.
- d. If the applicant elects to have the subdivision reviewed concurrently with the PUD Final Plan, upon approval of the PUD Final Plan and the final subdivision plat by the Town Council, the Council shall adopt an ordinance zoning the subject property PUD Overlay.

2. Review Criteria and Decision-Making

The Planning and Zoning Commission shall review and recommend, and Town Council shall review and decide on the PUD Final Plan based on conformance with the following criteria:

a. Rezoning Standards

The PUD Final Plan meets the approval criteria for a rezoning, per [4.17.100E.4.a](#);

b. PUD Concept Plan

The PUD Final Plan complies with the approved PUD Concept Plan and the requirements of Chapter 4.08, Planned Unit Development District; and

c. Land Use and Development LUDC Standards

The PUD Final Plan meets all applicable standards of this LUDC not expressly modified by the PUD application.

3. Post-Decision Actions

a. Modification or Amendment

Requests for modification or amendment shall be reviewed per Section [4.08.070](#), PUD Amendments.

b. Lapsing and Extension of Approvals

If the applicant does not establish vested rights for a PUD pursuant to Section [4.17.080G](#), and no development has occurred on the site in three years following the approval date of the PUD Final Plan, the PUD Final Plan shall be considered lapsed and the requirements of the base zone districts shall be applicable to any future development unless a new PUD Final Plan is approved.

4.08.070 PUD AMENDMENTS

A. Minor Amendments

1. Classification of Minor Amendments

a. Allowed Minor Amendments

Minor amendments to an approved PUD Final Plan may be approved by the Director if the proposed amendment is included in one or more of the following categories:

- i. The amendment does not change the ratio of residential units to square feet of non-residential building square footage by more than 10 percent.
- ii. The gross square footage of non-residential building area is not increased by more than 10 percent.

- iii. The number or location of vehicular access points is not be changed in a way that negatively impacts public safety or the flow of traffic onto public streets.
- iv. The numeric standards in the PUD Final Plan not specified above are not be revised by more than would be allowed through Section [4.17.110A](#), Administrative Adjustment.

b. Prohibited Amendments

The following changes may not be approved through the minor amendment process:

- i. Changes the allowed uses listed in the approved PUD Final Plan,
- ii. Changes to required open space, or
- iii. Changes to the PUD perimeter boundary.

2. Review Criteria and Decision-Making

The Director shall consider all of the following criteria with respect to the proposed change when reviewing a PUD Final Plan amendment:

a. Compatibility with PUD Concept Plan

The minor amendment is compatible with the approved PUD Concept Plan.

b. Adverse Impacts

The minor amendment will not cause adverse impacts to development within the PUD or adjacent development.

c. Technical Change

The change is of a technical nature that is required to:

- i. Compensate for an unusual site condition;
- ii. Correct a minor, inadvertent failure to comply with an applicable LUDC standard; or
- iii. Protect a sensitive resource or natural feature that was not discovered during the PUD review and approval process.

B. Major Amendments

Major PUD amendments shall be reviewed in the manner set forth for original PUD applications.

4.08.080 PUDs APPROVED UNDER PRIOR CODES

The Town's intent is to continue to allow the development of PUDs approved under prior codes, determining that the approved PUD Guide remains valid under this LUDC subject to expiration or revocation of subsequent approvals and PUD Final Plans shall follow the approved PUD Guide. To give effect to this intent, interpretation may be required to fully describe applicable terms and requirements and to avoid the continuance of shell PUDs that cannot be fully implemented or developed.

Chapter 4.09 Use Standards

4.09.010 USE TABLE ORGANIZATION

A. Organization

1. To organize the uses in the Table 4.09-1, Primary Uses, land uses and activities are classified into general “use categories” that are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The use categories in Table 4.09-1 are:
 - a. Residential
 - b. Public, Civic, and Institutional
 - c. Commercial
 - d. Industrial, Wholesale, and Storage
 - e. Agriculture
2. Where there are also groups of uses with a use type, the use type may also be organized into “use groups” and “use type subgroups” where there are a number of possible variations of a use type, such as residential dwellings or group living. This classification provides a systematic basis for assigning present and future land uses into appropriate zone districts.
3. To assist with use interpretation of both the use tables and for new uses, the use categories and use groups are described in Section 4.20.050, Use Category Definitions. Uses may be primary uses in some zone districts and accessory uses other zone districts but those categories are not interchangeable. To determine which uses are permitted in which district, see Table 4.09-1.

4.09.020 USES BY DISTRICT

Land and buildings in each zone district may be used for any of the principal land uses authorized in for that district in Table 4.09-1 and according to the type of approval specified in that table.

A. Schedule of Use Regulations

The Primary Use Table shall be interpreted as follows:

1. Permitted Uses

Uses identified with a /P/ in a column are permitted in the specific district, subject to compliance with any applicable use standards and all other provisions of this LUDC.

- a. Permitted uses must be in compliance with all applicable standards in this LUDC. While Permitted Uses are considered to be a use by right, administrative review for compliance with this LUDC is required and will typically occur at the time of building permit or business license.
- b. Uses Permitted with a Minor Review /M/. These uses require administrative review of a minor development plan without notice prior to application for a building permit or business license.

2. Administrative Uses

Uses Permitted with an Administrative Review/A/ may be allowed in a specific district upon review and approval by the Director. Some uses with use-specific standards in Sections 4.09.040 to 4.09.090 require the issuance of notice and administrative review of a minor development plan prior to submission of an application for a building permit or business license.

3. Conditional Uses

Uses identified with a /C/ in a column may be allowed in a specific district upon review and approval by the Town Planning & Zoning Commission. Reviews conducted by the Planning & Zoning Commission are public hearings.

4. Special Review Uses

Uses identified with a /S/ in a district column may be permitted in the specific district only upon approval of a Special Use Permit.

5. Use Not Permitted

Uses identified with a dash /- / in a column or a blank cell are not allowed in the specific district.

4.09.030 USES PERMITTED BY DISTRICT (USE TABLES)

A. Principal Use Table

Table 4.09-1 identifies the uses allowed as principal uses in the districts indicated, subject to the applicable review and approval type described in the table and compliance with applicable use specific standards.

Table 4.09-1: Primary Use Table

	Residential Districts					Rural and Agriculture Districts			Mixed-Use, Commercial and Industrial Districts							Govt. and Civic Districts		
Zone Districts	R1	R2	R3	R4	OTR	RR1	RR2	R	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	Use-Specific Standards
KEY: P = Permitted / M = Minor Review (no notice) / A = Administrative Review / C = Conditional Use / S = Special Use / - = Not Permitted																		
Use definitions are located in Section 4.20.050, Use Category Definitions																		
RESIDENTIAL USES (Use category description Sec. 4.9.20B)																		
Attached Dwelling																		
3 units max		P	P	P	P													
4 or more units		P	P	P														
Cottage Court	-	A	A	A	A	-	-	-	A	C	-	-	-	-	-	M	-	4.9.60A
Dormitory Living / Hostel	-	-	C	C	-	-	-	-	-	S	-	S	S	S	-	S	-	
Duplex / Two-Family Dwelling	P	P	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	
Manufactured Home, Standard or Tiny	P	P	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	4.9.60D
Manufactured Home Park	-	S	S	S	S	-	-	-	-	-	-	-	-	-	-	S	-	
Mixed-Use Structure									A	M	M							4.9.60C
Multi-Unit Dwelling, (3 units max)					P													
Multi-Unit Dwelling (8 units max)	-	-	P	P	-	-	-	-	P	C	-	-	C	-	-	M	-	
Multi-Unit Dwelling (8+ units / structure)	-	-	P	P	-	-	-	-	P	C	-	-	C	-	-	-	-	
Single Family Dwelling	P	P	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	

Table 4.09-1: Primary Use Table

	Residential Districts					Rural and Agriculture Districts			Mixed-Use, Commercial and Industrial Districts							Govt. and Civic Districts		
Zone Districts	R1	R2	R3	R4	OTR	RR1	RR2	R	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	Use-Specific Standards
KEY: P = Permitted / M = Minor Review (no notice) / A = Administrative Review / C = Conditional Use / S = Special Use / - = Not Permitted																		
Use definitions are located in Section 4.20.050, Use Category Definitions																		
LODGING (Use category description Sec. 4.9.20D)																		
Bed and Breakfast Facility	A	A	A	-	A	A	A	A	A	-	-	-	-	-	-	-	-	4.9.80D.1
Boutique Hotel (small format)	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	
Hotel / Motel (large format)	-	-	-	-	-	-	-	-	-	-	-	A	A	A	-	-	-	
Recreational Vehicle Park / Camping	-	-	-	-	-	-	S	C	-	-	-	-	A	-	-	C	-	4.9.80D.2 , 4.9.80D.4
Short-Term Rental	P	P	P	P	P	P	P	P	P	P	P	-	-	-	-	-	-	4.9.80D.5
Van Life	-	-	-	-	-	-	-	-	-	S	-	S	S	S	S	-	-	
AGRICULTURE (Use category description Sec. 4.9.20F)																		
Commercial Green House	-	-	-	-	-	M	M	M	-	C	-	C	C	C	-	-	-	
Community Gardens	A	A	A	A	A	M	M	M	A	A	-	-	-	-	-	M	M	4.9.110A
Farmer's Market	-	-	-	-	-	-	C	M	-	-	-	-	-	M	-	M	M	4.9.110B
Farm Stand	-	-	P	P	P	P	P	P	P	P	-	-	-	-	-	P	C	
Horse Boarding	-	-	-	-	-	M	M	M	-	-	-	-	-	-	-	C	-	
Outfitter Guide	-	-	-	-	-	C	C	C	-	C	-	A	A	A	-	-	-	
Ranching / Farming	-	-	-	-	-	P	P	P	-	-	-	-	-	-	-	C	-	
Riding Stables	-	-	-	-	-	M	M	M	-	-	-	-	-	-	-	-	-	
Solar Farm	-	-	-	-	-	-	C	C	-	-	-	C	C	-	C	S	-	
Wind Farm	-	-	-	-	-	-	C	C	-	-	-	C	C	-	C	S	-	
OPEN SPACE AND RECREATION (Use category description Sec. 4.9.20C)																		
Golf Course	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	C	-	

Table 4.09-1: Primary Use Table

	Residential Districts					Rural and Agriculture Districts			Mixed-Use, Commercial and Industrial Districts							Govt. and Civic Districts		
Zone Districts	R1	R2	R3	R4	OTR	RR1	RR2	R	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	Use-Specific Standards
KEY: P = Permitted / M = Minor Review (no notice) / A = Administrative Review / C = Conditional Use / S = Special Use / - = Not Permitted																		
Use definitions are located in Section 4.20.050, Use Category Definitions																		
Motor Sports Track	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Parks / Playgrounds	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Playfields, includes lighting and/or PA system	-	-	-	-	-	-	-	C	-	-	-	-	A	A	-	C	-	
Preserves / Open Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Recreation Facility, indoors (<6,500 sf)	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	-	
Recreation Facility, indoors (>6,500 sf)	-	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	
Recreation Facility, outdoors	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	P	-	
Shooting/Archery Range, indoors	-	-	-	-	-	-	-	-	-	-	-	S	S	-	S	-	-	
Swimming Pool, outdoor, public	-	-	-	-	-	-	-	M	-	-	-	-	-	-	-	M	-	
PUBLIC, CIVIC, INSTITUTIONAL, EDUCATIONAL, AND HEATHCARE (Use category description Sec. 4.9.20C)																		
Assisted Living / Group Home	A	A	A	A	A	A	-	-	A	A	A	-	-	-	-	A	-	4.9.60B, 4.9.70A
Bus Stop	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Bus/Fleet Maintenance Facility	-	-	-	-	-	-	-	-	-	-	-	A	A	-	A	-	-	
Cemetery	-	-	-	-	-	-	-	S	-	-	-	-	-	-	-	S	-	
College / University	-	-	-	-	-	-	C	C	-	-	-	S	C	C	-	C	-	
Community Building / Civic Assembly	C	C	C	C	C	C	C	C	A	P	P	M	M	M	-	M	-	
Emergency Services Station	-	-	-	-	-	-	-	A	-	-	-	A	A	A	A	A	-	
Funeral Home / Crematorium	-	-	-	-	-	-	-	-	-	-	-	C	C	C	C	-	-	

Table 4.09-1: Primary Use Table

	Residential Districts					Rural and Agriculture Districts			Mixed-Use, Commercial and Industrial Districts							Govt. and Civic Districts		
Zone Districts	R1	R2	R3	R4	OTR	RR1	RR2	R	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	Use-Specific Standards
KEY: P = Permitted / M = Minor Review (no notice) / A = Administrative Review / C = Conditional Use / S = Special Use / - = Not Permitted																		
Use definitions are located in Section 4.20.050, Use Category Definitions																		
Government / Public Service Offices	-	-	-	-	-	-	-	-	A	A	A	A	A	A	A	P	P	4.9.70A
Government / Public Service Operations Yard	-	-	-	-	-	-	-	A	-	-	-	M	M	M	M	M	-	
Hospital	-	-	-	-	-	-	-	-	-	-	-	S	S	S	-	S	-	4.9.70C
Library	P	P	P	P	P	P	P	P	P	P	-	-	-	-	-	P	-	
Medical Office	-	-	-	-	-	-	-	-	A	P	M	M	M	M	-	-	-	
Museum	A	A	A	A	A	M	M	M	A	P	M	M	M	M	-	M	-	
Nursing Facility	A	A	A	A	A	M	-	-	-	C	-	-	-	-	-	-	-	
Outpatient Medical Clinic	-	-	-	-	-	-	-	-	-	A	A	A	A	A	-	A	-	
Post Office	S	S	S	S	S	S	S	S	C	C	-	A	A	A	-	A	-	
Pre-School / Childcare Center	A	A	A	A	A	A	A	A	A	A	A	A	A	A	-	A	-	4.9.80B
Public / Civic Assembly or Auditorium	-	-	-	-	-	-	-	-	A	M	M	M	M	M	-	M	-	
Regional Transit Station	-	-	-	-	-	-	-	-	-	A	A	A	A	A	-	A	-	
Religious Assembly / Church	A	A	A	A	A	M	M	M	A	A	A	A	A	A	-	M	-	4.9.70F
Research Facility	-	-	-	-	-	-	C	C	-	C	C	A	A	A	A	-	-	
School K-12, public	P	P	P	P	P	P	P	P	-	-	-	-	-	-	-	P	-	
School / Trade / Private Academy	-	C	C	C	C	C	C	C	C	C	-	A	A	A	A	C	-	
Urgent Care Facility	-	-	-	-	-	-	-	-	-	C	-	A	A	A	C	-	-	
Utility Substation	-	-	-	S	-	-	-	-	-	-	-	C	C	C	A	-	-	4.9.70E
Water Impoundment	-	-	-	-	-	-	-	S	-	-	-	-	-	-	-	S	-	
Wireless Communication Facility	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	

Table 4.09-1: Primary Use Table

	Residential Districts					Rural and Agriculture Districts			Mixed-Use, Commercial and Industrial Districts							Govt. and Civic Districts		
Zone Districts	R1	R2	R3	R4	OTR	RR1	RR2	R	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	Use-Specific Standards
KEY: P = Permitted / M = Minor Review (no notice) / A = Administrative Review / C = Conditional Use / S = Special Use / - = Not Permitted																		
Use definitions are located in Section 4.20.050, Use Category Definitions																		
Wireless Communication Facility, Colocation	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	
MIXED-USE / COMMERCIAL (Use category description Sec. 4.9.20D)																		
Auto Repair	-	-	-	-	-	-	-	-	-	C	-	A	A	-	A	-	-	
Auto Sales / Rentals	-	-	-	-	-	-	-	-	-	C	-	A	A	-	A	-	-	
Bank / Financial Institution	-	-	-	-	-	-	-	-	A	P	M	P	P	P	P	-	-	
Bar / Tavern / Distillery	-	-	-	-	-	-	-	-	A	P	P	M	M	P	-	-	-	
Boutique Food and Drink (no alcohol)	-	-	-	-	-	-	-	-	A	P	P	M	M	M	-	-	-	
Car Wash	-	-	-	-	-	-	-	-	-	C	-	P	P	P	P	-	-	
Commissary / Commercial Kitchen	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	
Fast Food	-	-	-	-	-	-	-	-	-	M	M	M	M	P	-	-	-	
Gas Station / Traveler's Convenience	-	-	-	-	-	-	-	-	-	C	-	M	M	M	M	-	-	4.9.90H
General Retail, <10,000 sf, local	-	-	-	-	-	-	-	-	A	P	P	M	M	M	-	-	-	
General Retail, >10,000 sf, regional	-	-	-	-	-	-	-	-	-	-	-	S	S	P	-	-	-	
Grocery / Supermarket	-	-	-	-	-	-	-	-	-	A	A	M	P	P	-	-	-	
Hardware Store	-	-	-	-	-	-	-	-	-	M	A	M	P	P	-	-	-	
Home Furnishings / Flooring / Fabrics / Appliances	-	-	-	-	-	-	-	-	-	M	A	P	P	P	-	-	-	
Kennel Board Facility / Pet Daycare	-	-	-	-	-	-	-	-	-	C	-	A	A	A	P	-	-	4.9.80A
Landscape / Plant Sales	-	-	-	-	-	-	-	-	A	M	-	M	M	M	-	-	-	

Table 4.09-1: Primary Use Table

	Residential Districts					Rural and Agriculture Districts			Mixed-Use, Commercial and Industrial Districts							Govt. and Civic Districts		
Zone Districts	R1	R2	R3	R4	OTR	RR1	RR2	R	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	Use-Specific Standards
KEY: P = Permitted / M = Minor Review (no notice) / A = Administrative Review / C = Conditional Use / S = Special Use / - = Not Permitted																		
Use definitions are located in Section 4.20.050, Use Category Definitions																		
Liquor Store	-	-	-	-	-	-	-	-	A	P	P	P	P	P	-	-	-	
Lumberyard	-	-	-	-	-	-	-	-	-	-	-	M	M	C	P	-	-	
Mobile Vending	-	-	-	-	-	-	-	-	A	M	M	M	M	M	M	M	-	
Motor Sports, repair / sales	-	-	-	-	-	-	-	-	-	C	-	A	A	-	A	-	-	
Outdoor Storage	-	-	-	-	-	-	-	-	-	-	-	A	A	-	A	-	-	4.9.100C.2
Parking Facility	-	-	-	-	-	-	-	-	C	A	C	A	A	A	A	-	-	
Personal / Professional Services	-	-	-	-	-	-	-	-	P	M	P	P	P	M	-	-	-	
Professional Office	-	-	-	-	-	-	-	-	P	P	P	P	P	M	-	-	-	
Recreation Services	-	-	-	-	-	-	-	-	-	A	-	M	M	M	-	-	-	
Recycling Drop-off	-	-	-	-	-	-	-	-	-	-	-	M	M	-	P	-	-	
Restaurant	-	-	-	-	-	-	-	-	A	P	P	M	M	M	-	-	-	
Restore / Thrift / Antique / Second Hand Retail	-	-	-	-	-	-	-	-	A	M	M	M	M	M	M	-	-	
Self-Storage / Mini-Storage	-	-	-	-	-	-	-	-	-	-	-	C	C	-	C	-	-	4.9.80C.1
Sexually Oriented Business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	
Theater	-	-	-	-	-	-	-	-	-	A	A	M	M	M	-	M	-	
Veterinarian, office	-	-	-	-	-	-	-	-	A	P	P	P	P	-	P	-	-	
Veterinarian, outdoor/kennel	-	-	-	-	-	-	-	-	-	C	-	A	A	-	P	-	-	
INDUSTRIAL, WHOLESALE, AND STORAGE (Use category description Sec. 4.9.20E)																		
Asphalt or Concrete Plant	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	
Bulk Storage of Hazardous Materials	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	

Table 4.09-1: Primary Use Table																		
	Residential Districts					Rural and Agriculture Districts			Mixed-Use, Commercial and Industrial Districts							Govt. and Civic Districts		
Zone Districts	R1	R2	R3	R4	OTR	RR1	RR2	R	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	Use-Specific Standards
KEY: P = Permitted / M = Minor Review (no notice) / A = Administrative Review / C = Conditional Use / S = Special Use / - = Not Permitted																		
Use definitions are located in Section 4.20.050, Use Category Definitions																		
Contractor's Shop, indoors	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	-	-	
Contractor's Yard, outdoor storage	-	-	-	-	-	-	-	-	-	-	-	A	A	-	A	-	-	
Equipment Rental / Sales	-	-	-	-	-	-	-	-	-	-	-	C	C	-	A	-	-	
Food Processing	-	-	-	-	-	-	-	-	-	-	-	M	M	M	M	-	-	
Machine Shop / Welding / Carpentry, indoors	-	-	-	-	-	-	-	-	-	-	-	M	M	-	P	-	-	
Manufacturing and Assembly, heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	M	-	-	
Manufacturing and Assembly, light	-	-	-	-	-	-	-	-	-	-	-	M	M	-	M			
Mineral Extraction and Processing	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	
Motor Freight Depot / Rail Transfer Yard	-	-	-	-	-	-	-	-	-	-	-	S	S	-	S	-	-	
Newspaper Production / Printing	-	-	-	-	-	-	-	-	-	-	-	P	C	S	P	-	-	
Salvage / Wrecking Yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	-	-	
Sawmill / Forestry Product Processing	-	-	-	-	-	-	-	A	-	-	-	S	S	-	A	-	-	
Sign Shop	-	-	-	-	-	-	-	-	A	M	M	P	M	-	M	-	-	
Warehouse	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	-	-	
Wholesale Assembly	-	-	-	-	-	-	-	-	-	-	-	M	M	-	M	-	-	
Wholesale Warehouse / Distribution Center	-	-	-	-	-	-	-	-	-	-	-	M	M	-	M	-	-	4.9.100C
MARIJUANA USES (Regulations in Title 5)																		
Marijuana Business, medical retail	-	-	-	-	-	-	-	-	-	-	-	S	-		S	-	-	Title 5

Table 4.09-1: Primary Use Table

	Residential Districts					Rural and Agriculture Districts			Mixed-Use, Commercial and Industrial Districts							Govt. and Civic Districts		
Zone Districts	R1	R2	R3	R4	OTR	RR1	RR2	R	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	Use-Specific Standards
KEY: P = Permitted / M = Minor Review (no notice) / A = Administrative Review / C = Conditional Use / S = Special Use / - = Not Permitted																		
Use definitions are located in Section 4.20.050, Use Category Definitions																		
Marijuana, medical, cultivation by patients and caregivers in residential units	A	A	A	A	A	A	A	A	A	A	A	A	A	A	-	A	-	Title 5
Marijuana, medical, cultivation by patients and caregivers in non-residential units	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	-	-	Title 5
Marijuana, medical retail, optional cultivation premises	-	-	-	-	-	-	-	-	-	-	-	S	-	-	S	-	-	Title 5
Marijuana, medical, infused products manufacturer / retail	-	-	-	-	-	-	-	-	-	-	-	S	-	-	S	-	-	Title 5
Marijuana Business, recreational, retail (excluding testing facilities)	-	-	-	-	-	-	-	-	-	-	-	S	-	-	S	-	-	Title 5
Marijuana, recreational, cultivation for personal use in residential units	A	A	A	A	A	A	A	A	A	A	A	A	A	A	-	A	-	Title 5
Marijuana, recreational, cultivation in nonresidential units in nonresidential districts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A	-	-	Title 5
Marijuana, recreational, cultivation facility	-	-	-	-	-	-	-	-	-	-	-	S	-	-	S	-	-	Title 5
Marijuana, recreational, infused products manufacturer / retail	-	-	-	-	-	-	-	-	-	-	-	S	-	-	S	-	-	Title 5
Marijuana, recreational, products manufacturing facility	-	-	-	-	-	-	-	-	-	-	-	S	-	-	S	-	-	Title 5
Marijuana, other testing facility	-	-	-	-	-	-	-	-	-	-	-	S	-	-	S	-	-	Title 5

B. Accessory Use Table

Table 4.09-1 identifies the accessory uses allowed in the districts indicated, subject to the applicable review and approval type described and compliance with applicable use-specific standards.

Table 4.09-2: Accessory Use Table																		
	Residential Districts					Rural and Agriculture Districts			Mixed-Use, Commercial and Industrial Districts							Govt. /Civic Dists		
Zone Districts	R1	R2	R3	R4	OTR	RR1	RR2	R	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	Use-Specific Standards
KEY: P = Permitted / A= Administrative Review / M = Minor Review/ - = Not Permitted																		
Accessory Detached Structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	PL	4.09.100C
Accessory Dwelling Unit (ADU)	P	P	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	4.09.100C
Childcare Home (≤ 6 children)	P	P	P	P	P	P	P	P	P	P	P		P	P	-	P	-	
Drive Thru	-	-	-	-	-	-	-	-	-	M	-	M	M	M	-	-	-	4.09.100E
Employee Dwelling Unit	-	-	-	-	-	-	-	-	-	-	-	M	M	M	-	-	-	
Farmer's Market	-	-	-	-	-	-	-	M	-	-	-	-	-	M	-	M	M	
Farm Stand	-	-	M	M	M	M	M	M	M	M	M	-	-	M	-	M	-	
Food Service	-	-	-	-	-	-	-	-	-	--	-	P	P	P	-	-	-	
Green Roof, commercial	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	
Home Occupation	P	P	P	P	P	P	P	P	P	P	P	-	-	-	-	P	-	4.09.100G
Mobile Vending	-	-	-	-	-	-	-	-	M	M	M	M	M	M	M	M	-	
Model Home, temporary	M	M	M	M	M	M	M	M	-	-	-	-	-		-	-	-	
Office	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	-	-	
Outdoor Storage	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	-	-	4.09.080C.2
Outdoor Storage of One RV	P	P	P	P	P	P	P	P	-	-	-	-	-	-	-	P	-	4.11.060B.4
Real Estate Office, temporary	M	M	M	M	M	M	M	M	-	-	-	-	-	-	-	-	-	
Retail	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	

Table 4.09-2: Accessory Use Table

	Residential Districts					Rural and Agriculture Districts			Mixed-Use, Commercial and Industrial Districts							Govt. /Civic Dists		
Zone Districts	R1	R2	R3	R4	OTR	RR1	RR2	R	CMU1	CMU2	BD	CG	CGE	CI	IND	PC1	PC2	Use-Specific Standards
KEY: P = Permitted / A= Administrative Review / M = Minor Review/ - = Not Permitted																		
Shelter, temporary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	
Showroom	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	-	-	
Solar Panel, ground mounted	P	P	P	Pg	P	P	P	P	P	P	-	P	P	P	P	P	-	4.09.100L
Solar Panel, roof mounted	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	4.09.100L
Swimming Pool, residential	P	P	P	P	P	P	P	P	P	-	-	-	-	-	-	P	-	
Swimming Pool, public	-	-	-	-	-	-	-	-	-	A	-	A	A	A	-	A	-	
Tennis Court, residential	P	P	P	P	P	P	P	P	P	-	-	-	-	-	-	P	-	
Tree Storage / Lot, temporary						P	P	P	-	P	P	P	P	P	-	-	-	
Wind Energy, residential roof mounted	P	P	P	P	P	P	P	P	P	-	-	-	-	-	-	P	-	
Wireless Communication Facility	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	-	

A. Use-Specific Review Criteria**1. Applicability**

The Director shall review all use applications for compliance with this LUDC. The Director may recommend (for Conditional Use Permit or Special Use Permit applications) or require (for Administrative Review) mitigation measures as deemed necessary to bring the application into compliance with this LUDC.

2. Criteria

- a. Comprehensive Plan: The use shall be consistent with the comprehensive plan and all applicable sub-area plans.
- b. LUDC Standards: The use shall comply with applicable standards in this LUDC.
- c. Infrastructure Standards: The use and site shall comply with applicable infrastructure standards.
- d. 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.
- e. Significant Adverse Impacts: The proposed use shall not create any significant adverse impacts in surrounding areas or Town services or infrastructure. If the Director determines that a use has the potential to create significant adverse impacts, mitigation may be required. If adequate mitigation cannot be accomplished, the Director may deny the application. In determining whether a use creates significant adverse impacts, the Director shall consider the use's impact on the following:
 - i. Town Services and Infrastructure.
 - ii. Traffic.
 - iii. Wildlife and Wildlife Habitat
 - iv. Water Quality and Quantity
 - v. Air Quality
 - vi. Visual Amenities and Scenic Qualities
 - vii. Wildland Fire
 - viii. Noise
 - ix. Odors
 - x. Vibration
 - xi. Snow Storage
 - xii. Historical Significance

xiii. Reclamation and Restoration

4.09.050 STANDARDS FOR RESIDENTIAL USES

A. Duplexes

1. The units shall be contiguous, but may be offset along the common wall, so long as the resulting structure appears to be a single building.
2. Duplex dwellings and the surrounding property may be:
 - a. Held in single ownership;
 - b. Subdivided so that each unit and corresponding portions of the surrounding property can be separately owned (two ½ duplex lots), or
 - c. Subdivided such that each unit can be separately owned with the surrounding property held in common ownership (a three lot arrangement).

B. Cottage Court Developments

1. Maximum project size is two acres.
2. The maximum density shall be no more than 16,000 square feet of gross floor area in cottage units per acre of project site area.
3. A shared private common space containing at least 10 percent of the project area shall be provided.
4. Individual cottage lots or portions of the project may not be subdivided for sale.
5. Zone district lot and setback requirements shall apply to the project site as a whole, but not to individual co-housing dwelling sites.
6. Each project site shall maintain a vegetated buffer along each side and rear lot line, and no portion of any primary or accessory structure may be located in that buffer area.
7. The applicant shall submit a Minor Development Plan identifying individual cottage development sites, streets, parking areas, storm drainage facilities, common areas and facilities, and any other features required to be identified by this LUDC.

C. Group Homes

1. A large group home may be established in any residential zone district or portion of a mixed-use zone district or PD district that permits multi-unit residential dwellings, subject to all applicable state and local licensing requirements.
2. A small group home may be established in any residential zone district or portion of a mixed-use zone district or PD district that permits residential dwellings, subject to all applicable state and local licensing requirements.

D. Mixed-Use Structures, Second Story Residential

1. In the BD district, dwelling units shall be located either above the ground floor or on the ground floor at least 30 feet from (behind) the front façade,

E. Manufactured Home, single-family

A manufactured home that is either constructed pursuant to the 2022 HUD energy efficiency standards or is Energy Star qualified may be installed on a permanent foundation.

F. Manufactured Home Park (MHP)**1. Intent**

- a. The Manufactured Home Park (MHP) use is intended to provide a means to review and accommodate manufactured home parks in those areas of the Town where the use will be compatible with existing and indicated future development. Manufactured home parks shall be designed to provide a quality living environment for park residents and appropriate buffering to adjoining land uses.
- b. In order to further the health, safety and general welfare of the residents and the Town as a whole and to further the stated purposes of this LUDC, every manufactured home park and manufactured home subdivision shall be designed and operated in accordance with the provisions of this LUDC.

2. Applicability

- a. No person shall own, operate, create, or occupy a manufactured home park unless it is approved in accordance with this LUDC. Any manufactured home park in existence on the effective date of this LUC may continue to operate and shall be considered a legal nonconforming use subject to the requirements of Chapter 4.18, Nonconformities.
- b. Establishment of a manufactured home park shall require a Special Use Permit [4.17.080E](#).

3. Park and Subdivision Design**a. Density**

The maximum density of a manufactured home park shall be the same as the zone district in which it is located.

b. Dimensional Standards

Lot Standards	
MH Park Total Area (min/max)	2/5 acre
Individual Lot Area, total (min)	
Single unit, < 1,000 sf area	2,000 sf
Single unit, > 1,000 sf area	4,000 sf
Double unit	6,000 sf
Lot Depth (min)	
Individual lot	100 ft
Lot Coverage (max)	35%

Exterior Boundary Setback (min)		
A	Any street-adjacent boundary	25 ft
	Interior boundary	20 ft
Interior Setbacks (min)		
B	MH pad from paved street or drive	15 ft
C	Between MH pads	20 ft
Required Storage Building		
Per each MH lot (min)		64 sf

4. Setbacks

- a. The side and rear setback areas shall serve as landscaped buffers. Setback landscaping shall meet the requirements of Chapter 4.11, Landscaping, Screening and Fencing Standards.
- b. Vehicular entrances and exits to the park shall be landscaped and shall provide a clear delineation of traffic flow patterns.

5. Uses

- a. Primary uses:
 - i. Energy Star qualified Manufactured homes constructed after 2001. Non-HUD Certified mobile homes are prohibited.
 - ii. Tiny homes that meet all Town regulations for a single-family detached dwelling on a permanent foundation.
- b. One accessory caretaker unit is permitted. Other accessory service and other nonresidential uses may be allowed as accessory uses only, clearly for the use of manufactured home park residents, with no visible characteristics which would attract users from outside the park.

6. Streets and Circulation

- a. Street alignment. Streets shall be designed so that lot configuration promotes privacy.
- b. Street construction, ownership, and maintenance. Streets in manufactured home parks shall be private streets, maintained by the park operator, and hard surfaced.
- c. Manufactured home parks must have pedestrian walkways, a minimum of five feet wide, located on at least one side of the access road serving manufactured homes, community centers, and recreational facilities. Where practicable, the pedestrian walkways must be located adjacent to streets serving the homes, community centers, and recreational facilities.

7. Utilities

Every manufactured home park shall be connected to the Town's water distribution and wastewater collection systems.

8. Common Facilities**a. Open Space**

An amount of land roughly proportionate to the impact created by the proposed development must be set aside as open space. Common open space may be designed for active or passive recreation. Driveways, parking lots, and required yard areas shall not be included in the open space calculation. The Town Council may reduce this requirement if it finds that the manufactured home park is located adjacent to or within one-quarter mile of a public park, which provides recreational facilities, and the manufactured home park provides an easement for and develops a pedestrian trail to the park.

b. Central Maintenance Shed

Central facilities for the storage of implements necessary for the maintenance of common areas, including landscaping, streets, and parking, shall be provided.

c. Outside Storage

- i. An outside storage area shall be provided and made available to all park occupants for the purpose of storing items like recreational vehicles, snowmobiles, boats, and other large items usually stored outdoors.
- ii. The outside storage area shall be of a size adequate to serve the population of the park.
- iii. Rules for the operation of the outdoor storage area shall be developed and enforced by the park operator or homeowners' association.
- iv. Adequate screening around the periphery of the outside storage area shall be provided.

d. Trash Receptacles

- i. In manufactured home parks common trash receptacles shall be provided in an amount and place necessary to meet the needs of the population.
- ii. Areas for trash receptacles shall be designed so that the receptacle, as much as possible, cannot be viewed from the primary street in the park.
- iii. Trash receptacles shall be wildlife resistant.
- iv. Access to the receptacles must be provided to allow easy ingress and egress by trash hauling vehicles.
- v. All pick-up areas shall have a concrete floor and be enclosed on three sides.

9. Manufactured Home Lots

Every manufactured home shall be placed on a manufactured home lot. A manufactured home lot shall contain no more than one manufactured home and shall meet size and setback requirements and shall provide required functional areas.

a. Placement

All manufactured home lots shall front on a public or private street within the manufactured home park. All manufactured home lots must be designated on the development plan and must designate whether the lot is to be used for placement of a single-family manufactured home or a double unit manufactured home.

b. Manufactured Home Lot Provisions

All manufactured home lots must make provisions for the following items:

i. Manufactured Home Pad

- (a) The manufactured home pad shall be defined as the outline of the actual manufactured home, including the paved portion of any outdoor living area or attached deck area. If structural additions to a manufactured home are proposed or anticipated, such as carports, attached rooms, decks, and attached storage areas, they shall be considered part of the manufactured home pad.
- (b) The pad shall provide for practical placement on and removal from the lot of the manufactured home and retention of the home on the lot in a stable condition and in satisfactory relationship to its surroundings.
- (c) The manufactured home pad must be shown on the preliminary plan and final plat.

ii. Storage Buildings

Storage building materials used for the exterior facade shall be consistent with materials used in the park and with each other. Storage buildings shall be provided at the time of final certificate of occupancy for the park or individually when each lot becomes occupied.

iii. Utility Corridor

A minimum utility corridor, five (5) feet in width and aligned adjacent and parallel to the manufactured home pad, is required. Utility corridors shall be shown on the preliminary plan.

iv. Parking

A minimum of two parking spaces of a size of 10 feet by 20 feet are required for each manufactured home lot. Parking spaces must be paved with a minimum of two inches of asphalt.

v. Landscaped Area

(a) All areas of the manufactured home lot except the pad and parking lot must be landscaped pursuant to Chapter 4.11, Landscaping, Screening and Fencing Standards. The landscaping must be in place before any certificate of occupancy for the park or subdivision is granted.

(b) Landscaping on every manufactured home lot shall include without limitation: live grass for all areas except the pad, parking area, and storage area; a minimum of one live three-inch caliper tree placed within 15 feet of the paved street surface; and five live shrubs, 18-inches in height that promote privacy, screening, utility screening and aesthetic appeal from the street view.

vi. Skirting

Skirting shall be applied to all manufactured homes within 90 days after manufactured homes have been moved onto manufactured home pads. Skirting shall be of an impervious material compatible with the exterior siding of the manufactured home.

4.09.060 STANDARDS FOR PUBLIC, CIVIC, AND INSTITUTIONAL USES

A. Assisted Living Facilities

1. Access shall be designed to minimize traffic in residential areas.
2. Uses shall be located so as not to take access from or channel a majority of the traffic generated by the use onto a local residential street.
3. If access to the site is to be provided from a frontage road, the frontage road shall be a through road, or, if a dead end, its intersection must be with a nonresidential street or a collector or higher order street.

B. Group Homes

1. All group homes shall be licensed by the State of Colorado.
2. In order to prevent the potential creation of an institutional setting by concentration of group homes in a neighborhood, no group home facility may locate within 300 feet of another group home facility, but the Director may permit two such facilities to be located closer than three hundred feet apart if they are separated by a physical barrier, including without limitation an

arterial collector, a commercial district, or a topographic feature that avoids the need for dispersal. Community Development will maintain a map showing the locations of all group home facilities in the Town.

C. Hospital or Health Care Facilities

1. Access shall be designed to minimize traffic in residential areas.
2. Uses shall be located so as not to take access from or channel a majority of the traffic generated by the use onto a local residential street.
3. If access to the site is to be provided from a frontage road, the frontage road must be a through road, or, if a dead end, its intersection must be with a nonresidential street or a collector or higher order street.

D. Public Utilities, Major and Minor

1. Access

- a. Access shall be designed to minimize traffic in residential areas.
- b. Uses shall be located so as not to take access from or channel a majority of the traffic generated by the use onto a local residential street.
- c. If access to the site is to be provided from a frontage road, the frontage road must be a through road, or, if a dead end, its intersection must be with a nonresidential street or a collector or higher order street.

2. Utility Transmission

- a. Nothing in these regulations shall be construed to prohibit construction or installation of a public utility use or structure necessary for transmission of commodities or services of a utility company, through mains or distribution lines, in any zone district.
- b. Storage, maintenance facilities, substation or exchanges, and business offices shall be restricted to their appropriate zone district.
- c. Location of power transmission lines with a capacity of 69 KV or greater or pipelines for major transmission shall be subject to special use procedures as set forth in Chapter 4.05.

4.09.070 STANDARDS FOR COMMERCIAL USES

A. Child Care Facilities

Child care facilities shall meet the following standards:

1. The applicant shall provide documentation of approval from the State of Colorado, Department of Human Services; and
2. Outdoor play areas shall be buffered through the use of fencing or a landscape screen in compliance with Chapter 4.11, Landscaping, Buffering, and Screening.

B. Commercial Services

1. Self-Service Storage

- a. No business activity other than rental of storage units shall be conducted within a self-service storage unit.
- b. In CG and CGE districts, individual self-storage units, unit doors, loading areas or other service areas shall be screened from a public right-of-way and any adjacent non-industrial districts.
- c. Security fencing shall be located behind any required landscaping area.
- d. Security gates shall be located so that two vehicles awaiting entry do not stack into the public right of way or any pedestrian path. This may be reduced to one vehicle for facilities with fewer than 25 units or where security gates are only locked outside of normal business hours.
- e. Exterior doors serving individual units shall not be oriented towards a public right of way unless located behind other structures.
- f. Individual units accessed from outdoors shall be located at least 100 feet from a front or street side property line.
- g. No self-service storage facility shall exceed 3 acres in size.

C. Lodging

1. Bed and Breakfast Establishments

- a. Kitchen and dining facilities serve only residents and guests and are not operated or used for any commercial activity other than that necessary for bed and breakfast purposes;
- b. The bed and breakfast use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the residential character thereof;
- c. There shall be no advertising display or other indication of the bed and breakfast on the premises other than a single six square foot unlighted sign that is otherwise in compliance with Chapter 4.08;
- d. A minimum of one parking space per guest and resident bedroom shall be required and shown on a site plan. Additional landscape screening may be required;
- e. Basement bedrooms shall have adequate egress;
- f. The bed and breakfast shall comply with all building codes adopted by the Town, and any requirements in fire codes adopted by the Greater Eagle Fire Protection District; and
- g. The applicant shall demonstrate that any applicable subdivision covenants allow for a bed and breakfast use and associated signage.

D. Fueling Stations

1. Site Layout

- a. The minimum width for driveways shall be 35 feet. The width shall be expanded to 45 feet whenever the driveway accesses a street with a width of, or with a planned ultimate width of, 84 feet or greater. Driveways shall be no closer than 150 feet from the nearest intersecting point of street right-of-way lines.

- b. Structures shall observe the height limits of the underlying zone district, except that canopies constructed over pump islands located outside the buildable area of the lot shall not exceed a maximum height of 17 feet.
- c. A fuel pump canopy shall utilize the same architectural design and materials as the principal building(s) on the lot. Fuel pumps shall be no closer than 15 feet from any right of way line or property line. Canopies shall be equipped with skirts and/or under-canopy lighting shall be recessed sufficiently to direct lighting downward to prevent light being broadcast beyond the site.
- d. Vehicular service bays, including garages and car wash bays, shall not be located on the front facade, unless otherwise permitted by the frontage type.

2. Outdoor Uses and Storage

- a. Disabled or inoperable vehicles and those awaiting pick-up may be stored outdoors if:
 - i. The vehicles are not stored for more than two days.
 - ii. The storage area is located in the rear yard screened from view of the front lot line.
 - iii. The storage area is screened using the requirements outlined in Section 4.11.060.
- b. All repairs or washing activities must occur inside a structure.
- c. Vacuuming activities may occur in open air but must be located in the side or rear yards, screened from the front lot line.
- d. Temporary outdoor display of seasonal items, such as windshield wiper fluid or ice remover, is permitted during business hours under the canopy and adjacent to the principal structure.

E. Marijuana Uses

Marijuana uses may be allowed as permitted by Table 4.9-1: Primary Use Table. Marijuana uses are subject to the standards in Chapters 5.15 and 5.19 of this Code.

F. Recreational Vehicle Park

1. Purpose

Every recreational vehicle (RV) park shall be designed and operated in accordance with the provisions of this Section as well as other applicable provisions of this LUDC.

2. Applicability

- a. No RV shall be occupied or otherwise used for dwelling, cooking or sleeping purposes within the Town except in an approved RV park; except that on a private residential lot, an RV may be so used for not more than 14 consecutive days.
- b. No RV shall remain in any RV park for more than six months in any 12-month period. A shorter occupancy period may be set as a condition of the development permit.
- c. Establishment of a recreational vehicle park shall require a special use permit, pursuant to Chapter 4.05.

3. Design and Operation

a. Size and Density

The minimum area for an RV park shall be two acres. The overall gross density in any RV park shall not exceed 20 campsites per acre.

b. Setbacks

The minimum setback along the periphery of a RV park shall be fifty (50) feet from an arterial street, 25 feet from a local street and 20 feet along any boundary not abutting a street.

c. RV Sites

Each RV site shall contain a minimum of fifteen hundred (1,500) square feet, and shall be adequate to accommodate a recreational vehicle, an additional motor vehicle, and outdoor cooking and eating facilities. Each campsite for tent camping only shall have a minimum area of 750 square feet.

d. RV Placement

- i. Every campsite shall abut on a roadway with unobstructed access to a street.
- ii. Every RV and any accessory structure, attached or detached, shall be placed on the campsite so that:
 - (a) It is completely within the campsite;
 - (b) There is a minimum of 10 feet between any two RVs;
 - (c) It does not obstruct any roadway or walkway or easement in the RV park; and
 - (d) It is not located within 10 feet of any roadway in the RV park.

e. Vehicular Circulation

- i. Roadways within the RV park shall provide access to each campsite, shall provide for continuous forward movement, shall connect with a street or highway, and shall have a minimum width of 15 feet per lane or 25 feet for two lanes. Curves and turning radii shall be adequate to accommodate the RV in a continuous forward motion.
- ii. Roadways shall be surfaced with compacted gravel or pavement, shall minimize dust and erosion, and shall be designed and constructed to facilitate maintenance.

f. Parking

In addition to the recreational vehicle placement space in Subsection (d) of this section, a minimum of one automobile parking space per campsite shall be provided on or within ten feet of the campsite. An additional 0.5 parking spaces per campsite shall be provided in a convenient parking area designed in accordance with Section 4.07.140.

g. Landscaping

Every RV park shall be in conformance with landscaping and fencing requirements of Chapter 4.11. In addition, entrances and exits to the park shall be landscaped so as to provide a clear delineation of traffic flow patterns. Landscaping shall be used to provide a buffer between the park and adjacent land uses.

h. Accessory Uses

Any accessory uses in an RV park shall be clearly incidental to RV use and shall be designed and located to blend with the park's design and natural setting. Any commercial facilities shall be for use by the RV park occupants only and shall not present any visible characteristics that would attract customers from outside the park. Tent camping shall be allowed.

i. Outdoor Recreation Areas

- i. At least ten percent of the total gross area of every RV park shall be provided for outdoor recreational use. Recreational areas may include play fields, picnic sites, swimming pools, tennis courts and similar recreational uses, and shall not include parking areas, utilities, clothes drying areas, storage areas, campsites, roadways, nor any required setback area.
- ii. RV parks shall not be subject to the park land dedication requirement of Section 4.07.020.

j. Health and Sanitation

Every RV park shall be designed and operated in accordance with the adopted Uniform Plumbing LUDC provisions for recreational vehicle parks, and with the State Department of Public Health and Environment's "Standards and Regulations for Campgrounds and Recreation Areas," as amended.

k. RV Parks in Areas Subject to Flooding.

Any RV park located in a floodplain or any other area subject to flooding shall be designed, constructed, and operated in accordance with Chapter 4.16 and Town approved flood studies and with regard to the health and safety of park occupants and downstream property. The park shall be closed and the park operator shall evacuate all occupants upon notice of threat of imminent flooding, as determined by the Town Manager, the Eagle Police Department, or any federal, state or county agency.

G. Short-Term Rentals

Short-term rentals may be allowed as permitted by Table 4.09-1. Short-term rentals are subject to the standards in Chapter 5.17 of this Code.

4.09.080 STANDARDS FOR INDUSTRIAL, WHOLESALE, AND STORAGE USES

A. Generally Applicable Industrial Use Standards

All industrial and commercial uses operating within the Town shall comply with the following standards so that the uses do not create any danger to safety in surrounding areas, do not cause water pollution and do not create offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences beyond the boundaries of the property in which the uses are located, and do not constitute a public nuisance or hazard:

1. Volume of Sound

Every use shall be so operated that the volume of sound inherently and recurrently generated does not exceed 60 decibels with a maximum increase of five decibels permitted for a maximum of 15 minutes in any single hour at any point on any boundary line of the property on which the use is located.

2. Vibration

Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on any boundary line of the property on which the use is located.

3. Smoke

Every use shall be so operated that it does not emit smoke exceeding a density of No.1 on the Ringlemann Chart.

4. Particulate Matter

Every use shall be so operated that it does not emit particulate matter exceeding 0.2 grains per cubic foot of the flue gas at a stack temperature of 500-degree Fahrenheit.

5. Heat, Glare, Radiation and Fumes

Every use shall be so operated that it does not emit an obnoxious or dangerous degree of heat, glare, radiation, or fumes beyond any boundary line of the property on which the use is located.

6. Storage

- a. The outdoor storage of flammable or combustible liquids shall conform to the requirements of the adopted fire code. No outdoor storage of flammable or combustible liquids shall occupy any part of a front yard;
- b. Underground storage of flammable or combustible liquids shall conform to all of the requirements of the adopted fire code;
- c. No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by natural causes or forces;
- d. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise attractive to rodents or insects shall be stored outdoors in closed containers.

7. Water Pollution

No water pollution shall be emitted by the manufacturing or other processing. In a case in which potential hazards exist, it shall be necessary to install safeguards acceptable to the County Health Officer and in compliance with the laws of the environmental protection agency, State Department of Public Health and Environment and Chapter 12.22 before operation of the facilities may begin. All percolation tests or groundwater resources tests required by local or State Health Officers shall be conducted before operation of the facilities may begin.

B. Industrial Services

All industrial services shall comply with the following standards:

1. Access

- a. Access shall be designed to minimize traffic in residential areas.
- b. Uses shall be located so as not to take access from or channel a majority of the traffic generated by the use onto a local residential street.
- c. If access to the site is to be provided from a frontage road, the frontage road must be a through road, or, if a dead end, its intersection must be with a nonresidential street or a collector or higher order street.

2. Buffering and Screening

Buffering and screening shall comply with Chapter 4.11.

C. Warehousing and Outside Storage**1. Storage for All Uses**

All storage of materials except merchandise displayed for retail sale shall be within a building or in the rear yard and screened from view from surrounding properties by a fence in conformance with Chapter 4.11;

2. Outside Storage Standards

Items, including without limitation vehicles, excavation equipment, machinery, utility service supplies, fabrication materials, and general supplies, which are stored outside on a regular, permanent, semi-permanent, or seasonal basis, and which occupy more than 1,000 square feet on any one lot, are subject to the following requirements:

a. Location of Storage Area

As a general rule, outside storage areas shall be situated in the rear yard.

b. Buffer

Outside storage areas in the front yard or on lots with no, or minimal, structures shall be required to provide a front street landscape buffer and a buffer for lots along the I-70 corridor as provided in Chapter 4.11.

c. Auto Sales and Nurseries

Auto sales and nurseries are exempt from the standards contained in this section.

d. Display Area

Businesses that sell, rent, or lease outside storage items may create a display area in the front yard not to exceed a single area 25 feet by a length of 25 percent of the lot frontage for the purpose of displaying representative items.

e. Outside Storage Adjoining the I-70 Right-of-Way

Any outside storage areas located in the rear yards of lots adjoining the I-70 right-of-way shall create a buffer using the standards as found in Chapter 4.11.

3. Truck and Transportation Services**a. Parcel Size**

Minimum parcel size shall be 10 acres subject to the following requirements:

- i. The primary parcel of the truck stop shall be not more than 500 feet from the right-of-way limits surrounding a freeway or expressway intersection, with at least 200 feet of direct frontage along the arterial to the property boundary of the primary parcel;
- ii. No more than one truck stop shall have primary access from any freeway or expressway intersection; and,
- iii. The minimum distance between truck stops shall be 7,000 feet, measured from property line to property line.

b. Fuel

- i. Any fuel dispenser, perimeter of underground storage tanks or pumps shall be a minimum of 100 feet from any residential zone district, and at least 40 feet from any property line or public right of way line.

- ii. Fueling areas for automobiles and fueling areas for trucks shall be separated. Pump island canopies shall not exceed 22 feet in height.

c. Site Design

- i. A 15-foot-wide landscaped buffer area shall be provided along all property lines. There shall be no parking permitted within this landscaped buffer area.
- ii. A masonry sound attenuation wall at least six feet tall shall be installed along all property lines that abut or are adjacent to a residential zone district or use.
- iii. Subsidiary business activities may include scales, truck wash, tire repair and sales, barber shop, bar, restaurant, showers, convenience store, truckers lounge, mini-theater, laundry and gasoline and propane dispensing. Subsidiary business uses at truck stops shall comply with the following standards:
 - (a) All activities and operations shall be conducted entirely within an enclosed structure, except the dispensing of petroleum products, water and air from pump islands and the provision of emergency service of a minor nature.
 - (b) A truck wash shall be designed with a water collection and recycling system;
 - (c) Vehicle service areas shall be completely enclosed;
 - (d) Service bays shall not open toward public rights-of-way; and
 - (e) A minimum of four showers shall be provided at truck stops with more than 100 truck parking spaces.

d. Overnight Parking

Overnight parking is not allowed unless Electrified Parking Spaces (EPS), also known as truck stop electrification, is installed for each overnight space to allow truck drivers to provide power to necessary systems such as heating, air conditioning, or appliances, without idling the engine.

e. Spill Mitigation

A plan shall be submitted showing how the truck stop/travel plaza is designed to prevent any spill from the facility, or from vehicles utilizing the facility, from contaminating soil or migrating off-site. The facility shall fully comply with all federal and state regulations regarding the reporting and containment of spills and releases of petroleum and hazardous substances.

4.09.090 STANDARDS FOR AGRICULTURAL USES

A. Community Gardens**1. Location**

- a. Community gardens shall not be located on designated or dedicated park or open space land without approval from the Planning & Zoning Commission. Exceptions may be granted for park or open space land that does not contain sensitive habitat and is not contiguous to open space land with sensitive habitat.
- b. Community gardens shall be located in areas that receive adequate sunlight for the intended purpose without the removal or excessive trimming of trees.

2. Use Standards

- a. The site shall be designed and maintained so that water and fertilizer will not drain to adjacent property.
- b. A minimum three foot wide, clearly marked entrance path shall be provided from the public right-of-way to the garden.
- c. Community gardens shall be located on land that is level enough to support the intended use and meet all Americans with Disabilities Act requirements without the use of retaining walls that exceed three feet in height.
- d. Unless permitted by the underlying zone district, on-site sale of community garden products is prohibited except when permitted as an approved temporary use.
- e. Lawn and garden equipment of the type customarily used by consumers for household lawn and garden care is the only type of motorized equipment allowed. The use of motorized equipment is restricted to hours beginning at 7:00 AM and ending at 9:00 PM.
- f. An on-site trash storage container shall be provided and located as close as practicable to the rear lot line. Compost bins or piles shall also be located as close as practicable to the rear lot line. Trash shall be removed from the site at least once a week.
- g. The keeping of animals is prohibited.
- h. The property shall be maintained free of tall weeds and debris. Dead garden plants shall be regularly removed and, in any instance, no later than November 15 of each year.
- i. In a residential zone district, operating hours for community garden activities are restricted to between 5:00 AM and 11:00 PM daily.
- j. Customary accessory uses are regulated in the accessory use section.

B. Farmer's Markets**1. Operating Hours**

Shall only operate, including any setup or breakdown activities, a total of 12 hours per day between the hours of 7:00 AM and 10:00 PM.

2. Setbacks and Parking

Shall meet the zone district required setbacks and off-street parking.

3. Operating Rules

Each farmer's market shall have an established set of operating rules addressing the governance structure of the market, hours of operation, maintenance, insurance, security requirements and responsibilities, and appointment of a market manager who directs the operation of all vendors.

4.09.100 ACCESSORY USES AND STRUCTURES

A. General Provisions**1. Interpretation of Unidentified Accessory Uses and Structures**

The Director shall evaluate applications for accessory uses that are not identified in this section on a case-by-case basis. If the request meets the criteria identified below, the Director is authorized to determine the most similar, and thus most appropriate accessory use category and apply the regulations for the similar accessory use to the application.

- a. The definition of "accessory use" in this section, and the general accessory use standards and limitations established in this section;
- b. The purpose and intent of the district in which the accessory use is located;
- c. Potential adverse impacts the accessory use or structure may have on other lots, compared with other accessory uses permitted in the district; and
- d. The compatibility of the accessory use with other principal and accessory uses permitted in the district.

2. Compliance with this LUDC

- a. All accessory uses and structures shall be subject to the dimensional requirements of the zone district in which they are located except as specifically provided in this section. In the case of any conflict between the accessory use/structure standards of this section and any other requirement of this LUDC, the more restrictive standards shall control.
- b. Accessory uses shall comply with all standards of this LUDC applicable to the principal use with which they are associated. Parking requirements shall be met for both the principal use and any accessory use when operating at the same time.
- c. No accessory structure shall be constructed prior to the time of completion of the construction or establishment of the principal structure or use to which it is accessory.

3. Location

- a. The accessory use or structure shall be conducted or located on the same lot(s) as the principal use.
- b. No accessory building shall be erected in any required setback nor within five feet of any other building except as specified in this section.

B. Accessory Use Table

Table 4.09-2, Accessory Uses, identifies the accessory uses that may be permitted in each zone district subject to applicable standards.

C. Accessory Buildings, Not Habitable

Unless otherwise specified in a zone district, a non-dwelling accessory building may be located in a required rear yard as follows:

1. Required rear and side setbacks: 7½-feet from the lot line shall be maintained.
2. The section of Town that lies within the boundaries of Grand Avenue, McIntire Street, 7th Avenue, and Church Street, accessory buildings shall observe a two-foot setback from the rear lot line and 2½-foot setback from the side lot lines.

D. Accessory Dwelling Units

ADUs are permitted in any residential district, subject to the following standards:

1. One ADU is allowed on each lot containing a single-family dwelling. Two ADUs are allowed on lots containing a duplex, unless the duplex has been divided into individual lots, in which case each lot may have one ADU.
2. An ADU may be located in a single-family or duplex dwelling, attached to a single-family or duplex dwelling, detached from a single-family or duplex dwelling, or in an accessory building.
3. Each ADU shall be a complete, separate dwelling unit, with its own ingress, egress, and access. The ADU shall not have direct access to the primary home, however a shared entry way shall be permitted.
4. The owners of the property in which the ADU is located shall occupy at least one of the dwelling units on the premises (either the primary structure, one of the duplexes, or one of the ADUs) as their primary residence.
5. An ADU shall not exceed 850 square feet, using the following means of measurement: measure the area within the inside face of the perimeter walls of the ADU, including habitable space in the basement. The following shall be excluded from the calculation: stairs, typical mechanical rooms, garages, and decks and porches that are not enclosed.
6. The accessory dwelling unit shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single-family/duplex residence. In general, new entrances shall be located on the side or the rear of the building.
7. Maximum lot coverage may not be exceeded.
8. Off-street parking spaces shall be provided pursuant to Section 4.12.040. Access to parking spaces designated for the ADU unit shall be accessible even when parking provided for the primary home is in use.
9. The design and size of the ADU shall conform to all other applicable standards and requirements.

E. Drive-Through (Thru) Facility

The following standards shall apply to businesses that contain a drive-through establishment, regardless if the drive-through is part of another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine).

1. Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments located within 50 feet of any residential zone district shall not be audible beyond the subject property line.

2. All drive-through areas, including without limitation menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.

F. Home Occupation Standards

A home occupation shall meet all of the following conditions:

1. The use is conducted entirely within a dwelling or accessory building and carried on by the inhabitants living there;
2. The use is clearly incidental to and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof;
3. There is no exterior storage on the premises of material or equipment used as a part of the home occupation;
4. There is no advertising display or other indication of the home occupation on the premises other than provided for in the sign regulations;
5. There is no offensive noise, vibration, smoke, fume, dust, odor, heat or glare noticeable at or beyond the property line;
6. The home occupation will not adversely affect traffic flow and parking in the residential zone district; and
7. The home occupation provides additional off-street parking pursuant to Chapter 4.12 to accommodate all needs created by the home occupation.

G. Kennel, Outdoor (Private)

1. Accessory Use

- a. All outdoor kennels shall be established as an accessory use to a single-family or duplex residential use.
- b. In multifamily and RMH districts, outdoor kennels shall only be allowed when accessory to a single-family or duplex development that is permitted within the district.

2. Location

Accessory structures or enclosures used for the kennel shall be located only in the rear yard of the site.

3. Setback

The setback of any accessory structure or enclosure associated with the kennel shall be no closer than 5 feet to any side or rear property line.

4. Maximum Area

The area of the outdoor kennel site shall be limited to 10 percent of the total area of the lot.

H. Outdoor Displays and Sales

1. Outside display and sale of merchandise is permitted only if the merchandise is related to the principal use of the property. Merchandise shall be removed each night into an enclosed structure except that the continuous outside display of merchandise is permitted when the principal use of property is:

- a. Lumber and construction materials,
 - b. Vehicle and heavy equipment sales and rentals,
 - c. RV and manufactured home sales and service,
 - d. Wholesale and retail nurseries,
 - e. Lawn and garden supply,
 - f. Fueling stations, or
 - g. Retail or wholesale open 24 hours,
2. Display areas shall be located outside of drive aisles; required parking areas, including access; required landscape areas; and pedestrian ways.
 3. In addition to the outdoor display and sales area, store front sidewalks excluding any public sidewalks, shall be allowed for outdoor display and sales provided they comply with all provisions of applicable law.
 4. All outdoor display and sales areas shall be maintained in a neat, clean, orderly fashion to avoid pedestrian hazards and ensure personal safety.
 5. Display areas shall not exceed eight feet in height unless a single unit of the merchandise exceeds eight feet (e.g., RVs, manufactured homes, or trucks).

I. Outdoor Seating (private, mixed-use and commercial)

1. Eating and drinking establishments may provide accessory outdoor seating areas, including rooftop seating, that meet the following criteria:
 - a. Outdoor seating areas outside of the BD may not occupy required landscape area, required parking spaces, or required parking area access aisles.
 - b. An outdoor seating area exceeding 25 percent of the indoor building floor area is counted as floor area for purposes of determining off-street parking and loading requirements.
 - c. The use of mechanically produced sound, amplified sound, or live music shall only be permitted in conformity with the Town's noise standards.
 - d. All outdoor uses shall be maintained free of garbage and other debris.
 - e. The hours of operation for the outside seating shall be consistent with the hours of operation of the inside use.
 - f. The outdoor seating area shall not obstruct any fire exit, fire escape, or other required ingress or egress.

J. Outdoor Storage

Accessory outdoor storage shall occupy less than 1,000 sf on any single lot.

K. Solar Collectors, Ground or Building Mounted

Accessory solar collectors shall:

1. Be set back at least six feet from the side and rear property line;
2. Not be located within an easement;

3. Be located so as to minimize glare visible from abutting properties;
4. When ground mounted, not exceed 15 feet in height with panels oriented in a vertical position;
and
5. Be included in determining the maximum coverage of structures on the lot.

4.09.110 WIRELESS COMMUNICATIONS FACILITIES

A. Purpose and Goals

The purpose of this Section is to establish requirements for the siting of wireless communications facilities, and to:

1. Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the Town with the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services including all of those who install, maintain, operate, and remove WCFs.
2. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including without limitation concealment design techniques and undergrounding of WCFs and the equipment associated therewith.
3. Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs.
4. Encourage the use of wall mounted panel antennas.
5. Encourage roof mounted antennas only when wall mounted antennas will not provide adequate service or are not otherwise feasible.
6. Encourage the location of towers in non-residential areas, in a manner that minimizes the total number of towers needed throughout the community.
7. Encourage strongly the collocation of WCFs on new and existing sites.
8. Encourage owners and users of antennas and towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimized.
9. Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently.
10. Effectively manage small cell facilities in the right-of-way.

B. Applicability, Waiver, Exemptions

The requirements set forth in this section shall apply to all WCF applications for base stations, alternative tower structures, alternative tower structures located within right-of-way, and towers as defined elsewhere herein. The Town may waive any requirement or standard set forth in this section, if the Town makes a determination that the specific requirement or standard is preempted by Federal or State law. Prior to applying the waiver to any pending application, the Town shall, in consultation with the Town Manager and Town Attorney, make a written preemption determination which written determination shall identify the specific requirement or standard that is being waived and cite to the specific Federal or State law provision that preempts the specific Town requirement or standard set forth in this section. The requirements set forth in this section shall not apply to:

1. Amateur radio antennas. Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the property line is met. The Town or his or her designee has the authority to approve modifications to the height restriction, if in the reasonable discretion of the Town, modifications are necessary to comply with Federal law.
2. Pre-existing WCFs. Any WCF for which a permit was properly issued prior to July 1, 2017, shall not be required to meet the requirements of this section, other than the requirements of Section 4.9.140.A, Section 4.9.140.E and Section 4.9.140.F below. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of this section.
3. Miscellaneous antennas. Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that the requirement that the height be no more than the distance from the base to the property line are met. The Town Manager has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the Town, modifications are necessary to comply with Federal law.

C. Operational Standards

1. Federal requirements. All WCFs shall meet the current standards and regulations of the FAA, the FCC and any other agency of the Federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF governed by this section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling Federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.
2. Radio frequency standards. All WCFs shall comply with Federal standards for radio frequency emissions. If concerns regarding compliance with radio frequency emissions standards for a WCF have been made to the Town, the Town may request that the owner or operator of the WCF provide information demonstrating compliance. If such information is not sufficient, in the reasonable discretion of the Town, to demonstrate compliance, the Town may request and the owner or operator of the WCF shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established Federal standards. If, upon review, the Town finds that the facility does not meet Federal standards, the Town may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF pursuant to subsection A above. Any reasonable costs incurred by the Town, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.
3. Signal interference. All WCFs shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The applicant shall provide a written statement ("signal

interference letter") from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems, and shall allow the Town to monitor interference levels with public safety communications during this process.

4. Legal access. In all applications for WCFs outside of the right-of-way, an applicant shall demonstrate that it owns or has lease rights to the site.
5. Operation and maintenance. To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the Town determines that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the Town may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's expense. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.
6. Abandonment and removal. If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 30 days of receipt of written notice from the Town. If such WCF is not removed within said 30 days, the Town may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired.

D. Design Standards

The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Section as specified below; provided, however, that the Town may waive any of these requirements if the Town determines that the goals of this Section are better served thereby. WCFs shall be designed and located to minimize the impact on surrounding properties and residential neighborhoods and to maintain the character and appearance of the Town, consistent with other provisions of this LUDC.

1. Camouflage/concealment. All WCFs and any related accessory equipment shall, to the maximum extent possible, use concealment design techniques, and where not possible utilize camouflage design techniques. Camouflage design techniques include, but are not limited to using materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment.
 - a. Where WCFs are located in areas of high public visibility, they shall, where physically possible, be designed to be concealed, and where not possible to be concealed, to minimize the WCF profile through placement of equipment fully or partially underground, or by way of example and not limitation, behind landscape berms.
 - b. A concealment design may include the use of alternative tower structures should the Town determine that such design meets the intent of this LUDC and the community is better served thereby.

- c. All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and towers shall be constructed of non-reflective materials (visible exterior surfaces only).
2. Siting.
- a. No portion of any WCF may extend beyond the property line.
 - b. WCFs shall be required to be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF unless the Town approves an alternative design. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or site.
 - c. WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below LUDC standards.
 - d. WCFs shall not encroach into any sight triangles.
3. Lighting. WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.
4. Landscape and fencing requirements.
- a. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the lot or parcel, below any applicable LUDC standards including without limitation, planned unit development standards.
 - b. The site of the WCF shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site.
 - c. In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived in whole or in part by the Town.
 - d. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large, wooded lots, natural growth around the site perimeter may be sufficient to buffer.
 - e. No trees larger than four inches in diameter measured at 4½ feet high on the tree may be removed, unless authorized by the Town. To obtain such authorization the applicant shall show that tree removal is necessary, the applicant's plan minimizes the number of trees to be removed and any trees removed are replaced at a ratio of two to one.
 - f. Specific design requirements. Additional design requirements shall be applicable to the types of WCFs as specified below:
 - i. Base stations.
 - (a) Base stations shall be architecturally compatible with respect to attachments, and colored to match the building or structure to which they are attached;

- (b) The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two feet;
 - (c) Wall mounted WCFs shall not extend above the roofline unless mounted to a penthouse; and
 - (d) Roof mounted WCFs shall be approved only where an applicant demonstrates a wall mounted WCF is inadequate to provide service and shall be evaluated for approval based upon the following criteria:
 - (i) Roof mounted whip antennas shall extend no more than 12 feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;
 - (ii) Roof mounted panel antennas shall extend no more than seven feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and
 - (iii) Other roof mounted related accessory equipment shall extend no more than seven feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.
- ii. Alternative tower structures (ATS) and small cell facilities.
 - (a) ATS shall be designed and constructed to look like a building, facility, or structure typically found in the area, so that the WCF is concealed.
 - (b) Height or size of the proposed ATS or small cell facility should be minimized as much as possible and shall be subject to the maximum height restrictions of the zone district in which they are located, subject to a maximum height limit of 60 feet;
 - (c) ATS shall be sited in a manner that is least obtrusive to residential structures and residential district boundaries;
 - (d) ATS should take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
 - (e) ATS and small cell facilities shall be compatible with the surrounding topography, tree coverage, and foliage;
 - (f) ATS and small cell facilities shall be designed utilizing design characteristics that have the effect of concealing where technically feasible and generally reducing or eliminating visual obtrusiveness; and
 - (g) Visual impacts of the proposed ingress and egress shall be minimized.
- iii. Alternative tower structures and small cell facilities located in the right-of-way.
 - (a) No ATS pole shall be higher than 35 feet including any cannister or antennas located on top of a pole;
 - (b) No pole or structure shall be more than ten feet higher (as measured from the ground to the top of the pole or structure) than any existing utility or traffic signal within 500 feet of the pole or structure;

- (c) Any new pole for ATS or small cell facilities shall be separated from any other existing WCF facility by a distance of at least 600 feet, unless the new pole replaces an existing traffic signal, street light pole, or similar structure determined by the Town;
- (d) With respect to pole-mounted components, small cell facilities shall be located on an existing utility pole serving another utility; or be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives;
- (e) ATS shall be concealed consistent with other existing natural or manmade features in the right-of-way near the location where the ATS will be located;
- (f) To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS;
- (g) When placed near a residential property, any ATS or small cell facilities shall be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility shall be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two intersecting streets;
- (h) Small cell facilities shall:
 - (i) Be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered; and
 - (ii) Be designed such that all antennas, mast arms, equipment, and other facilities are sized to minimize visual clutter, and where possible, concealed within the structure; and
 - (iii) Be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS; and
 - (iv) Require that any ground mounted equipment be installed in an underground or partially underground equipment vault (projecting not more than 36 inches above grade), or co-located within a traffic cabinet of a design approved by the Town, unless a use by special review is obtained subject to the requirements of the Town LUDC; and
 - (v) Not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way; and
 - (vi) Comply with the Americans with Disabilities Act and all applicable local, State, and Federal law and regulations; and
 - (vii) Not be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the right-of-way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or

pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

iv. Towers

- (a) Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the Town;
- (b) Tower structures should use existing landforms, vegetation, and structures to aid in concealing the facility from view or blending in with the surrounding built and natural environment;
- (c) Monopole support structures shall taper from the base to the tip;
- (d) All towers shall be enclosed by security fencing or wall at least six feet in height and shall also be equipped with an appropriate anti-climbing device. No security fencing or any portion thereof shall consist of barbed wire or chain link material; and
- (e) Towers shall be subject to the maximum height restrictions of the zone district in which they are located, subject to a maximum height limit of 60 feet.
- (f) Towers should be sited in a manner that is least obtrusive to residential structures and residential district boundaries where feasible;
- (g) Towers should take into consideration the uses on adjacent and nearby properties and the compatibility of the tower to these uses;
- (h) Towers should be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (i) Visual impacts of the proposed ingress and egress shall be minimized;
- (j) No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing WCFs can accommodate the needs that the applicant proposes to address with its tower application. Evidence submitted to demonstrate that no existing WCFs can accommodate these needs may consist of the following:
 - (i) No existing WCFs are of sufficient height and are located within the geographic area required to meet the applicant's engineering requirements;
 - (ii) Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF;
 - (iii) The applicant's proposed WCF would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCFs would cause interference with the applicant's proposed WCF; or
 - (iv) The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation.
- (k) A tower shall meet the greater of the following minimum setbacks from all property lines:
 - (i) The setback for a principal building within the applicable zone district;

- (ii) Twenty-five percent of the facility height, including WCFs and transmission equipment; or
 - (iii) The tower height, including antennas, if the tower is in or adjacent to a residential district or residentially zoned property.
 - (iv) Towers over 40 feet in height shall not be located within one-quarter mile from any existing tower that is over 40 feet in height, unless the applicant has shown to the satisfaction of the Town that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.
 - v. No towers shall be permitted in the right-of-way.
5. Related accessory equipment. Related accessory equipment for all WCFs shall meet the following requirements:
- a. All buildings, shelters, cabinets, and other accessory components shall be grouped as closely as technically possible;
 - b. The total footprint coverage area of the WCF's related accessory equipment shall not exceed 350 square feet;
 - c. No related accessory equipment or accessory structure shall exceed 12 feet in height; and
 - d. Related accessory equipment shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the related accessory equipment shall be concealed where technically feasible or otherwise camouflaged in a manner appropriate for the specific site.

