



**Town of Green Mountain Falls
Planning Commission Regular Meeting
Agenda**

**Tuesday, December 6, 2022 @ 6:30 PM
In-person Meeting @ 10615 Green Mountain Falls Rd
Green Mountain Falls, CO 80819**

OR JOIN ZOOM MEETING:

<https://us02web.zoom.us/j/83518945450?pwd=dUUvM2VtY3BMQkU1aytIT01iZ0ZCUT09>

Meeting ID: 835 1894 5450; Passcode: 119999; Dial-in: 346-248-7799

	ITEM	DESIRED OUTCOME
1.	CALL TO ORDER/ROLL CALL	
2.	AUDIO CHECK	
3.	ADDITIONS, DELETIONS, OR CORRECTION TO THE AGENDA	Action Recommended
4.	PUBLIC COMMENT	Public Comment
5.	APPROVAL OF MINUTES - November 22, 2022, Meeting Minutes	Action Recommended
	NEW BUSINESS - NONE	
	OLD BUSINESS	
6.	Land Use Code Rewrite: a. Final Draft Presentation – Austin Flanagan b. Public Hearing c. Resolution PC2022-01 – Approval of the Land Use Code as Presented	Action Recommended
7.	OTHER BUSINESS	
8.	Adjournment	

**Register for public comment by 4:00 PM the day of the meeting: planner@gmfco.us

Planning Commissioners: Lamar Mathews, Chair; Lisa Bonwell, Vice-chair; Ann Esch; Mike Frey; Rocco Blasi



MEETING MINUTES
Planning Commission
November 22, 2022
6:30 p.m. In-Person and Zoom Meeting

Commissioners Present: Chair Lamar Mathews (Zoom), Vice-chair Lisa Bonwell, Ann Esch, Rocco Blasi

Commissioners Absent: Mike Frey

Board of Trustees Liaison:

GMF Staff: Nate Scott (Town Clerk/Treasurer/Planner)

Agenda Item	Motion/Discussion	M/S	LM	AE	LB	RB	MF
1. CALL TO ORDER / Pledge of Allegiance/ROLL CALL	Meeting called to order at 6:32 Commissioner Blasi not present yet.						
2. AUDIO CHECK	Audio is good for Zoom participants.						
3. ADDITIONS, DELETIONS, & CORRECTIONS TO THE AGENDA	Motion to approve agenda as presented. Motion passes unanimously.	AE/LB	A	A	A	A	
4. PUBLIC COMMENT	No Public Comment						
5. APPROVAL OF MINUTES November 8, 2022 Meeting Minutes	Motion to approve minutes as written.	RB/LB	A	A	A	A	
NEW BUSINESS - NONE							
OLD BUSINESS							
OLD BUSINESS							
6. Land Use Code Rewrite	Land Use Code Rewrite: a. Commission discussion/review Discussion of the included comments on the Historic Preservation Overlay District, from the Historic Green Mountain Falls Foundation						

	<p>historical study group. General agreement to accept these recommended changes to the code draft.</p> <p>Discussion about upcoming meeting schedule and timing of the pending code acceptance.</p> <p>b. Public Comment</p> <p>No public comment</p> <p>No formal action.</p>						
7. ADJOURNMENT	Meeting adjourned at 7:23 pm						