E. Review Procedures and Requirements

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

- a. Submittal requirements. Each applicant for a WCF shall be required to submit the following information:
 - i. Completed application as required by the appropriate section of the Town LUDC, depending upon whether the matter requires a land use application, rights-of-way application or both;
 - ii. Submittal fee;
 - iii. Signal interference letter (Section 4.19.040(C));
 - iv. Inventory of existing sites (Section 4.19.060(B)); and
 - v. Any other information deemed necessary by the Town to determine compliance with this section.
- b. Inventory of existing sites. Each applicant for a WCF shall provide to the Town a narrative and map description of the applicant's existing or then currently proposed WCFs within the Town, and outside of the Town within one mile of its boundaries. In addition, the applicant

shall inform the Town generally of the areas of the Town in which it believes WCFs may need to be located within the next three years. The inventory list should identify the site name, site address, and a general description of the facility (e.g., rooftop antennas and ground mounted equipment). This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs in the Town. Rather, it is an attempt to provide a mechanism for the Town and all applicants for WCFs to share general information, assist in the Town's comprehensive planning process, and promote collocation by identifying areas in which WCFs might be appropriately constructed for multiple users. The Town may share such information with other applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the Town, provided however, that the Town is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- c. Applications for base stations, alternative tower structures, and alternative tower structures within right-of-way. In all zone districts and PUDs, each application for a base station, alternative tower structure, or alternative tower structure within right-of-way shall be reviewed and considered for approval by the Town for conformance to this section. Except for WCFs in the right-of-way that meet all requirements of this section or eligible facilities requests, the Town may refer the application to Planning and Zoning Commission for approval if the Town finds the proposed WCF to have a significant visual impact (e.g., proximity to historic or designated view corridors, or on significant community features) or otherwise is substantially incompatible with the structure on which the WCF will be installed, or it does not meet the clear intent of this section.
- d. Applications for towers. In all zone districts and PUDs, towers may be permitted only as a special use. Such towers shall be reviewed for conformance to this section using the use by special review procedures set forth in Section 4.05.010 in conjunction with the applicable provisions of this Section. All applications for towers shall demonstrate that other alternative design options such as base stations or alternative tower structures are not viable options.
- e. Administrative review procedures for eligible facilities requests.
 - i. Application. In all zone districts and PUDs, eligible facilities requests for collocation on or modification of an existing tower or base station shall be considered a use by right subject to administrative review and determination by the Town. The Town shall prepare, revise and make publicly available, an application form which shall be limited to the information necessary for the Town to consider whether an application for collocation or modification is an eligible facilities request. Such information may include, without limitation, whether the project:
 - (a) Would result in a substantial change;
 - (b) Violates a generally applicable building, structural, electrical, or safety code or other law codifying objective standards reasonably related to public health and safety.

The application may not require the applicant to demonstrate a need or business case for the proposed modification or collocation.

- ii. Type of review. Upon receipt of an application for an eligible facilities request pursuant to this section; the Town shall review such application to determine whether the application so qualifies.
- iii. Timeframe for review. Subject to the tolling provisions of this section, within 60 days of the date on which an applicant submits an application seeking approval under this section, the Town shall approve the application unless it determines that the application is not covered by this section.
- iv. Tolling of the timeframe for review. The sixty-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the Town and the applicant, or in cases where the Town determines that the application is incomplete:
 - (a) To toll the timeframe for incompleteness, the Town shall provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application;
 - (b) The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and
 - (c) Following a supplemental submission, the Town will notify the applicant within ten days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified herein. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- v. Failure to act. If the Town fails to act on a request seeking approval for an eligible facilities request under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant of approval becomes effective when the applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.
- vi. Interaction with Telecommunications Act Section 332(c)(7). If the Town determines that the applicant's request is not an eligible facilities request as delineated in this section the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's shot clock order, will begin to run from the issuance of the Town's decision that the application is not a covered request. To the extent such information is necessary, the Town may request additional information from the applicant to evaluate the application under Section 332(c)(7) review. The Town shall identify the need for any such additional information together with the notice that the request is not an eligible facilities request, and if such additional information is requested, the reasonable time frame under Section 332(c)(7) will begin to run beginning on the date that such additional information is received by the Town.
- f. Abandonment and removal. Prior to approval, affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal

of a WCF, including related accessory equipment, that is abandoned or is unused for a period of 180 days.

- g. Decision. Any decision to approve, approve with conditions, or deny an application for a WCF shall be in writing, supported by substantial evidence in a written record, and shall be provided to the applicant within ten days of the decision. If the approval is for a concealed WCF, the written decision shall specifically identify that the WCF is a concealed facility.
- h. Compliance with applicable law. Notwithstanding the approval of an application for collocation as described herein, all work done pursuant to WCF applications shall be completed in accordance with all applicable building and safety requirements as set forth in the Town LUDC, and any other applicable regulations. In addition, all WCF applications shall comply with the following:
 - i. Comply with any permit or license issued by a local, State, or Federal agency with jurisdiction of the WCF;
 - ii. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
 - iii. Be maintained in good working condition and to the standards established at the time of application approval or as otherwise required by applicable law; and
 - iv. Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten days from the time of notification by the Town or after discovery by the owner or operator of the site.
- i. Compliance report. Upon request by the Town, the applicant shall provide a compliance report within forty-five (45) days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable Town requirements and standard regulations.

F. Standards for Approval

1. No WCF, including related accessory equipment, shall be approved unless it meets the following approval criteria:
2. Visual impacts are minimized and view corridors are protected to the greatest extent feasible.
3. Unless a tower site, or otherwise waived pursuant to this section, the WCF utilizes concealment design techniques to avoid adverse impacts on the surrounding area, by ensuring that the facility looks like something other than a tower or base station;
4. The WCF meets the applicable design standards for the type of WCF in accordance with Section 4.19.050, Design standards; and
5. The WCF is and will be operated at all times in accordance with Section 4.9.140.

Chapter 4.10 Site Layout and Structure Design Standards

4.10.010 PURPOSE

This Chapter includes standards that regulate the physical layout and design of development in the Town to address the physical relationship between structures in the same development as well as development and adjacent properties, public streets, neighborhoods, and the natural environment, in order to implement the comprehensive plan vision for a more attractive, efficient, and livable community.

4.10.020 APPLICABILITY AND INTENT

A. Applicability

1. This standards in this chapter are organized into categories by development type, with Section 4.10.030 applicable to multiple development types:
 - a. Section 4.10.030, Standards Applicable to All Sites and Structures
 - b. Section 4.10.040, Residential Structure and Site Design Standards
 - c. Section [4.10.050](#), Mixed-Use and Commercial Structure and Site Design Standards
2. Within these categories there may be standards that are also applicable to specific geographic areas, such as the Broadway District, Grand Avenue, or specific development types, such as Large Format Retail.

B. Intent

The intent of this section is to ensure designs for site development and individual buildings that meet community expectations for durability, appearance, and quality. Application of the standards detailed in the following pages will assist property owners and design professionals in creating projects of the highest caliber, preserving and enhancing both community character and property values. Staff will utilize these design and zoning standards to provide consistent and appropriately targeted communication and guidance in the review of all new applications for development. Adherence to these standards should yield places that are comfortable, compatible, attractive, and supportive of local lifestyles and business ventures.

The Town's design character is additionally expressed through policies and implementation strategies detailed in the adopted Elevate Eagle Comprehensive Plan and other sub area plans like the River Corridor Plan, the West Eagle Plan, and the East Eagle Plan. Different character areas in the Town have also been identified, including Historic Downtown, Eagle Ranch, Chambers Avenue, the Grand Avenue Corridor, the North Interstate Area, and Brush Creek. Each of these character areas may have additional design standards and expectations, as further expressed in this Code.

C. Design Goals

1. Maintain or enhance the Town's historic small-town character and sense of place. Promote walkable neighborhoods and an appropriate human scale in buildings and spaces.

2. Promote high quality designs and construction creating outcomes that are compatible with existing neighborhoods and architecture.
3. Create comfortable and functional relationships between structures, spaces, and different use areas. Provide smooth transitions between areas of dissimilar use.
4. Ensure site development that responds appropriately to topography, drainage, existing vegetation, sensitive habitats, drainage, access, views, privacy, adjacent development, and opportunities for open space and solar exposure.
5. Provide adequate parking, ensure multimodal connectivity, and encourage the use of alternative transportation. Connect neighborhoods, transit stops and commercial destinations with clear, safe pedestrian and vehicular travel routes.
6. Promote environmental education and stewardship with energy and water efficient structures and landscapes.
7. Reinforce the unique attributes of the Town's individual character areas. Enhance the vibrancy and viability of the Broadway District, Eagle Ranch, Grand Avenue, and the North Interstate commercial centers.

4.10.030 DESIGN STANDARDS APPLICABLE TO ALL SITES AND STRUCTURES

A. Site Design

1. Access and Connectivity

- a. Entrances, roads and driveways shall be designed to allow efficient access and wayfinding by emergency service and law enforcement personnel.
- b. On single structure sites, primary access shall be from the alley, when an alley exists. In neighborhoods or streets without alleys, primary access shall then be from the street frontage facing the main entrance of the building.
- c. On multi-building sites, a hierarchy of primary and secondary circulations routes shall be provided to direct vehicles, pedestrians, and cyclists to parking areas, building entrances and other site destinations. Multiple points of access shall be considered for larger projects to minimize traffic impacts and facilitate emergency access. Where possible, vehicular access points shall correlate with adjacent roadway intersections. Entrances and circulation routes shall be designed to maximize safety for pedestrians and cyclists.
- d. For multi-building projects, pedestrian and bicycle connectivity shall be provided between the project and existing or planned off-site amenities such as regional trails, bus stops, retail destinations, and open space.

2. Building and facilities Placement

- a. Buildings shall be positioned on a property to avoid steep slopes, natural drainageways, natural hazards, wildlife habitat, utility easements, and defined view corridors. Structures shall be oriented parallel to topographic lines to the greatest degree possible, reducing the need for cut and fill.
- b. Parking shall be located to allow short, efficient, and safe access from the parking area to entry points on the building.

- c. Buildings shall be positioned to maximize the privacy of outdoor spaces, access to quality views, and opportunities for solar gain and solar energy applications.
- d. Trash enclosures shall be positioned for easy access by service providers, screened from public view, and containers or enclosures shall be wildlife resistant. Electrical and other utility boxes and facilities must also be screen from public view.

B. Permitted Façade Materials

1. Building materials for walls shall be selected for their appearance and ability to withstand the extremes of the area's mountain climate. Materials with demonstrated durability include, but are not limited to:
 - a. Segmented wood siding;
 - b. Log, full or milled profile;
 - c. Stone, including sandstone, river rock, and moss rock;
 - d. Segmented horizontal or vertical siding and cementitious siding;
 - e. Brick masonry and dimensional cut stone;
 - f. Cast concrete manufactured to simulate natural materials;
 - g. Split-face concrete block is allowed for mixed-use and nonresidential structures;
 - h. Patinaed or color-treated metal may be used on accent wall surfaces; and
 - i. Modular panels may be used a primary or accent wall surfaces, but may be restricted to certain zone districts.
2. Additional materials with similar durability may be approved by the Director.

C. Prohibited Façade Materials

1. Concrete block; and
2. Plywood, particle board or Texture 111 (T-111).

D. Roofs, Eaves, and Parapets

1. Roofs, eaves, and parapets shall be designed to withstand the Town's variable mountain climate by utilizing appropriate pitch, drainage, and materials. The Director may approve materials not listed, but may request manufacturer's specifications and industry studies to ensure maintenance and durability.
2. Permitted roofing materials include but are not limited to:
 - a. Tile;
 - b. Slate and equivalent synthetic materials or better;
 - c. Metal, shingle or standing seam, equivalent or better;
 - d. Dimensional architectural grade composition shingles;
 - e. Class A asphalt shingles;

f. Other materials of equivalent durability as approved by the Director.

3. Additional permitted materials that may be used where specified include:

- a. Cornices and soffits may be comprised of wood or metal.
- b. Gutters and downspouts may be vinyl and/or metal.
- c. Parapet wall materials, exclusive of copings, cornices, or other design accents, shall match the building wall.

E. Color and Reflectivity

- 1. Façade colors shall be complimentary of each other, and compatible with the natural setting and general color palette of the surrounding neighborhood. The Director may approve unique architectural applications on a case-by-case basis.
- 2. The use of very bright, high intensity colors or fluorescent colors is prohibited.
- 3. Building trim and accent areas may feature brighter, complementing colors, including primary colors.
- 4. All façade and roof materials shall have low reflectivity.

F. Sidewalks and Furnishings

- 1. Sidewalks shall be constructed as determined by Public Works or by a comprehensive sidewalk plan.
 - a. In areas where traditionally there has been a zero-foot setback, sidewalks shall have an integral curb and gutter.
 - b. Sidewalk shall be set back from the back of curb, aligning and connecting to existing sidewalks. Sidewalk material shall be concrete or concrete unit pavers.
 - c. Sidewalk locations, materials, and dimensions shall be included in the site plan for the property for review and approval by the Public Works Department.
- 2. On infill lots where sidewalks are present, a sidewalk segment (if not present) shall be installed to connect adjacent sidewalk segments. On multi-building sites in neighborhoods where sidewalks are present, sidewalks shall be installed along all road frontages. In neighborhoods where sidewalks are not present, sidewalks may be required to be installed in order to connect to other existing neighborhoods, trails, or sidewalk systems.
- 3. On multi-building sites, internal sidewalks shall connect parking areas to building entrances, and building entrances to other site amenities like clubhouses, picnic areas, playgrounds and parks.

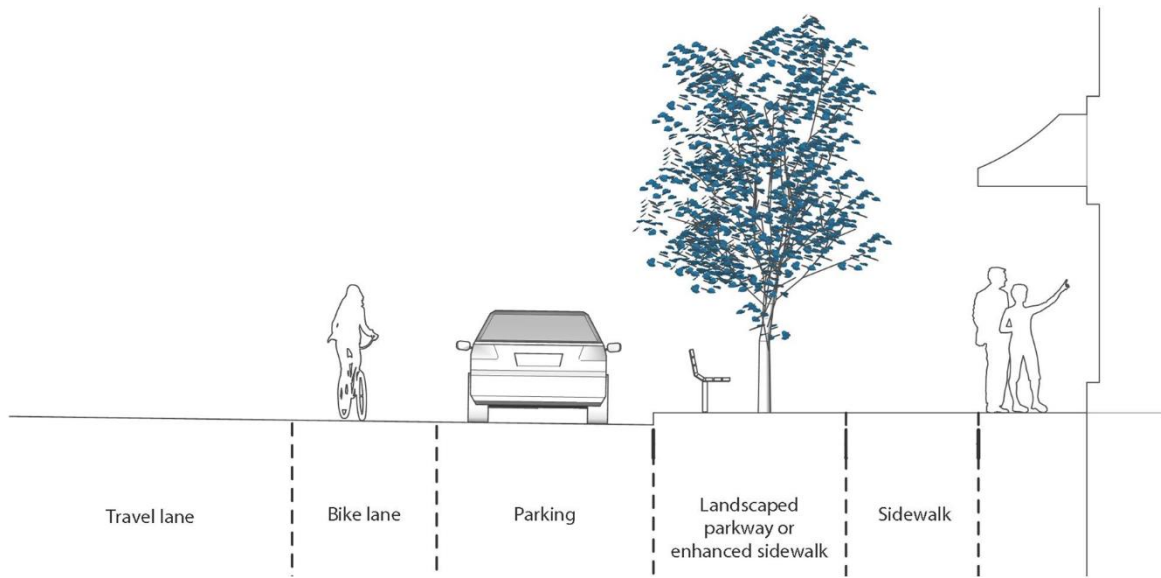


Figure 4.10-A: Sidewalk design

4.10.040 RESIDENTIAL STRUCTURE AND SITE DESIGN STANDARDS

A. Standards for Residential Development

Residential development shall meet the requirements of Section 4.10.030 and following sections as applicable.

1. Applicability

- a. This section applies to:
 - i. Structures that will contain only residential uses, including single-family detached dwellings, duplexes, townhouse dwellings, and multi-family dwellings; and
 - ii. Structures that are exclusively residential and are included as part of a multi-building mixed-use development.
- b. The following are exempt from this Section:
 - i. Development of any structure that will contain a mix of nonresidential and residential uses, which comply with Section 4.10.050;
 - ii. Subdivision or condominiumization of existing structures; and
 - iii. Accessory dwelling units, which shall comply with Section 4.09.100D.

2. Building Orientation

Single-family and duplex structure development on infill lots or new lots within an existing neighborhood shall comply with the following:

- a. The orientation of the primary entrance and façade of the dwelling shall be consistent with the established pattern along the block face.

- b. No residential structure shall be sited diagonally or otherwise skewed on the lot.

B. Attached and Multifamily Sites and Structures

1. Applicability

This section is applicable to single-family attached structures with three or more units and to multifamily structures.

2. Exterior Appearance Standards

- a. The residential scale and character of a project shall be emphasized. In larger projects, the identity of the individual units shall be evident in the elevation. Box-like forms that are not relieved by massing or articulation of façades are prohibited.
- b. The following elements shall be used to provide relief and contrast in the facade and delineate individual units as illustrated in Figure 10-B: Façade articulation example. A minimum of three elements shall be incorporated in single-family attached structures and a minimum of five elements shall be incorporated in multifamily structures:
 - i. Balconies,
 - ii. Overhangs,
 - iii. Covered patios,
 - iv. Prominent entry features,
 - v. Window variations,
 - vi. Door opening variations,
 - vii. Distinct variations in color (not a slight variation of a similar hue, such as beige or pastel),
 - viii. Variations in materials,
 - ix. Variations in building height,
 - x. Variation in roof form,
 - xi. Dormers,
 - xii. Projected or recessed building walls, or
 - xiii. Another architectural feature as approved by the Director.
- c. A minimum of two of the elements listed above shall be used on non-façade walls that are publicly visible to complement the front façade and provides visual interest.
- d. When building elements such as decks and chimneys are repeated, some alterations to details of those elements such as varying orientation shall be used within the context of the overall design to provide interest and avoid monotonous repetition.



Figure 10-B: Façade articulation example

- e. The individuality and privacy of units shall be emphasized through the use of identifiable private or semi-private entries.
- f. Entries and stairwells shall be an integral part of the building design. Exterior stairwells shall be protected from the weather and partially screening or designed with architectural treatments that are integrated into the overall building elevation. Catwalks or long corridors lined with entrances to units are prohibited.
- g. Roof lines of greater than 50 linear feet shall be varied by providing different heights or varying roof orientations as illustrated in Figure 10-D: Roof line change example.
- i. Roof forms shall be visually associated with underlying building mass units.
- ii. Parapet walls shall be interrupted by setbacks or varying heights to provide variety to the roof line.



Figure 10-C: Roof line change example

3. Multi-Building Developments

Multifamily developments with more than three residential buildings shall incorporate more than one distinction among building designs. Distinct building designs shall be easily distinguished through a minimum of two of the following:

- a. A variation in length of 30 percent or more;
- b. A variation in the footprint of the building of 30 percent or more;
- c. A distinct variation in color and use of materials;
- d. A variation in the type of dwelling unit contained in the building that results in a significantly different scale and mass (i.e., apartments vs. townhomes or duplexes); or
- e. A distinct variation in building height and roof form.

4. Building Materials

- a. No more than 75% of a building façade or other wall facing a public street shall be comprised of a single façade material. The remaining 25% of the façade shall incorporate a different material.
- b. Stronger and heavier materials such as masonry shall be located below lighter materials such as wood. Stone or masonry shall be used to delineate the building foundation.

5. Accessory Structures

- a. Non-dwelling structures, such as car ports and storage units, shall be designed with similar details, materials, and design elements as the principal structure.
- b. Bulk storage shall be provided as follows:

- i. Bulk storage areas intended for storage of materials other than food and clothing, such as tools, bicycles, or ski equipment. shall be designed for this purpose. Bulk storage areas shall be separate from water heaters or other types of mechanical or electrical equipment.
- ii. Exterior or detached bulk storage areas shall be designed as an integral part of the project Bulk storage areas shall be incorporated into garages, car ports, and screening walls, using materials and details similar to those of the dwelling unit to achieve an integrated appearance.

6. Private Outdoor Space

- a. In addition to complying with the required open space dedication requirement, private outdoor space shall be provided in compliance with this section unless the site is located within 500 feet of an improved public park, plaza, or other open space and are connected by a continuous sidewalk that complies with the ADA.
- b. Private outdoor space may be provided as the usable floor area of any patio, porch, balcony, deck, or enclosed yard accessible directly from a dwelling unit that is for the exclusive private use by the residents.

c. Requirements

Private outdoor space shall be provided according to the following:

i. First-Floor Units

- (a) For units located on the first floor, the minimum size of private outdoor space shall be 80 square feet or ten percent of the gross floor area of the unit, whichever is larger. The minimum dimension of such space shall be eight feet and may include lot area within a required setback but shall not include required landscaping areas.
- (b) Porches and entry patios that serve one dwelling may be considered private outdoor areas. However, any area necessary for walkways from outside the private outdoor area to the entrance of the dwelling unit shall be excluded from the calculation of the private outdoor space. Walkways shall be assumed to be three feet in width.

ii. Units Above First Floor

For units located above the first floor, the minimum size of private outdoor space shall be 80 square feet or ten percent of the “livable” floor area of the unit, whichever is larger. Private outdoor space may be provided as follows:

- (a) Up to 100 percent of the required private outdoor space may be provided as common yard space. This space shall have a minimum dimension of 15 feet and may include lot area within a required setback but shall not include required landscaping areas.
- (b) Up to 50 percent of the total required private outdoor space may be provided as balconies that serve individual dwelling units and that are not be accessed from the ground by stairways. The minimum dimension of a balcony shall be eight feet.
- (c) Up to 25 percent of the total required private outdoor space may be provided as a rooftop deck. The minimum dimension of the deck shall be 10 feet.

iii. Design of Private Outdoor Spaces

Private outdoor spaces shall be designed as an extension of the living unit. Its location and relationship to interior spaces shall be given consideration to ensure that the outdoor space is both accessible and functional.

iv. Substitution for Infill Development Projects

Where an infill development site is configured or sized so as to not permit the provision of private common open space to meet the standards of this section, the Director may allow the substitution of developed sidewalk areas or streetscape, including:

- (a) Public plazas or fountains;
- (b) Tree wells or landscaping such as shrubs, live groundcover, planters, and hardscape (e.g., decorative fencing, arbors, patterned paving);
- (c) Street furnishings, including without limitation waste receptacles, bicycle racks, drinking fountains, or
- (d) Features consistent with surrounding development or an adopted sub area plan.

4.10.050 MIXED-USE AND COMMERCIAL STRUCTURE AND SITE DESIGN STANDARDS

A. Applicability

The standards in this section are applicable to all new structures, structural additions, and exterior renovations.

B. Generally Applicable Design Standards

The requirements of Section 4.10.030 apply to mixed-use and commercial development in addition to the following:

1. Site Layout

a. Building Location

Within developments that have three or more buildings, buildings shall be arranged and grouped using one or more of the following techniques:

- i. Frame the corner of an adjacent street intersection or entry point to the development;
- ii. Frame and enclose parking areas on at least two sides;
- iii. Frame and enclose outdoor dining and/or outdoor gathering spaces between buildings;
or

- iv. On sites of 15 acres or more, frame and enclose a “main street” pedestrian and/or vehicle access corridor within the development.

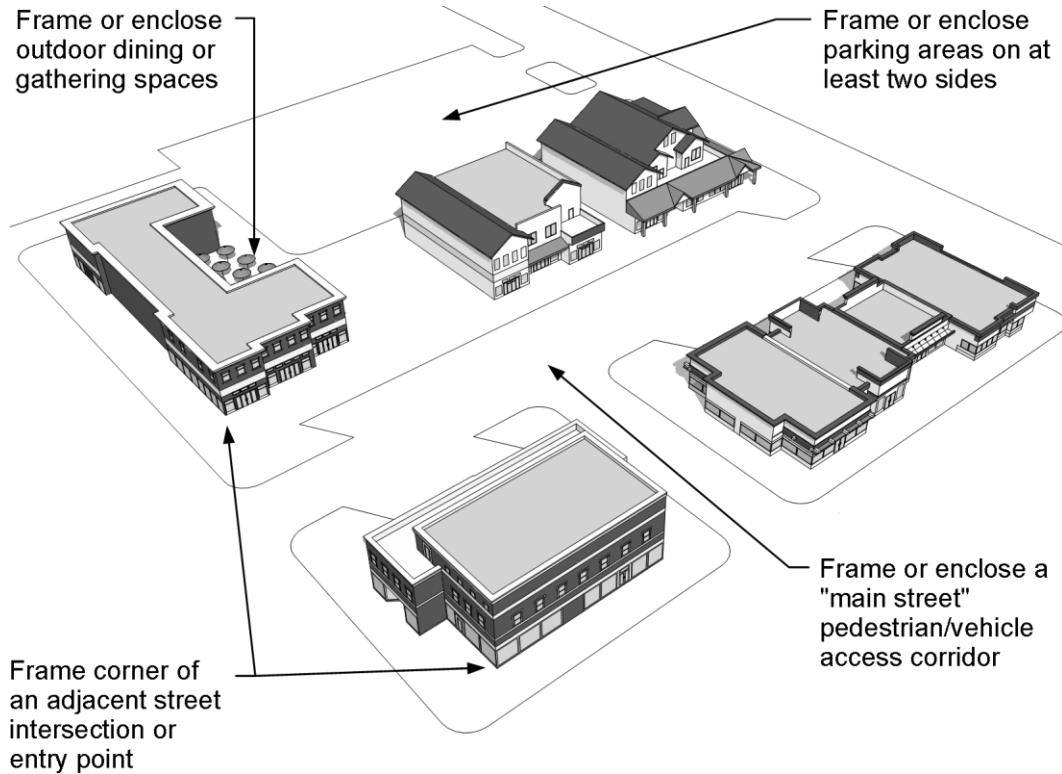


Figure 10-D Multi-Building Development

b. Building Orientation

- i. The building façade shall face the same public right-of-way as adjacent structures unless instructed otherwise in the zone district or applicable Town plan.
- ii. The facade containing the primary entry way shall parallel the street. Building entrances shall be visible and accessible from the pedestrian right-of-way along the building's primary street.
- iii. Structures with frontage on I-70 shall have an internal orientation, rather than a highway orientation. Entryways shall face towards the internal road system. The Director may allow a highway orientation where site conditions make it difficult to achieve an internal orientation.
- iv. Mixed-use or residential structures adjacent to low density residential zone districts shall comply with the following standards:
 - (a) Service and utility entrances, mechanical support facilities, and unimproved building “back sides” shall not be located within public view of neighboring residences.
 - (b) Service and utility courts or alleys may contain these necessary support functions.

c. Mechanical

- i. Underground utility connection is required unless otherwise provided by the Building Official.
- ii. Where the connection meets the building, risers, utility meters, panel boxes, or similar, are encouraged to be covered with the same or compatible material as the siding material unless expressly prohibited by utility company regulations.

d. Parking Location

- i. No more than 50 percent of all required parking may be located in between the property line abutting the public right-of-way and the building façade. Where a smaller percentage is specified in these standards, that percentage shall govern.
- ii. The remaining parking stalls shall be located to the sides or rear of the proposed building.
- iii. No more than two double-loaded rows of parking are permitted abutting the I-70 right-of-way. Parking areas shall be screened from view from I-70 with opaque landscape screening.

2. Building Mass and Form**a. Horizontal Façade Articulation**

Buildings shall be designed to reduce apparent mass by dividing facades into a series of smaller components. No individual component shall have a length of more than 60 feet, measured horizontally. Components shall be distinguished from one another through two or more of the following:

- i. Variations in roof form or variations in roof height of two feet or more;
- ii. Changes in wall plane of 12 inches or more;
- iii. Variations in the arrangement and recessing of windows or doors; or
- iv. Ground-floor pedestrian-oriented design features along no less than 60 percent of the horizontal length of the segment. Pedestrian-oriented design features may include arcades, display windows, entryways, awnings, or other features. Shaded sidewalks that are part of the building design may be credited toward this standard.
- v. Structures on corner lots shall have similar façade design on both streets that they face.

b. Vertical Façade Articulation

- i. Buildings shall be designed to reduce apparent mass by including a clearly identifiable base, body, and top, with horizontal elements separating these components.
- ii. The component described as the body shall constitute a minimum of 50 percent of the total building height.

c. Primary Building Entrance Design

Buildings shall feature visually prominent primary building entrances. Unless otherwise provided in this LUDC, buildings shall incorporate a combination of two or more of the following techniques:

- i. Canopy, portico, archway, arcade, or similar projection that provides architectural interest and protection for pedestrians;
- ii. Prominent tower, dome, or spire;
- iii. Peaked roof;
- iv. Projecting or recessed entry;
- v. Outdoor features, such as seat walls, landscaping with seasonal color, or permanent landscape planters with integrated benches; or
- vi. Other comparable techniques approved by the Director.

d. Roof Design

- i. Minimum roof pitch is 3:12.
- ii. Mansard roofs are prohibited.
- iii. Flat roofs are permitted provided that no mechanical equipment is visible from public rights-of-way and the roof shall be designed in keeping with the Town's design intent in Section 4.10.020. All flat roofs shall have a surrounding parapet wall.

e. Loading Docks and Service Areas

- i. Loading docks and service areas shall be located to the side or rear of building unless the building abuts the I-70 corridor.
- ii. If the parcel abuts the I-70 corridor, all services and loading areas shall be located behind an eight-foot high wall or screened.

C. Location Specific Standards

The following standards shall apply in specific zone districts or geographic areas in addition to any other applicable standards.

1. Broadway District

The overriding vision for Broadway is to enhance the Town and to create a vibrant business district based on traditional western slope architecture. Broadway deserves special attention and more specific guidelines than other areas of Town.

a. Design Intent

The buildings of the Broadway District shall be permanent in character and referential to the business districts of traditional western slope communities. Historic Downtown districts found in Telluride, Crested Butte, Breckenridge, Ouray, Salida, Leadville, Montrose, Glenwood Springs, Carbondale, and similar Towns are all examples of the styles of architecture, design, building massing, and scale that shall be considered when designing buildings for the BD district. These communities vary from traditional mining towns to rural agricultural villages and the Town's history comes from these same traditions of mining and rural agriculture. The buildings in the Broadway District shall be designed with these precedents in mind, however buildings are not tied to a strict period replication.

b. Street Level Orientation and Design:

- i. Street level storefronts shall be emphasized through the use of architectural or design elements, as described in this section.

- ii. Relation to human scale shall be considered in the design of street level facades and spaces.
- iii. The first floor shall be placed at ground level and buildings shall be a maximum of three stories in height. A fourth story may be added for buildings with affordable housing, see Section 4.02.050. Both stories shall stepback from the street facing façade(s) of the building. The third floor shall step back from the property line(s) (there may be two street frontages on a corner lot) by a minimum of 10 feet. The fourth story shall step back from property line(s) by a minimum of 20 feet. Developments that are not built to the zero setback shall only setback a proportional amount (example: for a building built to a five-foot setback, the proportional minimum stepback would be five feet for the third story and 15 feet for the 4th story).



Fig. 4.04-D: Image of second and third story setbacks

- iv. The rear yard setback on the ground floor shall be 25-feet, as required in the zone district standards found in Section 4.04.060. For upper stories, the rear yard setback is reduced to 5-feet.
- v. Buildings that have a front setback of 5 to 15 feet shall design the space between the right-of-way and the front of the building for landscaping, as hardscaped patio spaces, or a combination of both. Buildings that choose a ground floor setback, and are no higher than 2-stories, may incorporate a second floor overhang up to the front lot line.
 - (a) *Hardscaped areas.* Hardscaping materials are not required to be the same as those found in the Broadway streetscape but shall be complementary to what is found on Broadway.
 - (b) *Landscaped areas.* Landscaping shall integrate with landscaping found along the Broadway streetscape and applicants are required to describe how their proposed

landscaping is native, will be maintained and integrates with the existing street landscaping. Appropriate mature heights of ornamentals and shrubs shall not exceed 4-ft in height. Planting materials may include annuals, perennials, grasses, small ornamental trees or shrubs that flower, have colorful winter bark or showy fruits. Plantings shall be kept to designated planting areas and applicants shall provide a landscape plan for any proposed landscaping in the Broadway District (planting pots typically do not require a landscape plan). Turf is permitted, however, applicants shall show how the turf is to be maintained. Hardscaped paths are required through any turf areas from the property line to the building entry door.

(c) *Fencing in the Broadway District.* Any proposed fencing in the Broadway District shall be no taller than 3-ft and shall be constructed with durable materials that complement the primary façade material on the existing or proposed building. Chain-link and vinyl are prohibited in the BD district.

vi. Storefront window assembly shall extend from the sidewalk to a height of at least 12 feet, with a minimum of 3 feet for sill height as measured vertically from the sidewalk. Transom windows may be included in the minimum window height calculation.

vii. The sill plate of a retail display window may begin at the sidewalk level and shall be no higher than three feet above the sidewalk elevation. The window base need not match the building material but may include any permitted building materials.

viii. Storefront windows may be set parallel to the curb or storefront windows and entries may be articulated by creating areas of indentation.

ix. Windows on the second and third floors will be shorter in height than those occurring at ground level due to the smaller floor-to-ceiling heights. These window units shall be vertical in proportion. Windows on the second and third floors shall be arranged so as to reflect the composition of windows at the first floor.



Figure 4.10-E: First floor window height

x. Passages and entries to the second level shall be distinguished architecturally.

Passages that lead to a rear parking area shall be clearly signed. The architectural elements are required to distinguish these passages or entries.

xi. Door swings into the right-of-way are prohibited. Commercial and residential entryways may be indented so as not to swing into the right-of-way. (Figure 4.10-I)

xii. Corner entrances are encouraged where they are possible. They have the advantage of addressing two streets and an intersection, resulting in a unique degree of visibility for those businesses that create them. They also contribute more animation to the district as a whole. (Figure 4.10.J)



Figure 4.10-F: Entrance doors



Figure 4.10-G: Corner entrances

c. Architectural Detail

- i. Roofs shall either be flat with parapet walls, gabled, cross-gabled, gambrel or a combination thereof and must include architectural elements and details to enhance the west slope design style of this area. Roof, cornice and parapet forms provide interest, scale, richness and height variations to buildings. (Figure 4.10-K)
- ii. Parapet walls may exceed the height limit of the district by not more than 30% beyond the highest point of the building. Parapet walls may be used as a design detail and/or to screen roof mounted appurtenances and/or roof entertainment areas from views of public rights of ways.
- iii. Cornice treatments shall be used on street facing facades to visually terminate the top of the building. Additional roofline architectural details similar to those shown in Figure 4.10-K may be incorporated.



Figure 4.10-H: Architectural roof details

- iv. Front and corner building facades shall incorporate at least one of the following architectural design characteristics into the building design:
- (a) Chamfered corner entrance.
 - (b) Façade articulation.
 - (c) Entrance door setback.
 - (d) Cornice details.
 - (e) Architectural/designed roof element.
 - (f) Parapet wall element.
- v. Exterior facade material along the side of the building shall match the exterior facade material found on the front of the building for a length of at least 15 feet from the ground level to the height of the roof along any interior lot lines. See Figure 4.10-L.
- vi. Building materials used in the BD district are slightly more restrictive to those in other areas of Town. For exterior renovations and for new projects, development shall incorporate a primary façade material that shall cover at least 75% of the building façade. Acceptable primary materials are as follows:
- (a) Brick.
 - (b) Stone or hand-chiseled stone.
 - (c) Wood or composite wood siding (either a horizontal or board and batten layout is permitted).
- vii. Acceptable accent materials are as follows:
- (a) Brick.
 - (b) Stone or hand-chiseled stone.
 - (c) Moss rock or river rock.
 - (d) Wood or composite wood siding.
 - (e) Metal.
 - (f) Materials typically used for architectural detail work.
- viii. When brick or stone is used as a primary façade material, variation in the detailing of the brick or stone to cast shadow lines is required. See Figure 4.10-L.





Figure 4.10-I: Brick/stone detail

- ix. **Color.** A wide range of colors are permitted in the Broadway District. Neon or fluorescent colors are not permitted. Colors shall be documented in application materials and shall be in keeping with those typically seen in western slope mountain town business districts. Color changes for existing buildings require a minimal administrative review by the Director and shall be a documented color used in a western slope mountain town business district.
- d. Corner treatments at street intersections may exceed the height limit by no more than 30 percent of the total building height provided they are in scale with the building and district as a whole (Fig. 4.10-M).
- e. **Corner Lots:**
 - i. Buildings that have two-street frontages are required to match the exterior façade materials along both street frontages. Figure 4.10-M.
 - ii. Buildings shall present their front facades to the street that they face. Buildings on corner lots shall face and address both street frontages, as shown in Figure 4.10-M.
 - iii. Buildings with two street frontages may choose to incorporate corner treatments. Corner treatments shall be used to provide architectural prominence to the building and shall be in scale with the building. Corner treatments may exceed the height limit of the district by not more than 30% beyond the highest point of the building. Figure 4.10-M.
- f. **Other Requirements of the Broadway District**
 - i. **Art.** Temporary art displays are permitted along the Broadway streetscape with the permission of the Director. Building art may be permitted on a case-by-case basis with the permission of the Director and requires a mockup of the proposed design and colors to be utilized. Any art displays utilized during special events are permitted as part of the special event permit.
 - ii. **Plants.** Potted plants are permitted on Town property at entryways or on private property, provided that they do not impede the flow of pedestrian traffic and if on public property

are removed (by the property owner/tenant) from November 1st through April 15th and during snow events to accommodate snow removal.

- iii. *Lighting.* Downcast, opaquely shielded, lighting is permitted on building facades in conformance with Chapter 4.13. Private string lighting in the BD district is not permitted.
- iv. *Seating.* If a property owner/tenant desires to add additional seating along the public sidewalk, two small tables and chairs shall be permitted, if ADA requirements are met. The maximum diameter and height of tables shall be 30 inches. These permitted tables and chairs shall not impede the flow of pedestrian traffic along the sidewalk, shall not impede access and egress from the building entry, shall be available for the use of all pedestrians and shall be removed from public property (by the property owner/tenant) from November 1st through April 15th and during any snow events. Tables and chairs, on public property, larger than those permitted or with more than two chairs shall require an encroachment permit and associated review from the Town.
- v. The BD district rear setback may be reduced to less than 25 feet if an enclosed parking garage is proposed and the configuration of the garage allows for ingress and egress off of the property for residential parking and a service entrance to the ground floor retail space. This standard applies to a combination of both a parking garage and the service entrance.

2. Chambers Avenue Areas (Chambers Avenue, Loren Lane, Sawatch Road, Eagle Park East Drive, Chambers Court, Marmot Lane)

a. Design Intent

Although the Chambers Avenue Areas are somewhat separate from, and independent of, other portions of the Town, commercial and industrial development here has a very significant impact on the character and perceived quality of the Town. For the most part, drivers along I-70 view this area from an elevated position, set as a foreground to the larger mountain and Eagle River landscape. In addition to this visibility, the areas have developed with commercial activities serving the I-70 corridor. The Chambers Avenue Areas provide a first impression of the Town for travelers and tourists. The urban context here will be a defining feature of the Town's character, response to growth, and overall position in the region.

b. General Site Layout and Landscaping

- I. Sidewalks linking an existing pedestrian system of the block to the building shall be required.
- II. Lots that abut the I-70 corridor, a railroad or a residential zone district shall have a minimum 15-foot landscaped buffer paralleling the property line shared with the interstate right-of-way. In the buffer, one tree is required to be planted for every 25 linear feet of property line. A minimum of one-third of all required trees shall be evergreen, and shall be placed 20-feet on center minimum and 30-feet on center maximum, in groups of three or five. Shrub massing shall be used in conjunction with tree plantings. Selected shrubs shall have a minimum mature height of eight feet.
- III. Structure space that is designed to be publicly accessible, such as offices or showrooms, shall be oriented to a street front, and where possible to a corner to establish the building lines of each street.

c. Site Layout for Outdoor Uses

- i. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public or private rights-of-way or from the I-70 Corridor.
 - ii. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public or street, public sidewalk, or formal internal pedestrian way, such as a marked or signed walkway.
 - iii. Trucks, trailers, and outdoor containers used for functions such as delivery or maintenance shall only be parked or stored in designated loading and unloading areas that are completely screened from adjacent streets or properties for the duration that they are on the site, and shall be removed promptly upon the completion of use or service.
 - iv. Exterior display areas shall be clearly depicted on the approved development plan. All exterior display areas shall have a minimum buffer of 10 feet from vehicle lanes or parking areas and shall be permanently screened around the perimeter of the exterior display area with walls or fences.
 - v. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters and trash compactors shall be incorporated into the overall design of the building and the landscaping so that their visual impacts are screened from view from adjacent properties and public streets, and the screening materials shall be consistent with the principal materials of the building and landscaping.
- d. Façade Materials**
Modular panels are permitted.

3. Grand Avenue Corridor

a. Design Intent

Historically, Grand Avenue was the primary traffic corridor for the Town. Structures along this corridor shall complement the historic nature of this travel route. Design of new construction or renovation along this corridor will reflect a blending of historic and mountain modern design styles and will help draw travelers to Broadway Street, the Town's historic Downtown. New development, redevelopment, and infill shall meet the standards of this section and the following design goals:

- i. Vacant lots should be targeted for development to fill in existing gaps and strengthen the street edge along the Grand Avenue corridor.
- ii. Development should create a distinct edge between the highway right-of-way and private property through street improvements and landscaping.

b. Site Layout

i. Structure Orientation

Lots with a frontage of 25 percent or more along Grand Avenue shall be designed as follows:

- (a) The front façades of primary structures shall be oriented toward Grand Avenue. Sites with multiple structures shall orient primary structures to create a street wall along Grand Avenue before locating structures elsewhere on the site.
- (b) Buildings shall be sited square to a build-to line that is five feet back from the front property line along Grand Avenue to emphasize the street edge, as illustrated in Fig. 4.10-N.



Figure 4.10-J: Identification of build-to line

- (c) Parking shall be located at least 30 feet behind the front building line to the maximum extent possible.
- (d) Access shall be taken from a side street wherever feasible. Access may be taken from Grand Avenue where access from a side street is not available or feasible because of road design or traffic concerns and shall be consistent with the Grand Avenue Corridor Plan.

ii. Fences

- (a) Opaque privacy fencing is required where commercial lots abut residential neighborhoods. The fence shall be between six and eight feet in height. The Director may approve the use of plant material as a screening device if plant quantities and plant spacing are designed to create dense, visual barriers.
- (b) Chain link and electrical fencing are prohibited.

iii. Signage

All freestanding signs shall be monument style and integrated with the proposed landscaping.

c. Structure Design

i. First floor design shall meet the following requirements:

- (a) Residential uses in structures abutting Grand Avenue shall be permitted either above first-floor non-residential spaces or behind the front 30 percent of the ground floor, as measured from the front wall. First floor space shall be designed to accommodate nonresidential uses.

- (b) Lots that have a primary frontage along a side-street with only 25 percent or less of frontage along Grand Avenue are not required to have structures designed for first-floor nonresidential uses.
- (c) Garage doors shall not face Grand Avenue and shall be consolidated and located at one end of the building to reduce vehicular congestion.
- ii. Strip malls are not permitted, however, multiple storefronts on one building are permitted and shall be designed in accordance with Section 4.10.050.
- iii. Roof forms should vary: gable, hip, shed, and flat roofs with parapets are allowed.
- iv. Porches are not a required element, but any porches provided shall project from the central form and be covered by a separate roof.
- v. Building height along Grand Avenue shall be a maximum of 40-feet. Residential behind the commercial shall blend in with the surrounding neighborhood and may be a maximum of 35-feet.
- vi. Rooftop decks, bars, and gardens are permitted and may exceed the maximum building height by up to 15 percent. All rooftop mechanical equipment shall be screened from public views.

d. Architectural Detail

- i. Storefront display windows are permitted at ground level only. First floor glass panels shall have low reflectivity and high transparency, allowing for visual access into the building at the ground level.
- ii. Garage doors made from glass and metal that meet all applicable building codes are a permitted alternative to windows.
- iii. Pre-approved color samples for Grand Avenue are available at Town Hall. Colors that are not pre-approved maybe submitted to the Director for review on case-by-case basis.

4. North Interchange and East Eagle Area

a. Design Intent

The North Interchange and East Eagle Area incorporates privately owned, commercially zoned land north of the I-70 interchange, and in between the I-70 corridor and US Highway 6 east of Chambers Avenue. This area is completely separated physically and visually from the developed Town. Because of its isolated location, development on these lands should have less of an impact to the community, if treated sensitively, than if these uses occurred Downtown. Where sites develop with commercial activities that generate high volumes of user traffic, master planning of large parcels should be strongly encouraged. Careful consideration to the layout of curb cuts along existing public roads should be given. To the extent possible, the preservation of large pieces of indigenous landscape and plant materials should be an important objective.

b. Site Layout for Outdoor Uses

- i. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public rights-of-way.

- ii. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public or street, public sidewalk, or formal internal pedestrian way, such as a marked or signed walkway.
- iii. Trucks, trailers, and outdoor containers used for functions such as delivery or maintenance shall only be parked or stored in designated loading and unloading areas that are completely screened from adjacent streets or properties for the duration that they are on the site and shall be removed promptly upon the completion of use or service.
- iv. Exterior display areas shall be clearly depicted on the approved development plan. All exterior display areas shall have a minimum buffer of 10 feet from vehicle lanes or parking areas and shall be permanently screened around the perimeter of the exterior display area with walls or fences.
- v. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters and trash compacters shall be incorporated into the overall design of the building and the landscaping so that their acoustic impacts are fully contained and their visual impacts are screened from view from adjacent properties and public streets, and the screening materials shall be consistent with the principal materials of the building and landscaping.

D. Large Format Retail Development

1. Applicability

In addition to Section 4.10.050, the following standards shall apply to large format retail development that meets the following criteria:

- a. New construction of a large retail establishment, defined as single tenant building with at least 50,000 square feet of gross floor area for the purpose of retailing; or
- b. Expansion of or addition to an existing building that creates a large retail establishment.

2. Site Layout

a. Location and Design of Parking Lots

- i. No more than 30 percent of the off-street surface parking spaces provided for all uses located in the building containing a large retail establishment shall be located between the front façade and a public street.
- ii. In order to reduce the scale of parking areas, all surface parking areas shall be broken up into smaller parking blocks containing no more than 40 spaces:

- (a) Parking blocks shall be separated from each other by a minimum five-foot wide landscaping strip, access drives or public streets, pedestrian walkways, or buildings.
- (b) Each parking block shall have consistent design angles for all parking within the block.

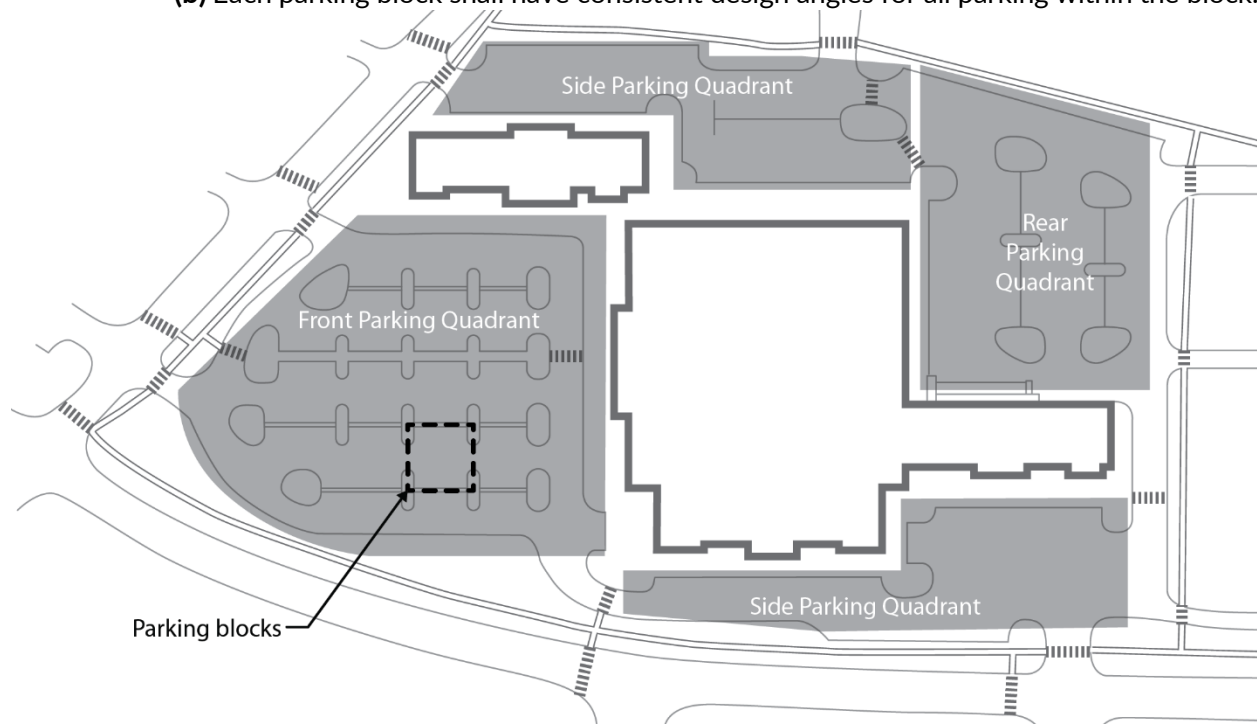


Figure 4.10-K: Location and Design of Parking Lots

- (c) Parking blocks shall be oriented to buildings to allow pedestrian movement down and not across rows (typically with parking drive aisles perpendicular to customer entrances).

b. Pedestrian Access and Circulation

Continuous pedestrian walkways at least eight feet wide shall be provided along the full length of any primary building façade featuring a customer entrance and along any facade abutting customer parking areas.

- i. Walkways shall be located at least six feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
- ii. As an alternative to the six-foot planting bed, tree grates with decorative paving may be utilized along 50 percent of the facade.

c. Site Amenities

i. Minimum Area Devoted to Site Amenities

All development subject to this section's design standards shall provide a minimum of 10 square feet of site amenities, open areas, and public gathering places for each 20 parking spaces provided.

ii. Allowed Site Amenities

Site amenities shall consist of at least two of the following:

- (a) Patio or plaza with seating area;
- (b) Mini-parks, squares, or greens;
- (c) Bus stops in coordination with the regional transit agency;
- (d) Customer walkways or pass-throughs containing window displays;
- (e) Public art;
- (f) Any other similar, deliberately shaped area or focal feature that, in the Director's judgment, adequately enhances the development and serves as a gathering place.

iii. Aggregation Allowed

In developments containing more than one building, the required area may be aggregated into one larger space, provided such space is within easy walking distance of the large retail establishment and other major tenants in the center.

3. Structure Design

a. Customer Entrances

i. Number and Location

- (a) Buildings containing large retail establishments with 100,000 square feet of gross floor area or more shall feature customer entrances on at least two sides of the building. The two required sides shall be those planned to have the highest level of public pedestrian activity.
- (b) When additional commercial establishments under separate ownership are located in the same primary building as a large retail establishment, each such establishment shall have an exterior customer entrance that complies with the visually prominent entrance requirement below, except that such entrance shall include a minimum of two visual prominence features listed in subsection 4.10.050D.3.a.iii below. Restaurants containing less than 2,000 square feet of gross floor area are excluded from this requirement for an exterior customer entrance, except that if such an entrance is provided, the entrance shall comply with the visually prominent entrance requirements below.

ii. Orientation

The primary entrance to a large retail establishment shall face the primary street adjacent to the site. The primary street will typically be the street with the highest level of vehicular and pedestrian activity.

iii. Visual Prominence

- (a) In order to provide clearly defined and highly visible entrances, all building and store fronts subject to this section shall have customer entrances featuring no fewer than three of the following:
 - (i) Canopies, arcades or porticos that, while satisfying weather protection requirements of this section, also lend visual prominence to the entrance;
 - (ii) Overhangs, recesses, or projections;
 - (iii) Raised corniced parapets over the door;
 - (iv) Peaked roof forms;
 - (v) Tower features integrated with the building design that extend above the building roof line;
 - (vi) Arches;
 - (vii) Outdoor patios;
 - (viii) Display windows;
 - (ix) Integral planters or wing walls; and
 - (x) Entrance atriums with visual connections to outside.
 - (xi) Transparency and Light
- (b) The principal customer entrance to any building shall feature at least two (2) elements from the following:
 - (i) Clerestory windows;
 - (ii) Windows flanking main entrance door;
 - (iii) Large entrance door(s)—Transparent, and double hung; and
 - (iv) Ornamental light fixtures.

b. Weather Protection

Canopies, arcades, or similar permanent sheltering roof structures shall provide weather protection along facades of buildings to pedestrians at customer entrances, taxi and drop off zones, valet parking, and bicycle parking. Weather protection means, for purposes of this provision, a permanent shelter or covering of sufficient length and width to provide protection to pedestrians from sun, wind, rain, or snow.

4.10.060 EROSION AND SEDIMENTATION CONTROL

A. Purpose

This section is intended to ensure that natural drainage patterns are preserved and protected from increased water flows, to keep any disturbance in natural vegetation and soil cover to a minimum, to prevent degradation of rivers and streams from sediment transport, to ensure that fugitive dust from development is minimal, and to ensure that erosion is minimal and slopes are properly stabilized and revegetated.

B. Applicability

An Erosion Control and Sedimentation Plan, and if determined necessary by the Director, a Slope Stabilization and Revegetation Plan, shall be required for the following applications:

1. Development Plan,
2. Subdivision,
3. Building permit, grading permit,
4. Any activity that includes excavations in excess of 50 cubic yards (see Section [4.10.060E](#)).

C. Plans**1. Erosion and Sedimentation Control**

The Erosion and Sedimentation Control Plan shall meet the requirements of Section [4.10.060F](#) and be designed to ensure:

- a. That natural drainage patterns are preserved and protected from increased water flows which may otherwise tend to alter such patterns or subject existing channels and adjacent areas to increased erosion, keeping any disturbance of natural vegetation and soil cover to a minimum;
- b. That appropriate consideration of soil types is made in the design of cuts and fills, building sites, and other land uses; and
- c. That structures, including settling ponds, filtration galleries, and sand traps, are provided and maintained as necessary to prevent or minimize the transport of sediment off site.

2. Slope Stabilization and Revegetation

The Slope Stabilization and Revegetation Plan shall meet the requirements of Section [4.10.060F](#) and be designed to ensure that:

- a. Adequate provision is made for revegetation and soil stabilization on disturbed areas during and after development of the site; and
- b. All cuts and fills are adequately designed and revegetated to minimize erosion and prevent slope failure.

D. Remedial Measures During Construction

1. All permittees must take adequate measures to ensure that during construction off-site effects of fugitive dust, blown trash, and tracking of mud are minimized.
2. A performance guarantee may be required.
3. The Director may order measures to correct any off-site effects, including without limitation: delaying, stopping, or discontinuing work until remedial measures are taken, regular watering of disturbed areas, placement of gravel at entrances to the property, hand or machine shoveling and cleaning of dirt and mud from adjacent properties and public rights-of-way and trash clean up.
4. The Director may order that a plan for revegetation be immediately implemented if disturbed soil areas are not revegetated on a timely basis.
5. These remedial measures are not an alternative to other enforcement measures permitted by this LUDC or Colorado law.

E. Fills and Excavations Not Accompanied by a Building Permit or Subdivision Construction Plan.

1. Any excavation or fill excess of 50 cubic yards shall require plan for Erosion and Sediment Control approved by the Town. The Director shall determine which elements of Section [4.10.060C](#) shall be included. The Director may require a performance guarantee.
2. The Director may require immediate remedial action for any areas of exposed soils that pose an erosion, water quality, or fugitive dust problem, including regrading and revegetation or submission of an Erosion and Sediment Control Plan and a performance guarantee to ensure completion of the necessary corrective measures and the requirements of the section.

F. Erosion and Sedimentation Control Requirements

1. Cut and fill operations shall be kept to a minimum so as to create the least erosion potential.
 - a. Finished slopes, cuts, or fills shall be no steeper than 2:1 unless otherwise approved by the Town Engineer.
 - b. The original, natural grade of a lot shall not be raised or lowered more than four feet at any point for construction of any structure or improvement, except:
 - i. The site's original grade may be raised or lowered a maximum of six feet if retaining walls are used to reduce the steepness of man-made slopes, provided that the retaining walls comply with the requirements in Section.
 - ii. For purposes of this subsection, basements and buildings set into a slope are not considered to lower the natural grade within their footprint.
 - iii. Cutting and grading to create benches or pads for buildings or structures shall be avoided to the maximum extent feasible.
 - c. Fills shall be placed in lifts and compacted to minimize the potential for slope failure and the slope surface shall be scarified to provide a suitable environment for seed germination.
 - d. Except for driveways, cut and fill slopes shall be entirely contained within a lot, so natural grade at the lot lines is maintained. Overlot grading and the placement of fill in utility easements shall be minimized.
 - e. The top edges of cut and fill slopes shall be rounded within five feet of the slope edge break point) unless sharp slope transitions are a natural character of the site.
 - f. Fill material shall not be placed in natural or constructed drainage channels.
 - g. Surface runoff shall be directed away from cut and fill slopes until adequate surface vegetation has been established.
2. To the maximum extent feasible, development shall preserve the natural surface drainage pattern.
 - a. Natural vegetation, especially that associated with drainage features, shall be retained and protected to the maximum extent practicable.
 - b. Grading shall be designed to ensure that drainage flows away from all structures, especially structures that are cut into hillsides.

- c. Natural drainage patterns may be modified on site only if the applicant shows that there will be no significant adverse environmental impacts on site or on adjacent properties. Development shall be designed to mitigate all negative or adverse drainage impacts on adjacent and surrounding sites. Water shall not be diverted onto the property of another landowner unless a written easement agreement allowing such drainage is received from the other landowner and duly recorded.
 - d. If natural drainage patterns are modified, appropriate stabilization techniques shall be employed within any constructed channel or at the edge of any sheet flow area.
- 3. Standard erosion and sedimentation control methods shall be used during construction to protect water quality, control drainage, and reduce soil erosion. Sediment traps, small dams, barriers of straw bales, or other methods acceptable to the Town shall be located as indicated on the approved erosion and sediment control plan to slow the velocity of runoff until the disturbed area is stabilized.
 - a. Exposed ground areas shall be protected with temporary vegetation or mulching during construction.
 - b. Soil stabilization or appropriate sediment control systems shall be implemented within five days of soil exposure.
 - c. If seeding or another vegetative erosion control method is used, it shall become established within two weeks or the Director may require the site to be reseeded or a nonvegetative option employed.
 - d. Soil stockpiles must be stabilized or covered at the end of each workday.
 - e. Structural erosion control measures shall be established and installed as soon as practicable; clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
 - f. Temporary or permanent irrigation may be required.
- 4. Proper measures for dust control during earthwork operations shall be implemented, including watering of disturbed areas.
- 5. The number of entrances from the public right-of-way shall be minimized and a tracking pad or gravel shall be provided at entrances to the public right-of-way to prevent the tracking of mud onto adjacent roads.
- 6. The entire site shall be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.

Chapter 4.11 Landscaping, Screening and Fencing Standards

4.11.010 PURPOSE

The purpose of this chapter is to ensure that new landscaping and the retention of existing vegetation are integral parts of all development and that they contribute added high quality to development, retain and increase property values, conserve water resources, mitigate against wildfire and improve the environmental and aesthetic character of the Town. It is also the intent of this chapter to provide flexible requirements that encourage and allow for creativity in landscape design. The landscape standards will:

- A. Minimize noise, air, water, and visual pollution.
- B. Reduce the amount of reflected glare and heat absorbed in and around developments.
- C. Break up the visual impact of large expanses of parking lots.
- D. Reduce and manage plant materials that can contribute to wildfire hazards.
- E. Provide screening from wind and dust.
- F. Require the use of xeriscaping and drought-tolerant native and naturalized plantings.
- G. Reduce the overall per capita use of water in the Town.
- H. Promote the utilization of storm water detention as an irrigation source.
- I. Ensure that climate appropriate landscaping is an integral part of the site design and development process.

4.11.020 APPLICABILITY

All projects requiring a development plan, administrative review, a use permit (Special or Conditional), or a building permit, and any landscape improvements, shall meet the landscaping requirements of this chapter.

4.11.030 GENERAL REQUIREMENTS FOR ALL LANDSCAPING

A. Landscape Plan Required

A landscape plan shall be submitted for all developments as determined under Applicability. Plant materials shall be installed prior to issuance of a Certificate of Occupancy, unless the Director approves a temporary delay of installation until the planting season with a required Performance Guarantee. The applicant shall provide landscape, irrigation, and grading plans. Landscape Plans shall include the following information:

1. Property lines and dimensions.
2. Existing and finished grade.
3. North arrow and both graphic and written scales.

4. Name of applicant and landscape consultant, if any.
5. A legend indicating all proposed plan materials with common and botanical names, indication of drought tolerant plants, sizes, maximum spacing, caliper size and quantities.
6. Method of irrigation for all landscaping, including required parking lot landscaping.
7. Location of all plant material, other landscape features (including without limitation wetlands, water bodies, rock outcroppings, detention areas, retaining walls) and buildings and paved areas (both existing and proposed).
8. Impervious surface calculation for all impervious areas including without limitation buildings, patios, decks, parking areas and driveways.
9. Ground surfaces and materials by types, such as paving, sod, mulch, edger, seed mixes, shrub and flower beds, shall be clearly indicated.
10. Clearly labeled locations and calculations for amounts for all of the required landscape vegetation, including the percentage of drought tolerant plantings and any required parking area landscaping.
11. Identification of which existing trees will remain on the property and how they will be protected from damage during construction.
12. Identification of the location(s) of all snow storage areas in relation to proposed landscaped areas and parking.
13. Identification of construction debris storage and staging areas, unless submitting a separate construction plan.
14. Identification of the streetscape areas and all planting materials and locations for those materials for Public Works review.
15. Maintenance plan for any proposed fruit bearing trees or shrubs.
16. Additional information as required by the Town on a case-by-case basis if such information is deemed necessary to determine compliance with the provisions of this LUDC.
17. The Director shall review and decide on the landscape plan per Section 4.17.060C.2.

B. Landscape Materials

Low-water, drought-tolerant, adaptive plants shall be used for all new landscaping. It is strongly encouraged to use fire-wise plants wherever possible. Materials shall be suitable for the local climate. The Town recommends utilizing the low-water/drought-tolerant/fire-wise plant materials lists available through the CSU Extension Office. Applicants who propose to use plants materials that are not on a CSU list must provide information describing how the plant types proposed are low-water, drought-tolerant, and FireWise. Fruit bearing trees or shrubs shall be prohibited to limit conflict with wildlife, unless a maintenance plan is included with the landscape plan.

1. Turf Grass

Turf grass shall be a high-altitude, drought-tolerant product. Turf grass is not permitted on slopes greater than 20 percent.

The use of turf grass shall be limited as follows:

Table 4.11-1: Use of Turf Grass By Zone District	
Residential Low and Medium	2,500 square feet per dwelling unit
Residential High	Limited to private open space areas
Mixed-Use	Limited to private open space areas
Commercial and Industrial	No turf grass allowed
Public	Allowed
Rural	5,000 square feet per dwelling unit

2. Minimum Plant Specifications

All plant materials installed to meet the requirements of this LUDC shall meet the following minimum size requirements:

- a. Trees: minimum caliper of 3 inches.
- b. Shrubs: minimum of five gallons.

C. Landscaping within the Public Right of Way

A landscape plan specific to the streetscape area shall be included on any required landscape plan for review and approval by the Public Works Director. Except in the Broadway District, a landscape area shall be established along all streets between public right-of-way and any buildings, parking lots, loading areas, storage areas, screening walls or fences, or other improvements in association with any use, in accordance with the following:

Table 4.11-2: Minimum Width of Landscape Area	
Adjacent To	Width (Feet)
I-70	15
Any other street	10

1. Necessary driveways and maneuvering areas for parking lots may be put in these areas with the approval of the Director. Parking spaces are not allowed in this area.
2. The required landscaped areas shall be planted at the rate of one tree per 25 sf for all streets in the required landscaped area.
 - a. These landscape areas shall be designed in a manner that takes into account existing patterns of surrounding development and the existing landscape.
 - b. A minimum of 50 percent of required street frontage landscape areas shall be covered with cultivated landscaping and maintained.
 - c. Ground cover shall consist of low-water, drought-tolerant, adaptive plants.

D. Right-of-Way Landscaping Responsibility

1. Landscaping in the public right-of-way shall not exceed 24 inches. Trees may be allowed if branches are trimmed up to a minimum of eight feet above ground level. The allowance of street trees or trees in the right-of-way is at the discretion of the Public Works Director.
2. To the maximum extent practicable, landscaping plans shall be coordinated with the placement of utilities to avoid conflicts with above and below ground utilities and overhead light fixtures.

Landscaping is required as identified in this chapter, but placement may vary to avoid unnecessary conflict.

3. Landscaping within the public right-of-way shall consist of low-water, drought-tolerant, adaptive plants. Turf grass is prohibited.

E. Maintenance

1. Landscaped areas shall be well-maintained, safe, clean and attractive at all times, including:
 - a. Landscaped areas shall be kept free of trash, litter, weeds, and other such materials or plants not a part of the landscape.
 - b. All plant material shall be maintained in a healthy and growing condition and shall be replaced with plant material of similar variety and size (size not to be smaller than the minimum required by this LUDC at the time of replacement) if diseased, damaged, destroyed, or removed within 45 days of installation, or by an agreed-upon date if seasonal conditions prohibit replacement within such time.
 - c. Fruit-bearing trees shall be picked and pruned as needed during the fruiting season to avoid attracting wild animals.
 - d. In the event of drought and water rationing, focus on maintaining plants closest to your residence or business.
 - e. Turf shall be mowed to 4 inches or less, except in riparian areas or water setbacks.
 - f. Outdoor irrigation fixtures shall be water use efficient fixtures and watering shall be limited to an amount sufficient to keep plant material alive and healthy.
 - g. Abutting landscaped areas lying between public right-of-way lines and the property shall be maintained unless such streets or landscaped areas are expressly designated to be maintained by a designated governmental authority.
2. It is the duty of any property owner or occupant to control noxious weeds, as defined by the CSU Extension Office, which aggressively invade native plant communities or are carriers of detrimental insects, diseases, or parasites and it is unlawful to permit such noxious weeds to grow.
3. The maintenance of landscaping in public rights-of-way in all zone districts shall be the responsibility of the adjacent property owner, whether an individual, corporation, or homeowner's association.

F. Revegetation of Disturbed Native Land

This section is applicable only to areas that have undisturbed native land on the property and are adjacent to Town-owned open space or federal property, and therefore would not apply to former or current agricultural lands. Development activities should only disturb, clear, or grade the area necessary for construction.

1. All areas disturbed by grading or construction, not being formally landscaped, shall be mulched and revegetated with native seeding or other native plant materials. All seeded areas shall receive seeding mulch in order to promote growth and increase soil contact. A minimum of three inches of topsoil shall be installed utilizing existing stockpiled topsoil from the site, when possible. Seeded areas in excess of 3:1 (horizontal: vertical) slope (33 percent) shall receive

biodegradable erosion control blankets, to reduce potential for damage from heavy, concentrated storm-water runoff.

2. Keep vehicles and construction equipment out of undisturbed areas to preserve the natural ground cover and vegetation.
3. Following construction, stockpiled topsoil should be uniformly redistributed to a depth of three inches.
4. Topsoil shall consist of adequate and fully composted organic material.

4.11.040 LOCATION SPECIFIC STANDARDS

A. I-70 Corridor Buffer

1. Applicability

The following standards shall apply to parcels that abut the I-70 corridor. For new uses that required additional landscaping under this section, the requirements of this section apply. General landscaping maintenance requirements apply to all parcels in the I-70 corridor.

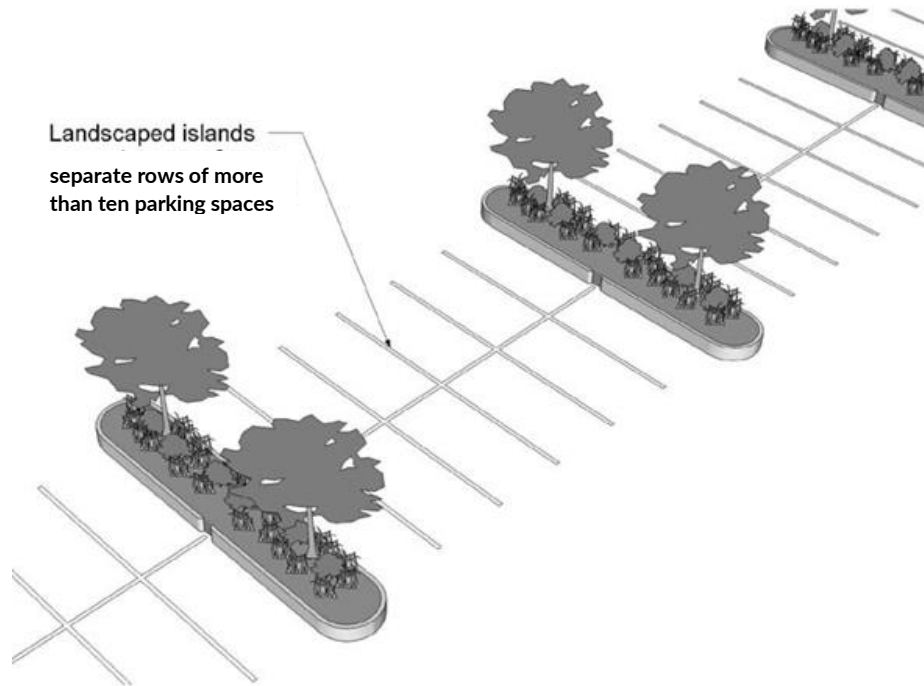
2. Buffer Requirements

- a. A minimum 15-foot-wide landscape buffer paralleling the property line shared with the interstate right-of-way shall be provided, as well as along any public or private streets that front the interstate right-of-way.
- b. A minimum of one tree shall be planted in the buffer for every 25 linear feet of property line or street frontage.
- c. Tree species, groupings and height at maturity shall be sufficient to screen outdoor uses on the property from views from vehicles traveling in either direction on I-70.
- d. Shrub massing shall be used in conjunction with tree plantings. Selected shrubs shall have a minimum mature height of eight feet.
- e. Fencing may be required in conjunction with required landscape minimums for more intense outdoor uses.

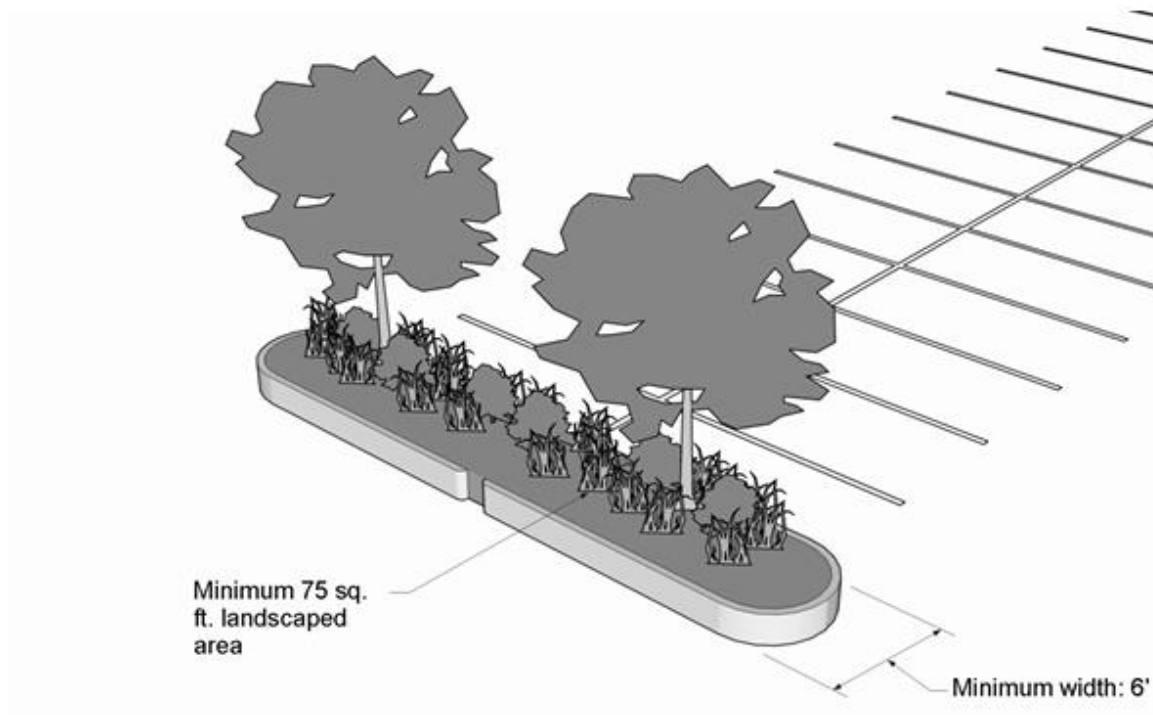
4.11.050 PARKING LOT LANDSCAPING

A. Landscaped Islands or Rain Gardens Required

1. In all districts, landscaped islands, rain gardens, or a combination of both shall be provided in parking areas along the ends of parking rows, adjacent to lot lines, and used to define the location and pattern of primary internal access drives.
2. Landscape islands and/or rain gardens shall be used to separate rows of more than 10 parking spaces in all zone districts except the Broadway District.



3. Parking lot landscaped islands or rain gardens shall be a minimum of six feet wide and contain a minimum of 75 square feet of landscaped area.



4. Parking lot planting islands and rain gardens shall contain a minimum of one tree for every 10 parking spaces in nonresidential uses, and one tree per every 6 spaces in residential uses, exclusive of perimeter landscaping and street trees.
5. All parking lots serving nonresidential uses shall be separated from adjacent residential zone districts or uses by a minimum six-foot high fence, wall, or landscaping approved by the Director.
6. The landscape islands or rain garden may be required to use raised borders, at the discretion of the Director.
7. All parking lot landscaping shall be maintained in healthy condition at the expense of the property owner.

B. Parking Lot Drainage Design

Drainage from parking lots shall not cross public sidewalks, be released onto adjacent property, or be released into natural watercourses without suitable treatment. The surface of landscape islands and divider strips may be concave to help channel surface water runoff. Drainage systems shall incorporate water quality treatment measures as approved by Public Works. Parking lots, when approved with gravel or recycled asphalt, shall provide water quality treatment as approved by Public Works.

4.11.060 SCREENING

A. Purpose

The purpose of screening standards is to completely hide stored materials from view of persons standing on the ground outside the storage area. If no particular location is specified, the standards shall be interpreted as based on the vantage point of a person standing on the ground 50-feet from the screening device on any side.

B. Screening Requirements**1. Screening of Mechanical Equipment**

All mechanical equipment, either ground-mounted or located on a rooftop, shall be screened from the view of a person standing on the property line on the far side of an adjacent public street. Individual screening of rooftop mechanical equipment is prohibited. Units shall either be grouped together “penthouse style” or screened with a parapet wall the entire length of the building. Such a parapet wall shall be designed to be integral to the overall architecture of the building.

2. Parking Lot Screening

Perimeter screening buffers shall be a minimum of five feet wide or a combination of fencing and a two-foot-wide buffer may be used. Screening shall be sufficient to screen views into parking lots from public rights-of-way.

3. Storage, Recycling and Waste Collection, and Loading Areas

- a. Storage, recycling, and waste collection, and loading areas shall be located at least 20-feet from any public street, public sidewalk, or building with a residential use. Placement of storage, recycling, and solid waste collection, and loading areas shall be sited so as not to interfere with vehicular visibility or circulation.

- b. Storage, waste collection, loading areas, and other service functions shall be incorporated into the overall design of the building and landscaping so that the acoustic impacts of these functions are contained to the maximum extent feasible, and so that such features are fully screened and out of view from public streets. Screening materials for solid waste collection and loading areas shall be of the same and of equal quality as the materials used for the primary building and landscaping.
- c. All waste collection or storage areas for multi-family projects and nonresidential projects shall be maintained within a structure on the property or enclosed by a six-foot solid material that is constructed using similar materials to the primary building(s) on the site. The enclosed trash storage areas are allowed within the setback so long as the enclosure is not covered, and the fences or wall meet the allowed fence height. Trash storage areas immediately adjacent to public alleys may be allowed without screening.

4. Storage of Recreational Vehicle

The storage of a recreational vehicle, including campers, motor homes, trailers, snowmobiles, boats, or similar vehicles (whether motorized or not), may be stored on private property but not on the designated driveway, provided that the recreational vehicle is buffered from view with a solid fence at least six feet in height or dense shrubbery of equal height from all adjacent residential properties. The storage of recreational vehicles is not permitted in any required front yard. Recreational vehicles stored inside or in rear yards shall not create secondary driveways or ruts or paths through landscaping to access storage areas.

5. Storage of Other Personal Property

The storage of personal property in a front yard is prohibited. Storage of personal property in a side or rear yard for a period of more than 15 or more consecutive days shall be screened by a solid wood fence or wall, the height of which shall be consistent with the requirements of the zone district within which the property is located. The fence also shall comply with all other materials, maintenance, and other height requirements of this section. Typical outdoor items such as patio furniture or children's play structures do require screening.

C. Screening Materials

1. Screening walls or fences shall be constructed from durable materials suited to the Town's climate and that will require low maintenance. All screening devices shall be constructed of materials and in a manner that creates a completely opaque screen through which it is not possible to see any portion or silhouette of the items being screened. Unless otherwise specified, acceptable materials for screening may include:
 - a. Masonry walls with stucco or other acceptable finish or constructed from masonry units with a stone or wood pattern or finish.
 - b. Rock or stone walls.
 - c. Wooden fences constructed from pressure treated wood or native wood.
 - d. Plant materials appropriate for screening such as trees or shrubs commonly used in hedging.
2. Other materials may be approved by the Director, based on durability and suitability within the neighborhood.

D. Height

No materials, with the exclusion of vehicles, stored within an outdoor storage area or behind a screening fence, wall, or hedging shall be stacked or stored in a way that exceeds the height of the screening walls, fence, or structure.

E. Maintenance

1. All walls, fences, or hedging shall be maintained in good condition.
2. Walls, fences, or hedging used to enclose outdoor storage areas require a building permit .

4.11.070 FENCING

A. Maximum Fence Heights

1. Generally Applicable Standards

- a. Sec. 4.02.040A clear vision areas must be maintained, and fencing may be required to be reduced to comply.
- b. A building permit is required for any fence over six feet high.
- c. Fencing within or adjacent to established wildlife habitat and movement corridors or open space parcels shall be limited to 42 inches. Both wildlife habitat and wildlife movement corridor fencing as well as fencing associated with agricultural uses in the Rural zone districts (RR1, RR2, RSC) shall adhere to the recommendations of Colorado Parks & Wildlife described in "Fencing with Wildlife in Mind" or successor publication.
(<https://cpw.state.co.us/Documents/LandWater/PrivateLandPrograms/FencingWithWildlifeInMind.pdf>)

2. Maximum Height by Zone District

Fences shall comply with the following height maximums:

Table 4.11-3: Maximum Fence Heights				
	Residential Districts			Nonresidential Districts
	Interior Lot	Corner Lot	Through Lot [1]	
Front Yard	42 in	42 in	42 in	42 in
Side Yard	6 ft	6 ft	6 ft	8 ft
Rear Yard	6 ft	6 ft	42 in	8 ft
Street side yard in front ½ lot		42 in	42 in	8 ft
Notes: [1] Fence heights for through lots and street side yards adjacent to an arterial street may be eight feet in rear yard if no access is provided and eight feet on rear half or side yard.				

Chapter 4.12 Parking and Loading Standards

4.12.010 PURPOSE

The purpose of this chapter is to ensure safe and convenient off-street parking, and to avoid impacts to public right-of-way clearances and safe passage in the streets.

4.12.020 APPLICABILITY

A. New Use or New Construction

All uses shall provide parking as required by this LUDC unless specifically exempted. Parking shall be provided at the time of erection of any structure or at the time of any change in use of any structure.

B. Expansion, Enlargement, and Nonconformities

1. When the floor area of an existing use or building is expanded, off-street parking, loading areas and parking lot landscaping shall be provided as required for the expanded floor area, whether or not they were provided for the existing use or building.
2. When the use of an existing building or space is changed, off-street parking, loading areas, and parking lot landscaping shall be provided as required for the new use, whether or not they were provided for the existing use, with the following exceptions:
 - i. Use changes in the BD are not required to provide additional parking.
 - ii. If the current use has insufficient parking to meet the requirements of Table 4.12-6, parking need only be remedied if the entire use of the structure is changed, and then only to the maximum extent feasible on the site.
 - iii. On a constrained site, where the existing lot size and applicable zone district dimensions make the provision of all required off-street parking infeasible on the lot and the property owner is not able to address that requirement sufficiently through the parking reductions in Section 4.12.060 through off-site or shared parking, the property owner may seek a Section 4.17.110A Administrative Adjustment to reduce the required amount of parking and to allow parking to be located in required side or rear setbacks, or a redevelopment determination under Section 4.17.120D.
3. Redevelopment shall not establish new noncompliance with this LUDC, regardless of the applicability of this section.

4.12.030 PARKING PLAN

- A. A parking plan including the following information is required for all development types except for single-family dwelling units and duplexes:
1. Property lines and dimensions.
 2. Existing and finished grade.
 3. North arrow and both graphic and written scales.

4. Name of applicant and consultant, if any.
 5. Identification of all proposed uses on the site with calculations for required parking space(s) per use as determined by this Code.
 6. Impervious surface calculation for all impervious, including, but not limited to, buildings, patios, decks, driveways, and parking areas, if not shown on a required landscape plan.
 7. If parking area snow storage is planned, then snow storage areas are required to be shown on the parking plan, rather than the landscape plan.
- B. The Director shall review and decide on the parking plan pursuant to Section 4.17.060C.2. A parking plan may be included with another required plan, such as a landscape plan.

4.12.040 REQUIRED OFF-STREET VEHICLE PARKING

A. Required Parking

1. Off-street parking spaces shall be provided according to Table 4.12-2.
2. When parking is required for more than one use, the sum of the requirements for all uses shall apply unless the joint use provisions of Section [4.12.060D](#).

B. Vehicle Stacking

Vehicle stacking, pursuant to Section [4.12.080A](#), may also be permitted.

C. Calculation

1. When determination of the number of parking or loading spaces results in a requirement of a fractional space, the next highest whole number shall apply.
2. When there are multiple structures on a lot or multiple uses in a structure, parking shall be calculated separately for each different use area in a building or on a site, including all accessory uses.
3. Parking spaces required on a per-employee basis shall be based on the maximum number of employees on duty and residing on the premises at any one time.
4. Parking spaces required based on the number of beds in a facility shall be calculated based on the number of beds accommodated in the maximum design capacity of the facility.
5. When the standards use seating as a unit of measurement, all calculations shall be based on the number of fixed seats. If fixed seats are not provided, then parking shall be determined at a rate of one space per four occupants unless otherwise specified in this section.
6. When the standards use the number of occupants as a unit of measurement, all calculations shall be based on the maximum occupant load, as determined by the adopted building code.

D. Uses Not Listed

If a proposed use is not listed in Table 4.12-1, the Director shall apply the interpretation process described in Section [4.12.040F](#). The applicant shall provide adequate information so that the Director can make such decision by including:

1. Type of uses;

2. Number of employees;
3. Building design capacity;
4. Square feet of different areas;
5. On-site parking spaces;
6. Proposed off-site parking spaces; and
7. Hours of operation.

Table 4.12-1: Off-Street Parking Standards

Use Category	Required Parking Spaces
KEY: DU = Dwelling Unit BR = Bedroom GFA = Gross Floor Area (total)	
RESIDENTIAL [Category description: Section 4.20.050A]	
Residential Uses [Subcategory description: Section 4.20.050A.2]	
Cottage Court	2 per DU
Dormitory Living / Hostel	Min. 2 per room or 1 per bed for rooms with ≥ 4 beds.
Dwelling Detached, Single Unit/Single-Family	- Units with < 3 BRs: 2 per DU - Units with ≥ 3 BRs: 3 per DU
Dwelling Attached, Two Units/Duplex	- Units with < 3 BRs: 2 per DU - Units with ≥ 3 BRs: 3 per DU
Dwelling Attached	- Units with < 3 BRs: 2 per DU - Units with ≥ 3 BRs: 3 per DU
Dwelling, Multi-Unit Building	- Studio Units: 1 per DU 1 BR Units: 1.5 per DU 2 BRs Units: 2 per DU ≥ 3 BRs: 2.5 per DU - Plus 1 space per 6 units
Manufactured Home Park	- Units with < 3 BRs: 2 per DU - Units with ≥ 3 BRs: 3 per DU
Manufactured Home, standard or tiny	- Units with < 3 BRs: 2 per DU - Units with ≥ 3 BRs: 3 per DU
Mixed-Use Structure including DUs	- Studio Units: 1 per DU 1 BR Units: 1.5 per DU 2 BRs Units: 2 per DU ≥ 3 BRs: 2.5 per DU
Accessory Dwelling Unit	1 dedicated stand-alone parking space per ADU, may be located in a garage or on a driveway/parking pad.
Lodging [Subcategory description: Section 4.20.050C.2]	
Bed and Breakfast Facility	Min 2 plus 1 per guest room
Boutique Hotel (small format)	1 per guest room
Hotel/Motel (large format)	1 per guest room - Plus 1 space per 6 guest rooms

Table 4.12-1: Off-Street Parking Standards

Use Category	Required Parking Spaces
KEY: DU = Dwelling Unit BR = Bedroom GFA = Gross Floor Area (total)	
Recreational Vehicle Park / Camping	1 per campsite in RV park - Plus 1 per 4 campsites
Short-Term Rental	As required for dwelling type
Accessory RV Parking	1 per site
Agriculture [Subcategory description: Section 4.20.050E.2]	
Commercial Greenhouse	1 per 1,000 SF of site area
Community Garden	1 per plot / raised plant bed
Farmer's Market	No requirement
Farm Stand	3 per farm stand on one lot
Horse Boarding	1 per 400 SF building area
Outfitter Guide	1 per 400 SF building area - Plus 1 per 1,000 SF of site area
Ranching / Farming	As required for all dwelling unit types on the property, cumulatively
Riding Stables	1 per 400 SF building area - plus 1 per 10,000 SF site area
Solar Farm	1 per employee during largest shift
Wind Farm	1 per employee during largest shift
Open Space and Recreation [Subcategory description: Section 4.20.050B.2]	
Arboretums/ Botanic Gardens/Zoos	1 per 4 occupants at capacity
Golf Course or Swimming Pool, outdoor	1 per 300 SF of occupied buildings (separate storage sheds or structures not included in calculation)
Motor Sports Tracks	1 per 4 occupants at capacity
Public Parks, Playgrounds, Preserves and Open Space	No Requirement
Public Recreation Facilities Outdoors, Playfields (w/lighting or PA system)	1 per 250 SF of building - Plus 1 per 10,000 sf of site area
Recreation Facility, indoors (< 6,500 sf or > 6,500 sf)	1 per 400 SF of building area
Shooting / Archery Range, indoors	1 per 400 SF of building area
Public, Civic, and Institutional [Subcategory description: Section 4.20.050B]	
Assisted Living / Group or Retirement Home	1.5 per DU - Plus 1 guest space per 6 DUs
Bus Stop	No requirement
Bus/Fleet Maintenance Facility	4.12.040F, Uses with Variable Parking Demand
Cemetery	1 per 400 SF of building area
Childcare Home (≤ 6 children)	Based on DU type

Table 4.12-1: Off-Street Parking Standards

Use Category	Required Parking Spaces
KEY: DU = Dwelling Unit BR = Bedroom GFA = Gross Floor Area (total)	
Community Building / Civic Assembly or Auditorium	1 per 400 SF of building area
Emergency Services Station	1 per 350 sf
Funeral Home / Crematorium	1 per 300 SF of building area
Government / Public Service Offices	1 per 400 SF building area
Government / Public Service Operations Yard	1 per 400 SF of building area used as office - Plus 1 per 1,000 SF of building area used as warehousing
Hospital or In-Patient Health Care Facility or Urgent Care Facility	1 per 300 SF building area
Library	1 per 400 SF of building area
Museum	1 per 400 SF of building area
Nursing Home	1 per 4 beds
Outpatient Medical, Dental or Optical Clinic (no in-patient services)	1 per 300 SF building area
Regional Transit Station	Section 4.12.040F, Uses with Variable Parking Demand
Religious Assembly or Church	1 per 300 SF of building or assembly area
School, College or University (public or private)	1 per 300 SF of building area
School, Preschool or Childcare Center	1 per 300 SF - Plus 2 stacking spaces at drop-off area
School, Primary and Secondary (public or private)	- Elementary School: 2 per classroom - Middle School: 2 per classroom - High School: 5 per classroom
School, Trade, Business, Technology, Vocational	1 per 300 SF building area
Utility Substation	Section 4.12.040F, Uses with Variable Parking Demand
Water Impoundment	Section 4.12.040F, Uses with Variable Parking Demand
Wireless Communication Facilities (WCF)	No Requirement
Mixed-Use / Commercial [Subcategory description: Section 4.20.050C.2]	
Auto Repair	1 per 300 SF, plus 3 per service bay
Auto Sales / Rentals	1 per 500 SF sales area, plus 2 per repair bay
Bank / Financial Institution	1 per 300 SF plus stacking if there is a drive-thru
Bar / Tavern / Distillery	1 per 200 SF
Boutique Food and Drink (no alcohol)	1 per 200 SF
Car Wash	1 per 300 SF retail and office area, plus 3 stacking spaces per service lane and 1 stacking space per detailing bay (if separate from wash bay/lane)

Table 4.12-1: Off-Street Parking Standards

Use Category	Required Parking Spaces
KEY: DU = Dwelling Unit BR = Bedroom GFA = Gross Floor Area (total)	
Commissary / Commercial Kitchen	1 per 600 SF
Fast Food	1 per 200 SF, plus stacking if there is a drive-thru
Gas Station / Traveler's Convenience	1 per pump plus 1 per 300 SF retail and office area plus stacking
General Retail, < 10,000 sf, local	1 per 400 SF for the first 2,000 SF + 1 per 300 SF over 2,000 sq. ft. up to 10,000 SF total
General Retail, > 10,000 sf, regional	1 per 400 SF for the first 2,000 SF + 1 per 300 SF over 2,000 sq. ft. up to 50,000 SF total, then 1 per 1,000 SF thereafter.
Grocery / Supermarket	1 per 400 SF for the first 2,000 SF + 1 per 300 SF over 2,000 sq. ft. up to 50,000 SF total, then 1 per 1,000 SF thereafter
Home Furnishings / Flooring / Fabrics / Appliances	1 per 400 SF for the first 2,000 SF + 1 per 300 SF over 2,000 sq. ft. up to 50,000 SF total, then 1 per 1,000 SF thereafter
Kennel Board Facility / Pet Daycare	1 per 1,000 SF (indoor & outdoor)
Landscape / Plant Sales	1 per 1,000 SF of site area
Liquor Store	1 per 300 SF
Lumberyard	1 per 400 SF for retail building area plus 1 per 1,000 SF for warehouse or outdoor storage
Motor Sports, repair / sales	1 per 300 SF, plus 3 per service bay
Office, accessory	1 per 400 SF
Outdoor Storage	1 per 1,000 SF of site used or designed for storage
Parking Facility	No minimum requirement
Personal / Professional Services	1 per 400 SF
Recreation Services	1 per 400 sf of building area
Recycling Drop-off	1 per 600 SF of site area
Restaurant	1 per 200 SF, plus stacking if there is a drive-thru
Restore / Thrift / Antique / Second Hand	1 per 400 SF for the first 2,000 SF + 1 per 300 SF over 2,000 sq. ft. up to 100,000 SF total
Self-Storage / Mini Storage	3 spaces, plus 1 per resident caretaker
Sexually Oriented Business	1 per 200 SF of building area
Temporary Uses	No requirement
Theater	1 per 4 seats
Veterinarian, office	1 per 400 SF of building area
Veterinarian, outdoor/kennel	1 per 1,000 SF (indoor & outdoor)
Marijuana [Subcategory description: Section 4.20.050C.2]	
Retail	1 per 300 sf
Manufacturing facility	1 per 1,000 SF storage, warehousing, and distribution area, plus 1 per 35 SF manufacturing, assembly, packing, preparation, plus 1 per 300 SF for retail sales and office area

Table 4.12-1: Off-Street Parking Standards	
Use Category	Required Parking Spaces
KEY: DU = Dwelling Unit BR = Bedroom GFA = Gross Floor Area (total)	
Alternative Energy Production [Subcategory Description: Section 4.20.050D.2]	
Solar or Wind Power Array, large/utility	1 per site
Industrial, Wholesale, Storage [Subcategory Description: Section 4.20.050D.2]	
Asphalt or Concrete Plant	See Table 4.12-3: Parking for Industrial, Wholesale, and Storage Uses
Bulk Storage of Hazardous	See Table 4.12-3: Parking for Industrial, Wholesale, and Storage Uses
Contractor's Shop / Warehouse, indoors	1 per 400 SF of office, plus 1 per 1,000 SF of warehouse for shop or storage
Contractor Yard, outdoor storage	1 per 1,000 SF of floor area used or designed for storage
Equipment Rental, Sales, and Service	1 per 500 sf - See Table 4.12-3: Parking for Industrial, Wholesale, and Storage Uses
Food Processing	1 per 600 SF of building space
Machine Shop / Welding / Carpentry, indoor	1 per 400 SF of office, plus 1 per 1,000 SF of warehouse, shop, storage
Manufacturing and Assembly, heavy	See Table 4.12-3: Parking for Industrial, Wholesale, and Storage Uses
Manufacturing and Assembly, light	See Table 4.12-3: Parking for Industrial, Wholesale, and Storage Uses
Mineral Extraction and Processing	Section 4.12.040F, Uses with Variable Parking Demand
Motor Freight Depot / Rail Transfer Yard	Section 4.12.040F, Uses with Variable Parking Demand
Newspaper Production / Printing	1 per 400 SF of office, plus 1 per 1,000 SF of production/printing/warehouse area
Salvage / Wrecking Yard	See Table 4.12-3: Parking for Industrial, Wholesale, and Storage Uses
Sawmill / Forestry Product Processing	Section 4.12.040F, Uses with Variable Parking Demand
Sign Shop	1 per 400 SF of building area
Wholesale Assembly	See Table 4.12-3: Parking for Industrial, Wholesale, and Storage Uses
Wholesale Warehouse / Distribution Center	See Table 4.12-3: Parking for Industrial, Wholesale, and Storage Uses

E. Parking for Industrial, Wholesale, and Storage Uses

Uses that reference this subsection in Table 4.12-1 shall provide the minimum number of parking spaces identified in Table 4.12-2. The total number of required spaces is cumulative based on the variety of different functions present in a single structure or lot.

Table 4.12-2: Parking for Industrial, Wholesale, and Storage Uses

Use or Activity	Minimum Required
Office or administrative area	1 per 400 sf
Indoor sales area	1 per 400 sf

Table 4.12-2: Parking for Industrial, Wholesale, and Storage Uses

Use or Activity	Minimum Required
Assembly, vehicular service, or manufacturing area:	First 1-3,000 sf of floor area: 1 per 200 sf
	Additional SF over 3,000 calculated as follows:
	3,001-5,000 sf of floor area 1 per 500 sf
	5,001-10,000 sf of floor area 1 per 750 sf
	10,001 or more sf of floor area 1 per 1,250 sf
Indoor storage or warehousing area	1 per 1,000 sf or 1 per employee on largest shift, whichever is greater
Outdoor sales, display, or storage area (3,000 sf or less)	1 per 750 sf
Outdoor sales, display, or storage area (more than 3,000 sf)	1 per 1,000 sf

F. Uses with Variable Parking Demand

Uses that reference this subsection in Table 4.12-1 have widely varying parking demand characteristics, making it difficult to establish a single parking standard. Upon receiving a development application for a use subject to this subsection, the Director shall:

1. Apply the parking standard specified for the listed use that is deemed most similar to the proposed use, or
2. Establish minimum parking standards on the basis of a parking study prepared and paid for by the applicant. The parking study shall:
 - a. Include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) Parking Generation, or other acceptable estimates as approved by the Director, including reliable data collected from uses or combinations of uses that are the same as or comparable to the proposed use.
 - b. Document the source of data used to develop the recommendations. Comparability will be determined by density, scale, bulk, area, type of activity, and location.

G. Broadway District Adjustments

The following standards are applicable in the Broadway District:

1. On-site parking requirements for residential use may be met by enclosed/underground parking garage.
 - a. Garages may be located within the side or rear setback but shall conform to the accessory structure setbacks in the applicable zone district.
 - b. Service entrances and access must be provided when garages are located in the rear yard.

H. ADA Accessible Parking

All parking lots shall provide the minimum number of accessible parking spaces required by the federal Americans with Disabilities Act (ADA). All accessible parking spaces shall meet the design and location requirements of the ADA. Accessible parking spaces shall be counted toward the minimum number of spaces required.

I. EV Charging

On-site electric vehicle charging shall be provided in compliance with the Colorado Model Electric Ready and Solar Ready Code as applicable to the Town.

J. Exclusive Use for Parking

1. Except for single-family dwellings and duplexes, no off-street parking or loading space shall be used for any purpose other than the parking of vehicles.
2. No parking space shall be converted to another use unless it is replaced concurrently with another parking space meeting all of the requirements of this LUDC.

4.12.050 BICYCLE PARKING**A. Applicable Design Standards**

1. When required, bicycle parking must comply with the Association of Pedestrian and Bicycle Professionals (APBP) Essentials of Bike Parking guidelines, or other standards as adopted by the Town.
2. In Mixed-Use, Commercial, and Public districts, all short-term racks shall be located within 50 feet of the primary entrance of the building served by the rack(s) and shall be visible when facing that primary entrance. Additional short-term bicycle parking is not required in the Broadway District.

B. When Required

Bicycle parking shall be provided as required in Table 4.12-3: Bicycle Parking. Where the amount of required parking is not specified, the Director shall interpret the applicability of this table based on similar types of uses.

Table 4.12-3: Bicycle Parking			
Use Category	Short-Term (bike rack, less than 2 hours)	Long-Term (secure area, longer than 2 hours)	Exceptions
KEY: DU = Dwelling Unit BR = Bedroom GFA = Gross Floor Area (total)			
RESIDENTIAL [Category description: Section 4.20.050A]			
Household Living [Subcategory description: Section 4.20.050A.2]			
Dwelling Detached, Single Unit	Not required	Not required	
Duplex	Not required	Not required	
Dwelling Attached, with private garage or appropriately sized locked storage unit for each unit	Not required	Not required	
Dwelling, Multi-Unit Building (3+ DUs per structure) with private garage or appropriately sized locked storage unit for each unit	Min 2 + .05 per BR	Not required	
Dwelling, Multi-Unit Building (3+ DUs per structure), without private garage or appropriately sized locked storage unit for each unit	Min 2 + .05 per BR	Min 2 + 0.5 per BR	

Table 4.12-3: Bicycle Parking			
Use Category	Short-Term (bike rack, less than 2 hours)	Long-Term (secure area, longer than 2 hours)	Exceptions
KEY: DU = Dwelling Unit BR = Bedroom GFA = Gross Floor Area (total)			
Manufactured Home	Not required	Not required	
Mixed-Use Structure including DUs	Apply multi-unit standards based on garage availability		
Group Living [Subcategory description: Section 4.20.050A.2]			
Group Home	Apply Household Living type		
Nursing Home	Min 2 + 1 per 20,000 SF GFA	Min 2 + 1 per 70,000 SF GFA	
Retirement Home or Assisted Living Facility	Min 2 + .05 per bedroom	Min 2 + 0.5 per bedroom	
PUBLIC, CIVIC, AND INSTITUTIONAL [Category description: Section 4.20.050B]			
Assembly, Civic [Subcategory description: Section 4.20.050B.2]			
Assembly, All	Spaces for 2% max daily expected attendance	Min 2 + 1 per 10 employees	
Education [Subcategory description: Section 4.20.050B.2]			
School, College, or University	Min 2 + 1 per 10 students at planned capacity	1 per 20,000 SF GFA	
School, Preschool or Nursery >15 kids at capacity	Min 2 + 1 per 20 students at capacity	Min 2 + 1 per 20 employees	
School, Primary and Secondary	Min 2 + 1 per 20 students at capacity	Base: Min 2 + 1 per 10 employees Grade 4 and higher: Base + 1 per 20 students at planned capacity	
Government and Public Safety [Subcategory description: Section 4.20.050B.2]			
Government Buildings and Offices	Min 2 + 1 per 10,000 SF GFA	Min 2 + 1 per 10 employees	
Health Care and Social Assistance [Subcategory description: Section 4.20.050B.2]			
Health Care/ Hospital	Min 2 + 1 per 20,000 SF GFA	Min 2 + 1 per 70,000 SF GFA	
Parks and Recreation [Subcategory description: Section 4.20.050B.2]			
All	Spaces for 2% max daily expected attendance	Min 2 + 1 per 10 employees	
Transportation [Subcategory description: Section 4.20.050B.2]			

Table 4.12-3: Bicycle Parking			
Use Category	Short-Term (bike rack, less than 2 hours)	Long-Term (secure area, longer than 2 hours)	Exceptions
KEY: DU = Dwelling Unit BR = Bedroom GFA = Gross Floor Area (total)			
All + Public Parking Lots (unattended surface parking excepted)	Min 6 + 1 per 20 auto spaces	Min 2 + 1 per 20 auto spaces	
Utilities and Public Services [Subcategory description: Section 4.20.050B.2]			
Office	Min 2 + 1 per 20,000 SF GFA	Min 2 + 1 per 10,000 SF GFA	
Wireless Communication Facilities [Subcategory description: Section 4.20.050B.2]			
All	Not required	Not required	
COMMERCIAL [Category description: Section 4.20.050C]			
Assembly: Amusement, and Entertainment			
All	Spaces for 2% max daily expected attendance	Min 2 + 1 per 10 employees	
Eating and Drinking Establishments			
All	Min 2 + 1 per 5,000 SF GFA	Min 2 + 1 per 12,000 SF GFA	
Lodging			
All	Not required	Min. 2 except for short-term rental	
Office			
All	Min 2 + 1 per 20,000 SF GFA	Min 2 + 1 per 10,000 SF GFA	
Retail, Commercial Service, Financial Service, Animal Sales and Service			
General	Min 2 + 1 per 5,000 SF GFA	Min 2 + 1 per 12,000 SF GFA	
Food Sales	Min 2 + 1 per 2,000 SF GFA	Min 2 + 1 per 12,000 SF GFA	
Vehicle Sales and Service, Personal [Subcategory description: Section 4.20.050C.2]			
All	Min 2 + 1 per 20,000 SF internal GFA	Min 2 + 1 per 12,000 SF internal GFA	
INDUSTRIAL, WHOLESALE, AND STORAGE [Category description: Section 4.20.050D]			
All	Min. 2	Min 2 + 1 per 15,000 SF internal GFA	

4.12.060 VEHICLE PARKING EXCEPTIONS AND REDUCTIONS

A. Voluntary Parking In-Lieu Fee**1. Program Boundary**

For properties located within the Town's Parking Fee-In-Lieu Program Boundary (the "Program Boundary"), defined by Grand Avenue to the north and west, Howard Street to the east, and 5th Street to the south (Figure 4-12.A), a property owner or applicant may voluntarily satisfy up to 50 percent of the property's parking requirements by providing a cash in-lieu payment to the Town; provided that the following required parking is provided:

- a. All parking required to meet ADA requirements shall be constructed on the subject property; and
- b. In the OTR district, one off-street parking space shall be provided for each residential unit on the property.

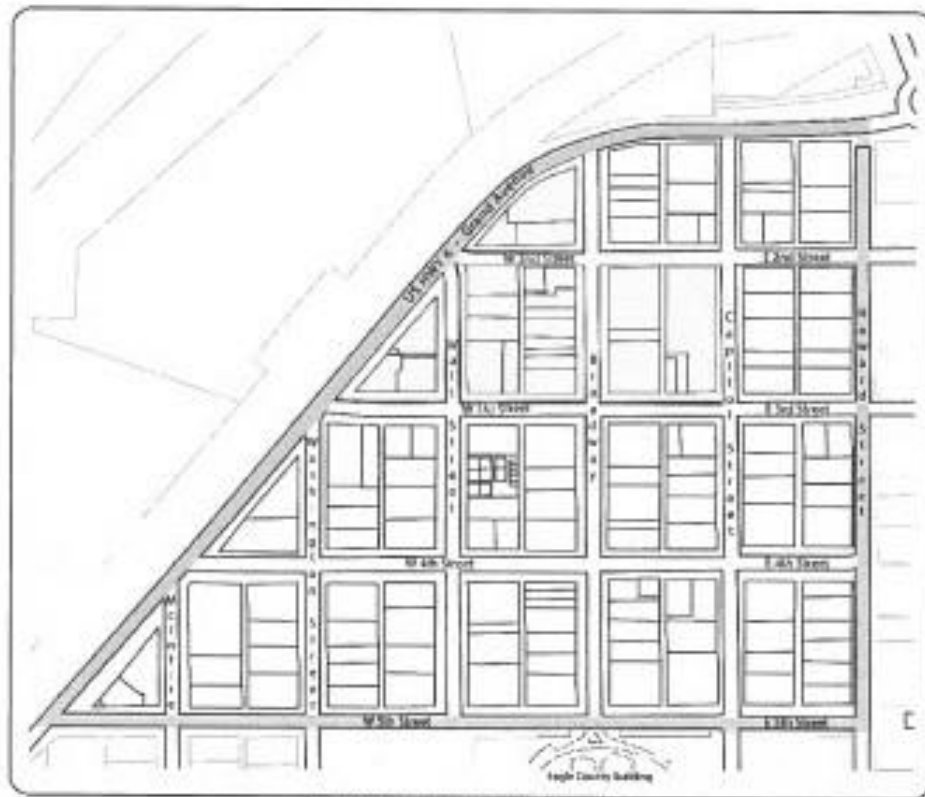


Fig. 4-12.A: Program Boundary

2. Amount

The amount of the parking fee in-lieu shall be twenty-three thousand one hundred dollars (\$23,100) per space. The fee shall be automatically adjusted on January 1st of each year by the percentage that the construction cost index has increased or decreased. The current amount for each year shall be shown in the fee schedule adopted by the Town Council by resolution.

3. Payment

- i. The fee-in-lieu shall be due and payable with the application for a development permit, special use permit or building permit, whichever comes first.
- ii. A property owner or applicant, at its expense, may construct public parking adjacent to its property, with all associated infrastructure and improvements required by the Town. If such parking is constructed, the fee-in-lieu shall be reduced to sixteen thousand one hundred dollars (\$16,100) per space, adjusted on January 1st of each year by the percentage that the construction cost index has increased or decreased. All such parking shall comply with the parking standards set forth in this section and the standards for construction within the public right-of-way set forth in Chapter 13.18.

4. Use of Funds

All funds collected pursuant to this section shall be used to conduct parking studies or evaluations, construct parking facilities, operate and maintain parking facilities, and administrative services related to parking, all within the Program Boundary.

B. BD District

Use changes within the BD District are not required to provide additional off-street parking above what existed at the time of the use change, regardless of the requirements of Table 4.12-1.

C. Administrative Adjustment

Applications meeting the requirements of Section 4.17.110A shall be eligible for the parking reduction approved through that process.

D. On-Street Parking

On-street parking spaces on residential local streets that allow on-street parking and are directly adjacent to the property served may be counted towards the number of required spaces subject to the following:

1. Marked spaces shall be counted if:
 - a. 50 percent or more of the stall length of a parallel space is adjacent to the property served;
or
 - b. 50 percent or more of the stall width of perpendicular or angled parking is adjacent to the property served.
2. Unmarked parallel spaces shall be determined by dividing the total curb length adjacent to the property served where parking is permitted by 20 feet.
3. On-street parking requests shall be subject to Administrative Review and are subject to all relevant parking requirements, restrictions and standards contained within the rest of the Municipal Code and other relevant documents as adopted by the Town Council.

E. Joint Use of Parking Spaces

1. Where an applicant can document that two separate uses do not require parking during the same hours and that adequate provisions have been made to ensure that the uses will not require parking during the same hours, the applicant may petition the Director for permission to allow parking spaces which otherwise comply with the provisions of this LUDC to fulfill the requirements for both uses.

- a. Permission for such joint use of parking spaces may be granted subject to such conditions as the Director finds necessary to carry out the purpose and intent of this LUDC.
 - b. Joint parking requests shall follow the Town's review procedures for Administrative Review as provided in Section 4.17.060C.2.
2. Common parking areas may be provided in areas designated to serve jointly two or more buildings, units, structures or uses, provided that the total number of parking spaces shall not be less than that required for each use unless reduced by a joint parking approval.

Table 4.12-4: Shared Parking Reduction

Property Use	Multifamily Dwellings	Public, Institutional, and Civic	Food and Beverage, Indoor Recreation, or Lodging	Retail Sales	Other Commercial
Multifamily Dwellings	--	--	--	--	--
Public, Institutional, and Civic	1.1	1.0	--	--	--
Food and Beverage, Indoor Recreation, or Lodging	1.1	1.2	1.0	--	--
Retail Sales	1.2	1.3	1.3	1.0	--
Other Commercial	1.3	1.5	1.7	1.2	1.0

F. Transit Offset

1. The number of required parking spaces may be reduced for developments within 1,320 feet of a fixed route transit service station or stop located outside of the Broadway District.
2. To be eligible for a transit reduction, the applicant must provide documentation of contracting for and securing a minimum of three years of employee transit passes. The reduction in required parking spaces shall be one space for each transit pass purchased meeting these requirements.
3. Uses eligible for a transit offset in the number of required parking spaces are:
 - a. Rented or leased residential multi-family living units or manufactured home park with eight or more living units where a transit pass is included in the rental or lease of selected individual units: The maximum transit offset shall not exceed 20% of the number of living units in the complex.
 - b. Hospitals; professional offices, including medical and dental clinics or offices; and financial institutions: the maximum transit offset shall not exceed 20 percent of the total required parking for such uses.

G. Active Transportation Reduction

The Director may grant a five percent parking reduction if the building or use is within 1,320 feet of a recreational trail or bike route and a sidewalk connection is provided between the site and the recreational trail or bike route.

H. Transportation Demand Management Reduction

The Director may allow a reduction in required parking for employers that enter into a Transportation Demand Management (TDM) Agreement that specifies how on-site parking will be reduced through property owner or operator programs or initiatives that reduce the number of employees on-site. Any TDM Agreement, whether used independently or in combination with other allowed parking reductions, is subject to a 25 percent limitation on overall parking reduction. Such programs may include the following:

1. Compressed work week schedules;
2. Flexible arrival and departure times;
3. Telework opportunities; or
4. Incentives for employees to use alternative modes of transportation to the work place.

I. Reduced Need Populations

The required minimum number of parking spaces may be reduced by one of the following:

1. 33 percent for any group living use or multi-unit use in which occupancy of at least 80 percent of the units is restricted for use by those 65 years of age or older.
2. 50 percent for any group living use or multi-unit use in which occupancy of more than 80 percent of the units is restricted for use by those meeting the definition of "individual with a disability under the federal Fair Housing Act.

J. Enhanced Bicycle Parking

The minimum parking required by Table [4.12-3](#) may be reduced by 5 percent if the applicant:

- a. Provides at least two electric bike charging spaces; or
- b. Provides a dedicated bicycle storage area with at least 2 showers and 4 lockers for every shower provided.

4.12.070 VEHICLE PARKING ACCESS, LOCATION, AND DESIGN

A. Access

Access shall be provided as follows. Access ways shall be designed so as to reduce the number and proximity of access points along public streets.

1. All Lots and Uses

- a. Minimum length of a driveway from the front of the garage door to the back of sidewalk shall be a minimum 30-feet, this shall only apply where a sidewalk is present.
- b. Access ways on the same lot frontage shall be separated a minimum of 30 feet, measured linearly along the property line.
 - i. Lots with 100 to 200 feet of frontage: the minimum access way separation shall be increased by one foot for every five feet of property length beyond 100 feet.
 - ii. Lots exceeding 200 feet of frontage: access ways shall be separated by at least 50 feet.

- iii. Corner lot: access ways shall be located not closer than 50 feet to the intersecting street right-of-way line, or where lot frontage is less than 75 feet, the maximum distance possible from the intersecting street right-of-way line, as determined by the Director.
- c. The intersection of an access way with a public street shall be located not closer than 15 feet to a side lot line, except that a common access way to two adjacent properties with combined width not exceeding 35 feet may be provided at the common lot line. This total amount provided from each lot may be adjusted below 15 feet provided the full required width is met.
- d. Single-family dwellings and duplexes may stack parking spaces, except that unobstructed and direct access must be provided for a minimum of two spaces.

2. Parking Area Access

The following standards apply to all uses except single-family residences or duplexes:

- a. Each access way between a public street and the parking area shall be between 15-feet and 35-feet wide at the intersection of the access way with the public street.
 - i. A divider stop at least six feet long shall be installed if the access way exceeds 25 feet in width.
 - ii. Each access way shall be clearly and permanently marked and defined through the use of landscaping, rails, fences, walls or other barriers or markers. Access way marking and defining may be augmented by painting or striping.
- b. Access from any parking area onto a collector or arterial street and from any parking area with four or more parking spaces onto a local street shall be designed to permit user vehicles to enter and exit unrestricted in forward drive.

B. Location

1. Parking areas or spaces shall be located as follows:

Table 4.12-5: Location of Parking Spaces	
Use Category	Where Allowed
Residential: detached, attached, and multifamily up to 8 units	• Same lot as dwelling, or • Common lot associated with dwelling
Residential multifamily, more than 5 units	• Same lot as dwelling, • Common lot associated with dwelling, or • Within a 200-foot radius of the subject property, measured from any point on the property [1]
Mixed-Use and Nonresidential	• Same lot as structure, • Common lot associated with structure, or • Within a 200-foot radius of the subject property, measured from any point on the property [1]
Enclosed underground parking	Anywhere on a lot
Broadway District	On street and off street per Sec. 4.12.070D.3

Table 4.12-5: Location of Parking Spaces

Use Category	Where Allowed
Notes: [1] Parking Agreement required if structure and parking lots are in different ownership.	

2. No parking space shall be located closer than five feet from a window or door of a habitable structure.

C. Generally Applicable Parking Area Design Standards

1. Maneuvering

Projects that require parking areas with more than six parking spaces shall provide maneuvering areas that accommodate ingress and egress from the lot by forward motion of vehicles. A request may be made to the Director to allow parking for such projects with parking that backs out directly onto a street if an applicant can show this is a safe alternative.

2. Grade

- a. Outdoor parking areas shall not exceed four percent grade and shall not be less than one percent grade and shall be pitched away from habitable structures unless otherwise approved by the Director.
- b. The grade of access ways / driveways shall not exceed four percent within 100 feet of the intersection with a public street unless otherwise approved by the Director.

3. Drainage

All parking areas shall be designed and graded to restrict site drainage to a rate no greater than the historical rate, before development, for the 25-year storm, or shall include development of a storm drainage system to convey runoff water to a site approved by the Director.

4. Snow Storage and Removal

Snow from private lots shall not be pushed into or stored in public rights-of-way.

5. Garages and Covered Parking

Parking requirements may be met by garages and carports covering or enclosing spaces which comply with minimum size provisions of this LUDC.

6. Stall Size

Unless otherwise provided in Table 4.12-6, the following standards apply:

- a. Each off-street parking space shall cover an area not less than nine feet wide and 19 feet long, except for designated compact spaces, which will be no less than eight feet wide and 16 feet long. No more than 20% of the total spaces required shall be compact.
- b. Parallel parking spaces shall be a minimum of 22 feet in length.

7. Lighting

Parking lot lighting per Section 4.13.040C, Outdoor Lighting, shall be provided in all parking areas with more than ten spaces used or designed for use during evening hours.

8. Landscaping

Parking lot landscaping shall be provided in accordance with Section 4.11.050.

9. Loading

Loading and unloading of vehicles shall be conducted on private property and not on any street or alley, except in the BD, where it may be from a designated loading zone or alley."

10. Stacked Spaces

Required parking may be provided in stacked spaces to accommodate two vehicles parked end-to-end as follows:

- a. Vehicles may be parked in on a driveway, in a garage/carport, or both; and
- b. For each dwelling unit, including accessory dwelling units, at least one parking space shall be provided that is not blocked by another parking space.

11. Garage and Carports

- a. To allow for vehicle maneuvering and prevent vehicles from overhanging the sidewalk, there shall be a minimum clear distance on private property of 20 feet perpendicular to the garage doors or carport openings that are perpendicular to the public right-of-way.
- b. When garage doors or carport openings face an alley, a minimum of 5 feet shall be provided from the garage door or carport opening to the closest alley right-of-way boundary. Parking between the garage or carport and alley shall not be permitted unless at least 20 feet of pavement between the garage or carport and the alley is provided.

D. Standards for Multiunit, Mixed-Use, and Nonresidential Structures

1. Parking Area Layout

Every parking area shall be designed according to Table 4.12-6 except as provided in Section 4.12.070D.3, BD Parking.

- a. The top line of figures for each parking angle constitutes minimum design standards and the lower two lines constitute higher standards to be employed at the option of the applicant.
- b. The applicant may select the parking angle and the line of figures for such parking angles and then all figures in that line shall become the applicable design requirements.

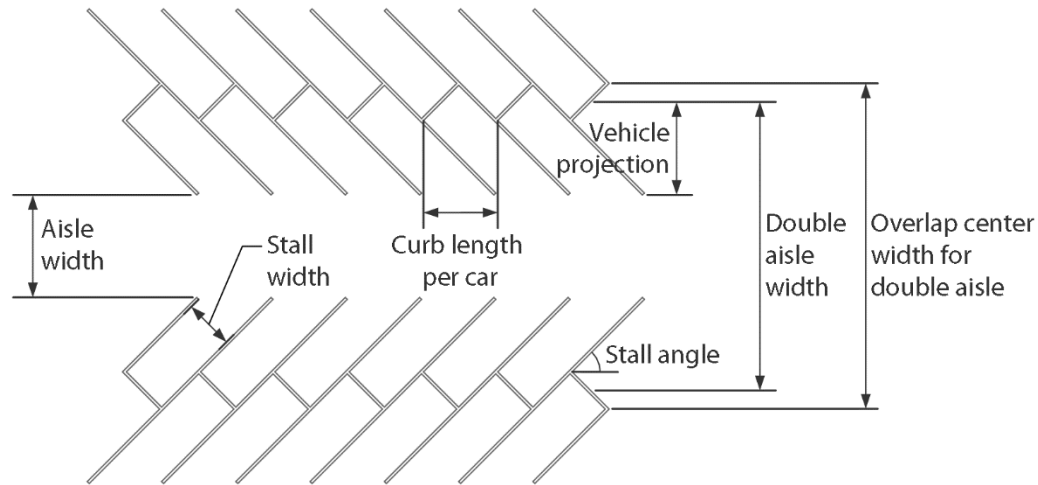


Figure 12-A: Off-Street Parking Dimensions

Parking Angle (degrees)	Stall Width	Length of Stall to Curb (ft)	Aisle Width (ft)	Curb Length per Stall (ft)	Width of Double Row with Aisle (ft)
10	9'0"	9.0	12.0	23.0	30.0
	9'6"	9.5	12.0	23.0	31.0
	10'0"	10.0	12.0	23.0	32.0
20	9'0"	15.0	11.0	26.3	41.0
	9'6"	15.5	11.0	27.5	42.0
	10'0"	15.9	11.0	29.2	42.0
30	9'0"	17.3	11.0	18.0	45.6
	9'6"	17.8	11.0	19.0	46.6
	10'0"	18.2	11.0	20.0	47.0
45	9'0"	19.8	13.0	12.7	52.5
	9'6"	20.1	13.0	13.0	53.3
	10'0"	20.5	18.0	14.1	54.0
60	9'0"	21.0	18.0	10.4	60.0
	9'6"	21.2	18.0	11.0	60.4
	10'0"	21.5	18.0	11.5	61.0
70	9'0"	21.0	19.0	9.6	61.0
	9'6"	21.2	18.5	10.1	60.9
	10'0"	21.2	18.0	10.6	60.4
80	9'0"	20.3	24.0	9.1	64.3
	9'6"	20.4	24.0	9.6	64.3
	10'0"	20.5	24.0	10.2	65.0
90	9'0"	19.0	24.0	9.0	62.0
	9'6"	19.0	24.0	9.5	62.0

Table 4.12-6: Minimum Parking Space and Driveway Requirements

Parking Angle (degrees)	Stall Width	Length of Stall to Curb (ft)	Aisle Width (ft)	Curb Length per Stall (ft)	Width of Double Row with Aisle (ft)
	10'0"	19.0	24.0	10.0	62.0

2. Surface Materials

Parking areas shall be surfaced as follows:

- a. Residential: all parking areas serving five or fewer residential units shall be surfaced with asphalt, concrete, brick, gravel, or road base.
- b. Multiunit: all parking areas serving five or more residential units shall be surfaced with asphalt or concrete.
- c. Mixed-Use and Nonresidential
 - i. 10 or fewer parking spaces and less than 3,000 square feet of parking area shall be surfaced with asphalt, concrete, brick, gravel, or road base.
 - ii. More than 10 parking spaces or more than 3,000 square feet of parking area shall be surfaced with asphalt or concrete.

3. BD Parking

- a. In the Broadway District, both parallel and diagonal parking currently exists. This is the traditional, established parking layout in this area, which shall remain the standard. The existing public rights-of-way in area vary between 60 feet and 80 feet.
- b. Parallel parking shall be encouraged along all blocks within the Broadway District where diagonal parking is not feasible. Parking layout and design shall include curb and gutter.

4.12.080 DRIVE-THROUGH AND STACKING SPACES**A. Required Stacking Spaces**

1. Stacking spaces shall be provided for vehicles waiting for drive-through service. Stacking spaces shall not be included in the required off-street parking spaces count.
2. Stacking lanes shall be designed to prevent vehicles from extending onto the public right-of-way at any time.
3. Stacking spaces shall be provided as required by Table 4.12-7. In no case shall fewer than two stacking spaces be provided for each window or counter on the entrance side, and one space on the exit side where an exit is provided.

Table 4.12-7: Stacking Space Requirements

Activity	Minimum Stacking Spaces (per lane)	Measured From:
Bank, Financial Institution	3	Teller or Window
Retail, ATM	2	Window or ATM Display
Restaurant, Fast Serve	5	Pick-Up Window

Table 4.12-7: Stacking Space Requirements

Activity	Minimum Stacking Spaces (per lane)	Measured From:
Coffee Shop	6, min. 4 between menu board and window[1]	Pick-up Window
School Drop-Off (non-preschool)	6	Drop-Off Zone
Full-Service Vehicle Washing Establishment	6	Outside of Washing Bay
Self-Service or Automated Vehicle Washing Establishment	2 [2]	Outside of Washing Bay
Fuel or Gasoline Pump Island	2	Pump Island
Other	As determined by Director	

Notes: {1} Menu board is not required.

[2] No bays shall be designed to be entered from more than one direction

B. Stacking Space and Land Design Requirements

1. Drive-through stacking lanes shall have a minimum width of eight feet and length of 20 feet.
2. The first position in a drive through station, located at the window, is counted as a stacking space.
3. When stacking lanes are separated from other stacking lanes, bypass lanes, or from other site areas, the separation shall be by means of a raised concrete median, concrete curb, or landscaping.
4. All stacking lanes must be clearly identified through the use of means such as striping, landscaping, and signs.
5. Stacking lanes shall comply with the applicable setback distance from rights-of-way.
6. The location and design of required stacking spaces shall not:
 - a. Encroach into a public right-of-way, street, or alley; or
 - b. Obstruct any required parking space, loading space, or the driving aisles required to access any required parking or loading space.
7. The entrance to a stacking lane shall be located so as to avoid conflicting with the street access.
8. Pedestrian/barrier-free access to building entrances shall provide direct pedestrian links to main parking areas and public sidewalks that do not pass through a stacking lane.

4.12.090 LOADING SPACES

- A. Uses with a minimum gross floor area (GFA) of 15,000 SF (measured cumulatively when the uses are located in a single structure) that require deliveries or service by truck and that are not contiguous to an alley, shall have an off-street delivery truck berth at least 14 feet wide and 30 feet long with a vertical clearance of at least 15 feet, in addition to the required parking area.
- B. Where the property or use is served or designed to be served by tractor-trailer delivery vehicles, the off-street loading berth shall be designed so that delivery vehicles using the loading area do not obstruct traffic movements in the parking area or in the public right-of-way.

- C.** All on-site loading spaces that are within or abut a residential district or intervening alley shall be completely screened from the adjacent residential lot by building walls or by a uniformly painted solid fence, wall, or door, or any combination thereof, not less than eight feet in height.

Chapter 4.13 Outdoor Lighting

4.13.010 PURPOSE

This section establishes standards for outdoor lighting to:

- A. Permit exterior lighting at the minimum levels necessary for nighttime safety, utility, security, commerce, and enjoyment;
- B. Encourage energy efficiency and the use of light sources that conserve energy and resources;
- C. Protect neighbors and people walking, biking, and driving from light trespass, obtrusive light, and nuisance glare from light sources; and
- D. Preserve the night sky and protect wildlife habitat and human health from the impacts of light pollution.

4.13.020 DEMONSTRATION OF COMPLIANCE

A. Manufacturer Specifications

Manufacturer specifications (i.e., cut sheets) shall be provided that detail light fixture type (e.g., full-cutoff, cut-off, lantern, flood, wall pack), light fixture source (e.g., incandescent, fluorescent, high-pressure sodium, metal halide, LED), rated lumens, Correlated Color Temperature (CCT), and wattage for all proposed lighting to determine compliance with minimum standards.

B. Lighting Plan

1. Lighting plans shall be provided for any residential development with more than two units and any mixed-use or non-residential development of 10,000 square feet or more or any development providing thirty (30) or more parking spaces. Lighting plans will focus on compliance with the standards of this section. Lighting plans shall include the following:
 - a. Light fixture location and height above grade;
 - b. Light fixture type (e.g., full-cutoff, cut-off, lantern, flood, wall pack);
 - c. Light fixture source (e.g., incandescent, fluorescent, high-pressure sodium, metal halide, LED), rated lumens, and wattage;
 - d. A photometric report with a numerical grid of lighting levels (in foot-candles) that lighting fixtures will produce on the ground;
 - e. Calculations for site illumination resulting from the lighting, measured in lumens and foot-candles including minimum, maximum, and average lumens and foot-candles and uniformity ratios; and
 - f. Any proposed alternative lighting approaches shall include sufficient information to enable the Director to determine whether proposed lighting complies with the intent of this LUDC.
2. The Director may approve alternative lighting designs, materials, or methods of installation or operation not specifically prescribed by this section provided the proposed alternative:
 - a. Results in approximate equivalence to the applicable specific requirement of this LUDC; and

- b. Complies with this LUDC.

4.13.030 APPLICABILITY

A. New Lighting

All new exterior light fixtures, including any installed as replacements to existing fixtures, shall be installed in conformance with this LUDC, the building code, and other applicable Town codes.

B. Additions or Modifications

1. All lighting fixtures shall be brought into compliance with this section when a residential dwelling unit addition results in a total cumulative increase in floor area of 50 percent or more per unit, or an addition to any mixed-use or nonresidential structure results in a total cumulative increase in floor area of 25 percent or more.
2. All lighting fixtures shall be brought into compliance with this section when the total cumulative cost of any exterior modification, alteration, or repair is greater than 25 percent of the valuation of the building as determined by the Director.
3. Cumulative modification, replacement, or repair of outdoor lighting constituting 25 percent or more of the permitted lighting output level for the parcel, no matter the actual amount of lighting already on the site, shall require all exterior lighting to comply with this LUDC.
4. Replacement of burned-out lamps with new lamps or fixtures of the same type and lighting output level is not considered a modification, replacement, or repair and is considered required maintenance.

C. Exemptions

The following types of lighting are exempt from the requirements of this section:

1. Emergency Lighting

Lighting used only under emergency conditions.

2. Seasonal Lighting

Temporary seasonal lighting for holidays, which may use bare, low-watt bulbs equivalent of a 10-watt incandescent bulb or less.

3. Single-Family and Duplex Dwellings

Soffit or wall-mounted lights with a light output of less than 1,000 lumens that are permanently attached to single-family dwellings shall be exempt from the exterior lighting regulations, provided the lights do not exceed the height of the eave. Such lights shall be downcast, opaquely shielded, and directed away from abutting properties. If the source can be seen beyond the property line, the fixture will be deemed to be not sufficiently shielded.

4. Sports and Athletic Field Lighting

Lighting for sports and athletic fields may need to exceed illumination standards for general recreational needs in order to meet higher standards required for play. The Director may approve relaxations of these lighting standards through the lighting plan, provided that the following minimum standards are met:

- a. The proposed lighting shall achieve no greater than the minimum illuminance levels recommended for Class IV levels of play as defined by the Illuminating Engineering Society of North America (IESNA);
 - b. Fixture height shall be no taller than 80 feet;
 - c. Lighting shall not be aimed above 62 degrees and should use internal louvers and external shields to minimize light trespass and pollution; and
 - d. Lighting shall be extinguished no later than one hour after the event ends.
- 5. Historic Lighting**
Historic streetlights within public rights-of-way and in the BD when full-cutoff design requirements can be met and the lights are approved by the Town Council.
- 6. Lighting Required by FAA or FCC**
Lighting required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC).

D. Nonconforming Lighting

1. Authority to Continue

Any outdoor light fixture in existence on the effective date of this LUDC that does not conform with any provisions of this LUDC shall be allowed to remain if maintained in good repair.

2. Discontinuance

If an outdoor light fixture is destroyed or damaged by 50 percent or more, or if the nonconforming light fixture is taken out of service for more than 14 days by the intentional or unintentional act of the owner or an act of nature, the replacement fixture shall conform with the provisions of this LUDC.

4.13.040 STANDARDS

A. General Lighting Standards

The following standards shall apply to all exterior lighting:

1. Lighting Required

Unless otherwise required by this LUDC or the building code, lighting is not required.

2. Prohibited Lighting

The following lighting is prohibited:

a. Roof Lights

Lighting fixtures shall not be affixed to the top of a roof, except where required by the building code.

b. Façade or Architectural Lighting

Any type of lighting for the purpose of illuminating a building façade, other wall, or perimeter around the structure is prohibited. This includes both ground-mounted uplighting and fixtures on the structure aimed at the structure.

c. Unshielded Lights

Lighting fixtures shall be downcast and opaquely shielded. If the source can be seen beyond the property line, the fixture will be deemed to be not sufficiently shielded.

d. Nuisance Lights

- i. Lighting fixtures that flash, move, revolve, blink, flicker, vary in intensity, or use intermittent electrical pulsation are prohibited unless exempted by Section 4.13.030C.
- ii. Any search light or laser light used for the purpose of advertising, or as a beacon.

e. Lighting Types

- i. All mercury vapor sources.
- ii. High intensity discharge (HID) floodlighting.
- iii. Exterior neon sources such that the source can be directly viewed. Except in the Broadway District and along Grand Avenue, backlighted applications may be acceptable and must conform to the same restrictions as cabinet signs.

3. Lighting Output Levels

- a. Lighting levels for any project shall not exceed the following maximum outputs in initial lumens:

Table 4.13-1: Maximum Lighting Output Levels

Use Type	Fixture Output	Illumination at Property Line	Total Site Output
Residential, one and duplex dwellings	3,000 initial lumens	0.3 foot-candle	30,000 initial lumens per net acre
All other uses	10,000 initial lumens	0.3 foot-candle adjacent to residential use	70,000 initial lumens per net acre
		1.0 adjacent to all other uses	
		1.0 adjacent to public right-of-way	

- b. For total site output, net acre shall be defined as the total land area of the parcel, less any area devoted to public rights-of-way.
- c. No light fixture shall emit a Correlated Color Temperature (CCT) above 3,000 Kelvin.

4. Lighting Design**a. Full Cutoff Fixtures**

All light fixtures are required to have full cutoff design, as illustrated in Figure 13-A: Illustration of cutoff options. Fixtures shall be downcast and opaquely shielded. Appropriate cutoff is measured by light trespass. If the source can be seen beyond the property line, the fixture will be deemed to be not sufficiently shielded and in excess of cutoff requirements. The Director may approve cutoff or semi-cutoff light fixtures that:

- i. Can be shown to meet the intent of this section, and
- ii. Are limited to a maximum of 3,850 initial lumens per net acre and do not exceed 1,400 initial lumens per lamp.

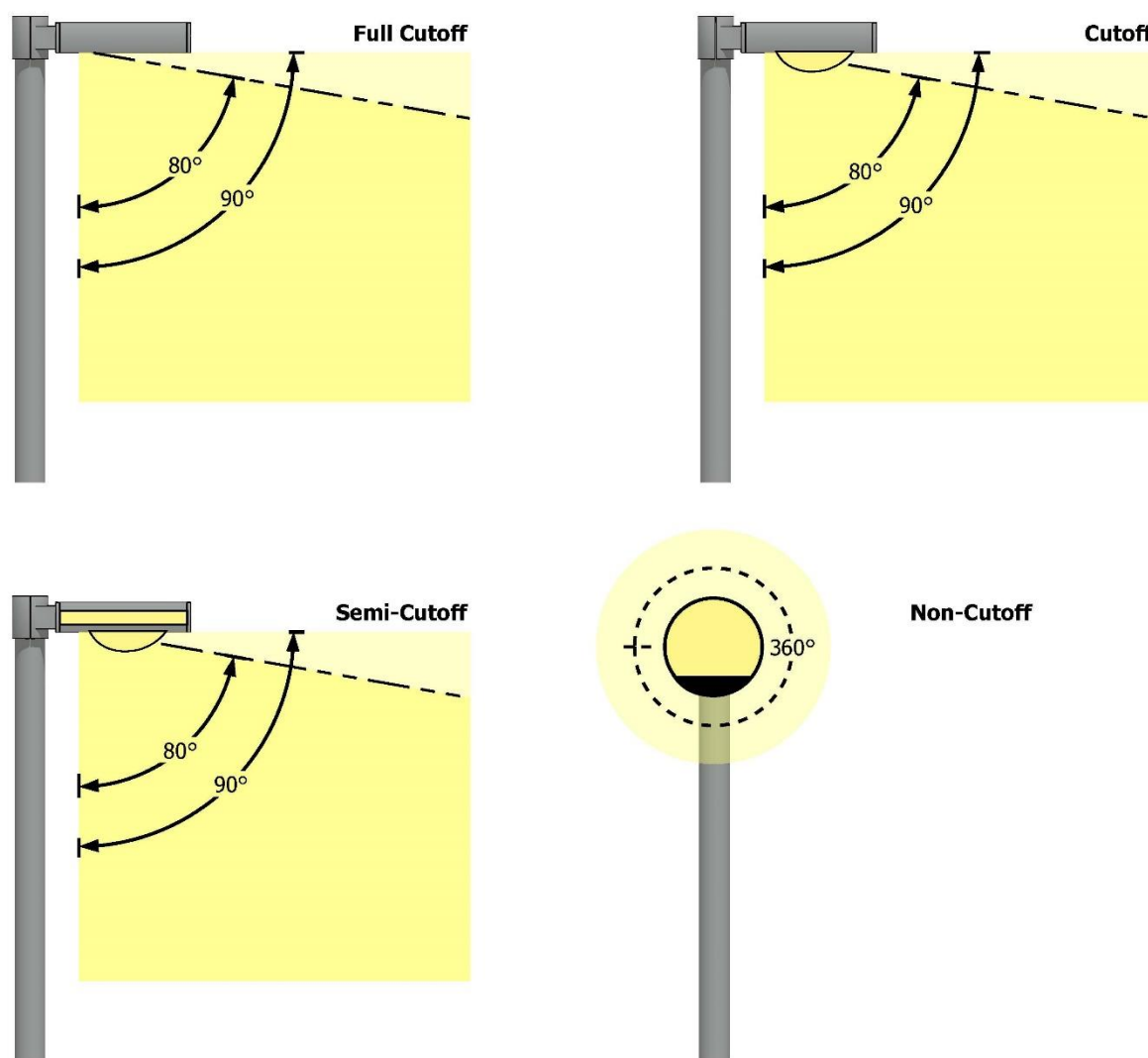


Figure 13-A: Illustration of cutoff options

b. Light Trespass

All light fixtures shall be aimed and shielded so that the direct illumination shall be confined to the property boundaries of the source except in cases of shared parking, shared pedestrian pathways, or coordinated development sites spanning multiple parcels.

c. Lighting Controls

i. Time Limitations

Except for residential lights, streetlights, and security lighting, all lighting shall be turned off within one hour after business is closed or completed servicing, or by 10:00 p.m., whichever is later.

ii. Motion Sensors

- (a) Motion sensors may be used where the sensor is triggered by activity within the property lines and not by activity outside the property lines. Motion sensors are preferred for security lighting.
- (b) Motion sensors shall only be used with incandescent, fluorescent, LED lighting, or halogen lamps.