Green Mountain Falls Land Use Code Update

Planning Commission – 12/6/22



Project Overview

Draft LUC Draft:
Complete

Present Draft to
Planning
Commission:
Complete

Planning
Commission Sends
Redlines to Austin:
Complete

Revised Draft:
Complete

Town Conducts
Public
Engagement:
Complete

Town Sends Public
Comments to
Austin: **Complete**

Revised Draft:
Complete

Planning
Commission
Adoption Hearing:
Today

Revised Draft:
12/9

Board of Trustees
Adoption Hearing:
12/13

New Organization

General
Provisions

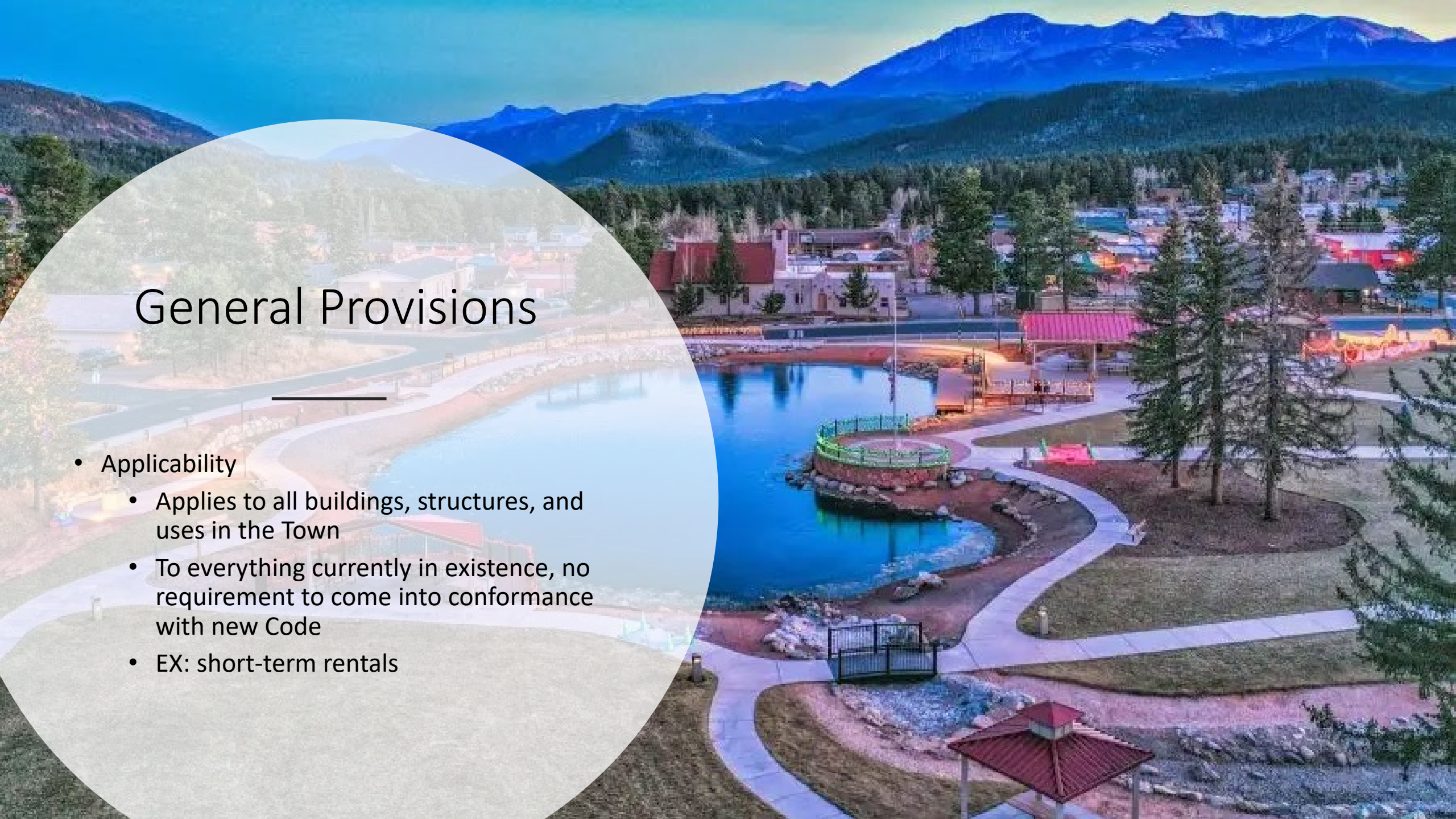
Districts

Uses

Dimensional &
Development
Standards

Administration
& Review
Procedures

Definitions

The background image is a scenic view of a town at dusk. In the foreground, there is a park with a winding path, a small pond with a circular island in the center, and several gazebos. The middle ground shows a town with various buildings, some with lights on. In the background, there are large, rugged mountains under a twilight sky.