B. Mixed-Use and Nonresidential Lighting Standards

In addition to the general lighting standards, above, the following standards shall apply to all exterior lighting for nonresidential land uses:

1. Light Poles

Light poles, except for street lighting provided by the Town or public entity, shall have a maximum height of 12 feet unless otherwise permitted by this LUDC.

2. Gasoline Service Stations

- a. Lighting fixtures for service station canopies shall be aimed downward and installed so that the bottom of the light fixture or its lens, whichever is lower, is recessed or mounted flush with the bottom surface of the canopy.
- b. All light emitted by an under-canopy fixture shall be substantially confined to the ground surface directly beneath the perimeter of the canopy.

C. Parking Lighting Standards

- 1. Light poles for parking areas shall have a maximum height of 25 feet.
- 2. Parking lot lighting shall be designed so that the parking lot is lit from the outside perimeter inward, and, as needed, incorporate design features with the intent of reducing off-site light pollution. The average illumination on the parking lot surface shall not exceed three foot-candles.
- 3. All light emitted for unstructured parking areas shall meet the lighting standards of Table 4.13-1: Maximum Lighting Output Levels.
- 4. Interior lighting for structured parking areas shall not count toward the maximum lighting standards of Table 4.13-1: Maximum Lighting Output Levels, but shall conform to all other applicable standards of this LUDC.

D. Sign Illumination

- 1. Illumination of a sign shall not exceed 100 lumens per square foot or more than is necessary to illuminate and make legible a sign from the adjacent travel way or closest public right-of-way as determined by the Director.
- 2. Illumination of a sign shall be contained to the sign and no light shall trespass beyond property lines.
- 3. Light bulbs or lighting tubes used for illuminating a sign shall not be visible from beyond the property line.
- 4. Illuminated signs shall comply with this section.

E. Street Lighting Standards

All lighting illuminating public rights-of-way, easements, and private streets shall comply with the following standards, unless otherwise permitted by this LUDC.

1. Streetlights shall use full cutoff fixtures unless exempted by Section 4.13.030C, Exemptions.
2. Streetlights shall have a maximum height of 25 feet.
3. Streetlights shall be located at a spacing of at least four times the mounting height of the light source unless the Director determines that the location of intersections, pedestrian crossings, or unique conditions exist that necessitate a different arrangement. Such exemptions may require modification of fixture type, placement, and light intensity to comply with the intent of the minimum spacing requirement.

Chapter 4.14 Sustainability, Resilience, and Hazards

4.14.010 NATURAL HAZARDS AND ENVIRONMENTALLY SENSITIVE LANDS

Land subject to natural hazards shall not be developed or approved for development until plans that identify approaches or mitigation that will prevent such conditions from endangering life, health and other property, as required by this section, are submitted to and approved by the appropriate decision-maker. Natural hazards include without limitation flooding and geologic hazards.

4.14.020 FLOOD DAMAGE PREVENTION REGULATIONS

A. Authorization and Findings of Fact

1. Statutory Authorization

The legislature of the State has, in C.R.S. Title 29, Art. 20, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Council does hereby adopt the floodplain management regulations provided in this LUDC.

2. Findings of Fact

- a. The flood hazard areas of the Town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
- b. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

B. Title and Purpose

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

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and

7. Ensure that the Town has information available to determine if a property is located in a flood hazard area.

C. Methods of Reducing Flood Loss

To accomplish its purposes, this LUDC uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

D. Definitions

Moved to Section 4.20.030.

E. General Provisions

1. Lands to which this LUDC applies. This LUDC shall apply to all special flood hazard areas and areas removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F) within the jurisdiction of Town.
2. Basis for establishing the special flood hazard area. The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Town of Eagle," dated December 4, 2007, with accompanying flood insurance rate maps and flood boundary and floodway maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this LUDC. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this LUDC and may be supplemented by studies designated and approved by the Town. The floodplain administrator shall keep a copy of the flood insurance study (FIS), DFIRMS, FIRMs and FBFMs on file and available for public inspection.
3. Floodplain development permit. A floodplain development permit shall be required to ensure conformance with the provisions of this LUDC.
4. Compliance. No structure or land shall hereafter be located, altered, or have its use changed within the special flood hazard area without full compliance with the terms of this LUDC and other applicable regulations. Nothing herein shall prevent the Town Council from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the State Water Conservation Board and the National Flood Insurance Program.
5. Abrogation and greater restrictions. This LUDC is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this LUDC and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
6. Interpretation. In the interpretation and application of this LUDC, all provisions shall be:

- a. Considered as minimum requirements;
 - b. Liberally construed in favor of the Town Council; and
 - c. Deemed neither to limit nor repeal any other powers granted under State statutes.
7. Warning and disclaimer of liability. The degree of flood protection required by this LUDC is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This LUDC does not imply that land outside the special flood hazard area or uses permitted within such areas will be free from flooding or flood damages. This LUDC shall not create liability on the part of the Town or any official or employee thereof for any flood damages that result from reliance on this LUDC or any administrative decision lawfully made thereunder.

F. Administration

1. Floodplain administrator. The Town Engineer is hereby appointed as floodplain administrator to administer, implement and enforce the provisions of this LUDC and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.
2. Duties and responsibilities. The duties and responsibilities of the floodplain administrator shall include without limitation:
 - a. Maintain and hold open for public inspection all records pertaining to the provisions of this LUDC, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Subsection (6)(c) of this section.
 - b. Review, approve, or deny all applications for floodplain development permits required by adoption of this LUDC.
 - c. Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
 - d. Review permits for proposed development to ensure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334), from which prior approval is required.
 - e. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this LUDC, including proper elevation of the structure.
 - f. Where interpretation is needed as to the exact location of the boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the floodplain administrator shall make the necessary interpretation.
 - g. When base flood elevation data has not been provided in accordance with <>Section (E)(2), the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, in order to administer the provisions of <>Section (B)(7).

- h. For waterways with base flood elevations for which a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the Town's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the Town.
- i. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, and AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (conditional letter of map revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 of the National Flood Insurance Program regulations and receives FEMA approval.
- j. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the State Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- k. Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

3. Permit Procedures

- a. Application for a floodplain development permit shall be presented to the floodplain administrator and may include without limitation plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to special flood hazard area. Additionally, the following information is required:
 - i. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
 - ii. Elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed;
 - iii. A certificate from a registered State Professional Engineer or Architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of <>Section 4.16.050(B)(2);
 - iv. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - v. Maintain a record of all such information in accordance with <>Section 15.10.060(B).
- b. Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this LUDC and the following relevant factors:
 - i. The danger to life and property due to flooding or erosion damage;
 - ii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iii. The danger that materials may be swept onto other lands to the injury of others;

- iv. The compatibility of the proposed use with existing and anticipated development;
- v. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- vi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- vii. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- viii. The necessity to the facility of a waterfront location, where applicable;
- ix. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
- x. The relationship of the proposed use to the comprehensive plan for that area.

4. Variance Procedures

- a. The appeal Board, as established by the Town Council, shall hear and render judgment on requests for variances from the requirements of this LUDC.
- b. The appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this LUDC.
- c. Any person or persons aggrieved by the decision of the appeal Board may appeal such decision in the courts of competent jurisdiction.
- d. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- e. Variances may be issued for 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, providing the relevant factors in <>Subsection (C) hereof 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.
- f. Upon consideration of the factors noted above and the intent of this LUDC, the appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this LUDC as stated in <>Section (B)(2).
- g. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- h. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- i. Prerequisites for granting variances.

- i. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- ii. Variances shall only be issued upon:
 - (a) Showing a good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- j. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- k. Variances may be issued by the Town for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i. The criteria outlined in <>Subsection (D)(1) through (9) hereof are met; and
 - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

G. Provisions for Flood Hazard Reduction

1. General standards. In all special flood hazard areas the following provisions are required for all new construction and substantial improvements:
 - a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 - d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - e. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces;

- f. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
 - g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
 - h. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 2. Specific standards. In all special flood hazard areas where base flood elevation data has been provided as set forth in <>Subsection (G) hereof, <>Section 4.16.050(B), or <>Section 4.16.060(B)(7), the following provisions are required:
 - a. Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered State Professional Engineer, Architect, or Land Surveyor. Such certification shall be submitted to the floodplain administrator.
 - b. Nonresidential construction.
 - i. With the exception of critical facilities, outlined in <>Subsection (H) of this section, new construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - ii. A registered State Professional Engineer or Architect shall develop structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection (B). Such certification shall be maintained by the floodplain administrator, as provided in <>Section 4.16.060(C).
 - c. Enclosures.
 - i. New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
 - ii. Designs for meeting this requirement must either be certified by a registered State Professional Engineer or Architect or meet or exceed the following minimum criteria:

- (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - d. Manufactured homes.
 - i. All manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the Town's FIRM on sites:
 - (a) Outside of a manufactured home park or subdivision;
 - (b) In a new manufactured home park or subdivision;
 - (c) In an expansion to an existing manufactured home park or subdivision; or
 - (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood;
 - (e) shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - ii. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE on the Town's FIRM that are not subject to the provisions of <>Subsection (B)(4)(a) of this section shall be elevated so that either:
 - (a) The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation; or
 - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - e. Recreational vehicles.
 - i. All recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM shall either:
 - (a) Be on the site for fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use; or
 - (c) Meet the permit requirements of <>Section 4.16.060(C), and the elevation and anchoring requirements for manufactured homes in <>Subsection (B)(4) of this section.

- ii. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
 - f. Prior approved activities. Any activity for which a floodplain development permit was issued by the Town or a CLOMR was issued by FEMA prior to the effective date of the ordinance from which this LUDC is derived may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this ordinance if it meets such standards.
3. Standards for areas of shallow flooding (AO/AH zones). Located within the special flood hazard area established in <>Section 4.16.050(B), are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
- a. Residential construction. All new construction and substantial improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the Town's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered State Professional Engineer, Architect, or Land Surveyor. Such certification shall be submitted to the floodplain administrator.
 - b. Nonresidential construction.
 - i. With the exception of critical facilities, outlined in Subsection (H) of this section, all new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the Town's FIRM (at least three feet if no depth number is specified) or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered State Professional Engineer or Architect shall submit a certification to the floodplain administrator that the standards of this section, as provided in Section 4.16.060(C), are satisfied.
 - ii. Within zone AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.
4. Floodways. Because the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- a. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed State Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the Town during the occurrence of the base flood discharge.
 - b. If <>Subsection (D)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of <>Section 4.16.070. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.
5. Alteration of a watercourse. For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:
 - a. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
 - b. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
 - c. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
 - d. Any stream alteration activity shall be designed and sealed by a registered State Professional Engineer or Certified Professional Hydrologist.
 - e. All activities within the regulatory floodplain shall meet all applicable Federal, State and Town floodplain requirements and regulations.
 - f. Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered State Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with Subsection (D) hereof.
 - g. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.
6. Properties removed from the floodplain by fill. A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F), unless such new structure or addition complies with the following:
 - a. Residential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including

ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill.

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

7. Standards for subdivision applications.

- a. All subdivision applications including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development application is in a flood prone area, the proposal shall minimize flood damage.
- b. All applications for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of <>Section 4.16.050(C); Section 4.16.060(C); and the provisions of this section.
- c. Base flood elevation data shall be generated for subdivision application and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to <>Section 4.16.050(B) or 4.16.060(D).
- d. All subdivision applications including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- e. All subdivision applications including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

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

- a. Classification of critical facilities. The Town shall identify and confirm that specific structures in the community meet the following criteria:
 - i. Critical facilities are classified under the following categories:
 - (a) Essential services;
 - (b) Hazardous materials;
 - (c) At-risk populations; and
 - (d) Vital to restoring normal services.

- ii. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

- (a) These facilities consist of:

- (i) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
 - (ii) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures, but excluding clinics, doctors' offices, and non-urgent care medical structures that do not provide these functions);
 - (iii) Designated emergency shelters;
 - (iv) Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
 - (v) Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
 - (vi) Air transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars)).

- (b) Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

- (c) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this LUDC, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.

- iii. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and water-reactive materials.

- (a) These facilities may include:

- (i) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);

- (ii) Laboratories containing highly volatile, flammable, explosive, toxic or water-reactive materials;
 - (iii) Refineries;
 - (iv) Hazardous waste storage and disposal sites; and
 - (v) Above ground gasoline or propane storage or sales centers.
- (b) Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a material safety data sheet (MSDS) on file for any chemicals stored or used in the work place, and the chemical(s) is stored in quantities equal to or greater than the threshold planning quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is either five hundred (500) pounds or the TPQ listed (whichever is lower) for the chemicals listed under 40 CFR 302 (2010), also known as extremely hazardous substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the State Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 CFR 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 CFR 302 (2010), and OSHA regulation "Occupational Safety and Health Standards," 29 CFR 1910 (2010), are incorporated herein by reference and include the regulations in existence at the time of the promulgation this LUDC, but exclude later amendments to or editions of the regulations.
- (c) Specific exemptions to this category include:
 - (i) Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
 - (ii) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
 - (iii) Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.
 - (iv) These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this section.
- iv. At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
 - (a) Elder care (nursing homes);
 - (b) Congregate care serving 12 or more individuals (day care and assisted living);

- (c) Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children;
- v. Facilities vital to restoring normal services including government operations.
 - (a) These facilities consist of:
 - (i) Essential government operations (public records, courts, jails, building permitting and inspection services, Town administration and management, maintenance and equipment centers);
 - (ii) Essential structures for public colleges and universities (dormitories, offices, and classrooms only).
 - (b) These facilities may be exempted if it is demonstrated to the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this LUDC, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.
- b. Protection for critical facilities. All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this LUDC, protection shall include one of the following:
 - i. Location outside the special flood hazard area; or
 - ii. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the base flood elevation.
- c. Ingress and egress for new critical facilities. New critical facilities shall, when practicable, as determined by the Town, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

4.14.030 GEOLOGIC HAZARDS

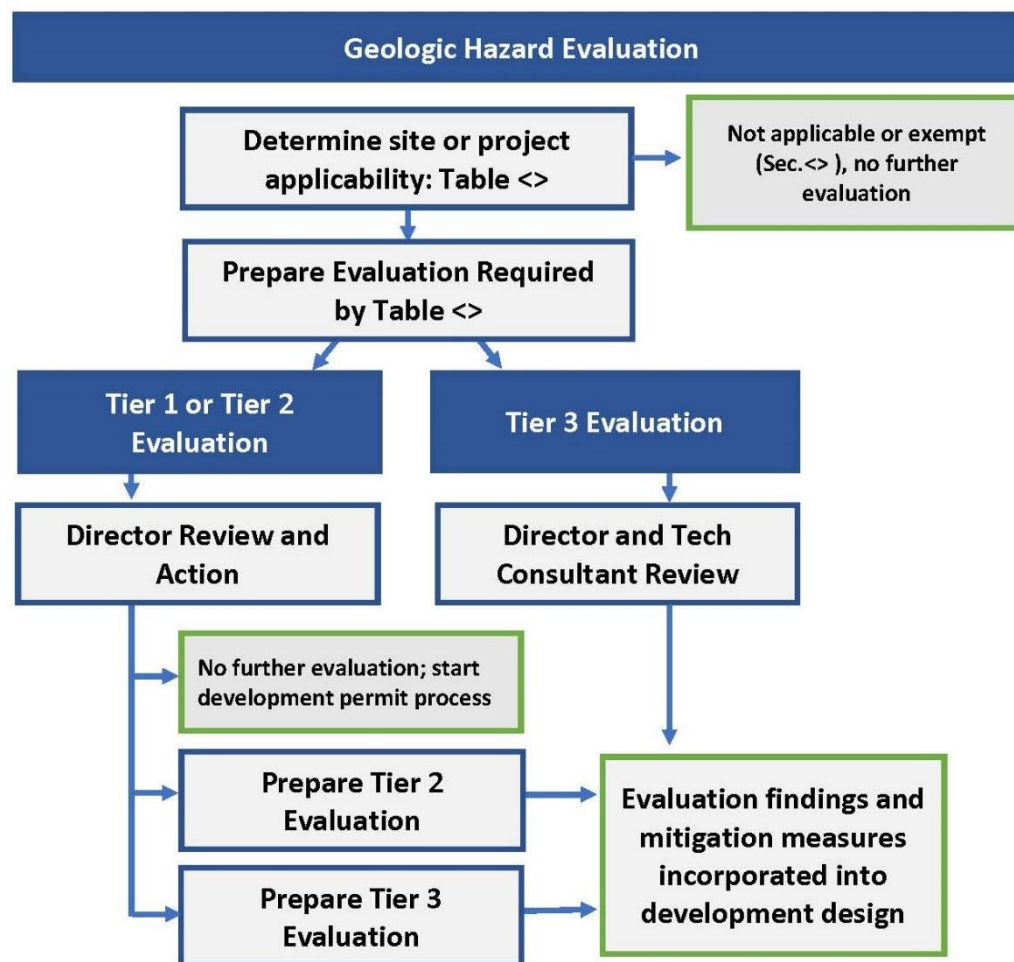
A. Purpose and Intent

The Town is located within areas that are susceptible to one or more geologic hazards occurring either on the property or upstream/uphill from the property that would impact the subject property. Below is a list of common geologic hazards found in the Town:

1. Expansive or unstable soils or rock;
2. Unstable or potentially unstable slopes;
3. Landslide or laterally unstable areas or potential landslide areas;
4. Flood inundation, debris flows, and debris fans;
5. Unstable fill;

6. Erosion and deposition areas, or highly erodible soils;
 7. Rockfall;
 8. Subsidence;
 9. Shallow water tables;
 10. Groundwater springs or seeps;
 11. Flood-prone areas;
 12. Collapsible soils;
 13. Faults;
 14. Upturned or steeply dipping bedrock;
 15. Radioactivity or radon;
 16. Problems caused by features or conditions on adjacent properties; and
 17. Other general geologic or site problems.
- B.** The Town recognizes that geologic hazards can be interrelated, and that evaluation of geologic hazards requires comprehensive review and analysis. The Town and Eagle County retain geologic hazards maps that are prepared and updated from time to time. Such maps shall be considered for initial review of site hazards prior to site evaluation. The geologic hazards identified in the proposed development site on the geologic hazard maps shall be discussed in the geologic hazard assessment.
- C.** These standards are intended to minimize losses due to geologic conditions in the Town, and to:
1. Protect human life, safety, and property;
 2. Provide the Town with an efficient review procedure to address potential hazards;
 3. Minimize damage to adjacent private property;
 4. Minimize damage to public facilities, infrastructure, and utilities;
 5. Provide flexible approaches to evaluating geologic hazards risk;
 6. Reduce the amount of effort and expenditures associated with response, cleanup, and repair following a geologic hazard event; and
 7. Inform the public about the potential risk associated with geologic hazards.
- D. Tiered Evaluation and Review Purpose**
- The review and evaluation of potential geologic hazards is undertaken through a three-tier review process for applicable development requests, as identified in Table 4.14-1: Geologic Hazard Evaluation Applicability, that generally follows the process described in the flow chart below. Each tier has a specific purpose:
1. Tier 1, Initial Site Evaluation Letter: To provide initial evaluation of potential geologic hazards concerns related to development activities.

2. Tier 2, Geologic Hazards Mitigation Study: To provide further evaluation of geologic hazards for development activities of certain sites and to provide review and recommendations of proposed mitigation for identified hazards.
3. Tier 3, Geologic Hazards Plan and Report: To accomplish the following:
 - a. Identify the geologic hazards affecting the development site;
 - b. Assess proposed development that could pose a more significant geologic hazard impact;
 - c. Analyze potential geologic hazard impacts the proposed development could have on surrounding properties or public facilities;
 - d. Identify appropriate mitigation measures that shall be employed to reduce or avoid the identified hazards to acceptable levels so that development may proceed; and
 - e. Recommend areas that are not suitable for the proposed development or that pose unacceptable risks for development.



E. Applicability and Exemptions

1. Applicability

The geologic hazards standards and evaluation requirements in this Section shall apply to any of the following activities or scenarios unless the activity is identified as exempt in Section 4.14.030E.2:

Table 4.14-1: Geologic Hazard Evaluation Applicability

Application Type or Location	Geologic Hazard Evaluation
Building Permit [1]	Tier 1
Development Plan [1]	Tier 1
Grading and Sediment Control Permit	Tier 1
Slope Between 15 and 30% (w/in limits of disturbance)	Tier 3
Slope Greater than 30% (w/in limits of disturbance)	1041 Permit
Minor Subdivision	Tier 1
Conditional or Special Use Permit	Tier 1
Major Subdivision	Tier 3
Construction of streets, roads, and driveways	Tier 3
Completed Tier 1 Evaluation	May require Tier 2 or Tier 3
Completed Tier 2 Evaluation	May require Tier 3
Notes: [1] New construction with a permanent foundation	

2. Exemptions

The following types of development activities are exempt from Geologic Hazards Evaluation ,but are still subject to other applicable site evaluation processes and standards. An exemption from these standards does not exempt the applicant from liability and responsibility to evaluate and mitigate known geologic hazards on a site.

- Minimum impact installations such as fences, lighting, poles, signs, or decorations;
- Movement or parking of machinery or equipment; or
- Installation of decorative or perimeter walls that do not serve to retain soil, unless supporting a load or other weight surcharge.

3. Existing Geologic Hazard Studies

Sites with existing studies or reports that were certified and stamped by licensed geologists and that are ten (10) years or older shall be subject to the Tier 1 Initial Site Evaluation Letter procedure below to determine whether the existing study or report is sufficient for the proposed development application, or if changes in conditions warrant a new Tier 2 or Tier 3 evaluation.

4. Timeframe

Applications and permits for additions and alterations shall remain on record with the Town. Any subsequent application or permit for an addition or alteration on the same property shall be cumulative to any application or permit within a five-year period, and the total square footage of such additions or alterations shall be used to determine the applicability of these standards.

F. Tiered Evaluations

1. Applicability and Submission Requirements

- a. Applicants shall submit an initial evaluation at the Tier specified in Table 4.14-1: Geologic Hazard Evaluation Applicability, as part of the application that triggers the evaluation requirement. Where no application type is specified, the evaluation shall be submitted with either:
 - i. Section 4.10.060C.1; or
 - ii. Section 4.17.080C, Development Plan application.
- b. An applicant who is required to submit a Tier 1 Evaluation Letter may, at their discretion, proceed directly to a Tier 2 or Tier 3 geologic hazard evaluation. If the applicant moves directly to a Tier 2 evaluation, they assume the risk that a Tier 3 evaluation may also be required.
- c. Projects for which a Tier 2 or Tier 3 geologic hazard evaluation are required shall require a Development Agreement.

2. Tier 1 and Tier 2 Evaluation Review Procedures

a. Process

- i. Unless otherwise specified in Table 4.14-1, an applicant shall submit a Tier 1 evaluation for review. Based on the findings and recommendations of the site evaluation and letter, the Director, may:
 - (a) Move the application or permit forward through the applicable approval procedure; or
 - (b) Require a soils and foundation report.
- ii. Following further review of the letter and any subsequent input stated above, the Director may:
 - (a) Move the application or permit forward through the applicable approval procedure;
 - (b) Require a Tier 2 Evaluation: Geologic Hazards Mitigation Study; or
 - (c) Require a Tier 3 Evaluation: Geologic Hazards Plan and Report.

b. Responsibility and Consultant Fees

- i. The administration of geologic hazard evaluations shall be done by the Director, who may delegate the administration as needed.
- ii. The Director may use the services of a consulting geologist or geotechnical engineer ("technical professional") and the Colorado Geological Survey (CGS) to assist with any application evaluation. Technical professional review is required for Tier 3 Evaluations.

3. Tier 2 and Tier 3 Evaluation Review Procedures

- a. During the staff review for the associated permit or land development application, the Director shall review the Tier 2 or Tier 3 report in consultation with a qualified professional geologist or geotechnical engineer, and as part of the review of the associated land development application. The Director shall forward the Geologic Hazard Plan and Report to the Colorado Geological Survey (CGS) for review and comment. The Town's review shall determine whether the findings, conclusions, and recommendations of the Geologic Hazard Plan and Report and comments from CGS have been incorporated into the project, grading, infrastructure, or other relevant design aspect of the proposed project. If the Town review

determines that the submitted study is incomplete or fails to comply with the standards and requirements set forth in this section, the Director may require new or supplemental information.

- b. Recommendations of the Geologic Hazards Plan and Report shall be incorporated, as applicable, into the project, grading, infrastructure, building, or other relevant design aspect of the proposed project.

4. Review

- a. Any application request that includes submission of a Tier 2 Geologic Hazards Mitigation Study or Tier 3 Geologic Hazards Plan and Report shall be reviewed by the Planning and Zoning Commission and decided-upon by the Town Council. Both the Planning and Zoning Commission and the Council shall hold a public hearing on the application.
- b. The Director's review of Tier 1 and Tier 2 application for the purpose of determining whether more information is necessary to fully review the project is not an appealable decision, but rather a step in assessing compliance with the Town's complete application requirement.

5. Independent Review

The Director, Planning and Zoning Commission, or Town Council may, at their discretion, have any geologic hazard evaluation (Tier 1, 2, or 3) reviewed by an independent qualified professional geologist or a qualified professional geotechnical engineer. This separate review shall supplement the Town's review and will be considered by the Town in making a final determination on the associated land development proposal. The cost of having an independent review and analysis of geologic hazard evaluation reports shall be borne by the applicant.

G. Evaluation Content

1. Tier 1 Evaluation Letter

Following the site evaluation, the qualified professional geologist or a qualified professional geotechnical engineer shall submit a signed and stamped letter providing details of the site evaluation. At a minimum, the letter shall:

- a. Include the date and location of the site visit;
- b. Include photos of the lot and any geologic hazard conditions;
- c. Include a detailed narrative description of the lot conditions, including slopes; evidence of drainage and any other potential hazards on the site;
- d. Confirm that Eagle County geologic hazard maps were reviewed in relation to the site;
- e. Provide initial recommendations, if any, to mitigate the potential geologic hazard conditions;
- f. Determine whether or not the proposed development activity for the site would result in an increased risk to geologic hazards on the site or on adjacent properties; and
- g. Provide an assessment and recommendation whether or not further study is required through a Tier 2 or Tier 3 Evaluation to address geologic hazard risk.

2. Tier 2 Geologic Hazards Mitigation Study

- a. The applicant shall submit a study and report of potential mitigation solutions ("Mitigation Study") that lessen or fully mitigate geologic hazards on the site and, if applicable, on adjacent properties. Such study shall:
 - i. Be prepared by a qualified professional geologist or a qualified professional geotechnical engineer;
 - ii. Identify potential geologic hazards on the site;
 - iii. Identify conditions that may pose a hazard to land development activities on the site and on adjacent properties;
 - iv. Describe proposed mitigation strategies and how they will reduce or avoid identified hazards;
 - v. Describe how the proposed mitigation strategies will reduce or avoid identified hazards on adjacent public or private property (if applicable);
 - vi. Describe how the proposed mitigation strategies will comply with any required soils, foundation, or drainage and erosion control plans, or other applicable engineering standards; and
 - vii. Include applicable calculations to support proposed mitigation strategies.
- b. Mitigation Measures: In cases where geologic hazards are identified, appropriate mitigation measures shall be identified in the Mitigation Study and may be required in conjunction with the approval of the project, if approval is recommended. Such mitigation measures may include without limitation:
 - i. Changes to the proposed land use configuration;
 - ii. Changes to the location of proposed structures;
 - iii. Modification of land use types;
 - iv. Modification of lot boundaries;
 - v. Establishment or modification of building envelopes;
 - vi. Special foundation designs and over-excavation;
 - vii. Mitigation of rockfall and debris flow;
 - viii. Grading, drainage, and erosion controls;
 - ix. Geotechnical engineering solutions; and
 - x. Limitations on irrigated landscapes.

3. Tier 3 Geologic Hazards Analysis

- a. A Geologic Hazards Plan and Report, when required, shall be prepared by a qualified professional geologist or a qualified professional geotechnical engineer. The Geologic Hazards Plan and Report shall address the topics listed in this subsection, where applicable. The level of detail and emphasis may vary due to specific geologic conditions of the site or the scale and type of proposed development activity. The detailed guidelines, criteria, policies, and requirements for preparation, submittal, and review of the Geologic Hazards

Plan shall be determined during an initial scoping process between the applicant and the Town.

i. General Project Description and Certification

- (a) A project description shall be included that presents the overall proposed project details including the size and location of the project and the existing and proposed land uses.
- (b) The qualified professional geologist or qualified professional geotechnical engineer preparing or certifying the Plan and Report shall sign and stamp the Plan and Report.

ii. Geologic Hazard Risks

The presence of any geologic hazards on the site.

iii. Proposed Cuts

- (a) Prediction of what materials and structural features will be encountered;
- (b) Prediction of stability based on geological factors;
- (c) Problems of excavation (e.g., unusually hard or massive rock, excessive flow of groundwater); and
- (d) Recommendations for reorientation or repositioning of cuts, reduction of cut slopes, development of compound cut slopes, special stripping above daylight handling of seepage water, and setbacks for structures above cuts.

iv. Proposed Masses of Fill

- (a) General evaluation of planning with respect to canyon-filling and side hill masses to fill;
- (b) Comment on suitability of existing natural materials for fill; and
- (c) Recommendations for positioning of fill masses, provision for underdrainage, buttressing, and special protection against erosion.

v. Recommendations for Subsurface Testing and Exploration.

- (a) Cuts and test holes needed for additional geological information; and
- (b) Program of subsurface exploration and testing, based upon geological considerations that are most likely to provide data needed by the soils engineer.

vi. Conclusions and Recommendations

The Geologic Hazard Plan and Report shall address the following:

- (a) Whether the intended use of the land is compatible with any identified or potential geologic hazards or constraints;
- (b) The development of mitigation procedures or design changes necessary to minimize or abate any hazardous condition and whether such mitigation or design change is possible. Each hazardous condition requires a recommendation, which may be a recommendation that the conditions are too severe to warrant development;

- (c) The long-term stability and safety of the proposed project. Discuss the critical planning and construction aspects of the development, including the suitability of using irrigated landscaping, the stability of earth materials, the appropriateness of the proposed grading plans, the need for selective location of project facilities, and the static and dynamic parameters for the design of structures; as applicable; and
- (d) Clearly state the geologic basis for all conclusions.

vii. Mitigation Measures

In cases where geologic hazards are identified, appropriate mitigation measures shall be identified in the Geologic Hazard Plan and Report and may be required in conjunction with the approval of the project, if approval is recommended. Such mitigation measures may include, but not be limited to:

- (a) Changes to the proposed land use configuration;
- (b) Changes to the location of proposed structures;
- (c) Modification of land use types;
- (d) Modification of lot boundaries;
- (e) Establishment or modification of building envelopes;
- (f) Special foundation designs and over-excavation;
- (g) Mitigation of rockfall and/or debris flow;
- (h) Grading, drainage, and erosion controls;
- (i) Geotechnical engineering solutions; and
- (j) Limitations on irrigated landscapes.

4.14.040 WILDLIFE HABITAT

A. Purpose

The purpose of this section is to maintain and enhance the diversity of wildlife species and habitat in the Town and to plan and design land uses to be harmonious with wildlife habitat and the species that depend on that habitat for the economic, recreational, and environmental benefit of Town residents and visitors.

B. Applicability

1. Wildlife Impact Review Required

All development subject to this section shall be designed so it does not adversely impact wildlife and wildlife habitats or that such adverse impacts have been avoided or fully mitigated. The review criteria used to determine if this standard has been met are in Section 4.14.040D. Proposed developments that will or may have an adverse impact on wildlife and wildlife habitats are required to prepare a Wildlife Conservation Plan. The Wildlife Conservation Plan shall incorporate existing studies previously prepared by the State of Colorado's Department of Natural Resources and Colorado Parks & Wildlife. All development shall consult with Colorado Parks & Wildlife prior to preparing the application's Wildlife and Conservation Plan. This Section shall apply to the following:

- a. All new development applications for sites two acres or larger.
- b. All new single-family detached residences and duplexes.

2. Development Standards Required

Development in the following categories shall comply with the Section 4.14.040C:

- a. Single-family attached, multifamily, mixed-use, or nonresidential developments on a site of less than two acres;
- b. Development plan reviews of buildings or additions having a gross floor area of 10,000 square feet or less; and
- c. All proposed developments not required to submit a wildlife conservation plan.

3. Exemptions

The following activities are exempt from the requirements of this section:

- a. Agricultural activities, such as soil preparation, irrigation, planting, harvesting, grazing, and farm ponds;
- b. Maintenance and repair of existing roads, utilities, and other public facilities within an existing right-of-way or easement;
- c. Maintenance and repair of flood control structures and activities in response to a bona fide flood emergency; or
- d. Wildlife habitat enhancement and restoration activities under a wildlife conservation plan approved under this section.

C. Development Standards**1. Buffers**

All development shall have a setback of 100 feet or greater from any identified critical wildlife habitat area or migration corridor subject to the approval of Colorado Parks & Wildlife. All developments shall provide visual and audio screening as deemed necessary by Colorado Parks & Wildlife.

2. Nonnative Plants and Animals

- a. Only plant species native to Eagle County or that are on an approved Town landscaping list may be introduced on sites containing important wildlife habitat areas.
- b. To the maximum extent feasible, existing herbaceous and woody cover on sites shall be maintained and removal of native vegetation shall be minimized.
- c. Only animal species approved by Colorado Parks & Wildlife may be introduced on sites containing important wildlife habitat areas.

3. Refuse Disposal

Developments on sites within the Town boundaries shall use bear-resistant refuse disposal containers.

4. Fencing

- a. Fencing on sites containing critical wildlife habitat shall not exceed four feet high unless the Director approves the fencing to confine permitted domestic animals or to protect permitted ornamental landscaping or gardens.
- b. The Director will determine the type of fencing appropriate for the wildlife species on the site based on Colorado Parks & Wildlife fence guidelines and as consistent with <>Section 4.11.070.

5. Domestic Animals

- a. Development applications for property that includes or is adjacent to important wildlife habitat shall include a plan with specified enforcement measures for the control of domestic animals and household pets.
- b. The plan shall include provisions to prevent the harassment, disturbance, and killing of wildlife and to prevent the destruction of vegetation integral to the quality of the habitat.

6. Exterior lighting

- a. Use of exterior lighting shall be minimized in areas of important wildlife habitat.
- b. Lighting shall be designed so it does not spill over onto habitat.
- c. All exterior lighting shall be shielded by cutoffs with an angle not exceeding 90 degrees.

D. Review Criteria

In determining if a new development could have an adverse impact on wildlife and wildlife habitats or that such adverse impacts have been avoided or mitigated to the greatest extent practicable, the decision-making body will consider the following:

1. Impacts on wildlife species, including without limitation human-related activities (including impacts from domestic pets) that disrupt necessary life cycle functions of wildlife or cause stress on wildlife to the extent that the health and viability of a species is threatened in the county. Assessment of significant impacts will be based on the following:
 - a. Activities in previously undisturbed areas involving any combination of humans, pets, and machines or equipment that disturb or harass an individual animal, group of animals or wildlife species;
 - b. Site development or activities that disrupt necessary lifecycle functions, resulting in stress to the extent that physiological damage is done to an individual animal, group of animals or wildlife species including introduction of non-native vegetation; excessive use of fertilizers and other chemicals; placement of structures in close proximity to nesting and feeding areas; and excessive exterior lighting;
 - c. Species reliance on specific, unique habitat features, such as riparian areas, that may be affected;
 - d. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species including:
 - i. Controls on domestic animals and household pets;
 - ii. Restrictions on types and intensity of lighting;
 - iii. Clustering of development to avoid intrusion into or fragmentation of habitat; and

- 2. Impact on wildlife habitat including elimination, reduction, or fragmentation of wildlife habitat to the extent that the viability of an individual species is threatened in the county and the diversity of wildlife species occurring in the county is reduced. Assessment of significant impacts will be based on the following:**

 - a. The amount of vegetation/habitat removal or alteration within the development site;**
 - b. The amount of habitat of similar type and quality within the development site that remains contiguous;**
 - c. The existing and proposed amount of lot coverage;**
 - d. The existence of contiguous habitat of similar type and quality on adjoining land; and**
 - e. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species including:**

 - i. Clustering of development to avoid intrusion into or fragmentation of habitat;**
 - ii. Creation of buffers around critical areas;**
 - iii. Limits on the amount of disturbance on a site;**
 - iv. Restrictions on vegetation removal; and**
 - v. Enhancement or restoration of equivalent habitat on or adjacent to the site.**
- 3. Impact on wildlife movement patterns/displacement and adaptation of wildlife populations including disruption of necessary migration or movement patterns that keep wildlife from using their entire habitat to the extent that the health and viability of a species is threatened in the county; displacement of wildlife species into areas that cannot support or sustain the species over the long term to the extent that the health and viability of a species is threatened in Eagle County; and the inability of wildlife species living within or in close proximity to development to adapt and thrive to the extent that the health and viability of the species is threatened in the county. Assessment of significant impacts will be based on the following:**

 - a. Preventing wildlife from using a habitat they would normally use, such as blocking migration patterns from summer to winter range;**
 - b. Causing wildlife to find new routes that expose them to significantly increased predation, interaction with motor vehicles, intense human activity or more severe topography and climatic conditions;**
 - c. The size of the affected habitat and availability of similarly sized and quality habitat within the surrounding area;**
 - d. The human activity and development that would result in the inability of a single or multiple species to adapt to the new conditions;**
 - e. Inability of the species to adapt to significant alteration of their current habitats or to find a new habitat that is sufficient to sustain the species over the long term; and**
 - f. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including without limitation clustering or location of development to**

avoid intrusion into migration or movement areas; creation of buffers around critical areas; limits on fencing that might interfere with migration and movement patterns; and enhancement or restoration of equivalent habitat on or adjacent to the site.

4. Uniqueness of habitat and species to Eagle County, including elimination, reduction, or fragmentation of important wildlife habitat that is identified as unique to Eagle County in that it supports wildlife species that do not commonly occur outside the County. Assessment of significant adverse impacts will be based on the following:
 - a. The extent that habitat similar to that affected by the proposed development exists in Eagle County;
 - b. Whether the species does not commonly occur outside Eagle County, as determined by listing by state or federal agencies as threatened or endangered or as determined by Eagle County in conjunction with Colorado Parks and Wildlife;
 - c. Whether the habitat does not commonly occur outside of Eagle County as determined by the County in conjunction with Colorado Parks and Wildlife;
 - d. The extent of the threat to the viability of the species;
 - e. The extent of the reduction of the diversity of wildlife species in the County; and
 - f. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including:
 - i. Clustering of development to avoid intrusion into or fragmentation of habitat;
 - ii. Creation of buffers around critical areas;
 - iii. Limits on the amount of disturbance on a site; and
 - iv. Enhancement or restoration of equivalent habitat on the site or elsewhere in the county.
5. Cumulative impacts including cumulative impacts beyond the boundaries of the proposed site such that the wildlife habitat in the County is eliminated, reduced, or fragmented to the point that the viability of individual species is threatened and the diversity of species occurring in the county is reduced. Assessment of significant adverse impacts will be based on the following:
 - a. The area, including land outside the project site, in which effects of the proposed project will occur and the impacts of the proposed project that are expected to occur in that area; and
 - b. The incremental impact on wildlife habitat and wildlife species of the proposed development added to the past and present impact of other activities and developments.

E. Wildlife Conservation Plans

1. Plan Preparation

The applicant shall submit a wildlife conservation plan prepared under the direction of a qualified wildlife biologist.

2. Plan Content

The wildlife conservation plan shall include the following minimum information:

- a. A description of the ownership, location, type, size, and other attributes of the wildlife habitat on the site;

- b. A description of the populations of wildlife species that inhabit or use the site including a qualitative description of their spatial distribution and abundance;
- c. An analysis of the potential adverse impacts of the proposed development on wildlife and wildlife habitat on or off-site;
- d. A list of proposed mitigation measures and an analysis of the probability of success of such measures;
- e. A plan for implementation, maintenance, and monitoring of mitigation measures;
- f. A plan for any relevant enhancement or restoration measures; and
- g. A demonstration of fiscal, administrative, and technical competence of the applicant or other relevant entity to successfully execute the plan.

3. Waivers and Modifications

The Director may approve minor modifications of any standards or review criteria contained in this section upon a written finding that the minor modification:

- i. Is consistent with this section;
- ii. Will have no appreciable adverse impacts on wildlife or wildlife habitat;
- iii. Any potential adverse impacts will be mitigated or offset to the maximum extent practicable; and
- iv. Application of the standard or criteria is not warranted based on the location of the development, the absence of a particular species on the site or other relevant factors.

4.14.050 WATER BODY AND RIPARIAN AREA BUFFER

A. Purpose

This section is intended to establish setbacks to create natural buffers that minimize erosion, stabilize stream banks, protect, and improve water quality, preserve fish and wildlife habitat, and preserve the natural aesthetic value of water bodies and riparian areas.

B. Applicability

1. This subsection shall apply to all new development, except for the following development or activities:
 - a. Agricultural activities, such as soil preparation, irrigation, grazing, planting, and harvesting;
 - b. Maintenance and repair of existing public roads, utilities, and other public facilities within an existing right-of-way or easement;
 - c. Maintenance and repair of flood control structures and activities; and
 - d. Wetland and wildlife habitat restoration, construction, or enhancement that improves or restores the wetland or stream corridor functions, provided that the proposed activity is approved by the appropriate agency such as the U.S. Army Corps of Engineers.

2. The standards of this section shall apply in addition to the standards of Section 4.14.020, Flood Damage Prevention Regulations. If there is any conflict, the more restrictive provision shall apply.

C. Riparian Setback and Buffer

1. When Required

A riparian setback and buffer are required for the following:

- a. In all zone districts on each side of any perennial stream or river, water body, or wetland as established by the mapped floodplain area, or from the Ordinary High Water Mark (OHWM), or as determined by a qualified professional geologist or geotechnical engineer.
- b. Classifications of surface waters as perennial or intermittent streams, or as a lake or pond, shall be as indicated on the most recent version of the United States Geological Survey (USGS) 1:24,000 (7.5 minute) scale topographic maps, or the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA). If there exists a discrepancy between these maps that would affect a required buffer, the classification requiring the most stringent buffer shall be applied.

2. Minimum Total Width of Water Body Setback

No improvement, building, structure, private ramp access, excavation, dumping, or backfill shall be placed, built, undertaken or approved within a 75-foot setback area measured horizontally from the AHWL of any river or live stream, except for improvements permitted in Section 4.14.020.C.3. The location of the required setback is determined by the minimum total width of the area within the riparian buffer. This shall be the width of the mapped floodplain, or where the floodplain is not mapped or is narrower than 75 linear feet from the AHWL on both sides.

3. Riparian Buffer Zones

a. Streamside Zone – Zone 1

- i. Zone 1 shall begin at each edge of any identified riparian area and shall occupy a margin of land on each side, each with a minimum width of 25 feet from any wetland, water body, or any perennial stream. Where very steep slopes (30 percent or greater) are located within, and extend beyond such margin, Zone 1 shall extend to include the entirety of the very steep slopes up to a maximum dimension of 50 feet.
- ii. No disturbance of land shall be allowed within Zone 1 including without limitation dumping, filling, dredging, new construction, excavating, substantial improvements or modifications, scraping by motorized equipment, removal of native vegetation or root systems, or transferring materials that will reduce the natural storage capacity of the land, interfere with the natural flow pattern of any watercourse, or degrade the quality of surface or ground water.

(a) Exceptions to these restrictions include:

- (i) Approved flood control structures;
- (ii) Approved stream restoration practices;
- (iii) Selected removal of dead, hazardous, or invasive vegetation or vegetation management in accordance with an approved landscape plan;

- (iv) Unpaved public pedestrian trails; and
 - (v) Roads where no economically feasible alternative exists. Roads should cross streams and riparian areas as perpendicular to the flow path as possible to reduce the area of disturbance.
 - (b) Underground utilities or public park structures may be allowed as a Special Use, provided that the Planning and Zoning Commission and Town Council find that:
 - (i) There is no practical alternative location for the utilities or public park structures; and
 - (ii) That adequate provision is made to ensure that all construction scars are revegetated.
 - (iii) Utilities should cross streams and riparian areas as perpendicular to the flow path as possible to reduce the area of disturbance.
- b. Outer Buffer Zone- Zone 2**
- i. Zone 2 provides for limited uses in a buffer between development and Zone 1. It also provides separation between areas of intense human use and riparian features associated with intermittent or ephemeral streams.
 - ii. The minimum width of Zone 2 for wetlands, waterbodies, and perennial streams shall be from the edge of Zone 1 to the limit of the mapped floodplain. The width of Zone 2 when applied to intermittent streams is 50 feet.
 - iii. No significant disturbance of land shall be allowed within Zone 2 buffers including without limitation dumping, filling, dredging, new construction , excavating, substantial improvements or modifications, scraping by motorized equipment, removal of native vegetation or root systems, or transferring materials that will reduce the natural storage capacity of the land or interfere with the natural flow pattern of any watercourse or degrade the quality of surface or ground water. The following structures, uses, and activities are permitted in the riparian transition buffer:
 - (a) Any use permitted in the Zone 1 buffer,
 - (b) Non-agricultural open fencing,
 - (c) Unpaved biking or hiking trails;
 - (d) Stormwater management facilities with the approval of a qualified engineer; and
 - (e) Recreation uses with the approval of the Floodplain Administrator.

Chapter 4.15 Subdivision Design and Improvement Standards

4.15.010 DESIGN AND IMPROVEMENT STANDARDS

A. Compliance with Zone District Requirements and Development Standards

The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within all proposed subdivisions shall be designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation, protects wetlands and critical wildlife habitat, and otherwise accomplishes the purpose and intent of this LUDC and of the zone district in which the subdivision is located. Applicants shall refer to the general development standards this chapter and shall apply them in the layout of the subdivision in order to avoid creating lots or patterns of lots that will make compliance with the applicable development standards difficult or infeasible.

B. Suitability of Land for Subdivision

Land subject to natural hazards such as flooding, wildfire, falling rock, landslides, and avalanches shall be considered unsuitable for any occupancy that may impair the health, safety, or welfare of the inhabitants. Where such hazardous conditions exist on or adjacent to lands proposed for subdivision, the proposal may be denied unless potentially hazardous conditions are appropriately mitigated.

C. Required Improvements and Dedications

All subdivisions shall comply with the requirements for improvements in Section 4.17.140, and applicable dedications or fees.

4.15.020 LOT AND BLOCK DESIGN AND ACCESS

A. Design

1. Each lot in a development shall be designed to provide an adequate, readily accessible building site for a structure devoted to the intended use of the land.
2. Lot design shall meet the dimensional standards of the applicable zone district. Where individual water or sewage systems are proposed, lot sizes shall be in conformance with the current standards of the Colorado Department of Public Health and Environment.
3. Lots and blocks shall be designed to afford the maximum solar access to each building site.
 - a. At least 30 percent of new residential lots shall be solar-oriented, with the longest lot line dimension oriented to within 30 degrees of a true east-west line.
 - i. The Director may reduce the number of lots required to be solar-oriented in an infill subdivision upon a finding that the existing street pattern in the area should be maintained to assure compatibility with the character of the surrounding neighborhood.
 - ii. The Director may consider a waiver to this requirement where an applicant guarantees the installation of solar collection systems on an equal number of homes.

- b. Where existing street, parcel dimensions and size, and development patterns; or unusual topographic, environmental, soil, and similar conditions exist that, as determined by the Director, make compliance with these provisions either physically or economically infeasible, the Director may modify the standards in this section. However, the modifications shall be the minimum necessary and shall maintain overall solar access in the subdivision.
- 4. If any part of a residential development borders a railroad right-of-way, adjacent lots shall either have a minimum depth of 150 feet or be provided with a landscaped 50-foot buffer adjacent to the railway or a parallel street adjacent to the railway. Dwelling units shall be located at least 50 feet from the railroad right-of-way.

B. Access

- 1. Lots shall be designed to allow vehicular access from a public street. 4.04.100(E): except that a maximum of 20 condominium units or 20 townhouse lots may front on a private access way at least 25 feet in width.
- 2. Lot and block patterns shall allow for access onto a street from each lot. The use of an easement or alley for principal access to a lot shall be allowed where:
 - a. Alleys currently exist, or
 - b. Alleys are part of an overall project design, or
 - c. An alley can be used to provide access in a manner that corresponds to surrounding site design and allows maneuvering that is safe for vehicles, pedestrians, and bicyclists.
- 3. No more than one access point from an arterial or collector street shall be provided to any development unless the applicant provides professional documentation that additional access points would be significantly beneficial to the safety and operation of the street or that provision of only one access point would be detrimental to public safety. Requests for more than one access point shall be subject to approval by the Town Engineer.
- 4. Private access onto any public street shall be designed to permit user vehicles to enter and exit in forward drive, except for access from a single-family or two-family lot onto a local street.
- 5. Any development requiring access onto a State highway shall obtain a permit for such access in accordance with the Colorado State Highway Access Control LUDC before the issuance of any Town development permit.

4.15.030 STREETS, ALLEYS, SIDEWALKS, AND BIKEWAYS

A. Layout and Design

- 1. The street pattern shall be designed to afford safe and convenient access to all lots within the subdivision.
- 2. The street pattern shall have a logical relationship to topography.
- 3. Where, as determined by the Town, topographic, environmental, and soil conditions, and existing street configurations permit, the predominant pattern of new streets shall be solar-oriented, within 30 degrees of east-west orientation.

4. Where a proposed development borders an arterial, as designated in the Town's major street plan, street intersections with the arterial street shall be at minimum intervals of 1,000 feet.
5. Street design and layout shall meet the design criteria set forth in the Town's design and construction specifications for streets.
6. Where the proposed development results in the need for off-site street improvements, such improvements shall be the responsibility of the applicant.

B. Construction

All streets and related improvements shall be constructed in accordance with the Town's street construction regulations and standards for water system development.

C. Street Name Signs

Street name signs shall be provided by the applicant, subject to approval by the Town Engineer.

D. Traffic Control Devices

All traffic control signs, signals or devices shall be provided by the applicant in conformance with the most current edition of the "Manual on Uniform Traffic Control Devices," as published by the U.S. Department of Transportation, Federal Highway Administration, and shall be subject to approval by the Town's traffic engineer before installation.

E. Street Lights

Street lighting shall be provided in conformance with applicable Public Works standards.

F. Street Maintenance, Notice

The Town shall not be responsible for the maintenance of streets in new subdivisions until approved by Public Works or as otherwise specified in the development agreement. Until the streets have been approved, the applicant shall post at all entrances to the subdivision a sign which states:

"Notice: Roads within this Subdivision have not been accepted by the Town for maintenance."

G. Sidewalks and Bikeways

1. Sidewalks and bikeways shall be designed in compliance with the appropriate sections of Chapter 4.10.
2. Sidewalks and bikeways shall be designed and constructed in conformance with the Town street construction regulations.

4.15.040 INFRASTRUCTURE AND UTILITIES.

A. Water

1. The applicant shall provide additional water rights pursuant to Title 12, storage, and distribution facilities to serve the proposed development, including all areas of park land dedication, common open space, and private recreation facilities. All facilities shall comply with Title 12.
2. The water main distribution system of a development shall be designed to connect with the Town's water system, to be compatible with the existing system, and shall be designed to make water available to each lot in the proposed development. Fire hydrants shall be located to ensure protection to each lot and shall be approved by the Greater Eagle Fire Protection District. Design of the system shall be to the Town's specifications and water distribution regulations.

B. Wastewater

1. Where the Town wastewater collection system is accessible, the wastewater collection system shall be designed to connect with the system and provide service to each lot in a proposed development. Design of the system shall be the responsibility of the applicant, with all plans subject to Town specifications and the approval of the Town's Engineer.
2. Where the Town wastewater collection system is not accessible, the applicant shall be responsible for installation of a wastewater collection and treatment system for the development. The system shall be designed to meet all federal, state, and local laws and regulations concerning design, installation, and operation of the system. Connection to a public wastewater system shall be made when it becomes available.

C. Utilities

1. Except in an Industrial zone district, all wires, cables, or other equipment for the distribution of electric energy, and telecommunication signals, with the exception of transformers, meters, junction boxes and like equipment, shall be placed underground.
2. Where subdivisions or developments are approved along or with crossing existing overhead power and communications facilities, energy and telecommunications may be obtained from these existing facilities. The service connections to these facilities shall be placed underground unless otherwise approved by the Town Council due to economic, engineering, or aesthetic reasons.
3. Utility easements and rights-of-way shall be provided in the subdivision or development. Joint excavation may be required pursuant to Chapter 13.18, Construction within the Public Right-of-Way.
4. All utilities shall be compliant with the requirements of Sec. 9-1.5-103 C.R.S., the Colorado One Call Law.

4.15.050 BOUNDARY AND SURVEY MONUMENTATION

- A. The boundary survey, internal property lines, and monumentation as depicted in the final plat for a subdivision shall meet all requirements established by State law.
- B. Survey data shall be checked by the Town Engineer prior to approval of the final plat.
- C. Monuments shall be set to specifications of the Town Engineer with at least one monument on the boundary established as a permanent benchmark.
- D. All survey traverses shall close to within one foot in 10,000 feet, or within a tolerance of 0.01 percent.

Chapter 4.16 Signs

4.16.010 GENERAL PROVISIONS

- A.** Purposes and interests. This section establishes the standards for the design, location, installation, and maintenance of signs on private property. Signs are an important means of visual communication for both location identification and wayfinding. The intent of this section is to provide standards that result in a reasonable balance between private signage and the visual discord that can result from the proliferation of signs. Regulations contained in this section are a result of the consideration of the compatibility of signs with adjacent land uses and the total visual environment of a particular area within the entire community. The purposes of this chapter are to:
1. Promote and accomplish the vision and policies of the Comprehensive Plan and other relevant community plans;
 2. Provide the public, property owners, and businesses with an opportunity for safe and effective means of communication;
 3. Preserve residents' and visitors' ability to enjoy the Town's scenic beauty;
 4. Coordinate the location and type of signage with the existing and proposed scale and type of development in a manner that contributes to the character, environmental quality, and economic health of the Town and reduces visual degradation of the attractiveness of the Town;
 5. Recognize free speech rights by regulating signs in a content-neutral manner;
 6. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting and/or illegible signage;
 7. Eliminate fire hazards caused by the size and placement of signs;
 8. Reduce needless and destructive competition among signs as well as control and reduce insistent and distracting demand for attention from signs that can be injurious to the mental and physical well-being of the public and destructive to adjacent property values and the natural beauty of the Town;
 9. Promote the health, safety, and public welfare of the Town, and its residents and visitors; and
 10. Adopt clear and understandable regulations that enable the fair and consistent enforcement of this section.
- B.** Savings and severability. If any clause, section, or other part of the application of these sign regulations shall be held by a court of competent jurisdiction to be unconstitutional or invalid, it is the intent of the Town that such clause, section, or specific regulation be considered eliminated and not affecting the validity of the remaining clauses, sections, or specific regulations that shall remain in full force and effect.
- C.** Noncommercial message substitution. Noncommercial copy may be substituted for commercial copy or other noncommercial copy on any legal sign, notwithstanding any other provision of this chapter.

- D.** Calculation of time. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the Town. References to days are calendar days unless otherwise stated.

4.16.020 APPLICABILITY

A. Applicability.

1. The regulations of this chapter shall apply to all signs in all zone districts, including signs that do not required a sign permit, but not including signs or notices that are exempt from regulation per 4.08.020.D, Exempt from sign regulations.
2. Any lawfully existing sign that predates the adoption of this section and that does not comply with this section shall be considered a legal nonconforming sign and shall be subject to 4.08.080, Nonconforming signs.

B. Sign permit required.

1. A sign permit is required for any sign to be erected, re-erected, constructed, altered, or maintained, except as provided in Sections 4.08.020.C, Sign permit not required, and 4.08.020.D, Exempt from sign regulations.
 - a. A sign permit is required to convert a temporary sign to a permanent sign.
 - b. A sign permit is required to convert a non-electronic message display (EMD) sign to an EMD sign, including where the EMD is replacing part of an existing or proposed non-EMD sign.
2. The following actions are exempt from this requirement:
 - a. Changing or replacing sign copy without changes to the sign structure,
 - b. Changes to copy on changeable copy signs and EMD signs, and
 - c. Change or replacement of window signs.
 - d. Changes in temporary signs that are allowed without a permit.
3. Changes to nonconforming signs require a sign permit and are subject to Section 4.08.080, Nonconformities.
4. When a sign permit is requested for a sign on a parcel where an illegal or prohibited sign(s) exists, the permit shall not be issued until all such signs are removed or brought into conformance with this Code. This provision does not apply when the applicant can demonstrate that an existing sign is nonconforming.
5. Sites or structures that will have more than one sign shall have a coordinated plan for all signs on the building and property.

- C.** Sign permit not required. Due to their small size, limited time duration, and limited aesthetic impact, the following signs may be erected without a sign permit, but shall otherwise comply with the provisions of this section and any other applicable Town, State of Colorado, or Federal requirements.:

1. Temporary signs, unless otherwise specified in 4.08.060, Standards for temporary signs.
 2. Flags that are affixed to a permanent flagpole or structure. The total number of flags permitted on a lot is identified in Section 4.08.030, Permanent sign regulations by zone district.
 3. Internally oriented signs that are not readily legible beyond the boundaries of the lot or parcel on which they are located nor visible from any public right-of-way, including signs or banners on fences and structures within an arena, park, recreational complex, or athletic field, provided such signs or banners face inward to the arena, park, recreational complex, or athletic field.
 4. Access point, under canopy, and window signs that comply with the applicable standards for the zone district in Section 4.08.030, Permanent sign regulations by zone district.
 5. Signs that are carved into stone, concrete, or similar permanent materials and which are constructed as integral part of a structure.
 6. Incidental signs that are less than one square foot in area and that are affixed to doors or entryways, machines, equipment, fences, gates, walls, gasoline pumps, or utility cabinets.
 7. Signs that are no more than two square feet in area and are located along the perimeter of a property that are spaced as follows:
 - a. One sign per property frontage, regardless of the length of the frontage.
 - b. For property frontages that are longer than 100 linear feet, one sign per 50 linear feet.
- D. Exempt from sign regulations.** The following sign types are not subject to any standards in this chapter and may be installed or displayed without a sign permit.
1. Regulatory signs, including official public signs approved by a governmental body with jurisdiction over issues such as traffic safety, pedestrian safety, schools, railroads, or public notice, as well as signs required by the Manual of Uniform Traffic Controls.
 2. Signs and notices required to be displayed, maintained, or posted by law or by any court or governmental order, rule, or regulation.
 3. Remote Residence Sign. A residence located 50 feet or more from the public road from which it takes access may have one sign, limited to two square feet in area, placed in the public right-of-way between the primary structure and the public road from which it takes access.
- E. Prohibited signs and sign locations.** The following signs and sign elements are prohibited within the Town:
1. Signs that create safety hazards.
 - a. Signs that create a danger to motorists, pedestrians, or other members of the public because they can be distracting, interfering, or confusing due to the signs' size, construction, location, movement, coloring, or manner of illumination.
 - b. This prohibition includes signs that may be confused with or construed as official traffic control devices.
 2. Signs installed in improper locations or manners.
 - a. Signs shall not be located within a required clear vision area per Section 4.04.100.H. Outside of the clear vision area, signs shall not be installed in a manner that:

- i. Obstructs the view in any direction at an intersection, or
 - ii. Hides any official traffic control device from view.
 - b. Signs shall not be placed on or over public roads, public alleys, public rights-of-way, or utility easements. On private property, signs can be placed in private utility easements subject to removal by the easement holder.
 - c. Signs shall not be mounted on or to natural features such as landscaping, trees, or rocks; or public/utility features such as traffic signage; utility and light poles; or other similar structures.
 - d. Signs shall not be installed in a manner that causes glare or that may impair the vision of any motorist.
 - e. Signs that are structurally unsound.
3. Prohibited signs. The following sign types and categories are prohibited in the Town:
- a. Signs that move, either mechanically or wind-driven, or that have any animated or moving parts, including, but not limited to, wind signs and other similar devices;
 - b. Inflatable signs such as blimps, animals, inflatable representations of a product for sale and other inflatable devices used for the purposes of advertising or attracting attention, but not including ordinary balloons with a diameter of two feet or less that are used for temporary displays;
 - c. Flutter-flag signs;
 - d. Off-premises signs;
 - e. Roof signs;
 - f. Billboards; and
 - g. Carried signs.

4.16.030 PERMANENT SIGN REGULATIONS BY ZONE DISTRICT

A. Residential Zone Districts

1. The following signage is permitted by use or structure in residential zone districts:

TABLE 4.16-1: PERMANENT SIGNS IN RESIDENTIAL DISTRICTS					
Use or Structure	Sign Category	Max. Number	Height (max., ft.)	Area per Sign (max., s.f.)	Additional Standards
Residential					
	Wall	1 per dwelling	Top of wall	8	Wall signs: 0
Any Residential	Flag	n/a	Max. height for zone district	24	No permit required.

TABLE 4.16-1: PERMANENT SIGNS IN RESIDENTIAL DISTRICTS

Use or Structure	Sign Category	Max. Number	Height (max., ft.)	Area per Sign (max., s.f.)	Additional Standards
Subdivision Access	Wall or Monument	1 per vehicular entrance	Wall: Top of wall Monument: 5 feet	32	Wall signs: 0; Monument signs: 4.16.040B.2
Nonresidential					
Nonresidential Use or Structure	Access Point	1 per vehicle entrance	3	3	No permit required. Access point signs: 4.16.040B.1
	Flag	3 per lot	Max. height for zone district	24	No permit required.
	Wall	1 per lot [1]	Top of wall	12	Wall signs: 0
	Window	n/a	n/a	35% of window	No permit required. Window signs: 4.16.040A.4

Notes:

[1] Or series of contiguous lots in common ownership in nonresidential use

2. Sign illumination and EMD signs are prohibited in residential zone districts.

B. Nonresidential Zone Districts

1. Applicability

- The standards in this section shall apply to mixed-use, commercial, and industrial zone districts.
- Uses and structures identified in the Use or Structure Column include nonconforming uses and uses approved by special use review.

2. Maximum Total Allowed Sign Area

- The total sign area for all signs for which permits are required shall not exceed one square foot per lineal foot of property frontage along a public street. The maximum size for any individual sign may not exceed the size referenced in Table 4.08-2.

- b. Structures with more than one frontage on a public street (e.g., corner lot) are allowed to have the maximum total sign area on each frontage per Section 4.16.100, but only one frontage per lot may include a freestanding sign.
- c. The total sign area shall include all sign faces and shall be calculated according to the standards of Section 4.16.100.

3. Minimum Sign Area Entitlement

Where the maximum sign calculation only permits less than the following amount of signage, all non-residential properties are entitled to the following minimum signage:

- a. Each property shall be entitled to one freestanding sign per street frontage of 50 square feet per face and one wall sign per business of 32 square feet in size so long as all other requirements of this section are met.
- b. For properties where the minimum sign area entitlement is applicable, maximum individual sign size shall be limited to the sizes permitted in 4.16.030B.3, not the sign sizes based on lineal footage calculation above.

C. Allowed Signs

Table 4.16-2 identifies the types of signs allowed in Mixed-Use, Commercial, and Industrial districts, and the regulations associated with each sign type. If a sign type is not included in Table 4.16-2, or Section Applicability., Exempt From Sign Regulations, it is not allowed.

TABLE 4.16-2: PERMANENT SIGNS IN MIXED-USE, COMMERCIAL, AND INDUSTRIAL DISTRICTS					
Sign Category	Max. Number	Height (max., ft.)	Area per Sign (max., s.f.)	Illumination	Additional Standards
Residential					
See Table 4.08-1					
Nonresidential					
Attached					
Wall or projecting	1 per tenant per frontage	20 [1]	Gen: 32 CBD: 20	External [2]	Location adjustments: 4.16.040D
Under canopy	1 per public entrance	n/a	2	Not allowed	No permit required. Awning and Canopy signs: 4.16.040.A

TABLE 4.16-2: PERMANENT SIGNS IN MIXED-USE, COMMERCIAL, AND INDUSTRIAL DISTRICTS

Sign Category	Max. Number	Height (max., ft.)	Area per Sign (max., s.f.)	Illumination	Additional Standards
Window	n/a	May not be installed above ground story	35% of window	Not allowed	No permit required. Window signs: 4.16.040A.4
Freestanding					
Access Point	1 per vehicle entrance	6	4	External [2]	No permit required. Access point signs: 4.16.040B.1
Flag	4 per lot	Max. height for zone district	24	External	No permit required.
Monument	1 per lot	Single tenant: 5 2 or more tenants: 10	Single tenant: 30 2 or more tenants: 50 CBD: 20	External [2]	Location adjustments: 4.16.040D
Pole	See 4.16.040E, Standards Applicable by Location or Zone District				
Notes:	[1] Or the height of the tallest building on the same lot, whichever is lower [2] Internal lighting may be allowed pursuant to Section 4.16.050.				

4.16.040 SIGN TYPE, MATERIALS, AND LOCATION STANDARDS

A. Attached Signs

An attached sign is a sign that is mounted on, or attached to a structure, including a wall sign, awning sign, roof sign, or projecting sign.

1. Awning and Canopy Sign

- a. An awning sign is a sign that is mounted on a temporary shelter supported entirely from the exterior wall of the building and covered in a flexible material.
- b. A canopy sign is a sign affixed to an attached or detached structure, open on at least one side, which is designed to provide overhead shelter from the sun or weather but not covered with fabric or flexible material. Signs on detached canopies, such as service station canopies, are treated as freestanding signs.
- c. Under canopy signs (also referred to as arcade signs) require a minimum clearance of eight feet.

- d. Awning and canopy sign dimensions are typically measured in the locations shown in Figure 4.16-A:



Figure 4.16-A: Awning and Canopy sign detail

2. Projecting Signs

- a. A projecting sign is a sign that is wall-mounted perpendicular to the building that may extend upwards along the façade and/or outwards and over a walkway or parking area.
- b. All projecting signs require a minimum clearance of eight feet.

Projecting signs dimensions are typically measurement at the locations shown in Figure 4.16-B:



Figure 4.16-B: Projecting sign measurement locations and examples

3. Wall Signs

- a. A wall sign is a sign attached to or erected against a wall of a building, with the face parallel to the building wall.
- b. Wall sign dimensions are typically measured at the locations shown in Figure 4.16-C:



Figure 4.16-C: Wall sign measurement locations and sample

4. Window Signs

- a. Window signs may be affixed directly to the inside or outside window or hung/mounted inside the window from the top, side, or bottom of the window frame or similar architectural element.
- b. Window signs covering up to 35% of an individual window do not require a permit. Window signs covering more than 35% of an individual window are not allowed.

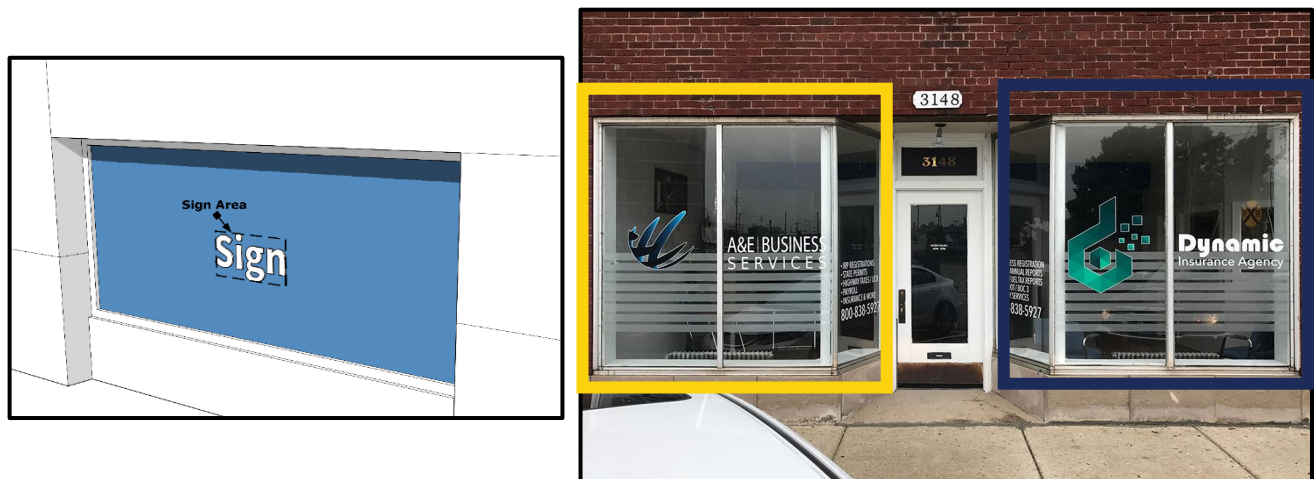


Figure 4.16-D: Window sign measurement locations and samples

B. Freestanding Signs

A freestanding sign is a ground-mounted sign erected on a permanently set pole or poles, mast, or framework that is not mounted on or attached to a structure; includes an access point sign, monument sign, or pole sign.

1. Access Point Signs

- a. An access point sign is a sign located at a vehicular access point to a property. An access point sign located at a vehicular entrance to a subdivision or neighborhood is called a subdivision entry sign.
- b. Access point signs are typically measured as shown in Figure 4.16-F:



Figure 4.16-E: Access point sign

2. Monument Signs

- a. A monument sign is a freestanding sign where the base of the sign structure is on the ground.
- b. Monument signs are typically measured as shown in Figure 4.16-E:

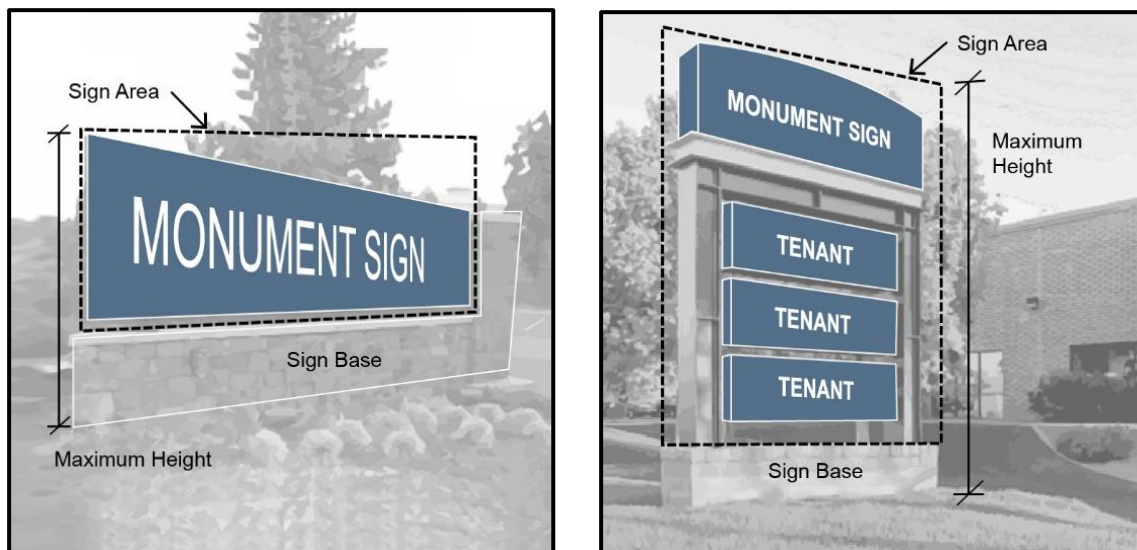


Figure 4.16-F: Monument sign measurement locations and sample signs

3. Pole Signs

- a. A pole sign is a self-supported sign permanently attached directly to the ground supported by upright poles or posts or braces placed on or in the ground.
- b. Pole signs are typically measured as shown in Figure 4.16-G:

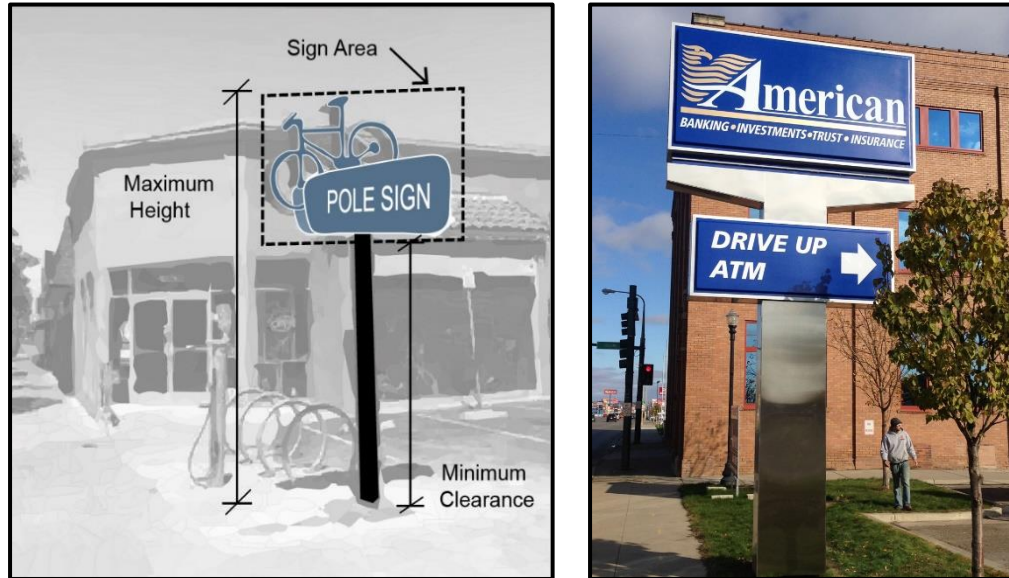


Figure 4.16-G: Pole sign measurement locations and sample sign

4. Structural Canopy Signs (Detached Canopy)

- a. A structural canopy sign is a sign attached to a permanent, freestanding canopy, such as a service station or ATM canopy.
- b. Structural canopy signs are typically measured as shown in Figure 4.16-H:



Figure 4.16-H: Structural canopy sign measurement locations and sample signs

C. Materials

Unless otherwise specified in this section, sign materials shall be:

- a. Compatible with building facade materials and must be sufficiently durable to withstand climatic effects of the area, including extended periods of heat, cold, and drought along with intense solar exposure.
- b. Painted wood or metal is preferred. Other materials may be allowed where the Director determines that the proposed material is compatible with the architectural character of the associated structure and where the applicant provides evidence that:
 - i. The proposed material will provide at least 15 years of outdoor durability in Eagle's climate, taking into account temperature extremes, wind, weather, and solar exposure; and
 - ii. The resulting sign can be maintained for the life of the materials at a relatively reasonable cost.
- c. Highly reflective materials are prohibited.

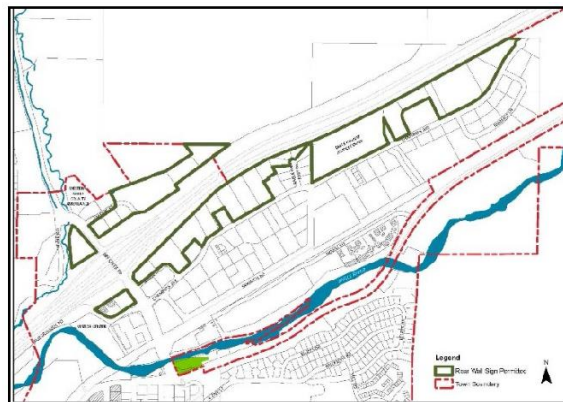
D. Site Plan and Landscaping

All freestanding signs shall be integrated with the overall site plan and any required landscaping, buffering, or screening.

E. Standards Applicable by Location or Zone District

The following standards are applicable in addition to or as a substitute for based on the location of the structure for which the sign is allowed.

1. Properties that adjoin the I-70 right-of-way.



- a. No sign shall be located in a rear yard except on properties that adjoin the I-70 right-of-way as identified on the zoning map, these properties shall be allowed one flat wall sign in the rear yard of up to 30 square feet per tenant in addition to other allowed signs.
- b. For properties fronting Eby Creek Road, each wall sign, projecting sign, or freestanding sign shall have a maximum sign area of 80 square feet and a maximum height of 15 feet.

4.16.050 SIGN ILLUMINATION

A. Applicability

Every sign that is illuminated shall comply with the requirements of this section and Section 4.07.010, Lighting standards, except that halo lighting is permitted wherever internal sign lighting is allowed provided the applicant can show that the halo lighting is compliant with equivalent internal lighting standards.

B. Where allowed.

1. Each tenant is limited to one static illuminated sign.
2. Internally illuminated signs are only permitted on properties adjacent to Eby Creek Road, Market Drive, Chambers Avenue area, and East Eagle.
3. EMD signs are allowed as follows:
 - a. EMD signs are allowed as part of the signage for the following uses:
 - i. Service stations;
 - ii. Convenience stores with fuel pumps and EV charging stations.
 - b. EMD signs shall be incorporated into a permanent attached or freestanding sign as follows:
 - i. EMDs incorporated into attached signs shall not be larger than 15 percent of the total square footage of the permanent graphic portion of the sign when compared as separate components. For purposes of determining the allowable total sign area, the permanent graphic portion of the sign and the EMD shall be included in the same perimeter and measured as a single sign, inclusive of any physical separation between the two components.
 - ii. In a freestanding sign, the EMD component shall be enclosed on all sides with a finish of approved materials, or the surface of the sign face. The enclosure shall extend not less than six inches from the electronic message display in any direction. EMDs shall make up not more than 15 percent of any freestanding sign, and the balance of the sign area shall utilize permanent copy.
4. In the Chambers Avenue Commercial Zone, Chambers Avenue Industrial Zone Area, North Interchange Area, and Highway 6 Corridor, lighting of signs shall be permitted during the period the commercial enterprise is open for business and for up to one hour following the close of business.

**C. Electronic message display (EMD) signs.**

1. EMD signs prohibited

EMD signs are prohibited in all residential zone districts.

2. EMD display

- a. Signs shall contain static messages only and shall not have movement or the appearance or optical illusion of movement, including flashing, pulsating, scrolling, or similar actions, during the static display period of any part of the sign.
- b. Each static message shall not include flashing or the varying of light intensity and shall not scroll.
- c. The sign shall be programmed to display a blank screen if a malfunction occurs.
- d. The sign shall not include audio, pyrotechnic, bluecasting (bluetooth advertising), or other similar components.

3. Display time

- a. Each static message on the sign shall be displayed for a minimum of 12 hours in duration.
- b. Message change shall be completed instantaneously.
- c. There shall be a direct change from one message to the next. All transition effects, such as motion, animation, fading, scrolling, or dissolving are prohibited.

4. Display brightness

- a. No EMD may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. In no case may the brightness exceed 5,000 nits or equivalent candelas during daylight hours or 250 nits or equivalent candelas between dusk and dawn.
- b. EMDs must be equipped with an automatic image dimming capability (ambient light monitors). This feature must be enabled at all times, allowing the display to automatically adjust brightness based on ambient light conditions.
- c. The light from any sign shall be so shaded, shielded, or directed that the light intensity or brightness shall not be projected over the property lines into a residential district.

5. Display technology

The technology currently being deployed for EMDs is LED (light emitting diode), but there may be alternate, preferred, and superior technology available in the future. Any other technology that operates under the brightness limits above shall not require an ordinance change for approval.

6. Installation

EMD sign faces shall be installed so the illuminated side of the sign does not face any adjacent residential use or residential zone district.

7. Sign permit conditions

The following conditions apply to all EMD sign permits. Failure to comply shall result in the Town requiring the sign cease operation until compliance occurs.

- a. The sign shall at all times be operated in accordance with Town codes and that the owner or operator shall provide proof of such conformance within 24 hours of a request by the Town;

- b. A Town inspector may access the property upon 24 hours' notice to the owner, operator, or permittee so that the Town may verify that the EMD has the automatic image dimming capability engaged. In the event of a citizen complaint regarding the EMD brightness, the owner, operator, or permittee may be required by the Town inspector to manually reduce the brightness to 4500 nits during daylight hours or 200 nits between dusk and dawn;
- c. Whether the sign is programmed from the site or from a remote location, the computer interface that programs the sign and the sign's operation manual shall be available to Town staff upon 24 hours' notice to the owner, operator, or permittee.
- d. Sign permit applications to install an EMD must include a certification from the owner or operator that the sign shall at all times be operated in compliance with the conditions set out in this Code. The owner, operator or permittee shall immediately provide proof of such conformance upon request of the Town.

4.16.060 STANDARDS FOR TEMPORARY SIGNS

A. Purpose and intent

The purposes of these temporary sign regulations are as follows:

1. Enhance opportunities for visual communication, including promoting the legibility of such communications;
2. Support an attractive economic and business climate within the Town;
3. Enhance and protect the physical appearance of all areas of the Town;
4. Identify permissible signage for temporary uses and temporary events, and
5. Reduce the distractions, obstructions, and hazards to pedestrian and automobile traffic caused by the excessive number, size, or height, inappropriate means of illumination or movement, indiscriminate placement, overconcentration, or unsafe construction of signs.

B. Permit

A temporary sign permit is not required unless otherwise specified in this section.

C. Display

1. Maximum time and number of temporary signs.

- a. No temporary sign shall be erected, re-erected, or maintained for more than a cumulative 30 days per year, unless otherwise permitted in this chapter. For the purpose of this regulation, any sign of similar size and associated with the same temporary use or event erected subsequent to the original temporary sign shall be considered as the original sign for the time limitation contained herein.
- b. Maximum number of temporary signs installed without a permit shall not exceed one sign per property frontage except as permitted by Table 4.08-3.

2. Off-premises display of temporary signs.

Temporary event signs, including, but not limited to, those specified within this section, may be allowed off-premises on private property provided they meet the following requirements:

- a. The sign conforms to all requirements of this chapter;

- b. The sign does not interfere with automobile traffic or pedestrians;
- c. The sign is not placed in the public right-of-way or on public property;
- d. When a sign placed on private property, is done with the express permission of the property owner; and
- e. The sign is not a public danger or nuisance during high winds or inclement weather.

3. Location

- a. Temporary signs are subject to the prohibited sign locations identified in Section 4.08.020.E, Prohibited signs and sign locations.
- b. No temporary sign shall cause unsafe ingress or egress or otherwise create traffic visibility problems.

D. Size and placement limitations

The following size and placement limitations are generally applicable to temporary signs unless otherwise specified in this chapter.

1. Maximum height: unless otherwise specified, eight feet in commercial and industrial zone districts; six feet in residential zone districts.
2. Maximum sign area 32 square feet on each side of the display in commercial and industrial districts; one square feet on each side of the display in residential districts. Signs may be printed on both sides or two single-sided banners may be placed back-to-back. V-type configurations are not permitted.
3. Measuring one side of the display shall determine the square footage for purposes of computation.
4. Signs, except for sandwich board, shall be located at least 150 feet apart and a minimum of five feet behind all property lines on the parcel.
 - a. Sandwich board signs shall be located within ten feet of a pedestrian entrance and shall be removed when the business is closed and during severe weather events.
 - b. Sandwich board signs may be placed on the sidewalk when this can be done safely without blocking ADA-required clear areas or causing pedestrian or vehicular hazards.
5. Temporary signs shall not be illuminated.
6. Temporary signs shall not contain any electronic components or display any digital or electronically copy projected on the sign face.

E. Materials

All temporary signs shall be made of durable materials.

4.16.070 TEMPORARY SIGNS ALLOWED BY TEMPORARY USE OR ACTIVITY

A. Temporary signs allowed without a permit

The temporary sign types listed in this section are linked to the activity, use, or event that is required to be allowed to install extra temporary signage. Pursuant to Section 4.08.010, General provisions, the Town does not regulate the content of allowed signage.

4.16.070. Temporary Signs Allowed by Temporary Use or Activity

Chapter 4.16 Signs

B. Temporary signs that require a permit.

TABLE 4.08-3: TEMPORARY SIGNS ALLOWED WITHOUT A PERMIT

Temporary Sign Type	Number of Signs Allowed	Sign Area (max)	Activity, Use, or Event Required to Allow Extra Signage	Duration
Yard	1	6 sf	Residential Active Real Estate Listing, Lot < 2ac	The sign may be placed when the real estate listing becomes active and shall be removed within 7 days of the closing of the sale of the property or when the listing is deactivated.
Yard or Banner attached to building	1	24 sf	Nonresidential Active Real Estate Listing, Lot < 2ac	
Yard or Banner attached to building	1	32 sf	Active Real Estate Listing, Lot >2 ac [1]	
Yard or Banner attached to fence	3	24 sf per sign	Active Construction Permit	The sign may be placed when the construction permit is issued and must be removed within 14 days of the issuance of the certificate of occupancy.
Any	n/a	24 sf per sign [2]	Election Event	The sign may be placed for a period of 60 days prior to a state, local, or national election. Total signage in excess of the maximum amount allowed on the property during non-election periods must be removed within five days after the applicable election event.
Sandwich Board	1 sign per primary public entrance	6 sf in area per side	Nonresidential uses	Sandwich board signs are allowed to be used 365 days a year, are not subject to the 30-day duration limitation for temporary signs and shall be taken in daily at the close of business.
Yard	n/a	n/a	Small Sales Events (Estate/Garage/Yard Sale)	May be installed not more than seven days prior to the sale and shall be removed not more than two days after the sale

Notes:

[1] Owner of a lot or contiguous lots under the same ownership that together exceed two acres

[2] Signs shall be located a minimum of eight feet from the nearest public street or alley.

B. Temporary signs that require a permit.

1. Street banners. Street banners or pennants associated with a public event or a specific short term commercial event or occurrence may be displayed if specifically approved in writing by the Town Manager. The Town Manager may impose requirements concerning the installation, location, height, weight, design, structure, support and allowable time for the display of banners.

2. Temporary public events. Temporary signs associated with a temporary public event may be installed for a period of not more than 21 days prior to the event and shall be removed within seven days after the event. Temporary event signs shall have a maximum sign area of 24 square feet.
- C. Temporary sign substitution for damaged permanent signs. In the event that a permanent sign is substantially damaged through fire, natural disaster, or similar emergency, or in the case of major construction projects, where existing permanent signage is removed for construction purposes, a temporary sign of the same size may be allowed for display for a period of time not exceeding 60 days or until the completion of the construction project.

4.16.080 NONCONFORMING SIGNS

A. Nonconforming Signs

1. Where a lawful sign exists at the effective date or amendment of this chapter that would be illegal under the terms of this chapter, the use of such sign may be continued so long as it remains otherwise lawful, subject to the provisions of this section.
2. Signs that are individually or as part of a building designated by the Town as a historic landmark or a historically important sign are considered conforming to this chapter provided that:
 - a. The sign is kept in good repair;
 - b. The sign does not constitute a hazard to public safety; and
 - c. The original design of the sign does not change

B. Classification of nonconformities

There are two types of legal, nonconforming signs: major and minor. Signs with multiple nonconforming elements are classified in the category of the most significant nonconformity.

1. Major nonconforming signs.

Major nonconforming signs are those signs for which the nonconformity generates a nuisance per se, violates Town sign policy, or is incompatible with adjacent signs and/or applicable Town plans such that public policy favors their elimination from the zone if they are discontinued, abandoned, or destroyed. Major nonconforming signs include:

- a. Dangerous signs;
- b. Signs that exceed the maximum height or size permitted in the zone district by more than 20 percent;
- c. Nonconforming location that encroaches on or over a public right-of-way, clear vision area, or public access easement;
- d. Signs with nonconforming illumination;
- e. Nonconforming sign types; and
- f. Signs approved with a variance that permits any issue included in this major nonconformity list,

2. Minor nonconforming signs

Minor nonconforming signs are any nonconforming signs that are not classified as major nonconforming signs. Minor nonconforming signs include but are not limited to:

- a. Signs that exceed the maximum height or size permitted in the zone district by 20 percent or less;
- b. Nonconforming location that does not encroach on or over a right-of-way, and
- c. Off-premises signs.

C. Major nonconformities.

1. Alterations.

- a. A major nonconforming sign or sign structure may not be altered in any way that increases any nonconformity. A proposed change to any nonconforming aspect of a major nonconforming sign shall require the entire sign to be brought into conformance with this chapter.
- b. General repairs, maintenance, and change to advertising copy that does not include replacing a static sign with an EMD are not considered alterations.

2. Replacement.

- a. A major nonconforming sign that is voluntarily replaced shall be replaced with a conforming sign.
- b. A major nonconforming sign that loses its nonconforming status shall be replaced with a conforming sign.

D. Minor nonconformities.

1. Alterations.

- a. A minor nonconforming sign may be altered in a manner that conforms to this LUDC while still maintaining the nonconforming elements. For example, a sign that is two feet over the height limit for the zone district may be altered provided the height is not increased.
- b. General repairs, maintenance, and change to advertising copy that does not include replacing a static sign with an EMD are not considered alterations.

2. Replacement.

- a. A minor nonconforming sign that is voluntarily replaced shall be replaced with a conforming sign.
- b. A minor nonconforming sign that loses its nonconforming status shall be replaced with a conforming sign.

E. Nonconforming Detached Lighting

Nonconforming lighting shall be brought into conformance as required by Chapter 4.13.

F. Sign removal for public purposes.

Any nonconforming sign temporarily removed by a public utility company, the Town, or any governmental agency to accommodate repair, maintenance, or expansion operations may be replaced, provided that there is no change in size, height, or location of the sign. If any sign is moved as a direct result of a governmental or utility project, it may be relocated to a position determined

by the Town engineer to be appropriate in relation to the project, and such a sign shall not be considered nonconforming for the reason of applicable separation standards. No permit shall be required for such replacement.

G. Loss of nonconforming status.

A nonconforming sign shall lose its nonconforming designation and be required to come into compliance with this chapter if any of the following apply:

1. Any portion of the primary sign structure is replaced.
2. The primary structure on the site is replaced, renovated in a manner that expands the building footprint by more than 50 percent, or when the sign is required to be moved to accommodate building replacement or expansion in compliance with the zone district regulations.
3. A major nonconforming sign is removed, relocated, or replaced for any reason except towards compliance with this chapter.
4. If more than 50 percent of a nonconforming sign is damaged by any means, as measured by total replacement cost of both the sign and structure prior to such destruction, and the sign type is no longer permitted in the zone district, it shall be considered destroyed and shall not be brought back into service or use except in conformity with the provisions of this article.
5. The sign is voluntarily replaced in compliance with this chapter.
6. The sign is abandoned.

H. Maintenance and repair.

1. A nonconforming sign is subject to all requirements of this chapter regarding safety, maintenance, and repair.
2. Temporary removal of any portion of a sign for repairs or general maintenance shall not be considered to be in violation of this section, provided that no alterations are made to the sign or sign structure. Should such sign or sign structure be moved permanently for any reason and over any distance whatsoever, it shall thereafter conform to all regulations for the district in which it is located after it has been moved or relocated.
3. Maintenance shall not include the conversion of a nonconforming sign to an electronic message display sign. Any such conversions may only be made to a conforming sign and shall be subject to the permitting and fee requirements set forth in this LUDC.

I. Records.

In addition to initial and construction inspections, signs may be inspected periodically by the Community Development Department to ensure continued compliance with this chapter. Sign owners shall maintain all records related to sign installation and maintenance and make them available for Town review as requested.

4.16.090 MAINTENANCE AND ABANDONMENT

A. Maintenance.

1. Good condition.

All signs shall be maintained in a state of security, safety, and good repair. It shall be the responsibility of every owner of real property and their tenant or other person in possession of such property with the consent of the owner to maintain every sign on such property in strict compliance with this Code.

2. Continuous maintenance required.

- a. Any sign that has been approved or for which a permit that has been issued a permit shall be maintained by the owner or person in possession of the property on which the sign is located. Maintenance shall be such that the signage continues to conform to the conditions imposed by the sign permit.
- b. Any damaged sign base shall be repaired within 60 days.
- c. It is a violation of this Code to fail to repair any sign or advertising structure or supporting structure that is torn, damaged, defaced or destroyed.
- d. No person shall maintain or permit to be maintained on any premises owned or controlled by such person any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the sign or the owner of the premises.
- e. Any sign that has been damaged to such extent that it may pose a hazard to passersby shall be repaired or removed immediately.

B. Abandonment.

1. An abandoned sign is any sign, including support frames, where either:
 - a. The sign is no longer used by the property or sign owner, in which case discontinuance of sign use may be shown by expiration or revocation of a business license for the business located on the property, or cessation of use of the property where the sign is located for the use or purpose associated with the sign; or
 - b. The sign has been damaged, and repairs and restoration have not been started within 45 days of the date the sign was damaged, or, once started, are not diligently pursued to completion.
2. Temporary signs shall be considered abandoned if the associated permit has expired or if the sign fails to meet the maintenance requirements of this chapter.
3. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.
4. Abandoned permanent signs shall be removed or the advertising copy shall be painted or coated out. If the property owner or tenant fails to do so within 60 days after written notice from the Code Enforcement Officer of a determination of abandonment, the Code Enforcement Officer shall cause the sign to be removed or painted out and any expense incident thereto shall be paid by the owner or tenant.
5. All abandoned signs must be completely removed (including face, frame, structure, and any related components) within 180 days of the date of abandonment or business closure.
6. When a sign becomes an abandoned sign due to demolition or destruction of the structure in which the business was located, the sign structure shall be removed at the same time as the

demolition of the structure, or within 45 days of a determination of abandonment by the Code Enforcement Specialist.

7. Where a successor to a business agrees in writing, prior to the demolition of the structure or as part of a determination of abandonment, to bring any sign into compliance with this chapter and to maintain the sign as provided in this chapter, the removal requirement shall not apply. The sign structure shall be brought into compliance prior to the issuance of a certificate of occupancy for use of any part of the associated structure or business.

4.16.100 MEASUREMENTS

A. Applicability.

This section applies to all sign types and classifications.

B. Measurement instructions for all sign types.

1. Building and property frontage.

- a. Sign allowance shall be calculated on the basis of the length of the lot frontage which is most nearly parallel to the street it faces.
- b. If a lot fronts on two or more streets, the sign area for each street shall be computed separately. The area of signage allowed for each lot frontage shall be displayed on the frontage for which it was calculated and shall not be combined and placed on a single frontage unless otherwise provided in this section or when the structure has multiple tenants.
- c. Signage in multi-tenant structures shall first be calculated across all public street frontages to establish the overall permitted signage, and then allocated to each tenant unit based on a sign plan created for the site and submitted with each sign permit application.
- d. If a building does not have frontage on a dedicated public street, the owner of the building may designate the one building frontage that shall be used for the purpose of calculating the sign allowance.

2. Clearance.

- a. Clearance is the area under the sign that shall be free of obstructions to allow passage of pedestrians and vehicles.
- b. Clearance for pole and projecting signs shall be measured as the smallest vertical distance between the sign and the finished grade directly underneath the sign at the lowest point of the sign structure, including any framework or other structural elements.

3. Height.

- a. Height is the vertical distance measured from ground level to the top of the sign measured at its highest point above existing or finished ground level, whichever is more restrictive.
- b. When the finished grade at the point of measurement is lower than the average elevation of the adjacent street finished grade parallel to the location where the sign will be installed, that portion of the sign below the street shall not be included in determining the sign's overall height.

4. Sign area.

- a. Sign area shall be measured by determining the total area of the face of a sign within the outermost edge or border of the face. The computation of freestanding letters not attached to a surface or plane shall be made by determining the area enclosed within the smallest geometric figure needed to completely encompass all of the letters, words, insignias, or symbols.
 - i. Individual letter signs using a wall as the background without added decoration or change in wall color shall be calculated by measuring the perimeter enclosing each letter. The combined total area of each individual letter shall be considered the total area of the sign.
 - ii. Sign copy mounted, affixed, or painted on a background panel or area distinctively painted, textured, or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest geometric figure that will enclose both the sign copy and the background.
 - iii. Module signs consisting of more than one sign cabinet shall be computed by adding together the total area of each module.
 - iv. Window signs printed on a transparent film and affixed to a windowpane shall be measured as freestanding letters or logos, provided that the portion of the transparent film around the perimeter of the sign message maintains the transparent character of the window.
 - v. If elements of a sign are movable or flexible, such as a flag or banner, or if the sign includes any permitted copy extensions, the measurement is taken when the elements or extensions are fully extended and parallel to the plane of view.
- b. Sign area includes only one side of a double-faced sign, so the area of a two-sided sign equals the area of one side.
 - i. The second face may not exceed the area of the first face.
 - ii. If an angle of 30 degrees for a "V" sign is exceeded, the area of both sign faces shall be included in the measurement of total sign area, except that the sign area for a sandwich board sign is measured on one face of the sign regardless of the distance between the sign faces.
- c. Window sign area percentage is measured for each architecturally distinct window by dividing the sign area by the window area.
- d. The area of a three-dimensional spherical, cubical, or polyhedral sign equals $\frac{1}{2}$ the total surface area.

5. Separation and spacing.

Any required linear distance between signs shall be measured along the property lines from the center of the sign.

6. Setback.

Setback is measured at that portion of any sign or sign structure that is closest to the property line.

Chapter 4.17 Administration and Procedures

4.17.010 OVERVIEW OF PROCEDURAL REQUIREMENTS

A. Organization

The administration of development processes and permits is divided into two categories. Common Review Procedures (Sections 4.17.020 to 4.17.070) and Specific Applications (Sections 0 to 4.17.120). Both are described in this section.

B. Common Review Procedures

The following requirements are common to many of the procedures contained in this LUDC. Applications are typically processed in accordance with the following steps. Additional details may be included in each specific procedure.

1. Pre-Submittal Conference with Staff (Sec. 4.17.020)
2. Application Submittal and Completion Review (Sec. 4.17.030)
3. Complete Application Review and Action (Sec. 4.17.040)
4. Scheduling and Notice of Public Hearings (Sec. 4.17.050)
5. Review and Decision-Making (Sec. 4.17.060)
6. Post-Decision (Sec. 4.17.070)



C. Common Development Approval Requirements

This LUDC also includes standards for the following requirements that are applicable to a range of development approvals:

1. Assurance for Completion of Public Improvements
2. Development Impact Report
3. Dedications and Impact Fees

D. Specific Review Procedures

Sections 4.17.080 to 4.17.120 provide the application-specific requirements for review and submission of each type of application or permit available:

E. Summary of Application Steps

Table 4.17-1 summarizes the application procedures in this LUDC and identifies whether pre-application and neighborhood meetings are required. Exceptions to these general rules apply and may be specified in the regulations for each individual procedure.

Table 4.17-1: Application Review Requirements								
Application Type	LUDC Section	Pre-Sub. Conf.	N'h'd Mtg.	Notice	Admin (Staff)	PZC BOA	Town Council	Form of Final Decision
Key: ✓ = Required R = Review and Recommend D = Decision A = Appeal RA = Ratify NoD = Notice of Decision Res. = Resolution Ord. = Ordinance								
Approval Processes								
Annexation								
Comp. Plan Approve or Amend	4.17.080A	✓		✓	R	D	RA	Ord.
Conditional Use Permit	4.17.080B	✓	✓	✓	R	D	A	Permit
Development Plan	4.17.080C							
Administrative		✓			R, D	A (BOA)		NoD
Minor		✓		✓	R	D	A	NoD
Major		✓	✓	✓	R	R	D	NoD
PUD Rezoning	4.08.060							
Concept Plan		✓	✓	✓	R	R	D	N/A
Development Plan		✓	✓	✓	See Development Plan, Major			
PUD Amendment		✓	✓	✓	R	R	D	Ord.
Rezoning	4.17.080D	✓	✓	✓	R	R	D	Ord.
Special Use Permit	4.17.080E	✓	✓	✓	R	R	D	Ord.
Subdivision		✓	✓	✓				
Minor Subdivision	4.17.100C	✓			R, D	A (BOA)		NoD
Sketch Plan	4.17.100D.2	✓		✓	R	R	R	N/A
Preliminary Plan	4.17.100D.3	✓		✓	R	R	D	Ord.
Final Plat	4.17.100E	✓		✓	R	R	D	NoD
Final Plat, Condominium/Town home	4.17.100F	✓		✓	R, D	A (BOA)		NoD
Vacation of ROW	4.17.100G	✓	✓	✓	R	R	D	Ord.
Variance	4.17.080F	✓	✓	✓	R	D		Res.
Vested Property Rights,	4.17.080G	✓		✓	R			
Adjustment Processes								
Administrative Adjustment	4.17.110A	✓			R, D	A (BOA)		NoD
Design Variance	4.17.100A	✓	✓	✓	R	D	D	NoD

Table 4.17-1: Application Review Requirements

Application Type	LUDC Section	Pre-Sub. Conf.	N'h'd Mtg.	Notice	Admin (Staff)	PZC BOA	Town Council	Form of Final Decision
Key: ✓ = Required R = Review and Recommend D = Decision A = Appeal RA = Ratify NoD = Notice of Decision Res. = Resolution Ord. = Ordinance								
Lot Line Adjustment	4.17.100B	✓			R, D	A (BOA)		NoD
Administrative Permits								
Administrative Review, including Minor Use Permit	4.17.060C.2				R, D			Permit
LUDC Administration								
Appeal of Admin. Decision	4.17.120A	✓		✓	R	D		NoD
LUDC Interpretation	4.17.120B	✓			R, D	A (BOA)		NoD
LUDC Text Amendment	4.17.120C	✓		✓	R	R	D	Ord.

4.17.020 PRE-SUBMITTAL CONFERENCE WITH STAFF

A. Purpose

- The purpose of the Pre-Submittal Conference is to provide an opportunity for the applicant and Town staff to discuss the development concept prior to the application submission for a project or permit in order to:
 - Determine the required application(s) and, if necessary, the timing of multiple application submittals (i.e., whether they may be processed concurrently or must be processed sequentially);
 - Provide the applicant with application materials and inform the applicant of submittal requirements;
 - Provide the applicant with an estimated time frame for the review process;
 - Discuss general compliance with the LUDC's zoning, use, density, development, and design standards, and attempt to identify potentially significant issues regarding compliance;
 - Determine whether additional Pre-Submittal Conference(s) with the Planning and Zoning Commission or Town Council will be necessary;
 - Discuss the need for any neighborhood meetings and public notice requirements; and
 - Engage the applicant in conversation with other departments or agencies to discuss potential significant issues prior to application submittal.
- Pre-Submittal Conferences are informational for the applicant and are not open to the public.

B. Applicability

A Pre-Submittal Conference is required prior to the submission of all development applications, including administrative applications and permits. The Pre-Submittal Conference will be held with staff unless there are issues with comprehensive plan compliance; compliance issues will be addressed pursuant to Section 4.17.020B.2.

1. Applicant Responsibilities

The applicant shall prepare the following general information and any additional information required by the specific application type for the Pre-Submittal conference:

- a. An application for the requested approval on a form provided by the Town;
- b. If the development is on previously subdivided land, a copy of the approved subdivision plat; and
- c. A concept plan of the proposed development per Section 4.17.130A.

2. Staff Responsibilities/Outcome

- a. Town staff attending the Pre-Submittal Conference shall identify concerns or factors the applicant should consider related to the scope, features, and potential impacts of the project as they relate to this LUDC, adopted building or engineering standards, or other policies or regulations enforced by the Town or other public entities.
- b. Town staff shall also indicate to the extent possible whether additional approval procedures are required for the proposed project, such as a variance or administrative adjustment.

C. Record and Effect

1. The Town is not responsible for making or keeping a summary of the general topics discussed at the Pre-Submittal Conference.
2. A Pre-Submittal Conference is advisory only and does not constitute or effect approval of any aspect or item of an application.
3. Discussions of potential conditions to mitigate impacts do not reflect actions by the decision-making body until and unless a decision-making body takes formal action to attach that condition to a development approval.

4.17.030 APPLICATION SUBMITTAL AND COMPLETION REVIEW

A. Authority to File

1. Property Owner Application

- a. Only a property owner or duly authorized person may file an application.
- b. If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such persons shall sign the application or a notarized letter or document consenting to the application.
- c. If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the Town Attorney.

- d. Agents may only submit applications where the owner(s) indicates consent in writing on the application or appropriate form.

2. Town Application

A Town-submitted request for action pursuant to the LUDC shall be initiated by the appropriate managing department (e.g., Public Works or Police Department). Requests made by elected or appointed bodies with the authority to request a change or other action pursuant to this LUDC shall be initiated by a vote of that body and then processed by the Director.

B. Application Submission Requirements

1. Applications shall be submitted in accordance with the application submittal schedule, required forms, and required numbers of copies of each document (if any), established and revised from time-to-time by the Director.
2. The applicant bears the burden of demonstrating compliance with application requirements.

C. Development Impact Report (DIR)

1. Purpose

It is the purpose of this section to:

- a. Ensure that complete information concerning any adverse effects of the proposed development on the environment, essential public and private services and facilities, including educational facilities, as well as the health, safety, order, convenience, prosperity, and welfare of present and future inhabitants of the Town is available to the Town Council, the Planning and Zoning Commission and the general public;
- b. Ensure that long-term protection of the environment, creation of local housing, and the provision of essential public and private services and facilities such as streets, utilities, and educational facilities are considered in development planning and that land use and development decisions, both public and private, take into account the relative merits of possible alternative actions;
- c. Ensure that proposed developments promote a healthful and convenient distribution of population, the wise and efficient expenditure of public funds, including the funds of other governmental entities, as well as the adequate provision of essential public services, facilities and requirements, including schools;
- d. Provide procedures for local review and evaluation of the environmental and social-economic effects of proposed development projects, including essential public and private services and facilities, prior to granting development approvals or permits; and
- e. Provide for the reasonable and adequate mitigation of on-site and off-site impacts generated by the proposed development or subdivision on the environment and essential public or private services and facilities, including streets, utilities, and educational facilities.

2. Applicability

All applications shall be accompanied by a Preliminary DIR Statement. If a proposed project triggers any of the impacts identified on the checklist, the applicant shall prepare a full Development Impact Report as described in Section C.4 hereof.

3. Preliminary Statement

Every development application shall include a preliminary statement of whether the proposed project will, will not, or could possibly affect the environment, either during construction or on a continuing basis, in each of the following respects:

- a. By altering an ecological unit or landform, such as a ridgeline, saddle, draw, ravine, hillside, cliff, slope, creek, marsh, watercourse, or other natural land form feature;
- b. By directly or indirectly affecting a high priority wildlife habitat;
- c. By substantially altering or removing native grasses, trees, shrubs, or other vegetative cover;
- d. By affecting the appearance or character of a significant scenic area or resource, or involving buildings or other structures that are of a size, bulk, or scale that would be in marked contrast to natural or existing cultural features;
- e. By potentially resulting in avalanche, landslide, siltation, settlement, flood, or other hazard to health and safety;
- f. By discharging toxic or thermally abnormal substance or involving use of herbicides or pesticides, or emitting smoke, gas, steam, dust, or other particulate matter;
- g. By involving any process which results in odor that may be objectionable or damaging;
- h. By requiring any waste treatment, cooling, or settlement pond, or requiring transportation of solid or liquid wastes to a treatment or disposal site;
- i. By discharging significant volumes of solid or liquid wastes;
- j. By increasing the demand on existing or planned sewage disposal, storm drainage, water distribution system, streets, or other utility systems to a level which is likely to cause an adverse impact on the environment;
- k. By involving any process which generates noise that may be offensive or damaging;
- l. By either displacing significant numbers of people or resulting in a significant increase in population;
- m. By pre-empting a site which is desirable for recreational uses or planned open space;
- n. By altering local traffic patterns or causing an increase in traffic volume or transit service need;
- o. By substantially affecting the revenues or expenditures of the Town government;
- p. By increasing the demand on existing or planned school facilities to a level which is likely to cause an adverse impact on such school facilities, an adverse impact on educational opportunities, or an adverse impact on the revenues and expenditures of the Eagle County School District RE 50-J;
- q. By being a part of a larger project which, at any future stage, may involve any of the impacts listed above.

4. Development Impact Report Requirements

- a. For each potential impact identified in Section 4.17.030C.2 for which the response is "will" or "could possibly," a Development Impact Report addressing the potential impact may be required by the Director at any time prior to final approval.

- b. The Development Impact Report shall include technical studies, data, conclusions, summaries, and recommendations, performed by qualified professionals at a level of detail commensurate with the potential impact of the development. The content, form, preparers, and detail shall be adequate to enable the Town staff, Planning and Zoning Commission, and Town Council to assess the impact of the proposal and the adequacy of the proposed mitigating measures, and shall be subject to approval of the Town Manager.
- c. The Development Impact Report shall describe temporary and long-term impacts of the project, both primary and secondary as well as beneficial and detrimental. The report shall include assessment of the following:
 - i. Adverse effects which cannot be avoided if the proposal is implemented,
 - ii. Mitigating measures proposed to minimize the impact,
 - iii. Cumulative and long-term effects of the proposal, which either significantly reduce or enhance the state of the environment,
 - iv. Possible alternatives to the proposed action,
 - v. Irreversible environmental changes resulting from implementation of the proposal, and
 - vi. Population and economic impacts of the proposal.

D. Concurrent Applications

1. Where an applicant seeks approval of more than one requests for the same parcel simultaneously, except for annexation requests, the applicant shall submit all necessary documents, plans, maps, and other required information in accordance with the provisions relating to both submitted applications and pay all appropriate fees for both applications.
2. When more than one different application types, except for annexation requests, are being processed simultaneously and this LUDC provides different time frames for review or decision-making, all related applications and approvals shall be completed within the longest time frame applicable to any of the relevant procedures.
3. Applicants with annexation requests shall confer with staff about the timing of application submission and review during the Pre-Application Conference.

E. Fees

1. Generally

- a. Application fees shall be established and may be updated by the Town Council by resolution.
- b. Application fees are based on the cost of Town staff time and administrative costs of processing of applications.
- c. The application fee shall be paid in full when the application is filed or the application will not be reviewed for completeness.
- d. Application fees are nonrefundable.
- e. The applicant may incur additional processing fees following the submission of a complete application. Application approvals shall be withheld and not be considered final until the applicant has submitted full fee payment.

2. Technical Assistance Pass-Through Costs

The applicant shall be responsible for all actual costs incurred by the Town for work performed by consultants or contractors engaged by the Town to review the application and related documents, including the Town Attorney, the Town's water attorney, planning consultants, and engineering consultants.

a. Deposit

- i. A deposit may be necessary to cover technical assistance pass-through costs for complex applications, as determined by the Director. The deposit shall be established and may be updated by the Town Council by Resolution.
- ii. Payment of the deposit is due with the application.
- iii. The Town shall return any remaining deposit to the applicant within sixty (60) days of final disposition or withdrawal of the application.

b. Billing and Payment

- i. The applicant shall be billed on a monthly basis by the Town for all pass-through technical assistance costs incurred by the Town during the prior month.
- ii. Full payment is due within seven (7) days of the date of an invoice from the Town.
- iii. The Town may delay consideration of the application if there are unpaid pass-through costs.

3. Unpaid Fees

All unpaid application fees and pass-through costs shall be subject to Section 4.17.030E. In addition to fees set forth in the Town Fee Schedule, the following fees shall apply to actions taken on a complete application:

a. Withdrawn Application

- i. All application fees are nonrefundable.
- ii. The application fee shall be paid again in full if the application is resubmitted. .

b. Continuance of Application

Payment of additional fees may be required to cover the cost of additional notice.

c. Reapplication

Payment of full fees shall be required for a reapplication where a previous application has been denied.

d. Modification or Revision of Approved Site Plan

- i. Minor modifications: Applications that qualify for approval through administrative relief shall be considered minor modifications and shall be required to pay the application submission fee in the Fee Schedule.
- ii. Major modifications: Any requested modifications that do not qualify for administrative relief shall be considered major modifications. A new application is required along with the associated application fee.

F. Application Submission Waiver

1. At or following a Pre-Submittal Conference, the Director may agree to waive specific project submittal requirements in order to reduce the burden on the applicant and tailor the requirements to the information required to review a specific application. The Director may waive such requirements where the applicant has made an itemized, written request identifying the specific submission items to be waived and why, and the Director finds the following:
 - a. The applicant shows good cause for the requested waiver;
 - b. The project size, complexity, anticipated impacts, or other factors support a waiver;
 - c. The waiver does not compromise a proper and complete review; and
 - d. The information is not material to describing the proposal or demonstrating compliance with approval criteria.
2. A copy of the Director's waiver approval shall be submitted with the application along with a statement that the applicant understands that the Planning and Zoning Commission or Town Council may require the waived information if it is deemed necessary for review of the application.

G. Completeness

1. Complete Application Required

All applications must be complete prior to any processing by the Town. A complete application includes all the submittal information identified on the application form and any items or exhibits requested by the Director that are consistent with the standards and requirements of this LUDC. A complete application is also accompanied by full payment of the applicable fee(s).

2. Determination of Application Completeness

The Director shall determine whether the application is complete or incomplete and, if determined to be incomplete, shall provide a written determination of the incomplete items to the applicant. Any deficiencies noted by the Director shall be addressed by the applicant prior to resubmitting the application.

- a. A complete application shall be processed according to the procedures in this LUDC.
- b. An incomplete application shall not be processed or reviewed.

3. Minor Application Revisions

- a. An applicant may revise an application after receiving notice of inconsistencies with the requirements of this LUDC following staff review or after receiving permission from an advisory or decision-making body after that body has reviewed, but not yet taken action on, the application.
- b. Revisions shall be limited to changes that directly respond to specific requests or suggestions made by staff or the advisory or decision-making body, as long as they constitute only minor additions, deletions, or corrections and do not include significant substantive changes to the development proposed in the application, as determined by the Director. All other application revisions shall be processed as a new application.

4. Abandoned Applications

If an application has not been resubmitted to address staff-noted deficiencies or requests or suggestions from the advisory or decision-making body within 60 days, the application shall be deemed abandoned. Resubmission of abandoned applications shall require a new Pre-Submittal Conference and may be subject to additional fees.

H. Complete Applications with Changed Status**1. Withdrawn Application**

- a. After an application has been accepted for review, the applicant may withdraw the application at any time by prior to public hearing submitting a written request for withdrawal to the Director.
- b. An applicant is not entitled to a refund of application fees for withdrawn applications. However, the Director may refund fees not expended during the first round of staff review if the application is withdrawn within 10 days of acceptance and prior to preparation or distribution of any official written comments.

2. Postponement

The applicant may request an application be postponed to a future scheduled public hearing date.

- a. Request submitted prior to public notice: the request must be in writing, either by mail or email, and the request must be received by the Director prior to the date of publication of the notice of public hearing.
- b. Request submitted following public notice: If the request is received by the Director after the date of publication of the notice of public hearing, the applicant must attend the public hearing to request the application be tabled to a future scheduled public hearing date.

3. Application Abandonment

- a. If the Director determines the applicant has not, within 180 days, taken affirmative steps to advance a postponed application for a final determination or the applicant requests that an application be postponed for a second time, the Director may determine that the application has been abandoned.
- b. No further processing of the application shall occur and the application fees shall be forfeited.
- c. Any re-submittal of the application shall be treated as a new application for purposes of review, scheduling, and payment of application fees.

4.17.040 COMPLETE APPLICATION REVIEW AND ACTION

A. Review Following Determination of Complete Application

Following the determination that an application is complete, the Director shall:

1. Submit the application to any relevant Town departments and external county, state, or federal agencies for review and comment;
2. If an application is subject to staff review and recommendation:

- a. Staff shall review the application and submit recommendations and comments to the applicant in a form established by the Director.
- b. The applicant shall attend a meeting with the appropriate staff as determined by the Director to discuss recommendations and comments.
- c. The application will not move forward for further review until the Director determines that the applicant has adequately responded to the recommendations and comments.
- d. Staff may recommend conditions to mitigate any adverse impacts from the development proposal or any changes necessary to bring the application into compliance with the provisions of this LUDC.
- e. The Director shall submit a copy of the staff report to the applicant and the advisory and/or decision-making body and shall make the staff report and related materials available for public review.
 - i. For hearings before the Planning and Zoning Commission, the staff report shall be distributed no later than the Friday prior to the scheduled Planning and Zoning Commission hearing where the application is to be heard.
 - ii. For hearings before the Town Council, the staff report shall be distributed prior to the scheduled Town Council hearing where the application is to be heard.

B. Technical Assistance

1. Where the application includes technical information that requires expert analysis outside of that provided by staff, the Town may contract with a technical expert to review the application and charge the consultant's fees to the applicant.
2. The Town shall notify the applicant if expert analysis will be necessary and will discuss the estimated fee with the applicant prior to engaging the expert.
3. Technical information subject to outside expert analysis shall be limited to those issues outside of the scope of typical Community Development department review. Outside technical experts will not be hired for routine site, structural, use, or transportation issues unless the Town Administrator finds that staff capacity to undertake this work has been limited by circumstances such as a staff shortage or an unusually high number of applications.

C. Neighborhood Meeting

1. Purposes

The purposes of a neighborhood meeting are to: inform neighboring property owners of the details of a proposed development, identify how the applicant intends to meet the standards contained in this LUDC, and to allow the applicant to receive preliminary public comment on the proposal.

2. Applicability

- a. Neighborhood meetings are recommended for any application that is reviewed through a public hearing process.
- b. The Director may require a Neighborhood Meeting for any application identified to have an impact in the Development Impact Report.

- c. An applicant may voluntarily conduct a neighborhood meeting prior to submission of any application.

3. Notice

- a. The neighborhood meeting shall be held after the Pre-Submittal Conference and prior to publication of notice for Town review of the application.
- b. The applicant shall provide written notice of the date, time, and location of the neighborhood meeting to:
 - i. Persons on the adjacent property owner list collected by the applicant; and
 - ii. The Community Development Department.
- c. The written notification shall be mailed at least seven calendar days prior to the scheduled meeting. The written notification shall include the information required for public notice as listed in Section 4.17.050C.
- d. Courtesy electronic notice of the neighborhood meeting shall also be provided to any affected neighborhood organizations that request notification from the Community Development Department. Planning staff is not responsible for verifying or correcting email addresses provided by a neighborhood organization and failure of a neighborhood organization or individual member to receive notice does not affect the validity of the neighborhood meeting.

4. Meeting

- a. At the meeting, the applicant shall explain the proposed development and receive comment from the surrounding property owners.
- b. The neighborhood meeting shall be conducted at a location that is within two radius miles of the subject parcel. The meeting may be scheduled after 5:00 p.m. on a weekday or on a weekend day between 8:00 a.m. and 7:00 p.m.
- c. The neighborhood meeting shall be conducted at least seven calendar days but no more than 60 calendar days prior to the submittal of the proposed development application to the Community Development Department.
- d. The applicant shall obtain a roster of the names of the persons that attend the pre-application Neighborhood Meeting.
- e. A Staff member may attend the meeting as an observer, but is not required to facilitate the meeting.

5. Written Summary and Effect

- a. The applicant shall provide a written summary of the neighborhood meeting with the completed application.
- b. The written summary shall include a list of those in attendance, a summary of the issues discussed, comments by those in attendance and the applicant's response, and any other comments the applicant deems appropriate.

D. Administrative Approval: Applications that Require Staff Decision**1. Decision**

- a. If an application is subject to administrative approval (staff review and a final decision by the Director), the Director shall make a decision based on the review standards applicable to the application type.
- b. The decision shall be in writing and shall clearly state reasons for a denial or for conditions of approval. Any conditions of approval shall be limited to conditions necessary to ensure compliance with the requirements of this LUDC and shall relate to the anticipated impacts of the proposed development.

2. Finality of Decision

- a. For all application types except administrative development plans, the Director's decision is immediately final.
- b. For administrative development plans, the Director shall regularly make available to the Planning and Zoning Commission a record of pending applications. The Commission may elect to call up such applications within 10 days of providing notice, pursuant to Section 4.17.060C.5, Referral and Call-Up Procedures. The Director shall decide such applications that are not called up following the end of the 10-day period.

4.17.050 SCHEDULING AND NOTICE OF PUBLIC HEARINGS

A. Required Notice

Notice for specific application shall be provided as follows:

Table 4.17-2: Public Notice Requirements

Application Type	LUDC Section	Notice Type	Publish 4.17.050 C.7	Post on Site 4.17.050 C.8	Mail 4.17.050 C.6	Mail Distance
Notice Types: PH – Public Hearing Notice ADIN –Administrative Decision Informational Notice Key: R = Required O = Optional X = Not Required						
Approval Processes						
Annexation	<i>Per Colorado Statutes</i>					
Administrative Review	4.17.060C.2	ADIN		R	R	Adjacent Property Owners
Administrative Minor Use Review	4.17.060C.2	X				
Comp. Plan Approve or Amend		PH	R	X	X	
Conditional Use Permit	4.17.080B	PH	R	R	R	Adjacent property owners
Development Plan	4.17.080C					
Administrative		ADIN				
Minor		PH	R	R	R	Adjacent property owners
Major		PH	R	R	R	All property within 250 feet
PUD Rezoning	4.08.060					

Table 4.17-2: Public Notice Requirements

Application Type	LUDC Section	Notice Type	Publish 4.17.050 C.7	Post on Site 4.17.050 C.8	Mail 4.17.050 C.6	Mail Distance
Notice Types: PH – Public Hearing Notice ADIN –Administrative Decision Informational Notice Key: R = Required O = Optional X = Not Required						
Concept Plan		PH	R	R	R	All property within 250 feet [1]; PUD Amendment only complies with Note [2]
Development Plan		PH	R	R	R	
PUD Amendment		PH	R	R	R	
Rezoning	4.17.080D	PH	R	R	R	
Rezoning for Entire District or Multiple Districts		PH	R	X	X	
Special Use Permit	4.17.080E	PH	R	R	R	
Subdivision						
Minor Subdivision	4.17.100C	ADIN	R	R	R	
Sketch Plan	4.17.100D.2	ADIN	R	R	R	Adjacent property owners
Preliminary Plan	4.17.100D.3	PH	R	R	R	
Final Plat	4.17.100E	ADIN	R	R	R	
Final Plat, Condominium/Town home	4.17.100F	ADIN	R	R	R	
Vacation of ROW or Easement	4.17.100G	PH	R	X	R	Adjacent property owners
Variance	4.17.080F	PH	R	R	R	All property within 250 feet [1]
Vested Property Rights	4.17.080G	See specific application type				
Adjustment Processes						
Administrative Adjustment	4.17.110A	ADIN	X	X	R	
Design Variance	4.17.100A	See specific application type				
Lot Line Adjustment	4.17.100B	ADIN	X	X	X	
LUDC Administration						
Appeal of Admin. Decision	4.17.120A	PH	R	R	R	
LUDC Interpretation	4.17.120B	X	X	X	X	
LUDC Text Amendment	4.17.120C	PH	R			

Notes:

[1] In determining owners of land within a specified distance, the width of public and private rights-of-way shall be included in the distance calculation.

[2] All property owners in PUD and property owners abutting the PUD when revisions would affect PUD boundary property

B. Scheduling

If an application is subject to a public hearing, the Director shall schedule the public hearing for either a regularly scheduled meeting or a special meeting of the appropriate decision-making body.

C. Public Notice Requirements

1. Public Hearing Notice (PH)

When an application is subject to public hearing, notification shall be provided as follows:

- a. Published once in a newspaper of general circulation within the Town.
- b. Mailed by first-class mail to the hearing to those landowners listed in Section 4.17.050C.6, within the distance identified in Table 4.17-2.
 - i. The Director may modify the notification area, as follows:
 - (a) Adjust the area to coincide with streets or other distinctive physical features to create a more practical boundary;
 - (b) Contract the area if the potential impacts from the proposed development will likely only affect the subject parcel or the immediately adjacent properties; or
 - (c) Expand the area if the proposed development may create community or regional impacts.
 - ii. Notice to a subsurface mineral rights owner shall be mailed no later than required by C.R.S. § 24-65.5-103.
- c. Posted on the property pursuant to Section 4.17.050C.8.

2. Administrative Decision Informational Notice (ADIN)

- a. The purpose of informational notice is to allow the public to submit written comments to the Director prior to decision-making on an Administrative review or permit. Informational notice is required for any use identified with an /A/ permission in Table 4.09-1 or Table 4.09-2, and other application processes when identified in Table 4.17-2.
- b. The Director may establish reasonable timeframes for comment submission, based on the detail and potential off-site impact of the application. The minimum timeframe for comment submission shall be 10 days. The Director shall require comments to be submitted in writing and may allow electronic comment submission.
- c. Notice shall be mailed to adjacent property owners. The notice shall specify that the application is only required to meet the applicable standards in this LUDC and comments submitted regarding the project are recommendations only that may not be incorporated into the final approval.

3. Incomplete Applications

No public hearing notice shall be made for incomplete applications per Section 4.17.030G.

4. Certification of Notice

The applicant shall provide certification that proper notice has been provided, including photographic evidence (for posted notices) and a signed affidavit. The format of the certification shall be established by the Director. The applicant shall submit the certification to the Director prior to the scheduled public hearing.

5. Content of Notice

- a. Public Hearing Notice shall provide the following information:
 - i. Address or location of the property subject to the application and the name, address, email, and telephone number of the applicant or the applicant's agent;
 - ii. Date, time, and place of the public hearing;
 - iii. Description of the nature, scope, and purpose of the application or proposal including a description of the development plan and, where appropriate, the classification or change sought;
 - iv. Notification about where the public may view the application; and
 - v. Statement that the public may appear at the public hearing.
- b. Mailed Administrative Decision Informational Notices, shall meet the general requirements of notice provided by the Town and provide the following information:
 - i. Address or location of the property subject to the application and the name, address, email, and telephone number of the applicant or the applicant's agent;
 - ii. Description of the nature, scope, and purpose of the application or proposal including a description of the development plan and, where appropriate, the classification or change sought; and
 - iii. Information about how to submit a comment regarding the application and the deadline for comment submission.

6. Mailed Notice

- a. Mailed notice shall be sent to:
 - i. Owners of any property within the distance from the subject property specified in Table 4.17-2; and the applicant shall be responsible for the accuracy of the list of names and addresses of owners as they appear in the records of the Eagle County Clerk and Recorder;
 - ii. Owners of subsurface mineral rights within the property boundary pursuant to the provisions of C.R.S. § 24-65.5-101, *et seq.* Mailed notice shall be provided not less than 30 days prior to the initial public hearing, or not less than 30 days prior to the final decision if the application does not require a public hearing. The burden of determining subsurface mineral estate owners and lessees shall be on the applicant.
 - iii. Registered neighborhood groups whose defined boundaries lie within the required notification area;
 - iv. Others who have filed a timely written request to receive notice on a particular matter with the Town; and
 - v. Occupants of property within the distance from the subject property specified in Table 4.17-2, if the Director determines that the application could have a significant impact on occupants as well as owners.

- b. Public Hearing Notice shall be mailed no later than 15 days before any meeting or action that requires written notice, except that notice shall be mailed to the mineral estate owner no later than required by state statute, pursuant to C.R.S. § 24-65.5-103.
- c. Public Informational Notice shall be mailed as soon as reasonably possible after the Town confirms the receipt of a complete application.

7. Published Notice

The Director shall be responsible for preparing the content of the notice and shall ensure that notice is published in a newspaper of general circulation in the Town.

8. Posted Notice

- a. The purpose of posted notice is to notify the general public of an application for development of the property.
- b. Where posted notice is required, Planning staff shall create the signs and the applicant shall place notice of the public hearing on the property subject to the application at least 15 days in advance of the date of public hearing. All posted notices shall comply with the following:
 - i. Printed on weatherproof material and be approved for size, durability, and content by the Director;
 - ii. Placed on the subject property along each abutting improved public street and oriented so that each sign is clearly visible to neighboring residents and passers-by with at least one sign posted on a street frontage;
 - iii. On large parcels, interior parcels, or parcels that are difficult to see from the exterior boundary lines, the Director may require additional posted signs as may be necessary to reasonably ensure that notice is provided around the property;
 - iv. Be in place during the period leading up to the decision-making or appeal body's final action; and
 - v. If the decision-making body continues the meeting or public hearing at which the application is being considered to a later date, or if the decision-making body decides to consider the application at any time other than that specified on the notification signs, the applicant shall update the existing signs with the new date.
 - vi. Signs shall be removed by the applicant within five days after the meeting or public hearing for which they were required.
 - vii. No person other than the applicant, applicant's agent, or Town staff shall erect, remove, or alter such signs.

9. Courtesy Notice

- a. The Town may, as a courtesy, provide notice to any persons or organization in the Town or Eagle County, or to any governmental, public, or quasi-public organization regarding any matter related to this LUDC that may be of interest to that person or organization, or on any matter on which any such person or organization has requested notice.
- b. Courtesy notice may be provided in any appropriate manner, including electronically, and may be directed to an organization through its leadership for distribution rather than to the entire membership.
- c. The failure of the Town to send courtesy notice or the failure of any resident or property owner to receive such notice shall not affect the validity of any Town action with respect to an application.

10. Constructive Notice, Adequacy

- a. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in legal descriptions, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to the affected parties.
- b. Failure of a party to receive written notice shall not invalidate subsequent action nor require a public hearing to be continued or delayed. Notice that was not continuously posted for the full period shall not constitute grounds for continuance where the applicant can show that a good faith effort to meet this posting requirement was made.
- c. A person shall be deemed to have received sufficient notice under this LUDC if that person became aware of the item under review in time to attend the noticed public hearing or submit written comments.
- d. If questions arise at a review hearing regarding the adequacy of notice, the decision-making authority shall direct the Director to make a formal finding as to whether there was substantial compliance with the notice requirements of this LUDC, and such finding shall be made available to the decision-making authority prior to final action on the request.
- e. When Town records document the publication, mailing, or posting of notices as required by this section, it shall be presumed that notice of a public hearing was given as required by this section.

4.17.060 REVIEW AND DECISION-MAKING

A. Hearing, Review, and Decision

1. The application shall be subject to review, hearings, recommendations, and decisions.
2. If the application is subject to a public hearing, the applicable review body shall hold a public hearing on the application. The applicable review body shall consider the application, relevant support materials, staff report, and any evidence and public comments from the public hearing.
3. The applicable review body shall approve, approve with conditions, or deny the application based on conformance to the applicable approval criteria listed in the application-specific

procedures. The body may also continue the hearing or refer the application to another authority as provided in Section [4.17.060C.5](#), Referral and Call-Up Procedures.

4. If the review involves a quasi-judicial hearing, the recommendation or decision (as applicable) shall be based only on the record of the public hearing; shall be in writing; shall include findings of fact based on competent, material, and substantial evidence presented at the hearing; shall reflect the determination of contested facts; and shall state how the findings support compliance with applicable review standards.
5. The applicable review body shall clearly state the factors considered in making its recommendation or decision, as well as the basis or rationale for the recommendation or decision.
6. Following any decision by the Planning and Zoning Commission, the Director shall provide written notification of the decision to the Town Council.

B. Conditions of Approval

1. Where this LUDC authorizes a review body to approve or deny an application subject to applicable criteria, the review body may approve the application with reasonable conditions necessary to bring the proposed development into compliance with this LUDC or other regulations, or to mitigate the impacts of the development.

C. Review and Decision-Making Bodies

1. Applicant Responsibilities

- a. The burden of demonstrating that an application complies with applicable review and approval criteria is on the applicant unless otherwise specified in this LUDC. The Town or other parties do not have the burden to show that the criteria have not been met.
- b. The time limits set forth in this section may be extended by the applicant at any time.

2. Administrative Decisions

The Director shall make administrative decisions based on compliance of the application with the requirements of this LUDC, the comprehensive plan, and any criteria identified in a specific application type.

3. Planning and Zoning Commission Recommendation or Decision

- a. The Planning and Zoning Commission shall consider the application and evidence from the public hearing and then either, depending on the type of application, make a recommendation or decision on the application. Where the Planning and Zoning Commission is the decision-making body for an application, it may:
 - i. Approve the application or approve the application with conditions;
 - ii. Deny the application;
 - iii. Continue the public hearing; or
 - iv. Allow withdrawal of the application.
 - v. Recommend approval, approval with conditions, or denial of the application.

4. Town Council Decision

- a. The Town Council shall consider the recommendations of the Planning and Zoning Commission, if any, and the comments, testimony, and other evidence presented at the public hearing and make a decision as follows:
 - i. Approve the application, with or without with conditions;
 - ii. Deny the application;
 - iii. Continue the public hearing; or
 - iv. Allow withdrawal of the application, other submittal, or appeal.

5. Referral and Call-Up Procedures

a. Administrative Applications and Permits

- i. Administrative applications shall be processed per Section 4.17.040D.
- ii. The Director may refer any application subject to administrative approval to the Planning and Zoning Commission for a final decision.
- iii. After reviewing a referred administrative application, the Planning and Zoning Commission shall vote to make a final decision or to refer the application to the Town Council for a final decision.

b. Planning and Zoning Commission Call-Up

- i. The Director shall regularly make available to the Planning and Zoning Commission a record of pending applications for administrative approval.
- ii. If at least three members of the Planning and Zoning Commission request that the Planning and Zoning Commission make the final decision on any application within 10 days of receiving such notice, the Director shall inform the applicant of such decision. The Director shall schedule the application to be considered at the next available regularly scheduled Planning and Zoning Commission meeting at which any required notice periods can be met. Notice shall be given as required by the application type.

c. Planning and Zoning Commission Referral to Town Council

The Planning and Zoning Commission may refer P&Z approved applications to the Town Council for a final decision. The Director shall inform the applicant of such decision to refer the application and schedule the application to be considered at the next available regularly scheduled Town Council meeting.

d. Town Council Call-Up

The Director shall regularly make available to the Town Council a record of pending applications for Planning and Zoning Commission approval. If at least three members of the Town Council request that the Town Council make the final decision on any such application on or before the next regular Council meeting but not less than 10 days of the Director providing such notice, the Director shall inform the applicant of such decision. The Director shall schedule the application to be considered at the next regularly scheduled Town Council meeting. Notice shall be provided as required by the application type.

4.17.070 POST-DECISION ACTIONS AND LIMITATIONS

A. Notice of Decision

Following approval of an application for which a Notice of Decision is issued as the Form of Final Decision in Table 4.17-1, the Director shall prepare a Notice of Decision that identifies all conditions attached to the approval and all applicable validity timeframes from this LUDC or as established by the approving authority. The Director shall have the chair of the Planning and Zoning Commission or Mayor sign the Notice of Decision and a copy shall be mailed or provided to the applicant.

B. Successive Applications

No application for zone change, special use review, or variance on the same request or the substantially same request involving the same tract shall be permitted within one year of an application denial unless the Town Council's denial explicitly states that an earlier reapplication will be considered. Following the one-year period a new application may be submitted.

C. Modification or Amendment of Approvals**1. Application**

If, at any time, a property owner with an existing development approval desires to modify the terms of that approval or the conditions attached to that approval, the owner shall submit a written application requesting such revision.

2. Review and Determination of Major/Minor Modification Status

- a. Applications for modification shall be reviewed by the Director to determine whether the proposed modifications constitute a major or minor revision to the existing approval.
- b. Minor modifications are those that qualify for Section 4.17.110A, Administrative Adjustment or modification to an application that was approved administratively.
- c. Major modifications are those that do not qualify for Section 4.17.110A, Administrative Adjustment, request for modification to a special use review approval, or request for modification to a condition established by the Planning and Zoning Commission or Town Council. Major modifications require the submission of a new application.

D. Lapsing and Extension of Approvals**1. Administrative Approval and Permits**

Except where a different timeframe is provided in a specific procedure or application approval, an administrative approval or permit approved under this LUDC shall lapse and shall become void one year following the date of final approval unless, prior to the expiration date, a building permit or other approval based upon such approval is issued and construction is commenced and pursued toward completion.

2. Approvals that Required a Public Hearing

- a. An approval that required a public hearing does not lapse unless the Planning and Zoning Commission or Town Council established a specific time limit for the approval.
- b. Rezoning approvals are not subject to a specified time limit for approval.
- c. The Town may act to change an approval made in a public hearing through a separate application with public hearing that has the effect of changing the earlier approval. For example, the Town may elect to rezone a property for which an earlier rezoning was approved.

3. Extension of Approval

- a. Any approval that is subject to lapsing, regardless of which body acted as original decision-maker, may be extended one time by the Director, for good cause shown, for a period of time not to exceed 180 days. A second extension request, if needed, shall be made to the body that issued the original approval, such as the Planning and Zoning Commission. The second extension request may also be for a period of time not to exceed 180 days.
- b. All requests for extensions shall be submitted to the Director at least 30 days prior to the expiration of approval.
- c. An extension request shall include payment of required fees and written description of the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes to the Comprehensive Plan or this LUDC that have occurred since approval of the permit/plan as these changes affect the permit/plan, and the anticipated time schedule for completing the review project or the specific project.
- d. Additional review of the permit/plan may result in additional conditions.

4. Abandonment of Special Use and Conditional Use Permits

- a. If use has not commenced, Special Use and Conditional Use permits shall be considered abandoned one year after the last significant progress toward the construction of the development or establishment of the use occurred.
- b. Abandonment shall be determined in the same procedural manner as Section 4.17.070D.5, Revocation.

5. Revocation

- a. If the Director has reasonable cause to believe that one or more conditions or requirements of an approved permit have been violated, the Director shall notify the record owner of the property subject to the permit and the holder of such permit (if other than the owner), in person or by first class United States mail, a notice to show cause why the permit should not be revoked.
 - i. The notice shall be served at least 15 days prior to the hearing and shall state the date, time, and place for a public hearing at which the Town Council will consider whether the permit should be revoked.
 - ii. The notice shall also set forth a concise statement of the grounds for revocation.
- b. Following the hearing, the Town Council shall issue a written decision either revoking the permit or finding insufficient evidence to revoke the permit.

4.17.080 DEVELOPMENT REVIEW PROCESS: SPECIFIC APPLICATIONS

A. Comprehensive Plan Adoption or Amendment

1. Purpose

The purpose of this process is to establish a process for Comprehensive Plan adoption or large-scale legislative amendment and ensure that proposed site-specific amendments to the adopted Comprehensive Plan are consistent with the vision, goals, and policies included in the Plan.

2. Applicability

- a. This section shall apply to:
 - i. The adoption or large-scale (legislative) amendment of the Town's Comprehensive Plan, and
 - ii. All proposed site-specific amendments to the Comprehensive Plan.