General Provisions

- Applicability
 - Applies to all buildings, structures, and uses in the Town
 - To everything currently in existence, no requirement to come into conformance with new Code
 - EX: short-term rentals

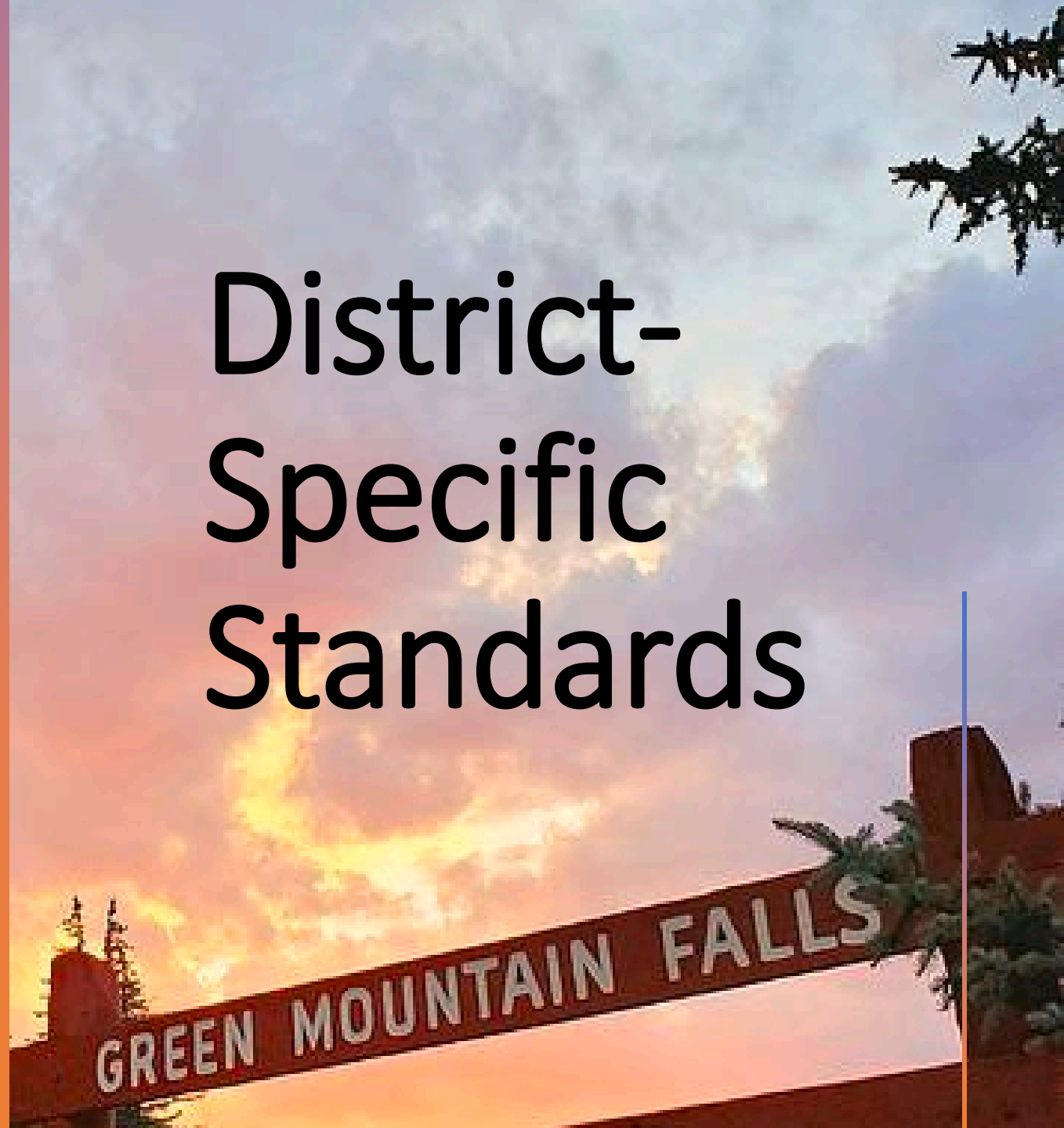
Districts

Table 2-1: Zoning Districts

Zoning District	Purpose Statement
R-1 – Low-Density Residential ¹	The R-1 district is intended to accommodate low-density residential uses with complementary accessory uses. It is further intended that such a development be served with institutional uses and community facilities compatible with the character of the zone.
R-2 – Medium-Density Residential ²	The R-2 district is intended to accommodate medium-density residential uses with a range of accessory, institutional, and community facility uses.
MX-1 – Mixed Use ³	The MX-1 district is intended to accommodate primarily commercial and institutional uses with limited residential uses at a neighborhood scale.
O – Open Space ⁴	The O district is intended to preserve a regional greenbelt of open space land, protect and restore the natural environment, and provide opportunities for public recreational enjoyment and education.
PUD – Planned Unit Development ⁵	The PUD district is intended to encourage imaginative concepts in urban design and land development and grant substantial additional benefit to the Town that would not otherwise be required by this LUC.
DV-O – Downtown Village Overlay ⁶	The DV-O district is intended to promote a more expansive and vibrant downtown area oriented for pedestrian use with high-quality architecture.

- + DV-O, Downtown Village Overlay
 - Only applies upon a rezoning approval
- - New standards that are one-part incentives and one-part additional design requirements
 - Promote goals in Comp Plan related to spurring additional pedestrian-oriented, high-quality development downtown
 - Reduction in required parking
 - Require:
 - Projections, recessions, or reveals such as columns, pilasters, cornices, and bays;
 - Change in texture and/or masonry patterns; and/or
 - Awnings or canopies extending at least four feet beyond the building face

District-Specific Standards



Uses

- New use table