3. Review Procedure

Site-specific Comprehensive Plan amendment applications shall meet the common review procedures described in Table 4.17-3 with the following modifications:

a. Pre-Application Review

- i. The Director may limit the timing and frequency of when Comprehensive Plan Amendments are considered to better ensure a holistic review process and avoid small or piecemeal amendments.
- ii. Before processing an application, the Director shall determine whether it is in the best interests of the Town to devote staff and Planning and Zoning Commission resources to a full review of the Comprehensive Plan amendment application.
- iii. Legislative Comprehensive Plan Amendments are exempt from Steps 1- 3 of the common review procedures in Section 4.17.010B.

b. Public Notice and Public Hearing Requirements

The application shall be scheduled for a public hearing before the Planning and Zoning Commission and shall be noticed pursuant to Section 4.17.050.

c. Review Criteria and Decision-Making

The Planning and Zoning Commission shall review and decide on a Comprehensive Plan Amendment request based on conformance with the following criteria:

i. Comprehensive Plan

Table 4.17-3 Comprehensive Plan Amendment

Applicable Common Procedures

1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Scheduling and Notice of Public Hearing Sec. 4.17.050
5	Planning & Zoning Commission Adoption Town Council Ratification Sec. 4.17.060
6	Post-Decision Actions and Limitations: No expiration Sec. 4.17.070

The proposed change is generally consistent with the vision (intent), goals and policies of the Comprehensive Plan;

ii. Character of Area

The character and/or conditions of the area has changed or may be changed such that the amendment is necessary;

iii. Infrastructure and Facilities

Public and community facilities are adequate to serve the type and scope of land uses that could result from the proposed Amendment; and

iv. Impact

The proposed change will result in a neutral or positive impact to the neighborhood or area subject to the proposed amendment.

B. Conditional Use Permit

1. Purpose

The purpose of this section is to provide an opportunity for an applicant to request to use a property for an activity that is only allowed in the zone district based on a determination of appropriateness through this process. A conditional use may be permitted under circumstances particular to the proposed location and subject to conditions that provide protection to adjacent land uses.

2. Applicability

This section shall apply to any use that is classified as a Conditional Use in Table 4.09-1 or elsewhere in this LUDC.

3. Review Procedures

Applications for Conditional Use Permits shall meet the common review procedures in Table 4.17-4, with the following modifications:

A Development Plan and project narrative shall be submitted with the Conditional Use Permit application. See Section 4.17.130B.

4. Public Notice and Public Hearing Requirements

The application shall be scheduled for a public hearing before the Planning and Zoning Commission and shall be noticed pursuant to Section 4.17.050.

5. Review Criteria and Decision-Making

The Planning and Zoning Commission shall review and decide on a Conditional Use Permit request based on conformance with the following criteria:

a. Comprehensive Plan

The proposed use is consistent with the comprehensive plan and the purpose of the applicable zone district.

b. Land Use and Development LUDC Standards

The proposed use complies with the requirements of this LUDC, and in particular:

- i. Any use-specific standards found in Chapter 4.09,
- ii. Applicable development and design standards found in Chapter 4.10, and
- iii. The Town's existing infrastructure and public improvements, including without limitation street, trail, and sidewalk systems, have adequate capacity to serve the proposed development and any burdens on those systems have been mitigated to the maximum extent feasible.

Table 4.17-4 Conditional Use Permit

Applicable Common Procedures	
1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Scheduling and Notice of Public Hearing Sec. 4.17.050
5	Planning & Zoning Comm'n Review and Decision-Making Sec. 4.17.060
6	Post-Decision Actions and Limitations Sec. 4.17.070

c. Surrounding Uses and Structures

The proposed use is of a scale and design and in a location that is compatible with surrounding uses and structures, and potential adverse effects of the use will be mitigated to the maximum extent feasible.

d. Impact of Allowing Conditional Use

The proposed conditional use will not substantially diminish the availability of land for primary uses within the applicable zone district.

6. Post-Decision Actions

a. Modification or Amendment

Requests for modification or amendment shall be reviewed per Section 4.17.070C, Modification or Amendment of Approvals.

b. Abandonment or Revocation

i. Conditional Use Permits may be considered abandoned if the use is abandoned and nonoperational for a period of 12 consecutive months.

ii. Conditional Use Permits may be determined to be abandoned or revoked pursuant to Section 4.17.070D.5

c. Lapsing and Extension of Approvals

A Conditional Use Permit approval shall remain valid until the property changes use or ownership unless revoked by the Town.

C. Development Plan (Revised Development Permit Process)**1. Purpose**

The purpose of Development Plan review is to determine if a proposed development complies with this LUDC, the Comprehensive Plan, and other applicable regulations.

2. Applicability**a. Development Plan Required**

Development Plan approval is required prior to the issuance of a building permit unless the development is exempt as described below.

b. Exceptions

- i. A change in use that does not involve or require other development (such as new or expanded buildings, or additional parking);
- ii. Conversion of non-residential building area into up to five dwelling units, or mixed-use building area into up to five dwelling units, without changing the existing building footprint or increasing the building area;
- iii. Alteration, repairs, or additions to existing residential buildings that increase the gross floor area or total impervious surface by less than 25 percent;
- iv. Improvements inside the structure that do not increase gross floor area or building height, increase the density or intensity of use, or affect other development standards (such as parking or landscaping requirements);
- v. Construction of a single-family detached or two-family dwelling, additions to the dwellings, and structures accessory to the dwellings; and
- vi. Construction or erection of accessory buildings, fences, hedges, or walls.

3. Development Plan Types and Thresholds**a. Threshold Table**

- i. Table 4.17-5 describes the applicable development plan review type (administrative, minor, and major), unless exempted from the development plan review procedure under paragraph D.2.b above.
- ii. Residential thresholds are based on the new dwelling units added, not the total number of dwelling units (existing plus new).

Table 4.17-5: Development Plan Review Thresholds [1]			
Type of Development	Administrative Development Plan (Director)[2]	Minor Development Plan (Planning & Zoning Commission)	Major Development Plan (Town Council)
Residential	More than 1 new SF or duplex dwelling unit unless exempt in §D.2.b above	New construction, renovation, or additions to residential structures that require design review	Planned Unit Development
Nonresidential	Renovation or addition that requires additional parking	• Construction of any new building	Planned Unit Development

Table 4.17-5: Development Plan Review Thresholds [1]			
Type of Development	Administrative Development Plan (Director)[2]	Minor Development Plan (Planning & Zoning Commission)	Major Development Plan (Town Council)
		Renovation or addition that requires design review	
Mixed-Use	Up to 24 new dwelling units or up to 50,000 square feet non-residential gross floor area	More than 24 new dwelling units or more than 50,000 square feet non-residential gross floor area	Planned Unit Development
All Development	n/a	n/a	See 4.17.080C.3.b
Parking as a Principal Use, or Parking Structure	Up to 25 vehicle spaces	26 or more spaces	Parking structure

b. Additional Actions that Require Major Development Plan Review

Any development that requires any one of the following shall be reviewed and decided on by the Town Council:

- i. Extension of municipal facilities beyond locations or other limits set forth in the Town's regulations, policies or plans, or a proposal to oversize utilities with Town funding participation.
- ii. A dedication of land that the Town will be required to maintain or payment of fee in lieu of, including a street, alley, park, trail, or other public land or right-of-way.
- iii. A development impact report per Section 4.17.030C.

c. Companion Applications

Where a Development Plan is required as part of the application for a specific application type, review and approval of the development plan shall be done by the decision-making body reviewing the specific application. Examples include:

- i. Major Development Plan for a Special Use Permit application,
- ii. Minor Development Plan for a Conditional Use Permit, and
- iii. Administrative Development Plan for a Minor Use Review.

4. Review Procedure

a. Application

Development Plan applications shall meet the common review procedures identified in Table 4.17-6, with the following modifications:

- i. The Development Plan application shall include the information required in Section 4.17.130A and any additional information required by the application form.

5. Public Notice and Public Hearing

- a. Public notice shall be provided as required in Table 4.17-2: Public Notice Requirements.
- b. Minor Development Plans shall be scheduled for a public hearing for Planning and Zoning Commission review and decision.
- c. Major Development Plans shall be scheduled for a public hearing for Planning and Zoning Commission review and Town Council decision-making and shall be noticed pursuant to Section 4.17.050.

6. Review Criteria and Decision-Making

The following review criteria are applicable to all Development Plan applications:

a. Land Use and Development LUDC Requirements

The development plan is consistent with all applicable standards of this LUDC;

b. Previous Approvals

The development plan is consistent with any previously approved and still valid land use approval, such as a plat or PUD; and

c. Comprehensive Plan

The development plan is consistent with the Comprehensive Plan and other adopted area or corridor plans.

7. Review and Decision-Making

- a. Administrative Development Plans shall be reviewed and decided on per Section 4.17.060C.2.
- b. Minor and Major Development Plans shall be reviewed and decided on per Section 4.17.060C.3.
- c. Development Plans submitted as part of a specific application shall be reviewed as part of the specific application.

8. Post-Approval Actions

- a. If a Development Plan is approved, it shall be signed by the Director and attached to a Notice of Decision per Section 4.17.070A. A copy shall be filed at Town hall, along with a copy of the approved development plan, both of which shall become part of the permanent records of the Town.
- b. The Development Plan shall be incorporated into the building permit and all conditions shall apply to the building permit.

9. Changes in Development Plan

Table 4.17-6 Administrative Development Plan

Applicable Common Procedures

- 1 Pre-Submittal Conference
Sec. 4.17.020
- 2 Application Submittal & Completion Review
Sec. 4.17.030
- 3 Complete Application Review and Action
Sec. 4.17.040
- 4 Administrative Review and Decision-Making
Sec. 4.17.060
- 5 Post-Decision Actions and Limitations
Sec. 4.17.070

Any change in the development plan made after original submittal of the plan, either before or after approval, shall require reapplication unless:

- a. The change is directed by the Planning and Zoning Commission; or
- b. The Director determines that the change can be reviewed as an Administrative Adjustment and it complies with the Town's regulations, goals, and policies.

10. Extension and Lapsing of Approvals

a. Extension

A development plan approval may be extended by the original decision-maker. Administrative development plan approvals shall not be extended for more than a total period of one year.

- i. Application for extension of major and minor development plans shall be made at least 30 days before the Planning and Zoning Commission or Town Council meeting at which it is to be reviewed. The application extension fee shall be established in the Fee Schedule.
- ii. In granting a renewal of the development permit, the Planning and Zoning Commission or Town Council may add, delete, or modify any terms or conditions of the permit in accordance with this LUDC and the Town's goals and policies.

b. Lapsing

Development plans shall lapse and be considered expired as follows:

- i. Three years from its approval date, unless application for a building permit is made or unless the approval is extended per 4.17.080C.10.a;
- ii. After three years:
 - (a) Upon expiration of the building permit; or
 - (b) Upon a finding of abandonment of the development per Section 4.17.070D.4.

D. Rezoning (Zoning Map Amendment)

1. Purpose

The purpose of this section is to establish the procedure and requirements for requested amendments the Zoning Map.

2. Applicability

- a. The rezoning procedure allows amendments to the Zoning Map to reflect changes in public policy, changed conditions, or to advance the welfare of the Town. The zoning classification of any parcel in the Town may be amended using this procedure. The purpose is neither to relieve particular hardships nor to confer special privileges or rights on any person. Rezoning should not be used when a special use permit, variance, or administrative adjustment could be used to achieve a similar result.
- b. Changes to the characteristics of zone districts (such as setback requirements) and development standards (such as parking requirements) shall be processed as Section 4.17.120C, LUDC Text Amendments.

3. Authority to Initiate

Amendments to the Zoning Map may be proposed by property owners, the Community Development Department, the Planning and Zoning Commission, or Town Council.

- a. When amendments are proposed by the Planning and Zoning Commission or Town Council, they must be initiated through a majority vote of the body.
- b. Applications for property owner-initiated amendments that include property not owned by the applicants shall be signed by a minimum of 50 percent of the owners of the property to be rezoned.

4. Review Procedure

Applications for Rezoning shall meet the common review procedures identified in Table 4.17-7.

5. Public Notice and Hearing Requirements

- a. The application shall be scheduled for public hearings before the Planning and Zoning Commission and Town Council and shall be noticed pursuant to Section 4.17.050.
- b. Town-initiated Rezoning updating the zoning designations for an area of the Town encompassing more than 100 acres of land or involving more than 25 properties owned by

Table 4.17-7 Rezoning

Applicable Common Procedures

1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Scheduling and Notice of Public Hearing Sec. 4.17.050
5	Review and Decision-Making Sec. 4.17.060
6	Post-Decision Actions and Limitations Sec. 4.17.070

unique owners establish Town-wide policy regarding future urban growth and do not require mailed notice to individual property owners.

- c. The Planning and Zoning Commission or Town Council may add additional property to be considered for a Rezoning if the additional property is identified in the notice.

6. Review Criteria and Decision-Making

- a. The Planning and Zoning Commission shall review and recommend and Town Council shall review and decide on the application based on the following criteria:

- i. **Comprehensive Plan Future Land Use Plan**

- The Rezoning is consistent with the Comprehensive Plan Future Land Use Plan for the project site, as well as any applicable area or corridor plans;

- ii. **Comprehensive Plan Goals and Strategies**

- The Rezoning promotes at least two Comprehensive Plan goals; and

- iii. **Strategic Objectives**

- The Rezoning presents the Town with an opportunity or an appropriate site, at an appropriate location, for the particular type of land use or development proposed and will help the Town achieve a balance of land use, tax base, or housing types consistent with the Town's overall planning and economic development goals.

7. Post-Decision Actions

- a. **Modification or Amendment**

- Requests for modification or amendment shall be reviewed per Section 4.17.070C, Modification or Amendment of Approvals.

- b. **Lapsing and Extension of Approvals**

- Rezoning approvals do not lapse.

E. Special Use Permit

1. Purpose

Each zone district is primarily intended for a predominant type of use as identified in Table 4.09-1. There are also a limited number of specific uses that may or may not be appropriate in a particular district, depending upon all the circumstances of the individual use on the site and in context with surrounding development. Consideration of these uses includes examination of the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, and whether specific conditions can be applied to mitigate the potential negative impacts of the use. Special Uses are special exceptions to the general terms of this LUDC.

2. Applicability

This section shall apply to any use that is classified as a Special Use in Table 4.09-1 or elsewhere in this LUDC.

3. Review Procedure

Special Use Permit applications shall meet the common review procedures identified in Table 4.17-8 Special Use Permit, with the following modifications:

a. Application

A Development Plan and project narrative is required as part of the application information.

b. Public Notice and Public Hearing Requirements

The application shall be scheduled for a public hearing before the Planning and Zoning Commission and Town Council and shall be noticed pursuant to Section 4.17.050.

c. Review Criteria and Approval

The Planning and Zoning Commission shall review and recommend and the Town Council shall decide on a Special Use Permit request based on the following criteria:

i. Comprehensive Plan

The special use is consistent with the Town's Comprehensive Plan and applicable sub area and corridor plans, if any;

ii. Continued Maintenance

The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;

iii. Land Use and Development LUDC Standards

Table 4.17-8 Special Use Permit

Applicable Common Procedures

- 1 Pre-Submittal Conference
Sec. 4.17.020
- 2 Application Submittal & Completion Review
Sec. 4.17.030
- 3 Complete Application Review and Action
Sec. 4.17.040
- 4 Scheduling and Notice of Public Hearing
Sec. 4.17.050
- 5 Planning & Zoning Commission Review
Town Council Decision-Making
Sec. 4.17.060
- 6 Post-Decision Actions and Limitations
Sec. 4.17.070

The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this LUDC, including zone district dimensions, landscaping requirements, and parking;

iv. Off-Site Impacts

- (a) The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood; and
- (b) The special use will not impede the normal and orderly development and improvement of the surrounding property.

v. Appropriate Conditions

It will be possible to establish conditions necessary to protect the public health, safety, and general welfare, including but not limited to conditions on:

- (a) Regulation of the use;
- (b) Special setbacks, buffers, or screening;
- (c) Surfacing of parking areas;
- (d) Street, alley, or service road dedications, improvements, or bonds;
- (e) Regulation of points of vehicular ingress and egress;
- (f) Regulation of signs;
- (g) Regulation on the performance of the site, including noise, vibration, and odors;
- (h) Regulation of the hours of activities;
- (i) Timeframe for development
- (j) Duration of use; and
- (k) Other relevant conditions that will ensure the orderly development of the site.

d. Approval Conditions

- i. A non-industrial special use permit may be approved with conditions that limit the following:
 - (a) Duration of the use, but not less than three years,
 - (b) Location,
 - (c) The party entitled to own or operate the use, or
 - (d) Other conditions specific to the requested use.
- ii. A Special Use Permit for an industrial use or operation shall include conditions requiring the use to have no adverse effect on the following:
 - (a) Existing lawful use of water through depletion or pollution of surface run-off, stream flow or groundwater.
 - (b) Wildlife and domestic animals through creation of hazardous attractions, blockade of migration routes or patterns or other means.

4. Post-Decision Actions

a. Major or Minor Change or Expansion

If the applicant proposes to change or expand a structure or other features of a site that is subject to a Special Use Permit, the Director shall determine whether the expansion or change is major or minor per Section 4.17.070C.2.

b. Amendment, Revocation, or Termination

Special Use Permits may be revoked pursuant to Section 4.17.070D.5.

c. Extension and Lapsing of Approvals

A Special Use Permit approval shall remain valid until the property changes use or the permit lapses or is revoked.

F. Variance

1. Purpose

The variance process allows an applicant to request relief from the strict application of the regulations of this LUDC.

2. Applicability

- a. An applicant may request a variance to applicable regulations that meet the requirements of the review criteria below.
- b. Where applicable, requests for Section 4.17.110A Administrative Adjustment or Section 4.17.120D Redevelopment Adjustment shall be made and determined prior to a request for variance.
- c. A variance may not be requested to allow a use in any zone district in which it is not listed as a permitted, conditional, or special use.

3. Review Procedure

Variance applications shall meet the common review procedures identified in Table 4.17-9, with the following modifications:

a. Application

- i. An application for a variance shall be made on a form provided by the Town and signed by the applicant which clearly states the reasons for the request and how it complies with the conditions for variance.
- ii. An applicant may request a variance concurrently with an associated development permit application by submitting a request for variance as part of the overall application package.
- iii. Public Notice and Public Hearing Requirements

Table 4.17-9 Variance

Applicable Common Procedures	
1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Scheduling and Notice of Public Hearing Sec. 4.17.050
5	Planning & Zoning Commission Decision-Making Sec. 4.17.060
6	Post-Decision Actions and Limitations Sec. 4.17.070

The application shall be scheduled for a public hearing before the Planning and Zoning Commission and shall be noticed pursuant to Section 4.17.050.

b. Review Criteria and Decision

The Planning and Zoning Commission shall consider all of the following criteria

- i. The subject property has an exceptional shape, topography, building configuration, or other exceptional site condition that is not a general condition throughout the zone district;
- ii. The strict application of the LUDC standards for which a variance is sought would produce undue hardship;
- iii. The applicant's actions did not create the hardship;
- iv. The variance requested does not harm the public and does not impair the intent or purposes of this LUDC, goals, and policies, including the specific regulation for which the variance is sought;
- v. The variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden;
- vi. The variance request will not violate building or fire code requirements; and
- vii. The variance is the minimum variance that will afford relief of the subject standards of the LUDC.

4. Post-Decision Actions

a. Modification or Amendment

Variance approvals cannot be modified or amended. An applicant who would like to change an approved variance shall file a new Variance application.

b. Extension and Lapsing of Approvals

- i. The property owner shall commence development or obtain the required permits to carry out the approved variance within three years of the Variance approval or the approval shall be deemed lapsed.
- ii. The Planning and Zoning Commission may grant additional extension of up to three years to any Variance approval.

c. Non-Transferable

An approved variance shall apply only to the property or structure described in the approval and shall not be transferable to any other property or structure.

G. Vested Property Rights**1. Purpose**

The purpose of this section is to provide the procedures necessary to implement the provisions of C.R.S. § 24-68-101, *et seq.*

2. Limitations

Nothing in this section is intended to create any vested property right.

3. Applicability

An applicant may request, in writing, to have property rights vest for any of the following Site-Specific Development Plans:

Table 4.17-10 Site Specific Development Plans	
Development Review Procedure	Site-Specific Development Plan
Minor development plan, pursuant to Sec. 4.17.080, not accompanied by subdivision of land	Final development plan approved by Planning and Zoning Commission
Major development plan, pursuant to Sec. 4.17.080, not accompanied by subdivision of land	Final development plan approved by Town Council
PUD review, pursuant to Sec. 4.08.060, not accompanied by subdivision of land	PUD Final Plan approved by Town Council
PUD review, pursuant to Sec. 4.08.060, accompanied by subdivision of land	PUD Final Plan and Final Plat approval by Town Council
Subdivision review, pursuant to Sec. 4.17.100, including minor, subdivisions, lot line adjustments, division of property into condominium or townhouse units	Final Plat approved by Town Council

4. Review Procedures**a. Application**

Vested Rights Determination applications shall meet the common review procedures identified in Table 4.17-8 Special Use Permit, with the following modifications:

- i. An application for approval of a Site-Specific Development Plan shall be submitted and reviewed concurrently with an application for the final approval identified in Table 4.17-10 Site Specific Development Plans.
- ii. It is the applicant's responsibility to ensure that each final plan, map, plat or site plan, or other document constituting a Site-Specific Development Plan contains the following language: "Approval of this plan may create a vested property right pursuant to § 24-68-101 C.R.S., *et seq.*" Omission of this statement shall invalidate the creation of the vested property right.

b. Public Notice and Public Hearing Requirements

The application shall be scheduled for a public hearing before the Planning and Zoning Commission and Town Council and shall be noticed pursuant to Section 4.17.050.

- (a) Each map, plat, or site plan constituting a site-specific development plan shall contain the following language conspicuously displayed on at least the first page of each document:

"APPROVAL OF THIS PLAN CREATES A VESTED PROPERTY RIGHT PURSUANT TO C.R.S. § 24-68-103."

Failure to include this statement shall invalidate the creation of the vested property right.

5. Post-Decision Actions

Within fourteen (14) days after the approval of the SSDP, the applicant shall satisfy the notice requirements of C.R.S. § 24-68-103(1).

4.17.090 HISTORIC PRESERVATION

A. Purpose

The purpose of this section is to promote the public health, safety, and welfare through the following:

1. The protection and preservation of the Town's historic and cultural heritage, as represented by designated Landmarks.
2. The enhancement to quality of life through the maintenance of designated Landmarks.
3. The protection and enhancement of the Town's economy through the preservation of historical attractions for local residents, tourists, and visitors to the Town.
4. The expansion of public awareness, appreciation, and knowledge of the Town's unique local history.

B. Application of Historic Preservation Regulations

It shall be the responsibility of the Planning and Zoning Commission to oversee the rules and regulations listed in this section. The Planning and Zoning Commission shall:

1. Review and determine qualifications of Buildings, Structures, Objects, Sites, and districts nominated for designation and recommend that the Town Council designate by ordinance the Buildings, Structures, Objects, Sites, or districts qualifying for the designation.
2. Recommend to the Town Council the establishment of Construction and Design Guidelines, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, for review of proposals to Alter, Relocate, or Demolish Historic Properties.
3. Review and make recommendations on any application for Alteration, Relocation, or Demolition of a Historic Property or Historic District or planning and design project that may affect the character or Integrity of the Historic Property or Historic District.
4. Participate in review of National Register of Historic Places nominations.
5. Advise and assist Owners on physical and financial aspects of preservation, rehabilitation, restoration, and reconstruction, including nomination to the Town's Historic Register, the Colorado State Register of Historic Properties, and the National Register of Historic Places.
6. Advise the Town Council on matters related to preserving the historic character and substance of the Town and recommend easements, covenants, licenses, and other methods which will implement the completion of the purposes of this section.
7. Participate in Federal Section 106 Review as requested by Town Council or staff.
8. Draft and recommend for adoption by the Town Council by-laws, operating policies, and other rules of procedure as the Planning and Zoning Commission may deem appropriate.

C. Establishment of Town Register and Designation Criteria

1. The Town Council hereby establishes the Town of Eagle Register of Historic Places (the "Town's Historic Register").

2. Properties or districts may be listed in the Town's Historic Register only if the Property or district has been so designated pursuant to this ordinance.
3. All Properties listed in the Colorado State Register of Historic Properties and the National Register of Historic Places are eligible for the Town's Historic Register but are not designated until approval, pursuant to this ordinance, is obtained.

4. Eligibility Criteria

Properties or districts shall be at least fifty years old and meet one or more of the following criteria or subcriteria in order to be considered for designation:

- a. Association with events that have made a significant contribution to history;
 - i. Is a site of a historic event that had an effect upon society; or
 - ii. Exemplifies cultural, political, economic, or ethnic heritage of the Town.
- b. Connection with persons significant in history;
- c. Distinctive characteristics of a type, period, method of Construction, or artisan;
 - i. Exemplifies specific elements of an architectural style or period;
 - ii. Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally, or locally;
 - iii. Demonstrates superior craftsmanship or high artistic value;
 - iv. Represents a style that is particular to the Town or the heritage of the region;
 - v. Represents an innovation in construction, materials, or design; or
 - vi. Represents a built environment of a group of people in an era of history.
- d. Geographic importance; and/or
 - i. Enhances the sense of identity of the Town or community; or
 - ii. Is an established and familiar natural setting or visual feature of the Town or community.
- e. Possibility to yield important information related to prehistory or history.
 - i. Addresses research questions or fills recognized data gaps;
 - ii. Embodies construction, development, or design adaptations or
 - iii. Informs on the development of engineering systems.

A Property or district may be exempted from the age standard if the Town Council finds it to be exceptionally important in other criteria.

5. Integrity Criteria

All Properties and districts shall be evaluated for their physical Integrity using the following criteria:

- a. Location. The place where the property was constructed or the place where the historic event occurred.
- b. Design. The combination of elements that create the form, plan, space, structure, and style of a property.

- c. Setting. The physical environment of a property.
- d. Materials. The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a property.
- e. Workmanship. The physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
- f. Feeling. A property's expression of the aesthetic or historic sense of a particular period of time.
- g. Association. The direct link between an important historic event or person and a property.

6. Historic Districts

- a. A "Historic District" is a geographically definable area including a concentration, linkage, or continuity of Properties within a specified Period of Significance and may include within its geographic boundaries one or more Contributing Properties, which has been designated by the Town Council pursuant to this ordinance.
- b. A Historic District is related by a pattern of either physical elements or social activities. Historic Significance is determined by applying eligibility and Integrity criteria to the pattern(s) and unifying element(s).
- c. Historic District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in Property type, density, or Integrity.
- d. Properties that do not contribute to the Historic Significance of the Historic District may be included within its boundaries.

D. Designation Procedure

1. Nomination and Application

- a. Applications shall be submitted to the Planning Department for consideration on a form provided by the Commission.
- b. A nomination for listing in the Town's Historic Register may be made:
 - i. By the Owner or Owners of the Property or Properties to be designated;
 - ii. By a member or members of the Commission;
 - iii. By a member or members of Town Council; and/or
 - iv. By non-Owners of the Property or Properties to be designated, in which case the Applicant must be a resident or Owner of Property in the Town or have a place of business in the Town.
- c. Where nominated by someone other than the Property Owner or less than all of the Property Owners in a district nominated for designation, the staff person assigned shall contact the Owner or Owners of the Property or Properties nominated for designation in writing, outlining the reasons and effects of listing in the Town's Historic Register within 45 days of receipt of nomination.

- d. Applications determined incomplete shall be returned to the Applicant within 45 days with a request for additional information.
- e. Applications for a district nomination shall not be complete if more than 25% of the Property Owners within the proposed district oppose the nomination in writing or though ballot prepared and administered by the Town.

2. Designation Hearing

The Public Hearing for designation shall follow the Rezoning procedure in Section 4.17.080D.

3. Records

The Town shall maintain a current record of all Historic Properties, Historic Districts, and pending designations and will send a notice of the designation of the historic district to the State Historic Preservation Officer.

4. Amendment of Designation

An application to amend the designation of a historic property or historic district shall be administered by the Planning Department and Planning and Zoning Commission in accordance with the Rezoning procedure in Section 4.17.080D.

5. Revocation of Designation

If a historic property or district has been altered to a degree that it no longer retains its eligibility criteria, the owner, staff, a Planning and Zoning Commission member, or Town Council member may apply to the Planning and Zoning Commission for a revocation of the designation. The revocation application shall be administered in the same manner as an amendment of designation.

E. Alterations to Listed Properties and Historic Districts

1. Requirements

- a. Before carrying out any new construction, alteration, relocation, or demolition involving the exterior of any historic property or contributing property within a historic district, the owner(s) must first submit the proposed work to the Planning Department. The application shall include anything staff or the Commission deems necessary, including, but not limited to, a description of the type of work proposed and its effect or impact upon the historic property or historic district and plans and specifications showing the proposed exterior appearance, with finishes, materials, samples of materials, and architectural design and detail. The application will not relieve the applicant from the responsibility to apply to any other permit required by this LUDC.
- b. The Planning Department shall review the application received to determine whether the property is a listed historic property, or a contributing property located in a historic district. If so, the Planning Department shall determine when the application is complete and whether the application qualifies as a minor alteration or a major alteration. If the Planning Department determines the application is incomplete, the applicant shall be advised of the reasons in writing within 30 days of submittal.
 - i. **Minor Alteration**
A minor alteration shall be any alteration that does not constitute a major alteration and shall be determined administratively by staff within 60 days of a complete application:
 - ii. **Major Alteration**

The following shall constitute a major alteration and shall be reviewed and determined by the Commission at a Public Hearing:

- (a) Demolition of a historic building
 - (b) Partial demolition of a historic building
 - (c) Re-landscaping of a historic site
- c. The Town shall review any building permit application received to determine whether the property is a listed historic property or located in a historic district and if so, if the applicant has completed review by the Planning Department or the Commission as required by this Section. If a Certificate of Appropriateness has been issued on the permit application and the proposed work conforms thereto, the Town shall process it without further action. If no Certificate of Appropriateness has been issued or if the Town determines that the permit application does not conform to such, the Town shall not approve the permit application and shall not issue a permit until a Certificate of Appropriateness has been issued and the permit application conforms thereto.
- d. No person shall receive a building permit to construct, alter, remove, or demolish any building, structure, object, or other feature on a Site or element of a district nominated for designation after an application has been filed to initiate the designation of the property or district. No building permit shall be approved while proceedings are pending on the designation.

2. Application

Application for a Certificate of Appropriateness shall be through an Administrative Development Plan application.

3. Review Criteria and Decision-Making

- a. Compliance with any Design Guidelines adopted by the Town and the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- b. For Non-Contributing Properties within a Historic District:
 - i. Compatibility with the Property's current design, materials, features, size, scale and proportion, and massing; or
 - ii. Compatibility with the Historic District's design, materials, features, size, scale and proportion, and massing.
- c. Infill construction within Historic Districts shall be differentiated from the Historic Properties but be compatible with the historic materials, features, size, scale and proportion, and massing to protect the Integrity of the Historic District and its environment.

F. Demolition of Listed Properties

In order to demolish a Historic Property or a contributing property in a Historic District, the property owner shall either apply for a Major Alteration as described above or apply to remove the historic designation status from the property prior to application for a demolition permit.

1. General

- a. In addition to the criteria and procedures in Section 5, the Commission will use the criteria of this Section in considering applications for Demolition of Historic Properties and Contributing Properties in a Historic District.
- b. Applicants for Demolition shall provide:
 - i. A professionally prepared estimate of costs of continued Maintenance of the Property in its current condition, of rehabilitation, and of Demolition;
 - ii. An engineer's or architect's report as to structural soundness; and
 - iii. Professionally prepared estimates of the Property's market value in its current condition, as rehabbed and after Demolition.
- c. If a Demolition approval is granted on any basis other than that of an imminent hazard, a Certificate of Appropriateness will not be issued until a replacement/reuse plan for the Property has been approved by the Town.

2. Review Criteria for Total Demolition

Applicants requesting a Certificate of Appropriateness for total Demolition must provide data to clearly demonstrate the following criteria:

- a. The Property proposed for Demolition is not structurally sound, despite evidence of the Owner's efforts to properly maintain said Building, Structure, or Object;
- b. The Property cannot be preserved, restored, rehabbed, or reused on site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's site or adjacent Properties;
- c. The Property cannot be practically moved to another site in the Town; and
- d. The Applicant demonstrates that the proposal mitigates, to the greatest extent practical, all the following:
 - i. Any impacts that occur to the visual character of the neighborhood where Demolition is proposed to occur;
 - ii. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and adjacent Properties;
 - iii. Any impact to the Integrity of Buildings, Structures, or Objects located on the Property and adjacent Properties; and
 - iv. Any impact to archaeological deposits or ruins or the potential to access the resources and whether information can be recovered as part of the Demolition process.

3. Review Criteria for Partial Demolition.

Applicants requesting a Certificate of Appropriateness for partial Demolition must provide data to clearly demonstrate all of the following criteria:

- a. The partial Demolition is required for the preservation, restoration, or rehabilitation of the Property; and
- b. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following:

- i. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and adjacent Properties; and
- ii. Any impact on the Integrity of the Buildings, Structures, or Objects located on the Property and adjacent Properties.

G. Alteration Exemptions

Exemptions shall use the Variance procedures with the following criteria:

1. Criteria for Exemption

a. Economic Hardship

The following factors, evidence, and testimony are to be considered:

- i. The structural soundness of any Buildings or Structures on the Property and their potential for rehabilitation.
- ii. The economic feasibility of rehabilitation or reuse of the existing Property in the case of a proposed Demolition.
- iii. The consideration for economic hardship shall not include any of the following:
 - (a) Willful or negligent acts by the Owner;
 - (b) Purchase of the Property for substantially more than its market value;
 - (c) Failure to perform normal Maintenance and repairs;
 - (d) Failure to diligently solicit and retain tenants;
 - (e) Failure to prescribe a rental amount which is reasonable; or
 - (f) Failure to provide normal tenant improvements.

H. Maintenance

No Owner, lessee, or occupant of any Historic Property or Contributing Property within a Historic District shall fail to prevent significant deterioration of the exterior of the building, structure, object, or special feature beyond the condition of the Historic Property or Contributing Property within a Historic District on the effective date of the designating ordinance.

I. Unsafe or Dangerous Conditions Exempted

Nothing in this ordinance shall be construed to prevent any measures of Construction, Alteration, removal, or Demolition necessary to correct the unsafe or dangerous condition of any Property, other feature, or parts thereof where the condition is declared unsafe or dangerous by the Town and where the proposed measures have been declared necessary by the Town to correct the condition, as long as only work that is absolutely necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a Certificate of Appropriateness under this ordinance, but a certificate is required for permanent Construction, Alteration, removal, or Demolition.

J. Incentives

- 1. Any owner of a Historic Property or contributing property within a Historic District under this ordinance may be eligible for economic incentives for the restoration or rehabilitation of that

property as provided by the State of Colorado and any additional incentives as may be developed by the Town Council.

2. The Town Council shall make the determination for each request regarding economic incentives with a recommendation by the Planning and Zoning Commission.

4.17.100 SUBDIVISION APPLICATIONS

A. Design Variance, Subdivision.

1. Purpose

A subdivision design variance is intended to allow specific changes to the provisions of Chapter 4.15 where there are conditions on the site that require design variance to protect a natural feature or environmentally sensitive area or improve the subdivision design.

2. Applicability

An applicant may request a subdivision design variance to specific regulations for projects that meet the requirements of the review criteria below.

3. Review Procedures

Subdivision Design Variance applications shall meet the common review procedures in Table 4.17-11, with the following modifications:

a. Application

Applications for subdivision design variance shall be made as follows:

- i. A subdivision design variance request shall be made and reviewed concurrently with the development plan or preliminary subdivision plan and, if granted, shall be described and acknowledged in the development permit or subdivision agreement.
- ii. The provisions of Chapter 4.15, but not the Town's street construction regulations, may be modified by the Planning and Zoning Commission for a planned unit development without a separate application for a subdivision design variance.
- iii. Each application for a subdivision design variance shall be made on a form provided by the Town that shall include, at a minimum, the information required in Section 4.17.130H.

b. Review Criteria and Approval

The Planning and Zoning Commission or Town Council shall review and decide on a subdivision design variance based on conformance with the following criteria:

- i. There exists on the site exceptional topographical, soil, or other subsurface condition, or other extraordinary conditions peculiar to the site or existing buildings or lot configuration

Table 4.17-11 Design Variance, Subdivision

Applicable Common Procedures

1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Scheduling and Notice of Public Hearing Sec. 4.17.050
5	Planning & Zoning Commission or Town Council Decision-Making Sec. 4.17.060
6	Post-Decision Actions and Limitations Sec. 4.17.070

such that strict application of the requirement of the regulation from which the design variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the applicant or owner of the property in question.

- ii. A subdivision design variance shall not be granted if granting it would impair the intent and purposes of this LUDC.

4. Post-Decision Actions

a. Modification or Amendment

Requests for modification or amendment shall be reviewed per Section 4.17.070C, Modification or Amendment of Approvals.

b. Revocation or Termination

A subdivision design variance is revoked or terminated if the approval to which it was submitted is revoked or terminated.

c. Lapsing and Extension of Approvals

A subdivision design variance lapses and may be extended in the same manner as the approval to which it was submitted.

B. Lot Line Adjustment/Lot Consolidation

1. Purpose

This purpose of this Section is to allow for the administrative approval of lot line adjustments, including vacation of interior lot lines.

2. Applicability

- a. A lot line adjustment shall apply to subdivisions in which a lot line or a portion thereof is being moved to a location different from that shown on an official plat. A lot consolidation shall apply to subdivisions in which one or more interior lot lines are vacated to reduce the overall number of lots.

- b. An applicant for Lot Consolidation is required to own both (all) parcels.

c. Exceptions

- i. For lots within the original Town plat, a Lot Line Adjustment or Lot Consolidation shall not be required if all the following conditions exist:

(a) The applicant owns four adjacent lots that could not be built on individually in compliance with this LUDC;

(b) All lots were platted in 1905 as part of the original plat of the Town;

Table 4.17-12 Lot Line Adjustment

Applicable Common Procedures	
1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Administrative Decision-Making Sec. 4.17.060
5	Post-Decision Actions and Limitations Sec. 4.17.070

- (c) The lots are zoned residential and the proposed improvements will comply with all applicable requirements of this LUDC if the four lots are treated as one lot; and
 - (d) The applicant executes an agreement, in a form approved by the Town and to be recorded against all the lots, waiving any rights to sell any of the lots separately.
- d. For lots on the Mayer Addition plat approved in 1955, a Lot Line Adjustment or Lot Consolidation shall not be required if all the following conditions exist:
- i. All lots were platted in 1955 as part of the original Mayer Addition plat;
 - ii. The lots are zoned residential and the proposed improvements will comply with all applicable requirements of this LUDC if the four lots are treated as one lot; and
 - iii. The applicant executes an agreement, in a form approved by the Town and to be recorded against all the lots, waiving any rights to sell any of the lots separately.

3. Review Procedures

Lot Line Adjustment or Lot Consolidation applications shall meet the common review procedures in Table 4.17-12, with the following modifications:

- a. The applicant shall submit an application complying with the final subdivision plat requirements of Section 4.17.100E, and a final plat showing all proposed adjustments to the lot lines.
- b. An applicant may file a subsequent application based on the approved Lot Line Adjustment or Lot Consolidation application, but no subsequent applications shall be approved prior to final plat approval.
- c. **Review and Decision-Making**
The Director shall review the application and make a determination per Section 4.17.040D. An approved Lot Line Adjustment or Lot Consolidation final plat shall be placed on the Town Council consent agenda and be signed by the Mayor prior to recordation.
- d. **Review Criteria**
In reviewing a Lot Line Adjustment or Lot Consolidation application, the Director shall consider the following criteria:
 - i. All of the required public improvements have been installed and approved;
 - ii. All parcels created meet the minimum standards required by this LUDC and other applicable regulations;
 - iii. The lot line adjustment does not adversely affect the character of the neighborhood or create other adverse impacts; and
 - iv. The lot line adjustment does not result in density that exceeds the allowed density of the original subdivision.

4. Post-Decision Actions

a. Recording Required

A final plat shall be prepared for the Mayor's signature and filing showing all changes required as part of the approval. The applicant shall record the approved final plat with Eagle County at the applicant's expense.

b. Modification or Amendment

Requests for modification or amendment shall be submitted as a new application.

c. Lapsing and Extension of Approvals

A Lot Line Adjustment or Lot Consolidation approval lapses if a final plat is not filed within 90 days of approval and may be extended by the Director for an additional 90 days.

C. Minor Subdivision**1. Purpose and Definition**

The minor subdivision process is used to evaluate proposed subdivisions that will create few lots or involve minimal adjustments to approved final plats.

2. Applicability

The minor subdivision process shall apply to the one-time resubdivision of previously subdivided land that meets the following criteria:

- a. Creation of no more than four residential lots or 10 condominium units within a single plat that does not require the development or dedication of any public or private improvements in addition to those already existing from the original subdivision;
- b. Creation of condominiums or townhomes within an existing building that does not include land dedication; or
- c. Creation of no more than four mixed-use or nonresidential lots that does not include development of or dedication of any public or private improvements in addition to those already existing from the original subdivision.

Table 4.17-13 Minor Subdivision**Applicable Common Procedures**

1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Administrative Decision-Making Sec. 4.17.060
5	Post-Decision Actions and Limitations Sec. 4.17.070

3. Review Procedures

Minor Subdivision applications shall meet the common review procedures in Table 4.17-13.

a. Review and Decision-Making

The Director shall review the application and make a determination per Section 4.17.040D.

b. Review Criteria

In reviewing a Minor Subdivision application, the Director shall consider the following criteria:

i. Comprehensive Plan

Whether the resulting development will be consistent with the Comprehensive Plan;

ii. Land Use and Development LUDC Standards

Whether the approved lots will be consistent with the intent of the underlying zone district and the applicable standards of this LUDC;

iii. Easements, Facilities, and Services

That the proposed lot changes:

- (a) Do not affect a recorded easement without approval from the easement holder; and
- (b) Will not limit the Town's ability to effectively provide facilities or services.

4. Post-Decision Actions and Limitations

- a. Post-decision actions and limitations in Section 4.17.070 shall apply and the applicant shall record the approved minor subdivision with the Eagle County Clerk and Recorder as soon as practicable.
- b. When reviewing a proposal to divide an existing structure into condominium or townhouse units, the Director may require the subject property to come into compliance with this LUDC and all applicable life safety codes as necessary to safeguard the public health, safety, and welfare.

D. Major Subdivision.

1. Overview

a. Purpose

This section is intended to provide for full review of any proposed subdivision of land in order to ensure that the potential effects of the proposal are considered.

b. Applicability and Process

- i. Every proposal including a subdivision of land shall include review of:

- (a) A sketch plan in accordance with Section 4.17.100D.2,
- (b) A preliminary plan in accordance with Section 4.17.100D.3, and
- (c) A final plat in accordance with Section 4.17.100E.

Major Subdivision Review Steps

1

Sketch Plan
Sec. 4.17.100D.2

2

Preliminary Plan
Sec.4.17.100D.3

3

Final Plat
Sec.4.17.100E

- ii. Lot line adjustment, condominium and townhouse plats, and minor subdivision applications are exempt from this three-step process but may need to conform to specific steps as directed in the individual application process.
- iii. Unless one of the following is accomplished with the purpose of evading the existing provisions of this Code, "subdivision" or "subdivided land" shall not apply to any division of land that is:
 - (a) Created by order of any court in this State or by operation of law, so long as the Town is notified of any such court action;
 - (b) Created by a lien, mortgage, deed of trust, or other security instrument;
 - (c) Created by a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity;
 - (d) Creating cemetery lots;

- (e) Creating an interest in oil, gas, minerals, or water which is severed from the surface of real property;
- (f) Created by the acquisition only of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common; any such interest shall be deemed for the purposes of this section as only one interest; or
- (g) The dedication, conveyance or vacation of land to or from the Town for right-of-way or other public uses or purposes.

2. Sketch Plan

a. Purpose

The sketch plan review process has two purposes. First, it provides the Town the opportunity to describe the community's vision to the applicant. Second, it gives the applicant an opportunity to discuss proposed subdivision and development plans, explain how the plans will further the community's vision, and obtain input and direction from the Planning and Zoning Commission and Town Council early in the process. The ultimate goal of this process is to help the applicant develop a subdivision plan that fosters the community's vision.

b. Applicability

- i. All subdivision applicants for any of the following shall submit a sketch plan:
 - (a) Subdivision of land that has not been platted;
 - (b) Subdivision that will include the dedication of public right-of-way, other public tracts, or public improvements not determined to be eligible for minor subdivision processing; or
 - (c) Any subdivision that is not eligible to be processed as a minor subdivision, lot line adjustment, or condominium/townhouse plat.
- ii. The Director may require all or part of any information waived from a sketch plan submission to be submitted with the preliminary subdivision plan.

c. Review Procedures

Applications for sketch plan review shall meet the common review procedures in Table 4.17-14 Sketch Plan

d. Public Notice and Public Hearing Requirements

Public notice is not required for sketch plan review.

e. Review and Decision-Making

Table 4.17-14 Sketch Plan

Applicable Common Procedures	
1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Planning & Zoning Commission Comments Town Council Comments Sec. 4.17.100D.2.e.i

i. Planning and Zoning Commission and Town Council Review

- (a) The Planning and Zoning Commission and Town Council shall review the sketch plan application at one of their regular meetings. The Commission and Council shall make comments and recommendations regarding the proposed development that are to be considered by the applicant in preparation of the preliminary subdivision plan.
- (b) Commission and Council comments are not binding.
- (c) At the Town Council meeting, the Council may recommend that the applicant proceed or not proceed to the preliminary subdivision plan stage, based on its review of the proposal.

ii. Review and Discussion Criteria

The Planning and Zoning Commission and Town Council shall consider the following in their review of a sketch plan:

- (a) How the proposed project complies conceptually with the comprehensive plan, and the applicable requirements of this LUDC.
- (b) How the proposed development incorporates variety in the type, design, and siting of buildings.
- (c) How the proposed subdivision will be connected to and integrated with surrounding natural and developed areas.
- (d) How the project will impact neighboring properties (i.e., water drainage, traffic circulation, environmental impacts, view corridors).
- (e) How the proposal promotes the efficient use of land and public streets, utilities, and governmental services.

f. Post-Decision Actions**i. Modification or Amendment**

Requests for modification or amendment shall be submitted as a new sketch plan application.

3. Preliminary Plan**a. Purpose**

The Preliminary Plan procedure provides a mechanism for the Town to review an overall plan for a proposed subdivision to ensure compliance with this LUDC, the Comprehensive Plan, and the adequate provision of facilities and services in the Town.

b. Applicability

i. A Preliminary Plan is required if the proposed subdivision:

- (a) Meets the sketch plan applicability criteria but sketch plan submission was waived by the Director, or
- (b) Has completed the sketch plan comments and recommendations process and the applicant wishes to proceed with the subdivision process.

ii. At the Director's discretion, an applicant may combine the Preliminary Plan and Final Plat submission requirements together in a single submission.

c. Review Procedures

- i. Applications for Preliminary Plan shall meet the common review procedures in Table 4.17-15 Preliminary Plan Public Notice and Public Hearing Requirements
- ii. The application shall be scheduled for a public hearing before the Planning and Zoning Commission and Town Council and shall be noticed per Section 4.17.050.

d. Review and Decision-Making**i. Review Criteria**

(a) The Planning and Zoning Commission shall review and recommend on and the Town Council shall review and decide on the Preliminary Plan application based on the following criteria:

(i) Comprehensive Plan

The Preliminary Plan is consistent with applicable provisions of the Comprehensive Plan;

(ii) Sketch Plan

The Preliminary Plan Is substantially consistent with the recommendations made by Planning and Zoning Commission and Town Council at sketch plan application;

Table 4.17-15 Preliminary Plan**Applicable Common Procedures**

1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Scheduling and Notice of Public Hearing Sec. 4.17.050
5	Planning & Zoning Commission Recommendation Town Council Decision-Making Sec. 4.17.060
6	Post-Decision Actions and Limitations Sec. 4.17.070

(iii) Land Use and Development LUDC Standards

The Preliminary Plan complies with the applicable standards of this LUDC;

(iv) Infrastructure and Services

The Preliminary Plan provides evidence that public water and sewer system connections can be efficiently implemented; and

(v) Phasing

The Plan proposes reasonable project phasing in terms of infrastructure capacity, transportation connections, provision of open space and trails, and any other aspect of the development that will be developed across multiple phases.

- (b)** When a preliminary plan and development plan are submitted as a single application, the Planning and Zoning Commission and Town Council shall also apply the Section 4.17.080C.6 Development Plan Review Criteria.

ii. Phased Development

Whenever a Preliminary Plan is approved for development of the subdivision in phases, the Town Council may provide the periods of time allowed for final plat approval of each phase of the development after the first.

e. Post-Decision Actions**i. Modification or Amendment**

Requests for modification or amendment of an approved Preliminary Plan shall be processed according to Section 4.17.070C.

ii. Lapsing and Extension of Approvals

- (a)** A Preliminary Plan approval shall lapse if a Final Plat for the first phase or all of the property included in the preliminary plan is not filed within 2 years of the Preliminary Plan approval.

- (b)** Upon a request by the applicant made prior to the expiration of the 2-year period, the Town may grant an extension for another two years. If more than 2 years elapse from the date of the Council's original approval or an approved extension to the date of the Preliminary Plan submittal, and if no extension has been granted, the applicant shall be required to resubmit the Preliminary Plan as a new application.

- (c)** If a Development Plan and Preliminary Plan are submitted jointly both approvals lapse pursuant to this section.

E. Subdivision, Final Plat**1. Purpose**

The Final Plat procedure completes the subdivision process and ensures compliance with the approved Preliminary Plan and applicable standards in this LUDC.

2. Applicability

The Final Plat procedure applies to all subdivisions in the Town unless otherwise stated in this LUDC.

3. Review Procedures

Applications for Final Plat shall meet the common review procedures in Table 4.17-16 with the following modifications:

If the applicant is seeking vested rights with the final plat, the vested rights application shall be reviewed concurrently with an application for a final plat. Applicants seeking vested rights shall comply with the procedures in Section 4.17.080G.

4. Review and Decision-Making

a. Review Criteria

The Director shall review and decide on the final plat application based on the following criteria:

i. Preliminary Plan

The final plat conforms to the approved Preliminary Plan, including any conditions of approval;

ii. Land Use and Development LUDC Standards

The development will comply with all requirements of this LUDC; and

iii. Platting Standards

The development will comply with all applicable technical standards and specifications.

b. Town Council Action

- i. Upon approval of a Final Plat and Development Agreement, the Council shall enact an ordinance authorizing the Town Council certification of the plat and accepting any dedications shown thereon.
- ii. The applicant shall record the plat and Development Agreement with the County Clerk and Recorder within 30 days of the Town Council's certification.

Table 4.17-16 Final Plat

Applicable Common Procedures

1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Administrative Decision-Making Sec. 4.17.060
5	Post-Decision Actions and Limitations Sec. 4.17.070

5. Post-Decision Actions

a. Modification or Amendment

Requests for modification or amendment of an approved Final Plat shall be processed according to Section 4.17.070C.

b. Lapsing and Extension of Approvals

- i. A Final Plat approval shall lapse if the start of development has not occurred within 3 years of the preliminary plan approval. "Start of development," for the purposes of this section, shall mean either the commencement of construction of public improvements within the subdivision, or the sale of an individual lot, townhome or condominium unit within the development, or the issuance of the first building permit for construction within the subdivision, whichever event first occurs.

- ii. Upon a request by the applicant made prior to the expiration of the 3-year period, the Town may grant an extension for a specified timeframe. If more than 3 years elapse from the date of the original certification or an approved extension, and if no extension has been granted, the applicant shall be required to resubmit the Final Plat as a new application.

F. Subdivision, Final Plat for Condominium or Townhome

1. Purpose

This procedure provides a mechanism to ensure that condominium and townhome subdivisions and conversions will comply with the applicable provisions of this LUDC.

2. Applicability

The following procedures shall be followed before sale of individual units in a multifamily dwelling, or of individual commercial or other space within a larger building, whether or not there is tenancy in common. Condominium and townhome developments remain subject to the building lot, height, and setback requirements of the applicable zone district.

3. Review Procedures

Applications for final plat for a condominium or townhome shall meet the common review procedures in Table 4.17-17 Final Plat: Condominium or Townhome, with the following modifications:

- a. The application shall include the information required in Section 4.17.130I.
- b. If no change is proposed in the potential for development beyond that existing or approved, division of property into condominium or townhouse units shall follow the procedures for Minor Subdivision in Section 4.17.100D.
- c. Developments that have an approved Development Plan or Preliminary Plat that is no more than three years old, and for which an intent to subdivide into townhouses and/or condominiums was declared during that review shall be reviewed pursuant to this section.

4. Review and Decision-Making

- i. The Director shall review and decide on the proposed final plat of a condominium or townhouse subdivision within 45 days of a complete application determination.
- ii. Upon approval of a Final Plat for Condominium or Townhouse, the Town Council shall place the Final Plat on the consent agenda and enact an ordinance authorizing the Town Council certification of the plat and accepting any dedications shown thereon. The Final Plat shall be signed by the Mayor prior to recordation.

Table 4.17-17 Final Plat: Condominium or Townhome

Applicable Common Procedures	
1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Administrative Decision-Making Sec. 4.17.060
5	Post-Decision Actions and Limitations Sec. 4.17.070

- iii. The applicant shall record the plat and Development Agreement with the County Clerk and Recorder within 30 days of the Town Council's certification.

G. Vacation of Public Right-of-Way

1. Purpose

The Vacation of Right-of-Way procedure provides a mechanism for implementing §43-2-303 C.R.S. to vacate rights, interests, or title of the Town in and to any right-of-way or easement located in the Town.

2. Applicability

This section shall apply to the vacation of any street, alley, or other public reservation.

A request for Vacation may be filed when:

- a. The right-of-way:
 - i. Has never been, or is not anticipated to be formally opened or used;
 - ii. Is no longer needed because of design changes made by the Town;
 - iii. Has never been used for public purposes, or
 - iv. Has been abandoned and removed.
- b. All portions of the right-of-way to be vacated are within the Town; and
- c. None of the right-of-way to be vacated constitutes a boundary line between two counties or the boundary of the Town.

3. Review Procedures

Applications for Vacation shall meet the common review procedures in Table 4.17-18 Vacation of Public Right-of-Way.

4. Public Notice and Hearing Requirements

The request for Vacation shall be reviewed at public hearings for Planning and Zoning Commission recommendation and the Town Council decision-making and shall be noticed per Section 4.17.050.

5. Review and Decision-Making

- a. The Planning and Zoning Commission shall review and recommend and the Town Council shall review and decide on an application for Vacation based on the following criteria:
 - i. **Comprehensive Plan**
The vacation is consistent with the Comprehensive Plan;
 - ii. **Land Use and Development Code Standards**

Table 4.17-18 Vacation of Public Right-of-Way

Applicable Common Procedures

1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Scheduling and Notice of Public Hearing Sec. 4.17.050
5	Planning & Zoning Commission Recommendation Town Council Decision-Making Sec. 4.17.060
6	Post-Decision Actions and Limitations Sec. 4.17.070

The vacation will comply with the applicable standards of this Code;

iii. Public Purpose

The right-of-way is no longer needed for transportation, public utility, or drainage purposes;

iv. Property Access

No land adjoining the right-of-way to be vacated shall be left, as a result of the vacation, without adequate public services and/or vehicular access consistent with applicable standards.

b. Vacation of a right-of-way shall be accomplished by Town Council ordinance.

6. Post-Decision Actions

The Director shall record the approved ordinance with the Eagle County Clerk and Recorder as soon as practicable following approval.

7. Lapsing and Extension of Approval

A n ordinance for a Vacation of Public Right-of-Way shall not expire.

4.17.110 ADMINISTRATIVE PERMITS AND DETERMINATIONS

A. Administrative Adjustments

1. Purpose

The administrative adjustment procedure is intended to allow minor modifications or deviations from the dimensional or numeric standards of this LUDC with approval by the Director. Administrative adjustments are intended to provide greater flexibility when necessary, without requiring a formal zoning amendment or variance. The administrative adjustment procedure is not a waiver of current standards of this LUDC and shall not be used to circumvent the variance procedure.

2. Types of Administrative Adjustments

This section establishes three types of Administrative Adjustments, each described in more detail below:

- a. Administrative Adjustments to LUDC Standards,
- b. Administrative Adjustments to Create Reasonable Accommodations Under the FHA, and
- c. Administrative Adjustments to Eliminate a RLUIPA Substantial Burden.

3. Administrative Adjustments to LUDC Standards

- a. An application for an administrative adjustment to LUDC standards may request only the types of adjustments shown in Table 4.17-19 Administrative Adjustments.

Table 4.17-19 Administrative Adjustments to LUDC Standards	
LUDC Standard	Allowable Administrative Adjustment (max. %)
Site Standards	
Lot area, min	15
Lot coverage, max	15

Table 4.17-19 Administrative Adjustments to LUDC Standards	
LUDC Standard	Allowable Administrative Adjustment (max. %)
Lot Dimensional Standards	
Front setback, minimum	15
Side setback, minimum	15
Rear setback, minimum	15
Encroachment into setback	15
Building Standards	
Building height, maximum (excludes WCF)	15
Accessory building height, maximum (excludes WCF)	15
Development Standards	
Building Orientation	15
Architectural Design	15
Sign height, maximum	15
Fence or wall height, maximum	15, one foot maximum
Minimum landscaping requirements	15

- b. Administrative Adjustments to LUDC Standards may not be requested for PUD applications.

4. Reasonable Accommodations Under the FHA

- a. In response to a written application identifying the type of housing being provided and the portions of the federal Fair Housing Act ("FHA") that require that reasonable accommodations be made for the housing, the Director is authorized to approve any of the following administrative adjustments in order to provide reasonable accommodations without the need for a rezoning or variance:
- (a) Modify any facility spacing, building setback, height, lot coverage, or landscaping requirement by no more than ten percent; or
 - (b) Reduce any off-street parking requirement by no more than one space.
- b. The Director may approve an administrative adjustment to provide a type of reasonable accommodation different from that requested by the applicant if the Director concludes that a different form of accommodation would satisfy the requirements of the Federal Fair Housing Act with fewer impacts on adjacent areas. The decision of the Director shall be accompanied by written findings of fact as to the applicability of the Fair Housing Act, the need for reasonable accommodation, and the authority for any reasonable accommodations approved. Requests for types of accommodation that are not listed above may only be approved through a variance or rezoning process.

5. Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)

The Director may grant administrative adjustments in order to eliminate a substantial burden on religious exercise as guaranteed by the Federal Religious Land Use and Institutionalized Persons Act of 2000, as amended. In no circumstance shall the Director approve an adjustment that

allows a religious assembly use, or any uses, structures, or activities accessory to it, in a zone district where this LUDC prohibits the use or accessory use, structure, or activity.

6. Limitations on Administrative Adjustments

- a. Except when requested as a reasonable accommodation for FHA purposes, a request for an Administrative Adjustment shall not be used to further modify a development standard that, as applied to the subject property, already qualifies as an exception to, or modification of, a generally applicable development standard.
- b. The Administrative Adjustment procedure shall not apply to any proposed modification or deviation that results in:
 - i. An increase in the overall project density;
 - ii. A change in permitted uses or mix of uses;
 - iii. A deviation from the standards in Chapter 4.09, Use-Specific Standards;
 - iv. A deviation from the standards in Chapter 4.14, Sustainability, Resilience, and Hazards;
 - v. A deviation from building or fire codes;
 - vi. A deviation from the Town's engineering standards;
 - vii. Changes to requirements for public roadways, utilities, or other public infrastructure or facilities; or
 - viii. A change to a development standard where that same standard was already modified through a separate administrative adjustment or variance.

7. Review Procedure

a. Application

- i. An application for an administrative adjustment shall only be submitted and reviewed concurrently with an application for a conditional use permit, special use permit, temporary use permit, development plan approval (administrative, minor, or major), administrative permits, or building permit.

Table 4.17-20 Administrative Adjustment

Applicable Common Procedures

- 1 Submit concurrent with other application

- ii. Each LUDC standard in Table 4.17-19 Administrative Adjustments shall be considered a separate administrative adjustment request as it relates to the Section 4.17.110A.7.b review criteria, but multiple adjustments may be considered in one administrative adjustment application.

b. Review Criteria

In reviewing a proposed administrative adjustment, the decision-making body shall consider whether and to what extent the adjustment:

i. Compatibility

Will not negatively impact the function or enjoyment of adjacent properties or adjacent permitted uses;

ii. Impacts

Will not result in adverse impacts; and

iii. Is required to:

- (a) Compensate for an unusual site condition; or
- (b) Correct a minor inadvertent failure to comply with a LUDC standard; or
- (c) Protect a previously undiscovered sensitive resource, or natural feature.

c. Review and Decision-Making

- i. Where the concurrently reviewed application requires review and approval by the Director, the Director shall review the application per Section 4.17.060C.2.
- ii. Where the concurrently reviewed application requires review and approval by the Planning and Zoning Commission or Town Council, the Commission or Council, as applicable, shall review and decide the administrative adjustment application based on the review criteria above.
- iii. Approval of an administrative adjustment authorizes only the particular adjustment of standards approved, and only to the subject property of the application.

8. Expiration

An administrative adjustment shall automatically expire if the associated development application is denied or if approval of the concurrently reviewed application expires, is revoked, or otherwise deemed invalid.

B. Easement Vacation**1. Purpose**

The Easement Vacation procedure provides a mechanism to vacate an easement located in the Town.

2. Applicability

- a. This section shall apply to the vacation of any easement.
- b. A request for Easement Vacation may be filed when the easement is fully located within the Town and:
 - i. Has never been, or is not anticipated to be formally opened or used;
 - ii. Is no longer needed; or
 - iii. Has been abandoned and removed.

Table 4.17-21 Easement Vacation**Applicable Common Procedures****1**

Submit concurrent with other application

3. Review Procedures

Applications for Easement Vacation shall meet the common review procedures in Table 4.17-21. Where an Easement Vacation is requested as part of a larger development application (companion application), the request may be included on a proposed plat submitted with the companion application.

4. Review and Decision-Making

a. The Director shall review and decide on an application for Easement Vacation based on the following criteria:

i. Comprehensive Plan

The vacation is consistent with the Comprehensive Plan;

ii. Land Use and Development Code Standards

The vacation will comply with the applicable standards of this Code;

iii. Property Access

No land adjoining the easement shall be left, as a result of the vacation, without adequate public services consistent with applicable standards.

b. If the Easement Vacation is approved, the Director shall place an ordinance documenting the vacation determination on the Town Council consent agenda for approval.

5. Post-Decision Actions

The Director shall record the approved ordinance with the Eagle County Clerk and Recorder as soon as practicable following approval.

6. Lapsing and Extension of Approval

An ordinance for an Easement Vacation shall not expire.

4.17.120 LUDC ADMINISTRATION**A. Appeals of Administrative Decisions.****1. Purpose**

The appeal procedure establishes a mechanism for appealing decisions of the Director made in the administration or enforcement of this LUDC.

2. Applicability

- a. Any person aggrieved by the decision of the Director may appeal the decision.
- b. Appeals may also be made by any officer, department, board, or bureau of the Town.

3. Review Procedures

Appeals of administrative decisions shall meet the common review procedures in Table 4.17-22 Appeal, with the following modifications:

- a. An appeal shall be filed within 15 days of the decision from which the appeal is made.
- b. The party making the appeal (the appellant) shall have the burden of proving the necessary facts to warrant reversal or amendment of the decision being appealed. Proof shall include applicable specific section references within this LUDC and shall be provided with the application. The Appeal application shall include a narrative describing the specific reasons for the appeal and the grounds for changing the administrative determination.
- c. The Director shall review the appeal application and prepare a staff report in accordance with Section 4.17.040A, with the following modifications:
 - i. Staff review of the appeal shall only confirm that the application is complete and that the appeal will be heard by the appropriate authority.
 - ii. The staff report shall identify the relevant facts and procedural history, the decision that is the subject of the appeal and the action requested by the appellant on appeal.
 - iii. The staff report shall not make a formal recommendation on the merits of the appeal but may advise the appellate body of the actions it may take in response to the appeal.

Table 4.17-22 Appeal**Applicable Common Procedures**

1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Scheduling and Notice of Public Hearing Sec. 4.17.050
5	Planning & Zoning Commission Decision-Making Sec. 4.17.060
6	Post-Decision Actions and Limitations Sec. 4.17.070

4. Stay of Proceedings

- a. An appeal stays all proceedings in furtherance of the action appealed from except as provided in Section 4.b hereof. No further action will be taken by the Town on the initial application or request while the administrative decision is being appealed.
- b. The Town may decide not to stay activities related to the application while the administrative decision is being appealed where a stay would cause imminent peril to life or property, determined as follows:
 - i. The appeal is filed; and
 - ii. The staff member from whom the appeal is taken certifies to the Planning and Zoning Commission that by reason of facts stated in the appeal, a stay would, in that officer's opinion, cause imminent peril to life or property.
 - iii. In these cases, proceedings shall not be stayed other than by a court of record upon application to same and notice to the officer from whom the appeal is taken and on due cause shown.

5. Public Notice and Public Hearing

Appeals shall be scheduled for a public hearing before the Planning and Zoning Commission. Notice of the hearing shall be provided to the applicant and is not required to be provided to anyone else.

6. Review Criteria and Findings

- a. The Planning and Zoning Commission shall review and determine whether the interpretation by the Director was in accordance with the intent and requirements of this LUDC, considering whether the Director
 - i. Acted in a manner inconsistent with the provisions of this LUDC; or
 - ii. Made erroneous findings of fact based on the evidence and testimony on the record.
- b. The Planning and Zoning Commission may:
 - i. Affirm, reverse, or remand a decision in whole or in part, or may modify the order, requirement, decision, or determination appealed from; and
 - ii. Attach conditions of approval on any appeal to ensure the health, safety, and welfare of the general public.

7. Post-Decision Actions

Any further appeals shall be made to the courts in accordance with state law.

B. LUDC Interpretation**1. Purpose**

The purpose of a code interpretation is to clarify how regulations are applied to a specific case as well as guide general application of the LUDC.

2. Applicability

- a. The Director is authorized to provide a written interpretation of the contents and requirements of this LUDC.

- b. Interpretations may be requested for a provision of this LUDC subject to a proposed or current application, hearing, or appeal.
- c. The Director may also provide a property-specific code interpretation in the form of a LUDC clarification that identifies whether specific regulations in this LUDC are applicable to the subject property.

3. Authority

An interpretation may be requested by any:

- a. Applicant,
- b. Person affected by an action proposed pursuant to this LUDC, or
- c. Any Town departments or other governmental agencies that may be subject to the provisions of this LUDC.

4. Review Procedures

Applications for LUDC Interpretation shall meet the common review procedures identified in Table 4.17-23 LUDC Interpretation.

C. LUDC Text Amendment

1. Purpose

The LUDC Text Amendment process allows for amendment to the terms, tables, or graphics of this LUDC.

2. Applicability

An amendment to the text of this LUDC shall be initiated by the Director, the Planning and Zoning Commission, or the Town Council.

3. Review Procedures

Table 4.17-23 LUDC Interpretation

Applicable Common Procedures	
1	Pre-Submittal Conference Sec. 4.17.020
2	Application Submittal & Completion Review Sec. 4.17.030
3	Complete Application Review and Action Sec. 4.17.040
4	Administrative Decision-Making Sec. 4.17.060
5	Post-Decision Actions and Limitations Sec. 4.17.070

a. Application**Table 4.17-23 LUDC Interpretation****Applicable Common Procedures**

- i. An application for an amendment to the LUDC shall be prepared by the Director. If the amendment is initiated by the Planning and Zoning Commission or Town Council, the Director shall prepare the application at the request of the Planning and Commission or Town Council.
- ii. The application shall follow the common review procedures of Table 4.17-23, but no Pre-Submittal Conference shall be required.

4. Public Notice and Public Hearing

LUDC Text Amendments shall be scheduled for a public hearing before the Planning and Zoning Commission for recommendation and Town Council for decision-making and shall be noticed pursuant to Section 4.17.050.

5. Review and Decision-Making**a. Substantive LUDC Text Amendments**

Proposed amendments to the substantive requirements of this LUDC shall be reviewed and decided on by the Town Council.

b. Administrative LUDC Text Amendments

The Director may approve minor edits to the LUDC to improve clarity or correct typographical errors. Director-approved edits shall be submitted to the Town Council for approval on the consent agenda.

6. Review Criteria

The Planning and Zoning Commission shall review a the LUDC text amendment based on the following criteria:

a. Comprehensive Plan

The text amendment is consistent with the Comprehensive Plan;

b. Land Use and Development LUDC Standards; Conflict

The text amendment is consistent with and does not conflict with or contradict other provisions of this LUDC; and

c. Specific Reasons

A proposed LUDC Text Amendment shall meet at least one of the following specific reasons:

i. Community Need or Development Trend or Change

The text amendment is necessary to address a demonstrated community need or anticipated change in development trends;

ii. Changed Conditions

The text amendment is necessary to respond to specific changes in conditions and/or policy; or

iii. Clarification or Modification

The proposed LUDC Text Amendment provides a clarification or modification to current standards or procedures that will aid the overall function of the LUDC.

D. Redevelopment Applicability or Adjustment of Standards Determination**1. Purpose**

A Redevelopment Applicability or Adjustment of Standards Determination (RAASD) is used to assess the required level of applicability of specific new or changed standards in this LUDC to redevelopment and infill development. To encourage redevelopment, continuing property investment, and infill development, it may be necessary to determine site appropriate adjustments to applicable development standards that will allow the development to take place while applying proportional development standards. This process provides the method to determine project-specific adjustments.

2. Applicability**a. Proportionate Adjustment**

The following development categories may qualify for the Adjustable Development Standards listed in <>Section D.3 hereof:

i. Partial Redevelopment

Redevelopment of between 15 and 75 percent the total gross building square footage of existing structures (Partial Redevelopment) may qualify for Proportionate Compliance.

ii. Infill Development

Development on an undeveloped or underutilized lot in an area where at least 85 percent of the surrounding lots in a surrounding two block or 500-foot radius, whichever is less, are developed may qualify for Proportionate Compliance.

iii. Minimal Redevelopment

Redevelopment of less than 15 percent of the total gross building square footage of existing structures (Minimal Redevelopment) may qualify for Proportionate Compliance.

b. Full Compliance

The following development categories shall comply fully with the Adjustable Development Standards:

i. New Development

New development shall comply fully with all development standards.

ii. Complete Redevelopment

The redevelopment of 75 percent or more of the gross building square footage of an existing principal structure (Complete Redevelopment) shall comply fully with all development standards. Redevelopment shall be measured over a five-year period.

c. Specific Compliance

The following types of renovation shall apply with the specific development standards identified here:

i. Major Façade Changes

All applicable façade regulations shall be met if a renovation includes either of the following major façade changes:

- (a)** Expansion or change in location of 50 percent or more of the windows on any street façade of the structure.

(b) Replacement of 50 percent or more of façade materials on any street facade of the structure with a different facade material.

ii. Roof Renovation

If the renovation of the shape or style of more than 50 percent of the roof occurs, applicable roof regulations shall be met.

3. Adjustable Development Standards

An applicant with a qualifying application may request the applicability of a Proportionate Compliance calculation to the following development standards:

- i. Section 4.10.040, Residential Structure and Site Design Standards
- ii. Section 4.10.050, Mixed-Use and Commercial Structure and Site Design Standards]
- iii. Section 4.12.070, Vehicle Parking, Access, Location and Design
- iv. Section 4.12.070, Parking Lot Landscaping

4. Review Procedures

An application for RAASD review shall be submitted concurrently with a primary application for the project, such as a Development Plan or Conditional Use Permit. For applications that are approved by the Planning and Zoning Commission or Town Council, the Director shall make a RAASD recommendation that is submitted for review with the primary application.

4.17.130 APPLICATION REQUIREMENTS

The following minimum requirements are established for the specific application type. The Town may identify additional submission requirements as part of the application form or through the Pre-Submittal Conference.

A. Concept Plan/PUD Concept Plan (PUD Step 1 of 2)**1. Concept Plan**

A concept plan shall be submitted, which shall be twenty-four (24) inches by thirty-six (36) inches in size, with north arrow and scale and with title and date in lower right corner, at a scale of one (1) inch equals one hundred (100) feet, or larger, which depicts the project area or the area within the boundaries of the proposed PUD and the following:

- a. Topography and natural features of land to be developed, including waterways, wetlands and vegetation;
- b. Existing development and land use
- c. Proposed street and path systems, proposed connections to adjacent streets and paths; and approximate right-of-way widths
- d. Proposed zoning, densities, and types of uses within the PUD and their locations;
- e. Planned common space areas and park land areas; and
- f. Existing and proposed Location of utilities

2. PUD Concept Plan

- a. A minimum of the following:
 - i. An application for PUD review on a form provided by the Town;
 - ii. Concept plan
 - iii. Proof of ownership of the land proposed for development. This land shall be under one ownership or shall be the subject of a joint request for PUD review by the owners of all property to be included. Shall be under the control of a single ownership entity.
- b. A statement of intent, with explanation of how the proposed PUD provides benefits that meet the requirements of Chapter 4.08,t and a detailed description of how the proposed PUD complies with the applicable policies of the Comprehensive Plan. One copy of a list of names and addresses of the owners of record of all properties adjacent to the subject property.

B. Development Plan/PUD Final Plan (PUD Step 2 of 2)

Every development plan and PUD Final Plan application shall include the following:

1. A copy of the recorded subdivision plat(s) covering the subject lot(s), where the proposal is for development on previously subdivided lot(s);
2. A brief written description of the proposed development signed by the applicant;

3. A development plan map, at a scale of one inch equals 50 feet or larger, with title, date, north arrow and scale, on a minimum sheet size of 8½ inches by 14 inches, which depicts the area within the boundaries of the subject lots and including:
 - a. The location of existing and proposed land uses, and the square footage of building space devoted to each use;
 - b. The location and dimensions, including building heights, of all existing and proposed:
 - i. Buildings or structures and setbacks from lot lines, or building envelopes where exact dimensions are not available;
 - ii. Parking spaces and vehicular use area;
 - iii. Utility distribution systems and utility easements;
 - iv. Drainage improvements and drainage easements;
 - v. Roads, alleys, curbs, curb cuts, and other access improvements;
 - vi. Any other improvements;
 - vii. Any proposed reservations or dedications of public right-of-way, easements, or other public lands;
 - c. Existing topography, proposed grading or changes in topography, and proposed retaining walls using two-foot contour intervals;
 - d. Circulation and transportation information, such as volumes and traffic flow patterns, transit service needs, and potential changes or impacts, both on- and off-site;
 - e. Evidence of adequate water supply and other services and facilities needed to serve the development;
 - f. Evidence of adequate water rights needed to serve the development;
 - g. A statement of compatibility with the Town's Comprehensive Plan policies, with specific reference to those affected;
 - h. Any plans or reports required pursuant to <>Chapter 4.07, including, but not limited to, landscape plan, parking plan, architectural design plan, and development impact report;
 - i. A proposal for municipal or park land dedication or fee, pursuant to <>Section 4.13.190 or documentation that the dedication or fee has previously been made;
 - j. Any request for design variance or zoning action, including special use permit, zoning variance, or rezoning, with supporting evidence that the variance will be in conformance with the Town's goals and policies;
 - k. For any PUD, a list of any zone district regulations and/or design requirements, as set forth in <>Chapters 4.04, 4.07 and 4.13, which the applicant proposes to vary, with the proposed variations and supporting evidence that the variations will produce a public benefit and are in conformance with <>Section 4.11.030;
 - l. A schedule for phasing of development;
 - m. A PUD guide that lays out specific zoning and design regulations to be applied to the development. All of the applicable certifications set forth in the appendices to this LUDC;

- n. Any other information which the Director determines is necessary to determine whether the proposed development will comply with the Town's regulations, goals and policies, including, but not limited to, any information set forth in <>Section 4.12.020 for preliminary subdivision plan;
- 4. A lighting plan that demonstrates compliance with <>Section 4.07.010;
- 5. For all proposed developments containing ten or more residential units, a local employee residency plan that demonstrates compliance with <>Section 4.04.110 and the Town's local employee residency requirements and guidelines.

C. Lot Line Adjustment/Lot Consolidation

- 1. For the Pre-Submittal conference, an application for lot line adjustment or Lot Consolidation on a form provided by the Town; and
 - a. A copy of the previously recorded subdivision plat(s) covering the subject lots, on which are drawn the proposed lot line changes.
 - b. Final subdivision plat submittal
- 2. For the final plat: Section 4.17.130G.

D. Sign Permit

Application for a sign permit shall include submittal of:

- 1. A drawing to scale which depicts the location of the proposed sign in relation to buildings, setbacks, and property lines, plus the sign height and clearance above ground;
- 2. Design and construction plans adequate to demonstrate compliance with Chapter 4.16;
- 3. A drawing to scale depicting each sign face with materials and colors; and
- 4. If illuminated, manufacture's cut sheets, specifications of light fixtures, lamp source(s), wattage, mounting heights, and light source shielding shall be submitted.

E. Subdivision Sketch Plan (Subdivision Step 1 of 3)

The sketch plan package shall include the following items:

- 1. Land use application form
- 2. Subdivisions - technical criteria form
- 3. Application review fee deposit
- 4. Title commitment

The title commitment must be current, and the date must be no more than 30 days from the date of sketch plan application. An ALTA survey shall accompany all applications involving lands that have not been previously subdivided.

5. Surrounding and Interested Property Ownership Report

- a. Provide the Director with a current list (not more than thirty (30) days old) of the names and addresses of the surrounding property owners (within three hundred (300) feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies. Provide the Town with six sets of notification labels. The

labels shall be addressed to the surrounding property owners (within three hundred (300_ feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property.

- b. The applicant shall certify that the report is complete and accurate and includes the public hearing notification labels.

6. Context/vicinity map

The context/vicinity map shall show the proposed development in relation to the surrounding area (1½ mile radius around the property). The map shall be 24 inches high by 36 inches wide and provide the following information:

- a. Title of project;
- b. North arrow, scale (not greater than one inch equals 1,000 feet), and date of preparation;
- c. Boundary of proposed project;
- d. Existing (for developed land) or proposed (vacant/agricultural land) land uses for the properties shown on the map (e.g., residential, commercial, industrial, park,) - label land use and whether it is existing or proposed;
- e. Major streets (show and label street names);
- f. Existing public water and sewer lines and proposed connections;
- g. Town and regional open space/trail network;
- h. Major ditches, rivers, and bodies of water; and
- i. Adjacent properties identified by ownership, subdivision name, and zone district.

7. Sketch plan

a. Planning and Zoning Commission Visioning Meeting

Applicants should bring the following items to the meeting as determined by the Director:

- i. Context/vicinity map, which shows the proposed development in relation to the surrounding area.
- ii. Base map, which shows existing development and site features (such as topography, ditches, drainage ways, wildlife habitat, trees and other vegetation, and view corridors).
- iii. Images (such as photographs, sketches, and/or plans) which illustrate the project intention. For example, an applicant might bring pictures of:
- iv. Important architectural elements (such as a porch, vertical windows, ADUs);
- v. Proposed architectural styles; ideas for landscaping features such as a xeriscape garden entryway;
- vi. Streetscape components which contribute to the project's character;
- vii. A special features of the property;
- viii. Planned improvements; and
- ix. Any other information else that illustrates what the applicant is trying to create.

b. Sketch Plan Application

The applicant shall submit the subdivision sketch plan. The sketch plan shall be 24 inches high by 36 inches wide that clearly shows:

- i. Title of project;
- ii. North arrow, scale (not greater than one inch equals two hundred (200) feet) and date of preparation;
- iii. Vicinity map;
- iv. Legal description;
- v. Acreage of property;
- vi. USGS topographic contours;
- vii. Location and approximate acreage of proposed land uses;
- viii. Existing easements and rights-of-way on or adjacent to the property;
- ix. Existing streets on or adjacent to the property (show and label street name);
- x. Note indicating how the school land dedication will be met (per <>Section 4.13.080);
- xi. Note indicating how the municipal and park land dedication will be met (per <>Section 4.13.190);
- xii. Proposed local, collector, and arterial streets;
- xiii. General locations of existing utilities on or adjacent to the property;
- xiv. Graphic and/or verbal explanation of how the property will be served by public utilities;
- xv. Location of any proposed sewer lift stations;
- xvi. Pedestrian circulation and trails - show how the development will tie into the Town and regional trail/pedestrian networks;
- xvii. Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plan) and high-water mark;
- xviii. Geologic hazard areas;
- xix. Existing and proposed zoning on and around the property;
- xx. Land use table identifying proposed land uses, approximate acreage of each land use, percentage of each land use, and the proposed density or floor area ratio for each proposed land use area, based on the measurement required by the applicable zone district; and
- xxi. Block and lot pattern with approximate lot areas noted.

c. General development information

Provide a written description of the existing conditions of the site and proposed development. Include the following items in the description:

- i. Design rationale-discuss how the development is connected to/integrated with surrounding area, how it responds to site features/constraints, and how it is consistent with the subdivision design section (<>Chapter 4.13) and the purpose of this LUDC. If it is not consistent with the subdivision design standards section, explain how the intent of the purpose criteria of this LUDC is met;
- ii. Proposed number of lots or units, square feet of nonresidential building space and typical lot width and depth (not needed if information is on the sketch plan);
- iii. General description of plan for drainage and stormwater management (refer to adopted storm drainage design criteria per <>Section 4.13.050 that may be applicable or otherwise it shall be prepared as required by the Town Engineer);
- iv. Water supply information, including the number of water taps needed; the amount of raw water that will be provided to the Town; and source of water;
- v. Statement indicating whether any commercial mineral deposits are located on the site;
- vi. Description of any floodplain hazards on the site (only if additional information is needed than what is shown on the sketch plan map); and
- vii. A narrative describing how the proposed development complies with the adopted comprehensive plan and all other adopted Town plans applicable to the development type or site.

d. Plans, Maps, and Studies

i. Traffic Impact Analysis (TIA)

TIA shall be based on the projected traffic needs from existing development, future development, and the proposed development. Trip generations from future development over the design period shall be based on zoning, existing land use, proximity to developed areas, historic growth, and other factors expected to influence development. The TIA shall be prepared by a State Licensed Professional Engineer.

ii. Soils Report and Map

The report and map shall be based on USDA soils and conservation service information and discuss the existing conditions and any potential constraints/hazards. The report shall also address groundwater issues.

iii. Geologic Report

This report is required only for areas that have the potential for subsidence. It must be prepared by either a registered professional engineer or professional geologist. The report shall address:

- (a) Site conditions;
- (b) Geologic conditions;
- (c) Engineering and geologic considerations;
- (d) Limitations and any necessary additional investigations.

iv. Miscellaneous Site Report(s)

A report(s) on the site's history, vegetation, wetlands, wildlife, wildfire, radiation (e.g., radon gas), and other conditions which could affect development on the property and which could be affected by the proposed development.

v. Utility Report

A report on the impacts the development may have on existing utility systems (e.g., are current water and wastewater lines sized sufficiently for added flows, does the current water treatment plan and wastewater treatment plan have sufficient capacity to treat the added flows, do other utility providers, such as gas and electric, and have the ability to serve the development).

vi. Population Report

(a) A report on the population impacts of the development to the Town and region (the region being the planning area of the Eagle Area Community Plan) Town of Eagle Comprehensive Plan, including number of residents and/or employees.

(b) A description of the need for development, in terms of the need for additional housing, commercial space, or other uses in the Town.

vii. A list and description of any lands for which a rezoning action will be requested.

viii. A list of any potential issues or problems in relation to this LUDC and the adopted comprehensive plan and other applicable Town plans.

ix. A development impact report, as required pursuant to Section 4.17.030C, if requested by the Director and Town Engineer.

F. Subdivision Preliminary Plan (Subdivision Step 2 of 3)

The preliminary plan application package shall include of the following items:

1. Land use application form

2. Subdivisions - technical criteria form

3. Application review fee deposit (per <>Section 4.03.080)

4. Title commitment

The title commitment must be current, and the date must be no more than 30 days from the date of preliminary plan application. If an ALTA survey was required for sketch plan review it shall be updated and submitted with the preliminary plan.

5. Surrounding and Interested Property Ownership Report

a. Provide the Director with a current list (not more than 30 days old) of the names and addresses of the surrounding property owners (within 300 feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies. Provide the Town with two sets of notification labels. The labels shall be addressed to the surrounding property owners (within 300 feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property.

b. The applicant shall certify that the report is complete and accurate and includes the public hearing notification labels.

6. Preliminary Plan

The preliminary plan shall be 24 inches high by 36 inches wide and provide the following information:

- a. Title of the project;
- b. North arrow, scale (not greater than one-inch equals 100 feet), and date of preparation;
- c. Vicinity map;
- d. Names and addresses of owners, applicant, designers, engineers, and surveyors;
- e. Legal description;
- f. Total acreage of the property;
- g. Subdivision boundaries, street right-of-way lines and lot lines in solid lines and easements, dedications, and other right-of-way lines in dashed lines, all with dimensions accurate to the nearest 0.01 foot. Bearing of all lines and central angle, tangent distance, chord distance, and arc length of all curves shall be noted;
- h. The location and description of all permanent survey control points;
- i. Existing contours at one-foot intervals (basis for establishing contours shall be noted on the preliminary plan);
- j. Name and location of abutting subdivisions and owners abutting property (if land is not platted);
- k. Lots, blocks, and street layout with approximate dimensions and square footage for each lot;
- l. Area and zoning of each lot, with use and setback restrictions unless they are standard for the zone district;
- m. Consecutive numbering of all lots and blocks;
- n. Existing and proposed rights-of-way and easements on and adjacent to the property;
- o. Existing and proposed street names for all streets on and adjacent to the property;
- p. Existing and proposed zoning on and adjacent to property;
- q. Location and size of existing and proposed sewer lines, water lines, and fire hydrants (Note: Applicant must consult with the appropriate utility service providers regarding the design of all utilities through the subdivision);
- r. Existing and proposed access and/or curb cuts on and adjacent to subject property;
- s. Location by field survey or aerial photography of existing and proposed watercourses and bodies of water, such as irrigation ditches and lakes. Watercourses shall include direction of flow;
- t. Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plan) and high-water mark;
- u. General location of existing surface improvements such as buildings, fences, or other structures that will remain on the property as part of the subdivision;
- v. Location and acreages of site, if any, to be dedicated for streets, parks, open space, schools, or other public uses;

- w. Location, function, ownership, and manner of maintenance of any private open space.
- x. Land use table that summarizes land uses, approximate acreage of each land use, percentage of each land use, an explanation of how the school land dedication will be met per <>Section 4.13.080, and an explanation of how the municipal and park land dedication will be met per <>Section 4.13.190;
- y. Total number of lots; and
- z. Number of each type of dwelling unit proposed, and density or floor area ratio proposed, based on measurement requirement of applicable zone district.

7. General Development Information

Provide a written description of the existing conditions on the site and the proposed development. Include the following items:

- a. Explanation of how the preliminary plan is consistent with the sketch plan, whether there are any differences, what they are, and how the plan as changed is still compatible with the community's vision.
- b. Explanation of how the items of concern expressed during sketch plan review by the Planning and Zoning Commission and/or Town Council, have been addressed.
- c. Explanation of how the plan complies with this LUDC and the adopted comprehensive plan, as well as any applicable area, corridor, or other Town plans.

8. Preliminary Plans, Maps and Studies

The following plans, maps, and studies shall be provided. If information was provided with the sketch plan submission, it shall be updated as appropriate for the preliminary plan submission.

- a. Preliminary Grading and Drainage Plan and Report. This plan and report must be certified by a State Registered Professional Engineer, under the direction of the Town Engineer, including storm drainage concepts such as locations for on-site detention or downstream structural improvements, stormwater quality treatment methods, and soil erosion and sedimentation control plans and specifications (refer to <>Sections 4.13.050 and 4.13.060). It must also discuss the impacts on and to any existing floodways and/or floodplains on and adjacent to the site as well as any FEMA or Town applications required.
- b. Master Utility Plan. This plan shall be prepared by a registered professional engineer and include water, sanitary sewer, storm sewer, electric, gas, and communication. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through the subdivision. Plan and profiles shall be completed to a level that demonstrates delivery and provision of the service to the development. A higher level of completion may be required by the Town Engineer.
- c. Traffic Study. This study must be prepared by a State Professional Traffic Engineer. The traffic study shall include information and data and be formatted and prepared as directed by the Town Engineer.
- d. Master Street Plan. This plan shall be prepared by a registered professional engineer. Street plans and profiles shall be provided for all on-site and off-site roadway improvements. Streets shall be designed in accordance with Town standards and as promulgated by the

Town Engineer. Plan views and centerline profile shall be depicted at a legible scale. These plans and profiles shall show all intersections with existing streets and all existing and proposed drainage features and easement crossing, or parallel to, the roads. Plans should show any known areas of high water table, unsuitable soils, and other geological hazards. These plans shall include a typical cross-section showing widths, including driving surface, shoulders, curbs and gutters, drainage ditches, cut and fill slopes to the point of intersection with natural ground, and the pavement structure details proposed. The plan shall include the extremities of all cut and fill areas. A supplemental sheet shall be included to detail all drainage, retaining, and bridge structures to be constructed as part of the roadway. The master street plan shall also include a plan for locations and specifications of traffic control devices.

- e. Pedestrian circulation plan for trails, sidewalks, walkways, pathways, etc., through the subdivision and for connection to adjacent systems (i.e., local and regional trails). The plan must indicate width, surface, and type of pedestrian way, all designed in compliance with Town guidelines and standards.
- f. Engineering specifications and cross-section drawings for any off-site road impacts
- g. Soils report and map, updated from the sketch plan version as needed.
- h. Geologic report, updated from the sketch plan version as needed.
- i. Miscellaneous site report(s). An updated copy of the report(s) provided at the time of sketch plan on the site's history, vegetation, wetlands, wildlife, wildfire, radiation (e.g., radon gas), and other conditions which could affect development on the property and which could be affected by the proposed development. If not included in the initial report, the following additional information is required:
 - i. Information on hydrologic conditions, such as surface drainage and watershed characteristics, natural water features and characteristics, and any potential changes or impacts
 - ii. Information on vegetation and wildlife, including any potential changes or impacts.
 - iii. Information on population characteristics such as neighborhood patterns and potential displacement of residents or businesses.

9. Permissions, Rights, and Documentation

- a. Mineral, oil, and gas rights documentation. Evidence that surface owner has contacted all lessees of mineral, oil, and gas rights associated with the site and is working towards resolution. Included in the evidence must be the name of the current contact person, their phone number, and mailing address;
- b. Evidence of adequate water supply and other public and private services needed to serve the facility;
- c. Evidence of adequate water rights to serve the development pursuant to Title 12;
- d. Commitment to serve letters from all public and private utilities are required to be provided;
- e. Evidence that the applicant has submitted applications for all other necessary permits to complete the proposed subdivision, if required (i.e., State highway access permit, Army Corp of Engineers dredge and fill permit or an area of activity of State interest, etc.);

- f. Draft of proposed covenants and any site design guidelines (i.e., architectural design, landscaping design, etc.), and proposed articles of incorporation and bylaws;
- g. Preliminary cost estimates for all public and private improvements to be installed by the subdivider in dedicated land, rights-of-way or easements;
- h. A development impact report, pursuant to <>Section 4.07.100, if not previously submitted as part of the sketch plan submittal.
- i. A lighting plan pursuant to <>Section 4.07.010.
- j. Applications for subdivision preliminary plan approval, containing ten or more residential units, shall include a local employee residency plan pursuant to <>Section 4.04.110 and the Town's local employee residency requirements and guidelines.

G. Subdivision Final Plat (Subdivision Step 3 of 3)

The final plat application shall include all of the following application information, including final subdivision plat, along with any protective covenants:

1. Land use application form
2. Subdivisions - technical review form
3. Application review fee deposit (per <>Section 4.03.080)
4. Title commitment
The title commitment must be current and the date must be no more than 30 days from the date of Preliminary Plan application.
5. Surrounding and interested property ownership report
 - a. A current list (not more than 30 days old) of the names and addresses of the surrounding property owners (within 300 feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies along with six sets of notification labels. The labels shall be addressed to the surrounding property owners (within 300 feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property.
 - b. The applicant shall certify that the surrounding property ownership report is complete and accurate and includes the public hearing notification labels.
6. Final plat
The final plat drawing shall comply with the following:
 - a. The plat shall be prepared by or under the direct supervision of a registered land surveyor and meet applicable State requirements.
 - b. Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes, seconds.
 - c. The perimeter survey description of proposed subdivision shall include at least one tie to an existing section monument of record and a description of monuments. The survey shall not have an error greater than one part in 10,000.

- d. The final plat shall be 24 inches high by 36 inches wide and shall provide the following information:
 - i. That information required for preliminary plan in <>Subsection (B)(2)(f) of this section.
 - ii. Title of project.
 - iii. North arrow, scale (not greater than one inch equals 100 feet) and date of preparation.
 - iv. Vicinity map.
 - v. Legal description.
 - vi. Basis for establishing bearing.
 - vii. Names and addresses of engineers, and surveyors.
 - viii. Total acreage of subdivision.
 - ix. Bearings, distances, chords, radii, central angles and tangent links for the perimeter and all lots, blocks, rights-of-way, and easements.
 - x. Lot and block numbers, numbers in consecutive order, and square footage of each lot or tract.
 - xi. Excepted parcels from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.
 - xii. Existing and proposed rights-of-way in and adjacent to subject property (labeled and dimensioned).
 - xiii. Existing and proposed street names for all streets on and adjacent to the property.
 - xiv. Existing and proposed easements and their type in and adjacent to subject property (labeled and dimensioned).
 - xv. Location and description of monuments.
 - xvi. Signature block for registered land surveyor certifying to accuracy of boundary survey and plat (see appendix for sample).
 - xvii. Signature block for certification of approval by the Town Council with a signature block for the Mayor and Clerk (see appendix for sample).
 - xviii. Signature block for certification of approval by the Planning and Zoning Commission with a signature block for the chairman.
 - xix. Certification of ownership and dedication.
 - xx. Certification of title to property.
 - xxi. Statement concerning vested property rights as required by <>Section 4.17.100.

7. General Development Information

- 8. Provide a written description that the final plat conforms with the preliminary plan. Complete Construction Plans and Specifications
 - a. Complete on-site and off-site engineered construction plans and specifications for grading, streets, pedestrian/bicycle ways, traffic control, utilities, drainage, erosion sediment control

and slope stabilization, revegetation, landscaping, and lighting, all approved by Director, Town Engineer, Town Manager and Town Attorney.

- b. The plans and profiles shall be prepared by a registered professional engineer licensed in the State, shall be 24 inches high by 36 inches wide and meet the following minimum standards:
 - i. The horizontal to vertical scales shall be chosen to best depict the aspects of the design.
 - ii. Maximum horizontal scale: one inch equals 50 feet.
 - iii. Maximum vertical scale: one inch equals ten feet.

9. Final Reports and Studies

- a. Final traffic study
- b. Final utility impact report
- c. Final drainage plans and reports: Based on the approved preliminary drainage plan, a final report shall be submitted in accordance with applicable storm drainage design criteria and as determined by the Town Engineer.
- d. Final soils reports and design requirements, detailing special foundation requirements and pavement design as applicable.

H. Subdivision Design Variance

- 1. A minimum of the following:
 - a. Proof of ownership of the land for which the application is made. If the applicant is other than the owner, notarized consent of the owner is required;
 - b. A site plan drawn to scale depicting the locations and boundaries of existing and proposed lots and structures; and
 - c. The proper fee as set by the Town.
- 2. 1 copy of a list of names and addresses of owners of record of adjacent property.
- 3. A list of variances being requested.

I. Final Plat for Condominium or Townhouse Units

In addition to the plat requirements in Section 4.17.130G, the final plat for condominium or townhouse units shall include the following:

- 1. Show the location of the existing or proposed building to be divided.
- 2. Review by Staff or Staff designee:
 - a. The Town's Engineer of surveying consultant shall compare the legal description of the subject property with the county records to ensure that:
 - b. The property described contains all contiguous single ownership;
 - c. The lots and parcels have descriptions which both close and contain the area indicated; and
 - d. The plat is correct in accordance with surveying and platting standards of the State.

3. Condominium or townhouse documents: a copy of the condominium declaration as required by the State of Colorado's Condominium Ownership Act, C.R.S. § 38-33-101 et seq., as well as copies of proposed articles of incorporation and bylaws of homeowners or property owners association, if applicable.

J. Parking Plan

1. The parking plan shall be drawn to a scale, accuracy and level of detail determined by the Director as necessary to demonstrate compliance with the provisions of this LUDC.
2. The parking plan shall depict the following, as required pursuant to this LUDC:
 - a. parking and loading spaces;
 - b. circulation areas;
 - c. curb cuts;
 - d. dimensions and material of screening and/or landscaping;
 - e. proposed drainage, grading, surfacing and subsurfacing;
 - f. fire lanes;
 - g. snow storage areas;
 - h. facilities and spaces for the disabled;
 - i. specifications for signs, wheel stops and lighting; and
 - j. other pertinent details.

4.17.140 REQUIRED IMPROVEMENTS

A. Applicability and Form

This section is applicable in conjunction with the approval of a project application or permit that requires public improvements that are dedicated to the Town or quasi-public improvements that are shared with the Town, including:

1. Water lines,
2. Fire hydrants and other water distribution facilities,
3. Drainage structures,
4. Wastewater lines,
5. Public streets and sidewalks,
6. Park land and open space improvements,
7. Street lights and street signs,
8. Survey monuments, and
9. Any other improvements specified by this LUDC or the development approval.

B. Development Agreement Required

1. The approval of an application with public or quasi-public improvements does not become effective until a development agreement and related documents, setting forth financial arrangements to secure the actual construction of required public or semi-public (shared) improvements required by the Town, has been executed between the property owner and the Town.

4.17.150 ASSURANCE OF ADEQUATE PUBLIC FACILITIES

A. Intent

1. It is the intent of this Section to:
 - a. Adopt a program to ensure that land for public facilities and the public facilities needed to support new development meet or exceed adopted level of service standards approved by the Town;
 - b. Ensure that no subdivision approval, planned unit development approval, development permit approval, or special use permit is granted or issued which would cause a reduction in the level of service for any public facilities below the adopted level of service standards approved by the Town;
 - c. Ensure that adequate public facilities or, in the case of schools, the availability of land needed to support new development or a special use are available concurrent with the impacts of the development or use;
 - d. Establish uniform procedures for the review of the adequacy of public facilities needed to service new development, new subdivisions or new special uses;
 - e. Facilitate implementation of the goals and policies of the Comprehensive Plan; and
 - f. Ensure that all applicable legal standards and criteria are properly incorporated in these procedures and requirements.

B. Applicability

1. This section shall apply to the following applications:
 - a. Subdivision
 - b. Planned Unit Development
 - c. Development Plan
 - d. Special Use Permit
2. In cases where multiple land use applications are required, compliance with this section shall be required to be demonstrated with the land use application last in sequence (time).
3. This section shall not apply to any special use, development, project, structure, or activity that does not result in the creation of new residential, commercial, or industrial structure or change of use that materially impacts existing public facilities. For purposes of this section, the following shall be deemed not to materially impact existing public facilities:

- i. Subdivisions, planned unit developments, development permits, or special use permits for ten or fewer single-family or ten or fewer multifamily units located on one or more contiguous parcels of land held under the same or substantially the same ownership; and
 - ii. Nonresidential developments containing 12 or less equivalent residential units (EQRs), as defined in Chapter 12.26, on one or more contiguous parcels of land held under the same or substantially the same ownership.
- 4. Sequential land use applications on contiguous property for the purpose of the avoidance of these regulations are prohibited.

C. Public Facilities Information Report

1. All applications subject to this section shall be accompanied by a public facilities information report. The report shall include sufficient information to allow the Town to coordinate with applicable service providers to determine the impact of the proposed subdivision, development or special use on public facilities pursuant to the procedures set forth in this LUDC. The information required shall include, but shall not be limited to:
 - a. The total number and type of structures or dwelling units, and the gross density of the proposed subdivision, development or special use;
 - b. The location of the proposed subdivision, development or special use;
 - c. An assessment of the anticipated impacts on the Town street system from the proposed subdivision, development, or special use and, if applicable, a statement of any steps proposed to address potential impacts;
 - d. If an Applicant seeks an exemption from the requirements of this section based on a claim that the applicant has a vested right to undertake and complete the subdivision, development or special use without an evaluation of the impact on public facilities, information sufficient to permit the Town to determine the validity of the applicant's claim of exemption; and
 - e. All information required by Section 4.17.150; and
 - f. Any other appropriate information as may be deemed necessary by the Director in evaluation the adequacy of public facilities consistent with the provisions of this section.
2. If the public facilities information report is incomplete or the submission requirements have not been satisfied, the Director shall notify the applicant of any deficiencies in writing. If the public facilities information report is complete and the submission requirements have been satisfied, the Director shall evaluate the proposed subdivision, development or special use for compliance with the applicable adopted level of service standards and shall submit a recommendation regarding the adequacy of the public facilities.

D. Director Recommendation

1. Upon receipt of a completed public facilities information report, the Director shall evaluate the proposed subdivision, development, or special use, using the criteria identified in this section and any other applicable or relevant and appropriate criteria including:
 - a. The number and type of structures or units proposed by the applicant;
 - b. The proposed timing and phasing of the subdivision, development, or special use, if applicable;

- c. The specific public facilities impacted by the proposed subdivision, development or special use;
 - d. The extent of the impact of the proposed subdivision, development, or special use on all public facilities;
 - e. The capacity of existing public facilities, and, if applicable, in the case of schools the availability of land to construct new schools, to serve the proposed subdivision, development or special use which will be impacted by the proposed subdivision, development, or special use based on the adopted levels of service;
 - f. The demand on the existing capacity of public facilities from all existing and approved subdivisions, developments, and uses;
 - g. The availability of existing capacity of the public facility to accommodate the proposed subdivision, development, or special use, and, if applicable, in the case of schools the availability of land to construct new schools;
 - h. If existing capacity is not available, any capacity that is planned to be added and the year in which the planned capacity is projected to be available to serve the proposed subdivision, development, or special use;
 - i. If the applicant seeks an exemption from the requirements of this section based upon a claim that the applicant has obtained and possesses a vested right to undertake and complete the subdivision or development, an opinion from the Town Attorney regarding the validity of the claim;
 - j. In the case of schools, if adequate land is currently not available for the construction of new schools necessary to serve the proposed development, the adequacy of any additional land that is proposed to be dedicated as an element of the proposed subdivision, development, or special use specifically for the construction of a new school.
2. If the Director concludes that each public facility will be available concurrent with the impacts of the proposed subdivision, development or special use at the applicable adopted levels of service, or in the case of schools that either facilities are available concurrent with the impacts of the proposed subdivision, development or special use, or that land sufficient to allow for the construction of new schools is available or will be made available, the Director shall make a positive recommendation of adequacy.
3. If the Director concludes that any public facility may not be available concurrent with the impacts of the proposed development, subdivision or special use at the adopted levels of service based upon existing public facilities, the Director may make a negative recommendation of adequacy or, in the alternative, may make a positive recommendation with appropriate conditions consistent with the following:
- a. Deferral of further subdivision final plat or development permit or special use permit approval until all public facilities are available and adequate if existing public facilities are not adequate to meet the adopted levels of service for the development or special use proposal;
 - b. Reduction of the density or intensity of the proposed subdivision, development, or special use, including conditions regarding the phasing of the subdivision, development, or use to a level consistent with the available capacity of the public facility; or

- c. Provision by the applicant of the public facilities, or in the case of schools, land sufficient to allow for the construction of new schools, necessary to provide capacity to accommodate the proposed subdivision, development or special use at the adopted level of service at the time that the impact of the proposed subdivision, development, or special use will occur; and
 - d. Any other reasonable conditions that may, in the case of schools, include, but not be limited to, the dedication of land that is intended specifically for the construction of new schools, to ensure that all public facilities will be adequate and available concurrent with the impacts of the proposed subdivision, development, or special use.
4. The Director's recommendation of adequacy shall be made part of the staff report.

E. Determination of Adequacy

1. Following receipt of the recommendation of adequacy and as a part of the Town's procedures for review and final approval of any application for development approval, and subject to compliance with all other regulations applicable to the application and request for approval, the Town Council, Planning and Zoning Commission, or administrative staff member vested with authority to approve any subdivision, development or special use may:
 - a. Make a positive determination of adequacy;
 - b. Make a negative determination of adequacy; or
 - c. Make a positive determination of adequacy with appropriate conditions consistent with the conditions contained in Section 4.17.150E.
2. If the determination of adequacy is different from the Director's recommendation of adequacy, the decision-making body shall make specific findings explaining the basis for concluding that the Director's recommendation of adequacy should not be adopted.

F. Effect and Expiration of Determination of Adequacy

1. A positive determination of adequacy shall be deemed to indicate that public facilities are or will be available and adequate to serve the proposed subdivision, development or special use until such time that the determination of adequacy expires. No application for subdivision final plat approval, planned unit development plan approval, development permit approval, or special use permit approval shall be granted unless a positive determination of adequacy or a positive determination of adequacy subject to conditions has been made by the Town.
2. A positive determination of adequacy shall be deemed to expire at the earlier of:
 - a. The expiration, waiver, lapse, or revocation of the subdivision, development or special use approval for which the positive determination of adequacy was made;
 - b. Failure by the applicant to timely comply with the conditions attached to a positive determination of adequacy; or
 - c. Three years following the date of issuance of a positive determination of adequacy, if development has not commenced.

G. Criteria for Determining Availability and Adequacy of Public Facilities

1. Level of service standards. Compliance with level of service standards shall be measured in accordance with the standards set forth in this LUDC, as they may be amended from time to time.

2. Range of impacts. Any proposed subdivision development or special use which could result in a range of potential impacts shall be reviewed as if the greater impact would result. The review and evaluation of public facilities required by this LUDC shall compare the capacity of public facilities to the maximum projected demand which may result from the proposed subdivision, development or special use.
3. Existing demand and capacity. Where the adequacy and availability of a public facility is based upon an evaluation of available capacity, the existing demand upon the public facility shall be determined by considering:
 - a. The existing demand placed upon the public facility from all users, whether within or outside the Town;
 - b. The projected demand for the public facility created by the anticipated completion of approved but uncompleted development, considering anticipated phasing of construction;
 - c. The projected demand upon the public facility created by the anticipated completion of any proposed subdivision, developments or special uses for which a public facilities impact statement has been approved by the Town;
 - d. The extent to which existing demand may be reduced or mitigated by the adoption of conservation or other measures designed to reduce demand; and
 - e. Anticipated future improvements to public facilities.
4. Capital improvements. No improvement proposed or undertaken by an applicant to increase existing capacity of a public facility or an improvement proposed to be made to avoid a deterioration in the adopted levels of service shall be accepted by the Town unless the improvement is included within the Town's capital improvement program or unless the improvement is determined by the Town Council to directly and substantially advance one or more established goals or policies of the Town and the improvement is part of an improvements agreement between the Town and the applicant. An applicant's commitment to construct or expand a public facility prior to the issuance of a building permit may be included as a condition for the determination of adequacy and any such commitment shall include, at a minimum, the following:
 - a. A finding that the planned capital improvement is included within the capital improvement program or directly and substantially advances one or more established goals and policies of the Town;
 - b. An estimate of the total funding needed to construct the planned capital improvement and a description of all the costs associated therewith;
 - c. A schedule for commencement and completion of construction of the planned capital improvement with specific target dates for multi-phase or large-scale capital improvement projects;
 - d. At the option of the Town and pursuant to an agreement between the Town and the applicant, and only if the planned capital improvement will provide capacity exceeding the demand generated by the proposed subdivision, development or special use, a reimbursement to the applicant for the pro rata cost of providing the excess capacity.

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5. Availability of land or the dedication of land for schools. School facilities may be deemed adequate if the county school district owns land sufficient to construct a new school that can provide capacity to serve the proposed subdivision, development or special use. If land is not currently available, school facilities may be deemed adequate if the applicant dedicates land as an element of the subdivision, development or special use sufficient in size to accommodate construction of a new school. In such cases, the dedication of land shall be provided concurrent with the initial final plat or the initial building permit (whichever comes first) for the subdivision, development or special use.

Chapter 4.18 Nonconformities

4.18.010 PURPOSE AND INTENT

- A. Changes to this LUDC can impact the status of legal, existing uses, lots, and structures. It is the general policy of the Town to allow uses, structures, and lots that came into existence legally to continue to exist and be put to productive use. As these uses and structures change, they should be brought into compliance with applicable regulations as expediently as is reasonably possible.
- B. These regulations are intended to:
 - 1. Recognize the interests of property owners in continuing to use their property;
 - 2. Promote the reuse and rehabilitation of existing buildings; and
 - 3. Place reasonable limits on the expansion of nonconformities that have the potential to adversely affect surrounding properties, neighborhoods, or the Town as a whole.
- C. Nothing in this LUDC shall be interpreted as authorization for or approval of a continuance of the use of a structure or premises in violation of the 1976 LUDC or any amendments of this LUDC.

4.18.020 APPLICABILITY

- A. This Chapter shall apply to buildings, structures, lands, and uses that become nonconforming as a result of adoption, revision, or amendment to this Code.

4.18.030 NONCONFORMING STATUS

A. Establishment

The property owner shall bear the burden of establishing that a nonconforming use or structure lawfully exists. The use of land, use of a structure, or a structure itself shall be deemed to have nonconforming status when each of the following conditions are satisfied:

- 1. The use or structure does not conform to the regulations prescribed in the district in which the use or structure is located and was in existence and lawfully constructed, located and operating prior to, and at the time of, the event that made the use or structure nonconforming.
- 2. The event that made the use or structure nonconforming was one of the following:
 - a. Annexation into the Town,
 - b. Adoption of this LUDC or a previous code, or
 - c. Amendment of this LUDC or a previous code.
- 3. The nonconforming use or nonconforming structure has been operating since the time that the use or structure first became nonconforming without abandonment.

B. Ordinary Repair and Maintenance

Normal maintenance and incidental repair may be performed on all structures, both conforming and nonconforming. This section shall not be construed to prevent the strengthening or restoration

to a safe condition of a structure in accordance with an order of the Building Official who declares a structure to be unsafe and orders its restoration to a safe condition.

C. Discontinuance and Abandonment

1. When a nonconforming use is replaced with a conforming use, the nonconforming use is considered terminated and may not be resumed. Any structure specific to the use, or structures and land in combination specific to the use, in or on which a nonconforming use is replaced by a permitted use shall be brought into compliance with the zone district in which the structure(s) is located and the nonconforming use may not be resumed.
2. When a nonconforming use or structure is abandoned, all nonconforming rights shall cease and the use of the premises shall be brought into conformance with this LUDC. Abandonment shall involve the actual act of discontinuance, regardless of the intent of the user or owner to discontinue a nonconforming operation. Any nonconforming use that is discontinued for, or that remains vacant for a period of 12 months, shall be considered to have been abandoned. Maintaining connection to or payment of public services or utilities is not evidence of continuing operations.

D. Destruction

1. If a non-residential nonconforming structure or a structure specifically designed to be occupied by a nonconforming use is destroyed, it may not be reconstructed except in full compliance with this LUDC. In the case of partial destruction of a structure specifically designed to be occupied by a nonconforming use not exceeding sixty (60) percent of its replacement value, reconstruction may be permitted and the use may be resumed, provided, however: subject to the approval of a Conditional Use Permit and the following standards:
 - a. The size and function of the nonconforming use shall not be expanded; and
 - b. Work on the restoration of the use must begin within 3 months and be completed within 12 months of the time of the calamity.
2. Nonconforming residential structures may be rebuilt regardless of the amount of damage of destruction suffered by the building.

4.18.040 NONCONFORMING USES

A. Continuation

Nonconforming uses may be continued so long as the use remains otherwise lawful.

B. Expansion

1. No nonconforming use may be expanded or increased except that any nonconforming use may be extended throughout any parts of a building designed for the use that existed as of the effective date of the land use regulation that made the use nonconforming, but no use shall be extended to occupy any land outside the building.
2. No existing structure specific to a nonconforming use shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in conjunction with changing to a conforming use.

C. Change of Use

1. Any nonconforming use may be changed to a conforming use and once the change is made, the use shall not thereafter be changed back to a nonconforming use.
2. Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use.
3. A change from one nonconforming use to another nonconforming use may be made by Conditional Use Permit, provided the change is to a permitted use in a more restrictive zone district. For the purpose of interpreting this subsection, a use that is authorized in a district with a conditional use permit shall not be considered a permitted use in the district.

D. Obsolete or Substandard Non-Residential Structure

The right to operate and maintain any nonconforming use shall terminate if the non-residential structure in which the use is operated and maintained becomes obsolete or substandard under any applicable Town, state, or federal code and the cost of placing the structure in lawful compliance with the applicable code exceeds 50 percent of the replacement cost of the structure on the date that the Building Official determines the structure is obsolete or substandard; provided, however, a determination of the replacement cost of any structure shall not include the cost of land or any factors other than the structure itself.

4.18.050 NONCONFORMING STRUCTURE

- A. A nonconforming structure may continue to be used so long as the structure remains lawfully occupied.
- B. The structure may not be enlarged or altered in a way which increases its nonconformity unless an enlargement or structural alteration is required by law. Structural alterations may be permitted when necessary to adapt a nonconforming building to new technologies or equipment pertaining to uses housed in the building. Any enlargement greater than 10% of the GFA that is necessary to adapt to new technologies shall be authorized only by a Conditional Use Permit.

4.18.060 NONCONFORMING LOTS

A. General

1. A "lot of record" that pre-dates the adoption of the Town's original LUDC and is nonconforming to this LUDC may be developed if:
 - a. The "lot of record" is in separate ownership or contiguous to lots in the same ownership; and
 - b. The proposed development can be located on the lot so that the yard, height, and other dimensional requirements of the underlying zone district can be met as applicable or with an Administrative Adjustment.

B. Undivided Lot

1. If two (2) or more lots or combinations of contiguous lots in a single ownership (including spouses as, in all cases, a single owner) are of record on the effective date of the adoption or amendment of this LUDC, regardless of time of acquisition, or all or parts of the lots do not meet the requirements established for lot width and area, the lots shall be considered an undivided

parcel, and no portion shall be used or occupied which does not meet the width and area requirements of this LUDC.

C. Lot Reduction

1. No lot or interest therein shall be transferred, conveyed, sold, or subdivided so as to create a new nonconforming lot, to avoid, circumvent or subvert any provision of this LUDC, or to leave remaining any lot in violation of the dimensional requirements of this LUDC.
2. No lot or portion of a lot required as a building site under this LUDC shall be used as a portion of a lot required as a site for another structure.
3. No Building Permit shall be issued for any lot or parcel of land that has been conveyed, sold, or subdivided in violation of this subsection. Any transferee who acquires a lot in violation of this subsection without knowledge of the violation, and any subsequent transferee, shall have the right pursuant to Colorado law to rescind and/or receive damages from any transferor who violates the provisions of this paragraph.

Chapter 4.19 Violations and Enforcement

4.19.010 COMPLIANCE REQUIRED

It is unlawful for any person to erect, construct, reconstruct, use, or alter any building or structure or to use any land in violation of this LUDC or the terms and conditions of permits or other approvals or entitlements issued under this LUDC.

4.19.020 PERMITS AND APPROVALS

No permit or approval may be issued under this LUDC unless all structures and uses of land to be authorized by the permit or approval conform to this Code, and the terms and conditions of other applicable permits and approvals issued under this Code.

4.19.030 REMEDIES AND PENALTIES

A. Revoke Entitlements

1. Any entitlement or other form of authorization required under this LUDC may be revoked, after notice and a hearing before the Town Council, when the Director determines that:
 - a. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;
 - b. The entitlement was procured by false representation;
 - c. The entitlement was issued in error; or
 - d. There is a violation of any provision of this LUDC.
2. Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, or the notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice.
3. Issuance of a permit under this LUDC does not authorize violation of any other code or ordinance of the Town.

B. Stop-Work Orders

1. Whenever any building, structure, site, or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any state or local building law, or in a manner that endangers life or property, the Director has the authority to issue a stop-work order for the specific part of the work that is in violation or presents the hazard.
2. With or without revoking permits, the Director may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this LUDC or a provision of an entitlement or other form of authorization issued under this LUDC.

3. The stop-work order shall be in writing and directed to the permittee and the person doing the work and shall specify the provisions of this LUDC or other law allegedly in violation. After any order has been served, no work shall proceed on any building, structure, or tract of land covered by the order, except to correct the violation or comply with the order.
4. Once conditions for resumption of the work have been met, the Director shall rescind the stop-work order.

C. Injunctive Relief

The Director may seek injunctive relief or other appropriate relief in District Court or other court of competent jurisdiction against any person who fails to comply with any provision of this LUDC or any requirement or condition imposed pursuant to this LUDC. In any court proceedings in which the Town seeks a preliminary injunction, it shall be presumed that a violation of this LUDC is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject violation.

D. General Penalty

Violations of this LUDC shall be punished as provided in Chapter 1.12 of this Code.

E. Abatement

The Town may abate the violation pursuant to this subsection.

1. Before action is taken to abate a violation, a final warning notice shall be posted on the property and served personally or by certified mail with return receipt required to the owner of record of the property.
2. Unless this notice is appealed to the Town Council within 10 days of the delivery of the final warning, the Director shall proceed to abate the violation.
3. The Director shall keep an account of the cost, including incidental expenses, incurred by the Town in the abatement of any violation. The Director shall forward a bill for collection to the violator and owner of record of the property specifying the nature and costs of the work performed. For purposes of this section, the term "incidental expenses" shall include, but not be limited to, the actual expenses and costs to the Town in the preparation of the notices, specifications and contracts, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.
4. The responsibility for payment of the charges for abatement as set forth in this section shall rest solely upon the owner, tenant, or violators of the property upon which the abatement occurred. The charges shall become a lien upon the real property upon which the violation was located. When charges for abatement remain unpaid after 30 days from billing, the Director shall record a claim of lien at the County Clerk and Recorder's office. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes, with which it shall be upon a parity. The lien shall continue until the charges and all interest due and payable thereon are paid.

F. Inspection

Whenever necessary to make an inspection to enforce any provision contained in this LUDC or any condition or requirement of a permit or other land use approval issued pursuant to this LUDC, or whenever there is reasonable cause to believe that a violation of this LUDC or any permit or other

land use approval issued pursuant to this LUDC exists in any building or upon any real property within the jurisdiction of the Town, the Director or the Town's LUDC Enforcement Officer may, upon presentation of proper credentials, enter the building or real property at all reasonable times to inspect the same or to perform any duty authorized by this LUDC; provided that if the building or real property is unoccupied, the authorized official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or real property and request entry. If entry is refused, or the owner cannot be located, the Director is authorized to obtain a search warrant from the Eagle Municipal Court.

Chapter 4.20 Definitions and Measurements

4.20.010 RULES OF CONSTRUCTION

A. Meanings and Intent

All provisions, terms, phrases, and expressions contained in this LUDC shall be construed according to this LUDC's stated purpose and intent. All provisions, terms, phrases, and expressions contained in this LUDC shall be construed according to the general and specific purpose statements set forth throughout this LUDC. When, in a specific section of this LUDC, a different meaning is given for a term defined for general purposes in this LUDC, the specific section's meaning and application of the term shall control.

B. Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this LUDC and any heading, caption, figure, illustration, table, or map, the text shall control.

C. Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and shall not be interpreted as exhaustive lists of all possibilities.

D. Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the Town. References to days are calendar days unless otherwise stated.

E. References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of the regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

F. Delegation of Authority

Any act authorized by this LUDC to be carried out by a specific town official or staff member may be carried out by their designee.

G. Technical and Nontechnical Terms

Words and phrases not otherwise defined in this LUDC shall be construed according to the common and approved usage of the language, but technical words and phrases not otherwise defined in this LUDC that may have acquired a particular and appropriate meaning in law shall be construed and understood according to the meaning.

H. Mandatory and Discretionary Terms

The words "shall," "must," or "will" are always mandatory, and the words "may" or "should" are always discretionary.

4.20.020 GENERAL DEFINITIONS AND MEASUREMENT DESCRIPTIONS

A. A Terms

Abut (or Abutting)

To touch or share a contiguous boundary or border.

Accessory dwelling unit

An individual dwelling unit equipped with a full kitchen that is subordinate to, and contained within or adjacent to, a single-family dwelling.

Accessory building

A detached subordinate building located on the same lot as the principal building, the use of which is incidental and subordinate to and customarily associated with the principal building or use of the lot.

Accessory use

A use subordinate to and customarily associated with the principal use of the lot.

Alley

A public right-of-way providing only secondary access to the rear of a property and not intended for general travel.

Alterations

A change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth or the moving from one location to another. In buildings for business, commercial, industrial or similar uses, the installation or rearrangement of partitions affecting more than one third of a single floor area shall be considered an alteration.

Animal Shelter

A facility that is used to house or contain animals and is owned, operated, or maintained by a nonprofit corporation for the purpose of providing temporary kenneling and care for the animals and finding permanent adoptive homes for them.

Application for development approval

An application for approval of a subdivision sketch, preliminary or final plan, approval of a planned unit development, approval of a development permit, approval of a conditional use permit, approval of a special use permit, or approval of a building permit.

Area median income (AMI)

Median family income estimates and program income limits compiled and released annually by the U.S. Department of Housing and Urban Development.

Asphalt or Concrete Plant

A facility where asphalt or concrete, or its ingredients or products, are ground up, mixed, or otherwise prepared for use on-site or for transportation to another site.

Assembly

A room or place such as a ballroom, auditorium, party room, gaming room, or convention hall that is intended or used to accommodate people in a group and is further divided into the following types:

Public / Civic or Auditorium

A building or structure, or group of buildings or structures, that by design and construction are primarily intended for the conducting of organized meetings, or other activities and accessory uses associated therewith, for non-commercial purposes.

Entertainment / Trade

A building or portion thereof used for groups of people to gather for an event, or regularly scheduled program. General assembly uses include arenas, auditoriums, banquet facilities, conference and reception centers, concert halls and theaters.

Assisted Living Facility

A facility that provides assistance to clients for activities of daily living, including but not limited to eating, walking, and grooming.

Auto

Repair

An establishment primarily engaged in providing vehicle repair, body work, mechanical servicing, and/or painting within a building.

Auto Sales/ Rentals

Premises on which new or used passenger automobiles, trailers, or trucks in operating condition are displayed for sale, lease, or rental.

Awning

An exterior shading device attached to and supported entirely from a building façade that projects outward from the façade, commonly above (and sometimes to the side of) a window or door to block or minimize direct sunlight reaching the window or door. An awning may also overhang and provide shelter to people using sidewalks and outdoor seating areas. An awning may be a basic awning made up of opaque or translucent non-rigid materials except for the supporting framework, or may be a horizontal or vertical louvered awning.

B. B Terms

Balcony

An unenclosed platform structure supported by and projecting from or inset into the exterior of a building gaining sole access from said building and designed and intended for either decorative purposes or lounging, dining, and similar activities

Bank / Financial Institution

An establishment or organization that holds, lends, exchanges, or issues money, and facilitates the transmission of funds. Includes retail, commercial, corporate or investment banks. Accessory uses may include automatic teller machines, offices, parking, and drive-thru.

Basement

Any area of a building with walls that are 50% below finished grade.

Bed and breakfast facility

A residential building containing not more than five guest rooms that provides sleeping units and meals for transient guests, and that is managed and occupied by the owner of the property.

Berm

A mound of earth used to screen or separate one area from another to reduce visual, noise and similar impacts of development. Berm may also mean the act of pushing earth into a mound.

Bicycle Lane

A portion of a street that has been designated by striping, signing, and pavement markings for the preferential or exclusive use of bicycles.

Bike or Recreation Path

A designated accessway reserved for bicycle, pedestrian or other non-motorized recreational travel that is not within a street roadway or other vehicular accessway. A bike/recreation path may be within a greenway or may parallel a street or other vehicular accessway but are typically separated from them by landscaping.

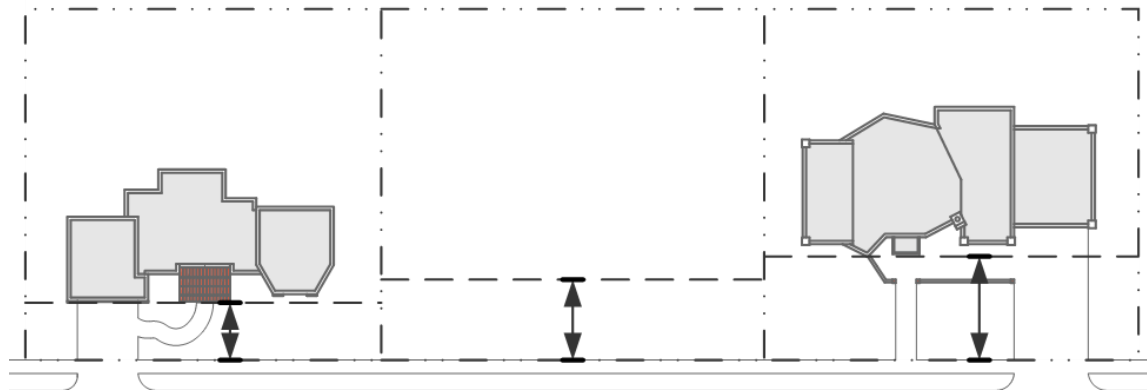
Bike Rack

A device built of metal, wood, or some other permanent material for the purpose of providing safe parking and security for bicycles or similar recreational travel devices.

Block Face Averaging

The block face setback or build-to average shall be calculated as follows:

1. **Front Lots:** The average of the front setbacks of the next two lots on each side of the lot on the same side of the street. If any applicable lots are vacant, the minimum front setback or build-to zone from the site and structure regulations of the district shall be used in the calculation.
2. **Street Side Lots.** The average of the front setbacks of the next two lots adjacent to the lot with the same street frontage as the lot in question. If any applicable lots are vacant, the minimum front build-to zone shall be used in the calculation.

**Boutique Food and Drink (no alcohol)**

Establishments like coffee shops, bakeries, sandwich shops and juice bars that serve food and beverages but do not serve alcohol.

Boutique Hotel (small format)

A building or portion thereof, designed or used for temporary or extended stay lodging for transients, other than a dormitory or hostel, that contains no more than 20 rooms where, for compensation, lodging is offered and provided to members of the general public, and that includes a supervised inside office or lobby. Accessory uses may include a dining room or area, kitchen, and/or shops and services catering to transients.

Buffer

A varying width (depending on use and surrounding uses) landscaped area between subject's property and any and all neighboring properties.

Building

Any structure used or intended for supporting or sheltering any use or occupancy. Any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, not including a mobile home as defined herein, and not including a porch, deck, fence, retaining wall or similar non-enclosed structure.

Building envelope

The area on any lot in which a building can be erected consistent with applicable easement and setback requirements for front, side, and rear yards. Lines enclosing a horizontal space in which a building is to be constructed, which lines indicate the maximum exterior dimensions of the proposed building but which do not necessarily depict the shape of the exterior walls of the building. Building envelopes may be located, shaped and dimensioned on a plat, or may be defined by the front, side and rear setbacks of a property.

Building footprint

The gross floor area of an individual structure on a lot measured to the furthest exterior wall face at the ground floor.

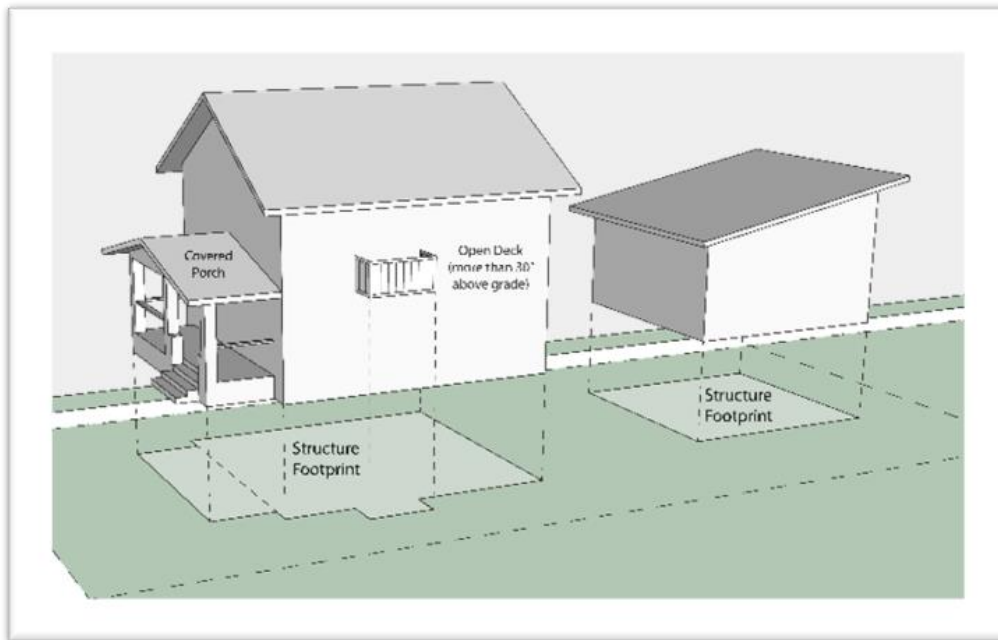
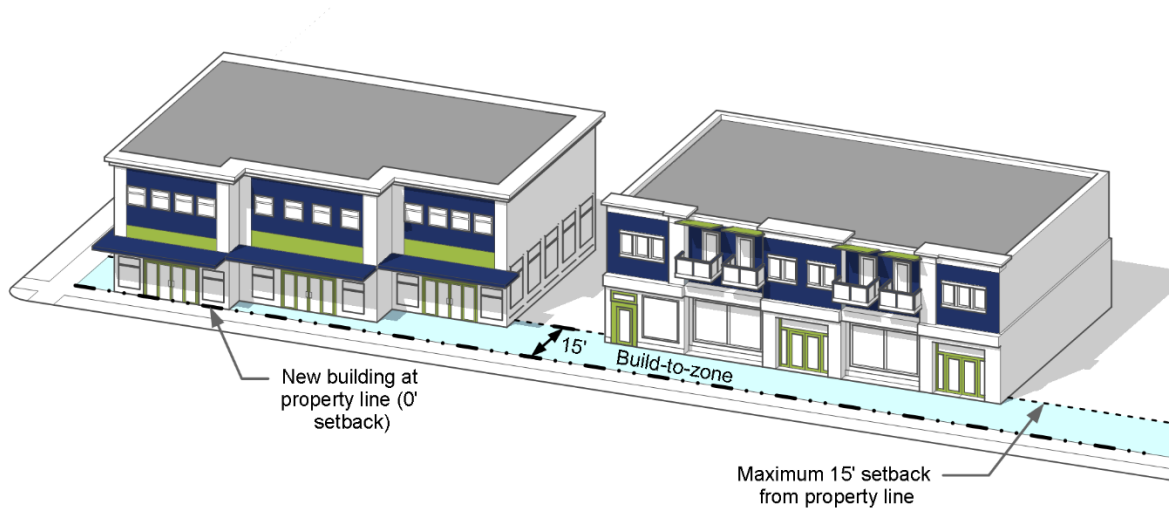


Fig. 4.20.x: Building footprint

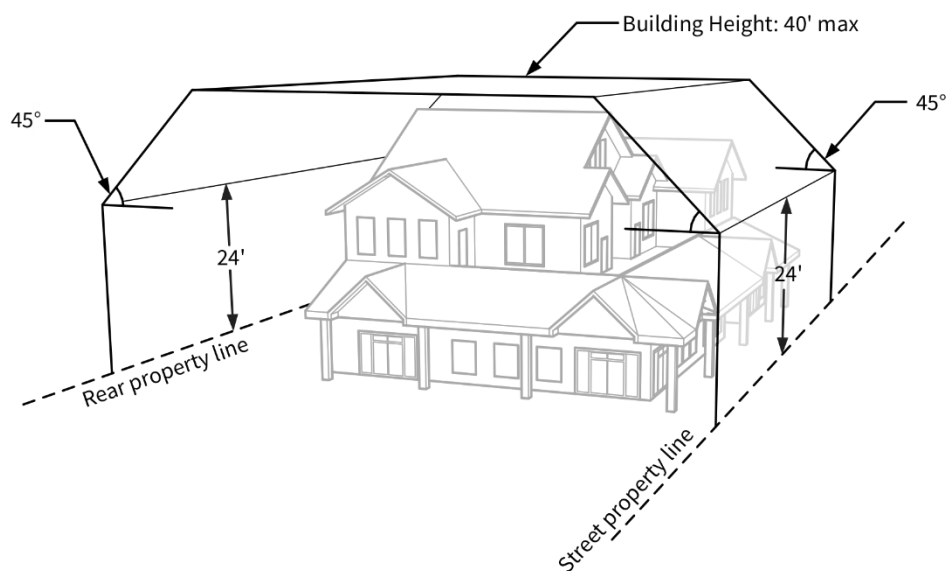
Build-to Zone

1. An area in which the front or street side facade of a building shall be placed; it may or may not be located directly adjacent to a lot line. The zone dictates the minimum and maximum distance a structure may be placed from a lot line.



2. Measurement. The build-to zone for all frontages is measured from the lot line parallel to the frontage, unless otherwise stated in the building and site regulations. When additional streetscape area is required per the building and site regulations, the build-to zone is measured from the edge of the required streetscape onto the site.

Fig. 4.20-x: Bulk plane setback measurement illustration (measurement standards may vary by location)



Bulk Storage of Hazardous Materials

Sites where large quantities of petroleum, natural gas or other hazardous chemicals or materials are stored and/or distributed.

Bus Stop

A curbside location designated by a local or regional public transportation provider where buses stop to load and unload passengers. Bus stops may have shelters, but typically do not have dedicated parking spaces/facilities.

Bus fleet maintenance facility

A facility where buses, taxis, and similar modes of transportation are stored and maintained.

Business

An entity, organization, or company that engages in commercial, industrial, or professional activities, usually but not always for profit. A business is usually separated structurally from other businesses with its own entrance, either exterior or interior.

C. C Terms**Caliper**

Diameter measurement of a tree-trunk taken at six inches above ground level for trees up to and including four inches in caliper. For trees greater than four inches in caliper, measurement of caliper shall be taken at 12 inches above ground level.

Canopy

A permanent roof-like structure affording shelter or shading and constructed of a durable material such as metal, glass, rigid plastic, or canvas.

Campground and RV Park

An outdoor facility designed for overnight accommodation of human beings in tents, motorized vehicles, rustic cabins and shelters, or trailers for recreation, education, naturalist, or vacation purposes. Office, retail and other commercial uses commonly associated with such facilities and related parking structures shall be allowed as accessory.

Capacity

The maximum demand that can be accommodated by a public facility without exceeding the adopted level of service standards for such facility.

Capital improvement

Features and facilities associated with any publicly funded street, sidewalk, drainage, or utility project.

Capital improvements program

A program adopted by the Town for providing public facilities, including the Town's street improvements plan.

Car wash

A building or area that provides facilities for washing and cleaning motor vehicles, excluding semi-tractors and/or semi-trailers, which may use production line methods with a conveyor, blower, other mechanical devices, or hand labor in the cleaning of the vehicle.

Caretaker Quarters

A dwelling constructed inside a principal building used to accommodate a caretaker or security person and their family.

Cemetery/Crematorium

A facility or area used or intended to be used for the burial of the dead that may include a facility for the incineration of human or animal corpses.

Childcare home

The use of a private home for the care of six or less children under the age of six. State licensing is not required for the operation of a home-based childcare facility.

Childcare center / pre-school

A licensed facility that is maintained for a whole or part of a day for the care of children under the age of 16 years not related to the owner, operator, or the manager of the facility. Includes facilities operated with or without compensation for care services.

Collector street

A street so designated in a Town plan that is designed to facilitate movement of traffic from local streets to arterial streets.

College / university

A public or private institution for higher learning (beyond grade 12) providing instruction as approved by the Colorado Department of Education or a national collegiate or university accreditation agency. This definition also includes higher learning facilities for religious institutions.

Commissary / commercial kitchen

A licensed facility meeting specific health and safety regulations that prepares and cooks large quantities of food for distribution and sale off-site.

Common open space

Open areas of land or water or a combination thereof within a development designed and intended primarily for the use and enjoyment of residents, owners, employees or customers of the development.

Community garden

An area managed and maintained by a group of individuals to grow and harvest food crops, or non-food crops, for personal or group consumption, for donation, or for sale that is incidental in nature.

Conditional use

A use permitted in a zone district subject to discretionary review and approval by the Planning and Zoning Commission. Conditional uses are typically uses that may have unique or widely varying operating characteristics, may have potential operational or other impacts on adjacent properties or may have unusual site development demands.

Condominium

An individual air space unit consisting of any enclosed room(s) occupying all or part of a floor(s) in a building of one or more floors used for residential, professional, commercial, or industrial purposes, together with the interest in the common elements appurtenant to that unit.

Consumer maintenance and repair

A use category that includes uses that provide the repair and maintenance of a wide variety of consumer products.

Contiguous

In contact with or sharing a common border, boundary, or property line.

Contractor's Yard, Shop, or Warehouse, indoors

Contractor activities and incidental storage on lots other than construction sites. Also includes landscape contractors and landscape maintenance businesses and the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures, and hardware.

Contractor's Yard, outdoor storage

A site that supports one or more contractor businesses that includes space specifically designed for the outdoor storage of materials and equipment.

Convenience store

A retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract, and depends upon, a large volume of stop-and-go traffic. These stores may also include pumps and/or storage tanks from which fuels are dispensed at retail. No servicing, maintenance or repair work shall be conducted on the business premises. This definition shall exclude truck stops.

Cornice

The cornice is the uppermost section of moldings along the top of a wall or just below a roof.

Correlated Color Temperature (CCT)

The color temperature of a light source is determined by comparing its chromaticity with that of an ideal black-body radiator. The temperature (usually measured in kelvin (K)) at which the heated black-body radiator matches the color of the light source is that source's color temperature. Yellow-red colors are considered warm, and blue-green colors are considered cool.

Cottage Court Development

A cluster of attached or detached single-family dwellings located within a common development that use shared access, parking, and common spaces. Cottage developments can include homes on individual lots, homes owned as condominiums, or leased homes. This use can include factory-built dwellings, provided that each home meets applicable Town building codes.

Courtyard

An outdoor area enclosed by a building or buildings on at least three sides for at least 75 percent of the length of each side, and open to the sky.

Craft Alcohol

The production of small batches of wine, hard cider, beer, or distilled alcoholic beverage as licensed by Colorado law.

Cutoff angle (of fixture)

The angle measured downward from the horizontal at which the bare source is completely blocked from view.

D. D Terms

Deciduous

Plant material that seasonally drops (loses) its leaf material.

Deck

A roofless outdoor space built as an above ground platform, freestanding or attached, projecting from the wall of a structure and supported by posts or pillars.

Declaration

An instrument recorded under the Condominium Ownership Act of the state which defines the character, duration, rights, obligations and limitations of condominium ownership.

Dedication

A transfer, by the owner, of a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance by the Council.

Density

Net Density

Net density shall be calculated by dividing the number of dwelling units by the net site area. Net density shall be used when calculating density on parcels where no additional street connections are required.

Gross Density

Gross density shall be calculated by dividing the number of dwelling units by the gross site area. Gross density shall be used when calculating density on parcels of land not previously developed and where street dedications are necessary for roadway connectivity.

Determination of adequacy

A determination that a required facility or improvement will or will not be available, or will be available subject to certain conditions, concurrent with the impacts of a proposed development. A determination of adequacy shall be made by the Town Council, Planning and Zoning Commission or administrative personnel that is vested with authority pursuant to this Code to review and render a final approval of an application for development approval.

Ditch

A narrow channel dug in the ground, typically used for drainage alongside a road or the edge of a field.

Dormitory living / hostel

A building with living units intended primarily for sleeping accommodations that share common bathrooms, kitchens, and recreation areas.

Dripline

A vertical line extending from the outermost edge of a roof eave, tree canopy or shrub branch to the ground.

Drive-through (thru)

The use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant, window or automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. This definition does not include a vehicle washing facility, a vacuum cleaning station accessory to a vehicle washing facility, or a service station.

Driveway

A private accessway providing access between a street and destination points within an adjacent property.

Dwelling

A building or portion thereof or a manufactured home used for residential occupancy, not including motels, hotels, or other overnight lodging accommodations.

Dwelling, attached

A structure where the dwelling units share a common separation such as a ceiling or wall (including, without limitation, the wall of an attached garage or porch), and where access cannot be gained between the units through an internal doorway. Attached dwellings may be designed in a variety of manners, including as a row of townhouses or a building that looks externally like a single structure.

Dwelling, single-family detached

A dwelling unit located on a separate lot or tract that has no physical connection to a building located on any other lot or tract.

Dwelling, Duplex / duplex

A building containing two (2) structurally independent dwelling units that appears to be a single, integrated structure.

Dwelling unit

A building or part of a building with one kitchen providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation as defined by the Town's adopted building code, for not more than one family or household. Dwelling units include mobile homes, but shall not include hotels, motels, clubs, boarding houses or dormitories, rooming houses, or any institutions, such as an asylum, hospital, jail or group home. For the purposes of this definition, a kitchen is defined as having either a 240v outlet or a gas line for a cooking appliance within 20-ft of a sink.

E. E Terms

Educational Facility

A use category for public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools that provide educational instruction to students.

Elevation

The front, side, or rear of a structure.

Employee dwelling unit

A dwelling unit that is located within or attached to a nonresidential development, but with a separate entrance from the nonresidential portion of the development; may also be located at an approved site location different than the site of the employment generation or detached from the nonresidential development but located on the same lot, parcel or subdivision; and is not accessed from any other residential dwelling.

Environmentally sensitive areas

Lands containing specimen trees, steep slopes, wetlands, watercourses, floodplains, other riparian areas, habitat of endangered or threatened species, hillcrests, geologic hazards, and similar natural features.

Equipment sales / rentals

A use involving the sale or rental of industrial, or construction related equipment. Usually includes an indoor space for customer interface and an outside storage and parking area.

Emergency services facility

A facility or location where emergency service or law enforcement vehicles are stored, maintained, and dispatched. May include limited dormitory housing for emergency service personnel.

Enclosed structure

A building that protects the contents thereof from the elements, with sight-obscuring walls on all sides and a roof.

Existing tree canopy

Tree canopy that existed for at least two (2) years prior to development as evidenced by the aerial photography or satellite imagery on file with or approved by the Town.

Existing grade

The natural topography that exists prior to any improvements being made

Expansion of capacity of a street

Applies to all street and intersection capacity enhancements and includes, but is not limited to, extensions, widening, intersection improvements, construction of round-a-bouts, signalization, and expansion of bridges.

F. F Terms**Facade**

The exterior face of a building, including but not limited to the wall, windows, windowsills, doorways, and design elements. The front facade is any building face adjacent to the front lot line.

Family

A single individual or a collective body of persons in a domestic relationship based upon blood, marriage, adoption, or legal custody, living as a separate, independent housekeeping unit, or a group of not more than five unrelated persons, all living together as a separate housekeeping unit.

Notwithstanding the foregoing, a family shall be deemed to include five or more persons (but not in excess of twelve (12) persons) that are not related by blood, marriage, adoption, or legal custody occupying a residential Dwelling Unit and living as a single housekeeping unit if the occupants are handicapped persons as defined in title III of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by § 24-34-301, C.R.S. A household that includes five or more persons identified above shall not be excluded from the definition of "family" by the residence in the household of additional necessary persons (and their families) employed in the care and supervision of such handicapped or disabled persons.

Farm stand

A temporary structure not permanently affixed to the ground that is readily removable in its entirety, which is used solely for the display or sale of agricultural products resulting from agricultural operations that are conducted on the same site on which the farm stand is located.

Farmers' Market

A publicly or privately operated, open-air establishment where primarily agricultural products such as raw vegetables, fruits, herbs, flowers, plants, nuts, honey and eggs are sold.

Fence or wall

A barrier composed of posts connected by boards, rails, panels, or wire for the purpose of enclosing or separating space on a property. This term also includes a masonry wall used for the same purpose.

Fire protection

Designs and improvements related to the protection of life and property from fire; and the promotion and enforcement of municipal, county, district and state fire prevention codes.

Fixture

An assembly that holds the lamp (blub) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Fixture height or mounting height

Height of the fixture shall be the vertical distance from the ground or paved surface, whichever is lower, directly below the centerline of the fixture to the lowest direct light emitting part of the fixture.

Food processing

A use involving the processing of food for packaging and wholesale distribution to restaurants or grocery stores.

Food service

The serving of food products in a manner that is accessory to the principal use of the property.

Footcandle

The basic unit of illuminance (the amount of light falling on a surface)

Front porch

A covered entrance to a building or a roofed structure projecting from the exterior wall or walls or a principal structure and supported by piers, posts, or columns but no side or front enclosure.

Frontage

The entire length of the boundary line of any one tract of real property adjacent to a public right-of-way.

Full-cutoff fixture

A fixture that allows no emission of light above a plane horizontal to the fixture.

Full shielding

Internal and/or external shields and louvers provided to prevent brightness from lamps, reflectors, refractors and lenses from causing glare at normal viewing angles.

Funeral home / crematorium

A building or part thereof used for human funeral services. The building may contain space and facilities for: (a) embalming and the performance of other services used in the preparation of the deceased for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles, and (e) facilities for cremation.

G. G Terms**Gas station / traveler's convenience**

A facility engaged in the storage, distribution, and retail sales of vehicle fuels for personal vehicles, fleet vehicles, and/or trucks. Often supported by or associated with a convenience store and may also include an auto repair shop.

General Retail, $\leq 10,000$ sf GFA (local service)

A commercial enterprise that provides goods directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the consumer.

General Retail $\geq 10,000$ sf GFA (regional service)

Mid-box to big-box commercial stores providing goods directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the consumer.

Glare

Direct or reflected light emanating from uncontrolled or poorly screened light sources that creates annoyance, discomfort, or loss in visual performance and visibility.

Golf course

A tract of land, either public or private, laid out for at least 9 holes for playing the game of golf, and improved with trees, greens, fairways, and hazards. Golf course may include related facilities such as clubhouses, golf schools, and driving ranges and accessory uses such as restaurants/bars, and pro shops, but does not include disc golf courses.

Government / public service offices

A building housing offices of a governmental or public utility service agency that provides administrative and/or direct services to the public.

Government / public service operations yard

A facility or location where government or utility service vehicles and equipment are stored, maintained, and dispatched. The site may contain garage or warehouse structures and may also have storage areas for work-related supplies and materials.

Grade

1. Existing grade is defined as the natural topography that exists prior to any improvements being made.
2. Finished grade is the final elevation of the ground surface after completion of authorized development and associated man-made alterations of the ground surface such as grading, grubbing, fillings, or excavating.

Greenhouse

A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for subsequent sale or for personal enjoyment.

Green roof, commercial

A portion of a roof designed to support living plant material, accessory to the principal use of the structure.

Grocery / supermarket

A business offering a full assortment of groceries, beverages, and other household products,. Supermarkets are generally larger and more regionally oriented than grocery stores, with a wider selection, but both are smaller than a hypermarket or big-box market. “Grocery store”, “market”, and “supermarket” are often used interchangeably. Grocery stores may contain accessory businesses like coffee shops or pharmacies.

Gross floor area (GFA)

The total gross horizontal area of all floors in a building measured to the interior of the exterior wall.

Group Home, Large

A residential dwelling or facility where more than eight persons, including staff, live as a single housekeeping unit providing care, supervision, and treatment for the exclusive use of citizens protected by the provisions of the Federal Fair Housing Act.

Group Home, Small

A residential dwelling or facility where eight or fewer persons, including staff, live as a single housekeeping unit providing care, supervision, and treatment for the exclusive use of citizens protected by the provisions of the Federal Fair Housing Act.

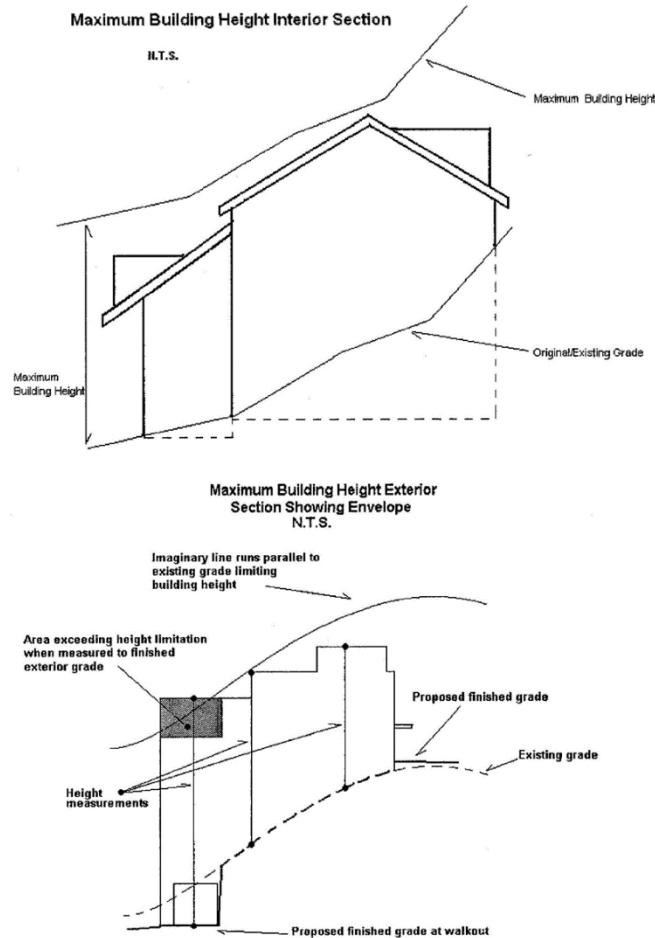
H. H Terms

Hardware store

Business locations that sell household improvement items including tools, fasteners, building materials, plumbing supplies, gardening supplies, electrical parts, cleaning products, paints, housewares, and other home-improvement products. Outdoor storage may be allowed.

Height

1. Building height means the distance measured vertically from the existing grade or finished grade (whichever is more restrictive) at any given point outside the building to the top of a flat roof, mansard roof, or sloping roof. Within a building, height shall be measured vertically from any point on a flat roof, mansard roof or sloping roof to the existing grade or finished grade directly below said point. .



2. Fence and wall height shall be measured vertically from undisturbed grade.

High water mark

The point along the bank of a stream or river that marks the water level of high spring runoff discharge, based on a recurrence interval of ten years.

Historic Preservation Definitions

Certificate of Appropriateness

Certificate authorizing any proposed repair, restoration, Alteration, Construction, Relocation, or Demolition of a Historic Property or element within a Historic District

Town's Historic Register

The register established pursuant to Section 4.17.090C.

Colorado State Register of Historic Properties

The official listing of state designated cultural resources.

Design Guidelines

A standard of appropriate activity that will preserve the historic and architectural character of a Historic Property, Property, or Historic District.

Historic Property

A Building, Structure, Site, or Object which is designated by the Town Council pursuant to this LUDC.

Historic Significance

The meaning or value ascribed to a Building, Structure, Object, Site, or district based on criteria for evaluation provided in Section 4.17.090D.

National Register of Historic Places

The list of significant Buildings, Structures, Sites, Objects, or districts in American history, architecture, archaeology, engineering, or culture maintained by the U.S. Secretary of the Interior.

Non-Contributing Property

A Building, Structure, Object, or Site that does not reflect the historic or architectural character within a Historic District because of age or lack of Integrity.

Period of Significance

Span of time during which significant events and activities occurred.

Preservation

Means the act or process of applying measures to sustain the existing form, integrity, and materials of a building or structure, and the existing form and specimen trees located on a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building or materials.

Rehabilitation

Means the act or process of returning property to a state of utility through repair, which makes possible a contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural value.

Relocation or Relocate

Means moving a building, structure, or object on its site or to another site, either temporarily or permanently.

Secretary of the Interior's Standards for the Treatment of Historic Properties

The preservation, rehabilitation, restoration, and reconstruction standards adopted by the U.S. Department of the Interior.

Section 106 Review

Process required of federal agencies under 54 U.S.C. 306108 to consult local governments and other parties in consideration of the effects of projects carried out, permitted, licensed, or funded by that agency on properties listed in the National Register of Historic Places.

Site

Location of a significant event; a prehistoric or historic occupation or activity; or a building, structure, or object, whether standing or vanished, where the location itself maintains historic or archaeological value regardless of the value of any existing building, structure, or object.

Home furnishings / flooring / fabrics / appliances

Business that sells home goods like furniture, appliances, rugs, curtains, fabrics, flooring, and/or carpeting. Served by larger trucks and may include warehousing or storage of goods on site.

Home occupation

An accessory use for gain or compensation carried on by a resident of the property on the site.

Horizontal mixed-use

A project developed with both residential and non-residential uses within a building or across a single development site.

Horse boarding

A facility that is used to house and care for horses owned by both the property owner and others for which the property owner may receive compensation.

Hospice care

A facility where palliative and supportive care are provided to meet the needs of a terminally ill patient and the patient's family according to the requirements of Colorado law.

Hospital

A facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided must include medical personnel available to provide emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes: (i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and (ii) specialty hospitals.

Hotel / motel

A building, or portion thereof, designed or used for temporary or extended stay lodging for transients, where lodging with or without meals is provided for compensation. A dining room, banquet meeting hall, kitchen, plus accessory shops and services catering to the general public may be provided.

I. I Terms**IESNA**

The Illuminating Engineering Society of North America, an organization that establishes standards for the lighting industry.

Illuminance

A measure of the amount of light incident on a surface, expressed in footcandles.

Industrial services

Any premises devoted primarily to manufacturing, processing, assembly or storage of tangible personal property, agricultural, industrial, business, or consumer machinery, equipment, products or by-products, and other accessory buildings reasonably required for maintenance or security of the above uses.

Infill development

New development and redevelopment that is sited on vacant, undeveloped, or underutilized land within an existing community, and that is surrounded by previously developed areas.

J. J Terms

Reserved

K. K Terms**Kennel boarding facility / pet daycare**

A facility licensed to house dogs, cats, or other pet animals where single or multi-day day overnight boarding, including daytime or multi-day boarding, is conducted for a fee or compensation.

L. L Terms

n the net increase in the impact fee for the new use as compared to the previous use.

Landscaping, landscaped area, landscape materials

Any combination of vegetation, such as trees, shrubs, ground cover, thickets, or grasses, that are planted, preserved, transplanted, maintained, and groomed to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion, drainage and wind control. Landscape may include structural features, such as fences, terraces, arbors, sculptures, fountains, and other appurtenances; also includes soil amendments, grading, drainage improvements, erosion control, and irrigation systems.

Level of service (LOS)

Service standards adopted by the Town associated with public facilities and emergency services as defined in the Transportation Research Board's Highway Capacity Manual, Special, Report 209 (1994), or as otherwise defined in the Town's most recent transportation study.

Library

A building or room containing collections of books, periodicals, historic archives, films and recorded music for people to read, borrow, or refer to.

Light fixture

An electrical device used to create artificial light or illumination.

Light source

The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

Light pollution

The excess illumination of the nighttime environment that results in the loss of visibility of the stars.

Light trespass / fugitive light

Any form of artificial illumination emanating from a light fixture or illuminated sign that penetrates another property, either directly or indirectly.

Liquor store

A store, licensed by the Town, that sells beer, wine, and other alcoholic products for consumption elsewhere.

Loading area

An area where merchandise or supplies are delivered and unloaded.

Local Employee Residence

A residential lot or dwelling unit that is deed restricted in accordance with the Town's local employee residency requirements and guidelines, and in accordance with a deed restriction approved by the Town Council.

Lot area, gross

The total horizontal land area within the boundaries of a lot.

Lot, Buildable

A lot or parcel that meets all applicable requirements for building including but not limited to: setbacks, access, zoning and building requirements and any site specific restrictions imposed as part of a Town development approval; provided that it meets one or more of the following criteria:

1. The parcel was created by deed or plat recorded in Eagle County and was not created in violation of Colorado state law or the Town LUDC and met the minimum lot area required for the Zone District in which it was located when it was created.
2. The parcel qualifies as a nonconforming lot.

Lot Coverage

Lot coverage is measured as the percentage of the gross lot area covered by buildings and impervious surface. It is calculated by dividing the gross area of building footprints, measured to the furthest exterior face of the structure including above-grade enclosed projections, by the area of the lot. The following shall be counted as covered areas for purposes of determining building coverage:

1. Areas covered by swimming pools and hot tubs;
2. Decks, stoops, patios, porches, and their associated stairs that are 30 inches or more above grade;
3. Any portion of a lot or site covered by materials forming an unbroken surface impervious to water, including streets, driveways, and parking lots;
4. Structures covered by a roof; and
5. Structures that are more than six feet tall and enclosed on three or more sides with walls that are less than 25 percent open.

Lot, corner

A lot that occupies the interior angle at the intersection of two streets that make an angle of less than 135 degrees with each other, and either or both of said streets provide primary access to the property.

Lot line, front

The property line of a lot dividing the lot from the front-side adjoining street. On a corner lot, there are two front lot lines.

Lot line, rear

The property line of a lot opposite the front lot line.

Lot line, street side

The property line of a lot abutting a non-front street.

Lot line, interior side

Any lot property line that is not a front, street-side, or rear lot line.

Lumberyard

A facility or location where lumber and other building products are stored and sold. Served by larger trucks, supported by significant outdoor storage.

Lumen

A quantitative unit measuring the amount of light emitted by a light source. A lamp is generally rated in lumens.

Luminaire

A complete lighting unit consisting of one or more electric lamps, the lampholder(s), any reflector or lens, ballast or transformer, and any other components and accessories.

Luminance

The apparent brightness of a light fixture or lamp as viewed from a specific direction. The luminance of a fixture can vary as the viewing angle varies.

M. M Terms

Machine shop / welding/ carpentry, indoors

A building in which raw material, usually metal or wood, is cut, milled, ground, drilled or otherwise machined to size, and where created parts are further assembled or packaged for shipping. Machine shops may require some outdoor storage.

Major street plan

An advisory planning document officially adopted by resolution of the Town Council, which document classifies existing and proposed streets according to size and use.

Manufactured Home

A home manufactured in accordance with the federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401) and that is designed to be used as a single dwelling unit

Manufactured home park or subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufacturing and assembly

Establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site.

Light

An establishment engaged in fabrication, assembly, processing, or manufacturing that generally does not create impacts outside of the structure in which it is located.

Heavy

An establishment engaged in fabrication, assembly, processing, or manufacturing that have the potential to create significant impacts on surrounding areas due to the types of materials used, byproducts created, hours of operations, volumes of heavy truck or rail traffic, or other factors.

Merchandise

All items of movable personal property offered for sale to the public for which no title is required to be registered with or issued by the state.

Micromobility devices

Lightweight vehicles such as bicycles or scooters, especially electric ones that may be borrowed as part of a self-service rental program.

Mineral extraction and processing

The excavation, sorting, crushing, storing and distribution of rock, gravel, sand or other mineral or ores into products for sale.

Mixed-use structure

A structure with two or more different uses including, but not limited to, residential, office, retail, public uses, personal service, or entertainment uses that was initially designed, planned and constructed as a unit. Residential units in a mixed-use structure may be sold or rented separately from the other uses in the structure.

Mobile home

A structure manufactured prior to June 15, 1976 partially or entirely in a factory, designed for long-term residential use and transported to its occupancy site, and is licensed by the Colorado Department of Motor Vehicles as a mobile home.

Mobile food vending

Food service provided from a specially designed vehicle or pushcart, parked temporarily at a location.

Modular home

A home built in a factory setting in units, transported to the home site, placed on a permanent foundation, and joined. Modular homes are required to meet the Town's adopted building code.

Motion sensor device

A device that will sense motion electronically and switch on security lighting for a brief duration.

Motor freight depot / rail transfer yard

A building or location or yard where merchandise, freight transported by motor vehicles or trains is stored, transferred, loaded, unloaded, delivered, or dispatched.

Motor sports sales service

A business engaged in the sale of motor sports vehicles, including, but not limited to, motorcycles, off-road vehicles, snowmobiles, and race cars.

Motor sports track

A managed facility where motor vehicles are tested, raced, or used for recreation.

Museum

A public building or institution that cares for and displays a collection of artifacts and other objects of artistic, cultural, historical, or scientific importance. Museums have varying aims, from the conservation and documentation of their collection, serving researchers and specialists, to catering to the general public.

N. N Terms**Newspaper production / printing**

Offices and space devoted to the production of newsprint, magazines, books or other general printing products and services.

Nonconforming Lot

A lot that was lawful prior to the adoption, revision, or amendment of this LUDC, but that fails by reason of such adoption, revision, or amendment, to conform with the present lot requirements for the zone district in which the lot is located.

Nonconforming Structure

A structure or building that was lawful prior to the adoption, revision, or amendment of this LUDC, but which fails by reason of such adoption, revision, or amendment, to conform to the present requirements for a conforming or compliant structure in the zone district in which such structure or building is located.

Nonconforming Use

A use or activity that was lawful prior to the adoption, revision, or amendment of this LUDC, but which by reason of such adoption, revision, or amendment, is no longer permitted in the zone district in which such use or activity is located.

Nursing home

An extended or intermediate care facility for the aged, chronically ill, or incurable persons who are unable to care for themselves and in which three or more persons not of the immediate family are kept

or provided with food and shelter or care for compensation. Nursing facilities include hospice care, but do not include hospitals, clinics, or other similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

O. O Terms

Office, accessory to principal use

Accessory space devoted to office work that supports and is directly tied to the principal use or activity on a property.

Outdoor sales lot

Use of land for retail product sales where the majority of the goods are stored or displayed outside during both business and non-business hours. Outdoor sales lots include automobile and truck sales and rental; boat and recreational vehicle sales and rental; and manufactured home dealerships and may include temporary uses such as Christmas trees.

Outdoor storage, principal use

The secure storage of items, including, but not limited to, vehicles, excavation equipment, machinery, utility service supplies, construction and fabrication materials, and general supplies on a regular, permanent, semi-permanent, or seasonal basis.

Outdoor storage, accessory

The use of a portion of a property for storage of items related to the principal business on the property.

Outdoor storage of recreational vehicle(s) (RV)

A primary use of a commercial property that stores vehicles outside and in a parking lot for a fee. An accessory use of outdoor RV storage on a property, , whether under a carport, in a driveway, or some other location on a property designated for RV storage.

Outfitter / guide

An enterprise licensed by the State that offers guided trips for hunting, fishing and outdoor sports. Clothing and equipment sales may be an accessory use use.

Outpatient medical clinic

A building housing medical offices, exam rooms, treatment rooms and lab space serving patients. Includes primary care or specialty care services offered during normal work hours only; does not provide overnight stays. Also referred to as medical office.

Owner of record

The owner of real property within the Town as indicated by the most current Eagle County Assessor's property information page.

P. P Terms

Parapet Wall

A portion of a wall that extends above the roof line.

Park, playground

A facility built and maintained either by a unit of government or as a part of a larger subdivision or development of land for the use of the inhabitants thereof and/or the general public. Uses include a neighborhood park, an urban park or plaza, a historic site, a community-wide park, and aquatics facility, and other similar uses.

Parking area

The total square footage within a contiguous area provided for parking, including driveways, access ways, turnaround space, areas of landscaping, snow storage areas, and other ancillary space, in addition to actual vehicle parking spaces.

Parking, facility/vehicle storage

A hard surface facility designed for daily parking or longer-term vehicle storage, either at ground level or in a multi-level structure.

Parking space, accessible

A space designated for the parking of one motor vehicle in addition to the space necessary for the ingress and egress from the vehicle by a disabled person in accordance with the standards of the Federal Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) and Colorado Revised Statutes, and any equipment needed for that purpose.

Parking space, off-street

A space that is designated for the parking of one motor vehicle located outside of a dedicated street right-of-way, vehicular travel way, or parking aisle.

Passive solar

The use of the sun's energy for the heating and cooling of living spaces, where the building itself or some element of it takes advantage of natural energy characteristics in materials and air created by exposure to the sun.

Performance Guarantee

Cash or other surety in a form acceptable to the Town provided by an applicant in lieu of completing the construction or installation of public infrastructure or required private site features before application for final plat approval for a subdivision or issuance of a building permit or other development approval.

Personal / professional services

Establishments engaged in the provision of informational, instructional, personal improvement, personal care, and similar services related to personal needs at the site of the business, or that receive goods from or return goods to the customer after the goods have been treated or processed at that location or another location. Examples include: hair salons, barber shops, tattoo parlors, appliance repair shops, and yoga or dance studios.. The retail sale of supplies or other products customarily associated with the service provided is permitted as an accessory use.

Pervious surface

Also referred to as pervious material. A material or surface that allows for the absorption of water into the ground or plant material, such as permeable pavers or a vegetated roof.

Phasing plan

A plan for construction of a development in portions over time, which time ranges shall be specified in the approval and development agreement.

Planned capital improvements

A capital improvement or an extension or expansion of a capital improvement which does not presently exist, but which is included within a capital improvements program.

Plat

A map and supporting materials of certain described land, prepared in accordance with applicable regulations as an instrument for recording of real estate interests with the County Clerk and Recorder.

Play fields (with lighting and/or PA systems)

Fields for organized sports designed for nighttime play (lights) and larger competitive events that require broadcast announcements.

Porch

A projection from an outside wall of a dwelling covered by a roof and/or sidewalls (other than the sides of the building to which the porch is attached).

Post office

A place operated by the U.S. Postal Service for a community to access mail boxes, drop off letters and packages, and receive mail related services.

Primary entrance

The place of pedestrian ingress and egress to a building, parcel, or development used most frequently by the public.

Primary residence

The place that a person, by custom and practice, makes their principal domicile and address to which the person intends to return, following any temporary absence, such as a vacation.

Principal building

1. A structure accommodating the principal use to which the property is devoted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings. A campus may also have more than one principal building or principal use. Campuses may include buildings or uses that would be principal if located off-campus, but which are accessory to the principal use of the campus.
2. The building in a multi-unit multifamily development located at the main access to the complex or where the office functions are provided for the complex.

Principal building entrance

A street-level primary point of public pedestrian access into a building. The phrase "principal building entrance" does not include doors used principally as emergency exits, or doors that provide restricted access (e.g., for employees or deliveries).

Principal use

The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

Print shop

A retail establishment that provides duplicating services using off-set printing equipment.

Professional office

Premises devoted primarily to office use, including single tenant office buildings and multi-tenant office buildings. Professional office may include, but is not limited to, doctors, lawyers, architects, real estate agents, property management, insurance companies, and contractors and others who may perform services off-site but who also have an office function. Equipment and materials are not stored, and fabrication or similar work is not carried out at the location of the office.

Professional Property Management

An entity comprised of one or more professional property managers with all required licenses in good standing.

Public buildings

A facility or structure owned or operated by a public, quasi-public, private, or cooperative electric, fuel, communications, sewage, or water company for the generation, transmission, distribution, processing, and disposal of its products. This may include, but is not limited to, electrical substations and switching stations; natural gas regulating and distribution facilities; public water system wells, treatment plants and storage; telephone switching facilities; wastewater treatment plants, and settling ponds and disposal fields, as well as accessory offices, but not customer service centers (which are an office use), and equipment and material storage yards.

Public facilities

Structures, facilities, and operations provided by the Town or another governmental entity, including, but not limited to, facilities for providing water, wastewater, fire protection, emergency services, public schools, parks, and transportation facilities which are required by this LUDC to be adequate and available as a condition of development or special use approval. In the case of schools, public facilities may also include land owned by the county school district or land to be dedicated that is specifically intended for the construction of schools.

Public recreation facility

Facilities or equipment that are used for public recreational or natural resource purposes that have a relatively low flood damage potential, and do not involve a structure. This includes, without limitation: bicycle, equestrian or pedestrian trails and paths, benches, ball fields, tennis and basketball courts, interpretive facilities, and golf courses.

Public safety services

The services undertaken by the Eagle Police Department for the welfare and protection of the general public to maintain public order and safety, including without limitation enforcing the law, conducting neighborhood patrols, providing for traffic calming, responding to medical emergencies, disasters, and threats of violence, performing welfare checks, and preventing, detecting, and investigating criminal activities.

Q. Q Terms

R. R Terms**Rain garden**

A planted area that is designed to allow rainwater runoff from impervious areas such as roofs, driveways, walkways, parking lots, and compacted lawn areas to collect and be absorbed.

Ranching/Farming

Uses associated with the production of plants, animals, or horticultural products for commercial purposes.

Real estate office, temporary

A structure devoted to the sale of property on the site that is accessory to the principal use.

Recreation facility, indoors, small (<6,500 sf)

A small scale commercial recreational use conducted entirely within a building, including art studios, wellness and yoga studios, health clubs, martial arts instruction, and pool or billiards halls. Accessory uses may include limited retail and parking facilities.

Recreation facility, indoors, large (≥6,500 sf)

A large scale commercial recreational use conducted entirely within a building, including arcades, arenas, art galleries or art centers, assembly halls, large athletic and health clubs, auditoriums, bowling alleys, gymnasiums, skating rinks, swimming pools, and tennis courts. Accessory uses include limited retail, concessions, parking and maintenance facilities.

Recreation facility, outdoors

An outdoor facility providing recreation, with or without charge, including amusement parks, soccer fields, baseball fields, miniature golf courses, skating rinks, skateboard parks, swimming pools, tennis courts, sports courts, water parks, zoological parks and similar uses, but not including golf courses, auto or horse race tracks, or shooting or archery ranges.

Recreational vehicle

A vehicular-type unit designed primarily as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, and which is licensed in any state as a recreational vehicle, travel trailer, camping trailer, truck camper, motor home, or similar title.

Recreational vehicle park / camping

Any area or tract of land designed or used that contains two or more spaces that are available for rent for parking or placement of temporary recreational vehicles or camping.

Recycling drop-off

A publicly managed and operated location where individuals may drop off accumulated household recyclable items into containers for later retrieval by a recycling company.

Recycling processing facility

A facility in which recoverable resources, such as newspaper, glassware and metal cans are delivered for sorting, processing, packaging, and shipping. This term does not include junkyard, automobile or vehicle salvage, or wrecking yards.

Re-facing

Any alteration to the face of a sign involving the replacement of materials. Re-facing does not refer to replacing the entire sign structure or the removal of the sign.

Regional transit station

A transfer hub location for bus or light rail transit services with multi-lane loading and unloading areas. Requires parking and provides restrooms, waiting areas, luggage storage, and ticket sales. May include food services and other accessory businesses.

Research facility

A facility for conducting medical or scientific research, investigation, testing, or experimentation. Does not include facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. This definition includes electronic and telecommunications laboratories and related assembly.

Residential treatment facility

A facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age in accordance with the requirements of Colorado law.

Restaurant

An establishment where food and drinks are available to the general public, primarily for consumption within a structure on the premises. Fast-food or casual dining establishment.

Fast food restaurant

A moderately priced restaurant with a large carry out business, and that typically is open long hours, serves three meals a day, has a turnover of one hour or less, and fills orders in ten minutes or less. Fast food restaurants typically have a drive-through window.

Casual dining restaurant

A moderately priced restaurant where orders are taken at the table by a server; typical table turnover is less than one hour and the restaurant usually serves at least two meals per day. Casual dining restaurants frequently operates under a franchise or are part of a chain.

ReStore, thrifty store, used goods store, or antique store

A building and site devoted to the sale of used household items, equipment or apparel. May include outdoor storage and display of larger items for sale.

Retail sales

A use category for businesses involved in the sale, lease, or rental of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging or repair of goods for on-site sale. Marijuana sales are not included in this category.

General retail

An establishment engaged in the sale of good to the public at retail and that have the potential to create impacts on surrounding residential areas due to the scale of the building, hours of operations, volumes of automobile or truck traffic, or other factors.

Large-format retail

A physically large retail store that is typically part of a retail chain. A large-format store is characterized by a large amount of floor space (generally more than 50,000 square feet) and a wide array of items available for sale, either as general merchandise or in a specialty category such as books or consumer electronics,

Limited retail

An establishment engaged in the retail sales of convenience goods and other goods serving the day to day needs of the immediate neighborhood within one half (1/2) mile of the site, and not including major purchase items, and that generally do not create significant impacts on surrounding residential areas due to the small size of the establishment and more limited automobile and/or truck traffic.

Riding stables or equestrian center

An indoor or outdoor equestrian facility that accommodates horse boarding and horsemanship activities other than for the property owner's personal use, including riding, training, teaching, and competition. May involve more than one structure and may also include outdoor fenced spaces.

Roofline

The highest point of flat roof and mansard roof and the top edge of a pitched roof or parapet, excluding any cupolas, chimneys, or other minor projection.

Rooftop mechanical equipment

Heating, ventilating and air conditioning systems, generators, connection boxes, satellite dishes, antennas, and other similar features that are mounted on the roof of a building.

S. S Terms**Salvage or wrecking yard**

The dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled, or partially dismantled, obsolete, or wrecked vehicles or their parts or any establishment or place of business which is maintained or used for the storage, keeping, buying or selling of wrecked, scrapped or dismantled motor vehicles or motor parts.

Sawmill / forestry product processing

An indoor or outdoor facility or operation where logs are sawed into lumber consisting of one or more or the following activities: debarking, sawing, and sawdust handling. Activities that shall not be

considered part of a sawmill or forestry product processing facility include chipping, sanding, planing, routing, lathing and drilling.

School, K-12

An institution of learning which offers instruction in the several branches of learning and study required to be taught in the schools by the Colorado State Board of Education; includes public, private and parochial schools.

School, college or university

A public or private institution for higher learning (beyond grade 12) providing instruction as approved by the Colorado Department of Education or a national collegiate or university accreditation agency. This definition also includes higher learning facilities for religious institutions.

School, trade, private academy

A vocational / technical school, trade school, language school, business school, training center, beauty school, culinary school, and comparable advanced or continuing education facilities. The phrase does not include music schools, fitness centers, sports instruction, swimming instruction, or martial arts instruction.

Screening

A method of visually shielding or obscuring a nearby structure, building or use on an abutting or adjacent property or lot from another by fencing, walls, berms, or densely planted vegetation.

Self-storage / mini-storage

A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractor's supplies.

Service bay

An interior space designed for the repair of vehicles and which has unrestricted ingress and egress.

Setback

The minimum distance between a structure and a property line of a parcel of land or other established reference point., "Setback" areas are commonly referred to as "yards." Setback also refers to the horizontal distance (plan view) between the delineated edge of wetlands, stream/river corridors, riparian areas, or wildlife habitat and the closest projection of a building or structure.

Setback, front

The setback extending across the full width of the lot between the front lot line and the closest projection of a building or structure along a line at right angles to the lot line.

Setback, rear

The setback extending across the full width of the lot between the rear lot line and the closest projection of a building or structure along a line at right angles to the lot line.

Setback, side

The setback extending from the front setback area to the rear setback area between the side lot line and the closest projection of a building or structure along a line at right angles to the side lot line.

Setback Measurement

1. Setbacks are measured inward from the property line or reference point.
2. Duplexes, Townhouses, Condominiums: For the purpose of setback calculations, any such building, regardless of multiple ownership, shall be considered one building occupying one lot

Shaded

The blockage of solar radiation which would otherwise reach the surface of the area to be protected.

Shelter, temporary (emergency)

A building or structure in which a public entity or a private, nonprofit organization provides temporary emergency shelter to individuals, families, livestock and/or pets who have been displaced from their homes due to an emergency until such emergency has ceased.

Shooting or archery range, indoors

A building or fully enclosed structure where firearms and other projectile-type weapons (e.g., guns, rifles, shotguns, pistols, air guns, archery bows, or crossbows) can be used for recreation, competition, skill development, and/or training.

Shooting or archery range, outdoors

An area of land where firearms and other projectile-type weapons (e.g., guns, rifles, shotguns, pistols, air guns, archery bows, or crossbows) can be used for recreation, competition, skill development, and/or training.

Showroom

Space accessory to the principal use on a property used for showcasing goods produced or sold on the property.

Sidewalk

A hard-surfaced, all-weather pedestrian way, usually within a right-of-way line.

Sign shop

A facility devoted to the indoor fabrication of signs, sign parts and sign frames.

Site characteristic

An aspect of a site that is regulated by this Code but is not a structure, use, or lot. Site features include site elements such as landscaping, parking, access location, and uses not located in a structure, such as wind or solar energy systems.

Site disturbance

Any grading, scraping, excavating, trenching, filling of land, dumping of fill materials (including but not limited to dumping of soil, concrete, and construction debris), bult outdoor storage, clearing of trees or vegetation and any construction in preparation for development, reconstruction, or significant alteration of a structure.

Site plan

A plan drawing or set of drawings indicating the layout of buildings, circulation system, parking, walls, landscaping, open space and any other appropriate information as required by the Town.

Site-Specific Development Plan

For all developments requiring a public hearing, the final approval (regardless of its title) that occurs prior to building permit application. If the landowner wants the final approval to have the effect of creating vested rights, pursuant to § 24-68-101 C.R.S., et seq., the landowner must request, in writing, at the time of application vested rights approval. Failure to make a vested rights request renders the approval not a “site-specific development plan,” and no vested rights shall be deemed to have been created.

Solar energy devices

A system including solar panels and related equipment, pipes, and wiring that converts sunlight to heat or electricity.

Solar farm

An active commercial solar energy system that is not net-metered or serving a particular building, the purpose of which is provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Solid waste facility

A facility principally or solely used for the processing or disposal of solid waste and subject to compliance with all applicable federal, state, and local regulations.

Stream

A body of concentrated flowing water in a natural low area or natural channel on the land surface.

Street, arterial

Arterials provide direct connections to highway arterials and the regional roadway system. They also may interconnect residential, shopping, employment and recreational activities within the community.

Street, collector

Collector streets provide land access and movement within residential, commercial and industrial sites. Collectors penetrate, and continue through residential neighborhoods.

Street, local

Local streets provide access to residential streets and neighborhoods. Movement on local streets is incidental and involves traveling to or from a collector street.

Streetscape

A varying width (depending on street type) landscaped strip parallel to the recorded or proposed street right-of-way containing plantings of trees and shrubs, and other pedestrian amenities in accordance with this Code.

Subdivision

The division of any lot, tract or land parcel into two or more lots, tracts, parcels or other land divisions for the purpose of sale or development.

T. Terms**Temporary structure**

A structure established for a fixed period of time as established by permit.

Temporary use

A use established for a fixed period of time as established by permit.

Theater

A structure that is open to the public and is used for dramatic, operatic, musical, motion picture, or other performance or entertainment related activities, where admission is charged per performance or event, and where there is no audience participation other than as spectators.

Timing device

A switching device, a part of which is a clock, set to the prevailing time, that will control the period of operation for outdoor lighting fixtures and signs.

Timeshare/Fractional Ownership

Any arrangement, schedule, plan, scheme, or similar device, whether by agreement, sale, lease, deed, license, right to use agreement, or by any other means, whereby an owner of the property or a fraction thereof, receives ownership rights in, or the right to use, the property for a period of time less than a full year.

Tiny Home

A dwelling that has no more than 800 square feet of habitable space that is designed for year-round occupancy, is connected to water, sewer, and electric utilities, and meets one of the following: (1) Department of Housing and Urban Development (HUD) manufactured home construction standards as shown by a red certification label, (2) modular construction that complies with the Colorado Division of Housing Building Codes and Standards requirements, or (3) currently adopted Town building code.

Townhouse (3+ units)

A unit, together with the lot appurtenant thereto, held in fee simple ownership sharing a common unpierced vertical wall(s) with another townhouse(s) which comprises at least ten percent of the linear measurement around the perimeter of the unit.

Truck stop

Any occupancy that provides a service for highway travel directly or indirectly related to the servicing, repairing, and/or refueling of semi-trucks (also commonly known as tractors), semi-trailers, and their components. A truck stop is a point at which semi-trucks may stop for refueling or where truck drivers can park their trucks, trailers and components and seek lodging and/or food services, as well as, other services related to highway trucking needs.

Truck wash

A building or area that provides facilities specifically designed for washing and cleaning semi-tractors and/or semi-trailers and recreational vehicles, which may use production line methods with a conveyor, blower or other mechanical devices. This term also includes facilities that require hand labor in the cleaning of the vehicle.

U. U Terms**Urban agriculture**

The practice of cultivating, processing, and distributing food in or around urban areas.

Urgent care facility

A licensed facility that provides unscheduled short-term medical and emergency care under the supervision of physicians and is typically open for 24 hours a day.

Useable open space

The open area of a lot designed and developed for uses, including, but not limited to, recreation, courts, gardens, and parks, which open space may include a maximum of 20 percent of non-living materials such as walks, decks, terraces, water features and decorative rock. Usable open space is measured as a percentage of the lot area, by dividing the total usable open space by the lot area. Usable open space shall not include areas used for driveways, parking areas, landscaping, or minimum required setbacks.

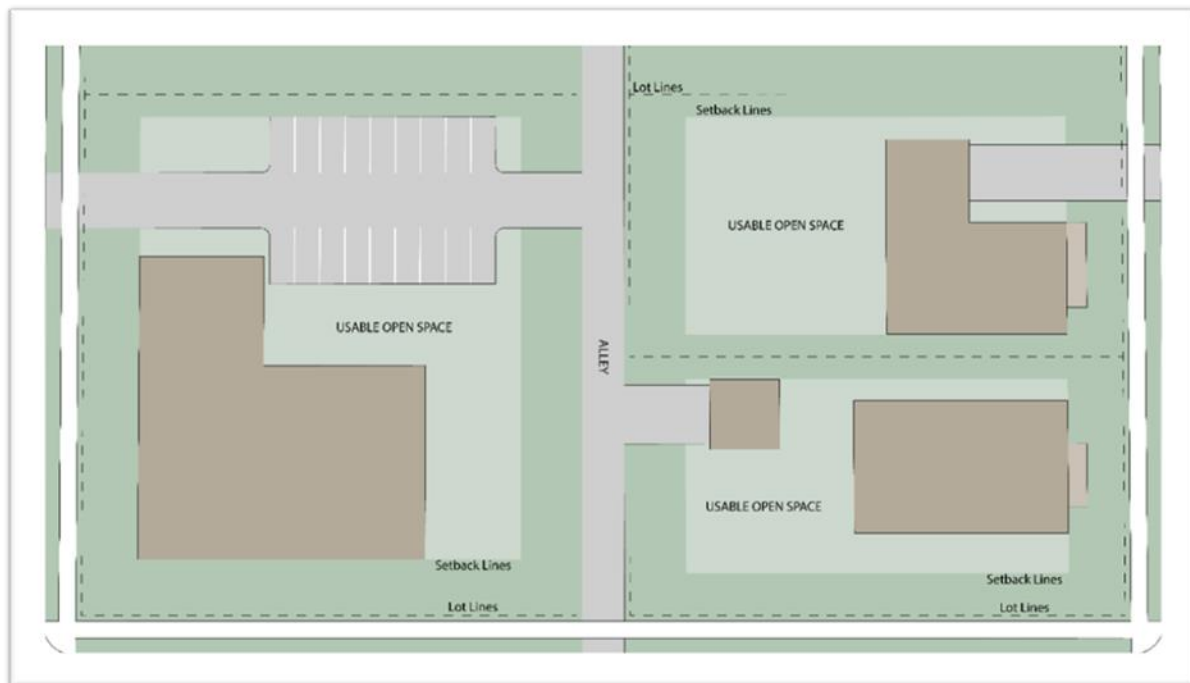


Fig. 4.20-x: Usable Open Space

Utility

A use category for the use of land for public or private lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and facilities for the generation of electricity.

Utilities, major facilities/service yard

Infrastructure services that have substantial land use impacts on surrounding areas. Typical uses include, but are not limited to, water and wastewater treatment facilities, major water storage facilities and electric generation plants. This definition also includes service yards for utility providers.

Utilities, minor facilities/office

Infrastructure facilities and services that need to be located in the area where the service is to be provided such as water and sewer pump stations, electrical transforming substations, wind energy conversion systems, solar collector systems, water conveyance systems or gas regulating stations.

Utility plan

A plan corresponding to the preliminary plat showing the line location, size and gradient for the proposed water distribution, sewage collection mains, and other public and private utilities within the proposed subdivision in relation to existing Town installations and also in relation to existing installations of any special district.

Utility Substation

A facility used to convert electric power, natural gas, telephone signals, water from a form appropriate for transmission over long distances to a form appropriate for residential household or commercial use, or vice versa. This use includes but is not limited to: Electric substations, natural gas regulator stations, telephone switching stations, water pressure control facilities, and sewage lift stations.

V. V Terms**Vertical mixed-use**

A property or structure developed with both residential and non-residential uses integrated vertically within a multi-story building.

Vested property right

The right to undertake and complete the development and use of property under the terms and conditions of a site-specific development plan.

Veterinary office

A facility, including an animal hospital for the diagnosis and treatment of pets and other large or small animals including, but not limited to, dogs, cats, birds, and horses; incidental grooming, boarding, or breeding of animals may also be provided.

Veterinary, outdoor kennel

A veterinary office with an outdoor kennel where boarding is provided.

W. W Terms**Warehousing**

An establishment where the storage of residential, commercial, industrial, or other goods, including inventory and finished products, is the primary use; goods are generally delivered to other firms or the final consumer, except for some will call pickups; and there is little on-site sales activity with the customer present. This use does not include the storage of goods incidental to a different primary use on the same lot, which is considered an accessory use.

Water Impoundment

Control and possession of water by means of a dam, or as otherwise defined by Colorado Statutes.

Water storage tanks

A tower or other facility for the storage of water for supply to a water system.

Wholesale assembly

An establishment primarily engaged in the production of goods and merchandise for resale instead of for direct consumption.

Wholesale warehouse / distribution center

An establishment in an enclosed building primarily engaged in the sale or distribution of goods and materials in large quantities to retailers, or other businesses for resale or distribution to individual or business customers.

Wind energy, accessory to commercial

An area of land designated to house wind turbines to provide energy to the principal commercial use of the property.

Wind energy, accessory to residential

A microturbine and associated equipment for adherence to a residential roof and for storage of energy that provides energy to the principal residential use on the property.

Wireless Communication Facility (WCF)

Any freestanding facility, building, pole, tower, or structure used to provide only wireless telecommunications services, and which consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless telecommunication services.

X. X Terms**Xeriscape**

Landscape methods that conserve water by using non-vegetative ground covers, drought-tolerant plants and planting techniques, and efficient irrigation systems.

Y. Y Terms**Yard**

The undeveloped space between a lot line and a structure, defined as follows:

Yard, front

A yard extending the full distance of the building lot, the depth of which is measured in the least horizontal distance between the front lot line and the nearest wall of the principal building. The minimum width of the front yard is determined by the front yard setback for the property.

Yard, rear

A yard extending the full distance of the building lot, the depth of which is measured in the least horizontal distance between the rear lot line and the nearest wall of the principal building. The minimum width of the rear yard is determined by the rear yard setback for the property.

Yard, side

A yard extending from the front yard to the rear yard, the distance of which is measured in the least horizontal distance between the side lot line and the nearest wall of the principal building. The minimum width of the side yard is determined by the side yard setback for the property.

Yard, service or storage (contractor)

Any land or buildings used primarily for the storage of equipment, vehicles, machinery, or materials used for construction contracting or trade services.

Z. Z Terms

[reserved]

AA. Number Terms

[reserved]

4.20.030 FLOOD DAMAGE PREVENTION DEFINITIONS

Unless specifically defined in this section, words, terms or phrases used in Section [4.14.020](#) shall be interpreted to give them the meaning they have in common usage and to give the section its most reasonable application. The following words, terms and phrases, when used in Section [4.14.020](#), shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

100-year flood means a flood having a recurrence interval that has a one percent chance of being equaled or exceeded during any given year (one-percent-chance-annual-flood). "One-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every 100 years.

100-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a 100-year flood.

500-year flood means a flood having a recurrence interval that has a 0.2 percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every 500 years.

500-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a 500-year flood.

Addition means any activity that expands the enclosed footprint or increases the square footage of an existing structure.

Alluvial fan flooding means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding means a designated zone AO or AH on a community's flood insurance rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood elevation (BFE) means the elevation shown on a FEMA flood insurance rate map for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement means any area of a building having its floor sub-grade (below ground level) on all sides.

Channel means the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization means the artificial creation, enlargement or realignment of a stream channel.

Code of Federal Regulations (CFR) means the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

Community means any political subdivision in the State that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, Towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts. "Community" includes the Town.

Conditional letter of map revision (CLOMR) means FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, as specified in Section 4.16.070(H), that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Section 4.16.070(H).

Development means any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital flood insurance rate map (DFIRM); FEMA digital floodplain map. These digital maps serve as regulatory floodplain maps for insurance and floodplain management purposes.

Elevated building:

A. "Elevated building" means a non-basement building:

1. Built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and
2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

B. In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

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

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

Federal Register means the official daily publication for rules, proposed rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA means the Federal Emergency Management Agency of the United States, the agency responsible for administering the National Flood Insurance Program.

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

- A. The overflow of water from channels and reservoir spillways;

- B. The unusual and rapid accumulation or runoff of surface waters from any source; or
- C. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains the flood insurance rate map as well as flood profiles for studied flooding sources that can be used to determine base flood elevations for some areas.

Floodplain or floodprone area means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

Floodplain administrator means the community official designated by title to administer and enforce the floodplain management regulations.

Floodplain development permit means a permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within floodprone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this LUDC.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of map revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved State program as determined by the Secretary of the Interior; or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

Letter of map revision (LOMR) means FEMA's official revision of an effective flood insurance rate map (FIRM), or flood boundary and floodway map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA).

Letter of map revision based on fill (LOMR-F) means FEMA's modification of the special flood hazard area (SFHA) shown on the flood insurance rate map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Levee means a manmade embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

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

Lowest floor means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

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

Material safety data sheet (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (such as melting point, boiling point, flash point) toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

Mean sea level, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map, are referenced.

National Flood Insurance Program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in 44 CFR. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

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

No-rise certification means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered State Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the flood insurance rate map (FIRM) or flood boundary and floodway map (FBFM).

Ordinary High-Water Mark (OHWM) means the line on the shore or streambank established by the fluctuations of water on a regular or frequent basis and is indicated by physical characteristics. The following list of physical characteristics is not exhaustive, but should be considered when making an OHWM determination, to the extent that they can be identified and are deemed reasonably reliable:

- 1) Natural line impressed on the bank, 2) Leaf litter disturbed or washed away, 3) Shelving, 4) Scour, 5) Changes in the character of the soil, 6) Deposition, 7) Destruction of terrestrial vegetation, 8) Multiple observed flow events, 9) Presence of litter and debris, 10) Bed and banks, 11) Wracking, 12) Water staining, 13) Vegetation matted down, bent, or absent, 14) Change in plant community, or 15) Sediment sorting.

Physical map revision (PMR) means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

Recreational vehicle means a vehicle which is:

- A. Built on a single chassis;
- B. 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.

Special flood hazard area means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Start of construction means the date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for 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.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

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 50 percent of the market value of the structure just prior to when the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This 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 by the local code enforcement official and which are the minimum necessary 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.

Threshold planning quantity (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

Variance means a grant of relief to a person from the requirement of this LUDC when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this LUDC. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the

elevation certificate, other certifications, or other evidence of compliance required in this LUDC is presumed to be in violation until such time as that documentation is provided.

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

4.20.040 SIGN DEFINITIONS

Banner sign

A sign made of fabric or other similar non-rigid material with no enclosing framework or electrical components that is supported or anchored on two or more edges or at all four corners. Banners also include non-rigid signs anchored along one edge, or two corners, with weights installed that reduce the reaction of the sign to wind.

Billboard

Ay sign with at least one sign face that is greater than the largest maximum sign size for any type of sign allowed by permit in the district in which the sign is located.

Business

An activity concerned with the supplying and distribution of goods and services. For purposes of this section, the term "business" shall not include an activity which is accessory to a residential use, such as a home occupation.

Cabinet sign

A sign that contains all the text, artwork, logos and/or other information displayed within an enclosed cabinet.

Change of copy

The change of a logo, and/or message upon the face or faces of a legal sign.

Carried sign

A sign held or carried by a person.

Commercial speech

Expression by a speaker for the purposes of commerce, where the intended audience is actual or potential consumers, and where the content of the message is commercial in character. Commercial speech typically advertises a business, business activity, or proposed commercial transaction and may be further defined by a court of appropriate jurisdiction.

Copy

The wording on a sign surface, either in permanent, changeable, or removable form. Copy may include commercial speech or noncommercial speech.

Dangerous sign

A sign constituting a hazard to public safety because it no longer complies with some or all requirements of the building code or electrical code.

Direct Illumination

A lighting element is exposed to the sign viewer without cover or reflection, such as exposed light bulbs, neon tubing, and LED lighting on EMD signs.

Electrical sign

A sign or sign structure in which electrical wiring, connections, and/or fixtures are used as part of the sign proper.

Electronic Message Display (EMD)

A sign that displays messages that can be controlled and changed remotely and that uses a direct illumination source.

Erects

To build, construct, attach, place, suspend, or affix, including the painting of a wall sign.

External Illumination

A lighting element or lighting source is installed outside of the sign and directed toward the sign face.

Face of sign

The entire area or combination of areas of a sign on which a message is placed.

Flag

A sign made of fabric or other similar non-rigid material supported or anchored along only one edge or supported or anchored at only two corners. If any dimension of the flag is more than three times as long as any other dimension, it is classified and regulated as a banner regardless of how it is anchored or supported.

Flashing

A change of light intensity in a sudden transitory burst or that switches on and off in a constant pattern that is not constant being off at any one time.

Flutter flag

A piece of cloth or other similar material, varying in size, color, and design, that is attached to a pole or staff, and may be in the shape of a vertically-oriented rectangle, teardrop, or similar, where typically the cloth or material is supported by wire to maintain the shape of the flag.

Frontage

The measurement of the length of the property line or building front.

Halo Lighting

A method of internal sign illumination that consists of opaque sign elements with light projected behind them illuminating the mounting surface. The placement of halo lighting creates a “halo” or reflective rim effect around the mounted element.

Incidental sign

A small sign that is primarily oriented to pedestrians and intended for up-close viewing. Examples of incidental signs include: address sign, entrance/exit sign, open/closed sign, days/hours of operation sign, or restroom sign.

Internal Illumination

A lighting element or lighting source is contained inside a sign cabinet, letter module, or sign body. Examples include cabinet signs and halo lit signs.

Nit(s)

A unit of measure of brightness or luminance. One nit is equal to one candela/square meter.

Nonconforming sign

Any sign lawfully constructed prior to the enactment of the ordinance codified in this Code, which fails to conform to the provisions of this chapter.

Off-premises sign

A sign that carries a message of any kind or directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located, or to which it is affixed.

On-premises sign

A sign advertising any product, service, use, or enterprise sold or offered at the location where the sign is physically located.

Pennant

A piece of fabric, plastic, or other flexible medium that may be in the shape of a triangle, rectangle, or other shape, is typically mounted to a flexible cord or rope that is stretched across two points, is mounted in quantity, and spaced along the cord or rope.

Perimeter

A shape required to enclose the sign area.

Public event

An event or activity held on private property that is open to the public or offered for general public enjoyment with or without an entrance fee,

Roof sign

A business sign erected upon or above a roof or parapet of a building or structure. Mansard roof signs shall be considered wall signs.

Sandwich Board Sign

A temporary, portable sign consisting of two sign faces placed together at an angle of 90 degrees or less to form an "A" shaped structure that tapers from a wide base to a narrow top that is readily movable and has no permanent attachment to a building, structure, or the ground.

Sign

A visually communicative image displayed in a place open to view by the public, including any device that streams, televises or otherwise conveys electronic visual messages, pictures, videos or images, with or without sound or odors, that by reason of its form, location, manner of display, color, working, design, or otherwise attracts or is designed to attract attention to the subject or to the property upon which it is situated. "Sign" shall not include:

1. Works of art that do not include commercial speech.

2. Products, merchandise or other materials which are offered for sale or used in conducting a business, when such products, merchandise, or materials are kept or stored in a location which is designed and commonly used for the storage of such products, merchandise or materials.

Sign structure

Any structure supporting or capable of supporting any sign defined in this chapter. A sign structure may be a single pole or may or may not be an integral part of the building or structure.

Static Sign

A sign with a message that cannot or is not intended to be changed frequently or remotely like and EMD sign.

Temporary sign

A sign corresponding to a permitted temporary use or event and displayed for a limited period of time. Temporary sign types include banner, yard, and sandwich board.

Tenant

A single incorporated use of a premises, which may include multiple units within a structure, for which a certificate of occupancy has been issued, which is separated from another business by demising walls and has a separate entrance.

Wind sign

A display of pennants, streamers, balloons, whirligigs, wind blades, or similar devices, activated by wind.

Window

An opening in a wall, door, or roof of a building that allows the passage of light, sound, and sometimes air. An individual window is defined by an architecturally distinct opening. Individual windows may be further divided by muntins, mullions, or decorative elements such as grilles.

Yard sign

A type of temporary sign that is constructed of paper, vinyl, plastic, wood, metal or other comparable material, which is mounted on a stake or a frame structure (often made from wire) that includes one or more stakes.

4.20.050 USE CATEGORY DEFINITIONS

A. Residential Uses

1. Use Category Description :

This is a category of uses offering habitation on a continuous basis that is established by property ownership or tenancy. This use category also includes group residential facilities.

2. Use Types

- a. Household Living: This use type is characterized by residential occupancy of a dwelling unit. Uses where tenancy (the length of stay) may be arranged for a shorter period are not considered residential; they are considered to be a form of lodging.

- b. **Group Living:** This use type is characterized by residential occupancy of a structure by a group of people who do not meet the definition of "Household Living". Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may also reside at the site.

B. Public, Civic, and Institutional Uses

1. Use Category Description

This is a use category for public, quasi-public, and private uses that provide unique services that are of benefit to the public at-large.

2. Use Types

- a. **Assembly, Civic:** Civic assembly uses are permanent places where persons regularly assemble group activities and which are maintained and controlled by a body organized to sustain the assembly. Civic assembly uses include civic and social organizations such as private lodges, clubs, fraternities, and similar private membership organizations, as well as places of community assembly such as libraries and museums.
- b. **Education:** This use type includes institutions of learning that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.
- c. **Government and Public Safety:** This use type includes structures and sites for services proved by governmental agencies.
- d. **Health Care and Social Assistance:** This use type is characterized by activities focusing on medical services, particularly licensed public or private institutions that provide primary health services and medical or surgical care to persons suffering from illness, disease, injury, or other physical or mental conditions. Accessory uses may include laboratories, outpatient, or training facilities, and parking, or other amenities primarily for the use of employees in the firm or building.
- e. **Parks and Recreation:** This use type includes uses that focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. These lands tend to have few structures. Accessory uses may include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking for cars and RVs as permitted by the Town.
- f. **Transportation:** this is a use category that includes uses involving public and private modes of vehicular transportation.
- g. **Utilities and Public Facilities:** This use type includes structures and locations for public or private lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and facilities for the generation of electricity. Utility uses may or may not have regular employees at the site and the services may be public or privately provided.
- h. **Wireless Communication Facilities:** Uses and structures specified in Section 4.19.

C. Commercial Uses

1. Use Category Description

This is a use category for any retail, consumer service, or office use.

2. Use Types

- a. **Amusement and Recreation:** This use type includes a broad array of commercial establishments that operate indoor or outdoor facilities or provide services to meet varied artistic, cultural, entertainment, and recreational interests of their patrons. Uses within this category comprise: (1) establishments involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (2) establishments that create, preserve and exhibit objects and sites of artistic, historical, cultural, sports or educational interest; and (3) establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, or leisure time interests. Excluded are restaurants, bars, and night clubs that provide live entertainment in addition to the sale of food and beverages, which this code categorizes as “eating and drinking establishments.”
- b. **Animal Sales and Services:** This use category groups uses related to animal care.
- c. **Assembly, Entertainment and Trade:** These commercial assembly uses include convention centers, theaters, stadiums, arenas, and wedding venues.
- d. **Commercial Services:** This use category includes uses that provide for consumer or business services and for the repair and maintenance of a wide variety of products. Personal services are also included, characterized by establishments that provide individual services related to personal needs such as barber shops or dry cleaners.
- e. **Eating and Drinking Establishments:** This is a use category for businesses that prepare or serve food or beverages for consumption on or off the premises, such as restaurants and bars, along with specialty food and beverage production such as coffee roasting, microbreweries, and microdistilleries. Accessory uses may include outdoor seating, offices, and parking.
- f. **Financial Services:** This use category includes establishments that have a primary purpose of: providing custody, loans, exchange, or issuance of money; extending credit; and transmitting funds, including via drive-in facilities and automatic teller machines.
- g. **Lodging:** Uses in this use type provide customers with temporary housing for an agreed upon term of less than 30 consecutive days; any use where temporary housing is offered to the public for compensation and is open to transient rather than permanent guests. This use type includes hotels, motels, bed and breakfast inns, and short-term rentals.
- h. **Marijuana:** This use type includes all of the Town’s approved marijuana uses.
- i. **Office:** This type includes uses where people are engaged primarily in on-site administrative, business, or professional activities. These uses are characterized by activities in an office setting that focus on the provision of off-site sale of goods or on-site information-based services, usually by professionals. This category may also include laboratory services that are conducted entirely within an office-type setting. Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.
- j. **Parking, Commercial:** This is the use category for non-accessory parking.

- k. **Retail Sales:** This is a use type for businesses involved in the sale, lease, or rental of new or used products to the general public. Such uses may include, but are not limited to: convenience food store, drug store, grocery store, hardware store, general merchandise store, garden supplies, furniture, home furnishings, and equipment. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging or repair of goods for in-site sales.
- l. **Vehicle and Sales and Services:** This use type includes a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses may include incidental repair and storage and offices.

D. Industrial, Wholesale, and Storage

1. Use Category Description

This is a use category including uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced.

2. Use Types

- a. **Alternative Energy Production:** This use type is for site or utility grade energy production.
- b. **Industrial and Construction Services:** This use type is characterized by companies that are engaged in the repair or servicing of heavy machinery, equipment, products, or by-products, or the provision of heavy services including construction or contracting. Accessory activities and uses may include sales, offices, parking, and storage.
- c. **Manufacturing, Assembly, or Processing:** A use type including establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished, and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters.
- d. **Natural Resource Extraction:** This use type is for various types of raw materials extraction.
- e. **Warehouse and Storage Services:** This use type includes facilities used for the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking, and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.
- f. **Waste and Salvage:** This is a use category for uses that collect, store, process, or sell waste or salvage materials, or collect and process recyclable material, for the purpose of marketing or reusing the material in the manufacturing of new, reused, or reconstituted products.

E. Agriculture

1. Use Category Description

This is a category of uses characterized by active and on-going agricultural uses, activities, and related uses. An agricultural use, in general, means the use of land for the growing and production of field crops, livestock, aquatic, and animal products for the production of income. Other agricultural uses might include fruit and vegetable stands, livestock sales, wholesale nurseries, and stables. Lands in agricultural uses and districts may also be held for preservation and conservation purposes.

2. Use Types

- a. **Agriculture:** Uses in this category are characterized by the cultivation of plants for consumption or commercial sale or the commercial breeding, raising, and/or keeping of fish, livestock, and/or any type of fowl for sale or use of the animal, their products, or byproducts. Accessory uses and structures: Farm dwelling, offices, indoor and outdoor storage, machine sheds and other farm outbuildings; feedlots; pasture.
- b. **Stable:** This use type includes private and public stables for horseback riding and associated facilities.
- c. **Urban Agriculture:** This use type includes: community gardens on a parcel of land where members of the community have access to individual garden plots for the cultivation of fruits, flowers, vegetables, or ornamental plants; beekeeping; animal husbandry; indoor greenhouse gardening; and rooftop gardens and green walls.

4.20.070 WIRELESS TELECOMMUNICATIONS DEFINITIONS

The following words, terms and phrases, when used in Section [4.09.110](#), Wireless Communications Facilities, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alternative tower structure means any man-made trees, clock towers, bell steeples, light poles, water towers, farm silos, or similar alternative design mounting structures that conceal where technically feasible the presence of WCFs to make them architecturally compatible with the surrounding area pursuant to this LUDC. A stand-alone pole in the right-of-way that accommodates small cell facilities is considered an alternative tower structure provided it meets the concealment standards of this LUDC. Alternative tower structures are not considered towers, for the purposes of this LUDC.

Antenna means any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devised and configurations.

Antennas, panel means an array of antennas, rectangular in shape, used to transmit and receive telecommunication signals.

Antenna, whip means a single antenna that is cylindrical in shape and omni-directional.

Base station means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of base station does not include or encompass a tower as defined herein or any equipment associated with a tower. Base station does include, without limitation:

- A. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town under this LUDC, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including distributed antenna systems ("DAS") and small-cell networks) that, at the time the relevant application is filed with the Town under this section, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of base station does not include any structure that, at the time the relevant application is filed with the Town under this LUDC, does not support or house equipment described in paragraphs A and B above.

Camouflage or camouflage design techniques means measures used in the design and siting of wireless communication facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes camouflage design techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include the use of concealment design elements so that a facility looks like something other than a wireless tower or base station.

Collocation means:

A. For the purposes of eligible facilities requests, means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

B. For the purposes of facilities subject to shot clocks governed by 47 U.S.C. Sec. 332, means attachment of facilities to existing structures, regardless of whether the structure or location has previously been zoned for wireless facilities.

Concealment means utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless tower or base station. Language such as "stealth," "camouflage," or similar in any permit or other document required by the Town LUDC is included in this definition to the extent such permit or other document reflects an intent at the time of approval to condition the site's approval on a design that looks like something else. Concealment can further include a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate concealment design elements so that the facility looks like something other than a wireless tower or base station.

Eligible facilities request means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station involving:

- A. Collocation of new transmission equipment.
- B. Removal of transmission equipment.
- C. Replacement of transmission equipment.

A request for modification of an existing tower or base station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant Federal requirements, is not an eligible facilities request.

Eligible support structure means any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the Town under this LUDC.

Equipment cabinet means a cabinet or building used to house equipment used by telecommunication providers at a wireless communications facility. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.

Existing means for purposes of this LUDC, a constructed tower or base station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an eligible facilities request, provided that a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

OTARD means over-the-air receiving device.

OTARD antenna means:

- A. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or

- B. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or
- C. An antenna that is designed to receive television broadcast signals.

OTARD antenna structure means any pole, tower, or other structure designed and intended to support an OTARD antenna.

Related accessory equipment means the transmission equipment customarily used with, and incidental to wireless communication facilities antennas, including by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

Right-of-way means in the context of this LUDC any public street or road that is dedicated to public use for vehicular traffic except for those rights-of-way owned by the Colorado Department of Transportation within the Town limits.

Site means in the context of this LUDC for towers and eligible support structures, a site means the current boundaries of the leased or owned property surrounding the tower or eligible support structure and any access or utility easements currently related to the site. For alternative tower structures, base stations and small cell facilities in the right-of-way, a site is further restricted to that area comprising the base of the structure and to other related accessory equipment already installed on the ground.

Small cell facility means a WCF where each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and primary equipment enclosures are no larger than 17 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.

Substantial change means a modification substantially changes the physical dimensions of an eligible support structure if after the modification, the structure meets any of the following criteria:

- A. For towers other than alternative tower structures, it increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;
- B. For towers, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- C. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the eligible support structure but not to exceed four cabinets per application; or for base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of

ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;

D. For any eligible support structure, it entails any excavation or deployment outside the current site;

E. For any eligible support structure, it would defeat the concealment elements of the eligible support structure by causing a reasonable person to view the structure's intended stealth design as no longer effective;

F. For any eligible support structure, it does not comply with record evidence of conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs A, B, and C of this definition.

For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of approved appurtenances and any modifications that were approved prior to February 22, 2012.

Tower means any structure that is designed and built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and the like. Alternative tower structures and small cell facilities in the rights-of-way are not towers.

Transmission equipment means equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Wireless communications facility or WCF means a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the LUDC. A WCF includes an antenna or antennas, including without limitation, directions, omni-directions and parabolic antennas, base stations, support equipment, small cell facilities, alternative tower structures, and towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios/telephones and their associated

transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this section.

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