- Consolidated uses
- All uses defined
- Use-specific standards added to minimize impacts of certain uses

Table 3-1: Permitted Uses Table

X = use by right; C = conditional use; A = accessory use; T = temporary use; Blank cell = prohibited; Uses with an * = use-specific standards apply

Zoning Districts	R-1	R-2	MX-1	O	Use-Specific Standards
Group Home, Large		C	C		
Group Home, Small		C	C		
Manufactured Home Park*		C			Article 3:3(a)i
Nursing Home		C			
Public, Institutional, and Civic Uses					
Art Gallery, Museum, and Library			X	C	
Community Center		C	X		
Community Garden*	C	C	X	C	Article 3:3(b)i
Day Care Facility			C		
Funeral Home			C		
Medical Facility			C		
Parks and Open Space	X	X	X	X	
Places of Worship	X	X	X		
School		C	C		

Administration and Review Procedures

- Subdivision
 - Consolidated several similar procedures
 - Two procedures (minor and major) for all types of subdivision
- Historic preservation
 - Simplified designation and certificate of approval procedures
- Minor modification
 - New process for small deviations (less than 10%) from development standards

Table 5-1: Summary Table of Review Procedures

✓ = Required; R = Review and Recommendation; D = Review and Decision; A = Appeal; < > = Public Hearing Required

Procedure	Land Use Code Reference	Pre-Application Conference	Notice	Review and Decision-Making Bodies		
				Planning Director	Planning Commission	Board of Trustees
Development Permits						
Minor Site Plan	Article 5:3(c)	✓		D	<A>	
Major Site Plan	Article 5:3(d)	✓	✓	R	<D>	<A>
Conditional Use Permit	Article 5:3(e)	✓	✓	R	<R>	<D>
Temporary Use Permit	Article 5:3(f)	✓		D	<A>	
Subdivision Procedures						
Minor Subdivision	Article 5:4(b)	✓	✓	R	<D>	<A>
Major Subdivision – Preliminary Plat	Article 5:4(c)	✓	✓	R	<D>	<A>

Questions & Comments



RESOLUTION NO. PC2022-01

TITLE: A RESOLUTION OF THE PLANNING COMMISSION FOR THE TOWN OF GREEN MOUNTAIN FALLS, COLORADO, RECOMMENDING APPROVAL OF AN AMENDMENT TO THE TOWN'S MUNICIPAL CODE REGARDING ZONING AND SUBDIVISION

WHEREAS, the Town desires to update the Town's zoning and subdivision regulations currently located in Chapters 16 and 17 of the Town's Municipal Code; and

WHEREAS, the Town initiated a project in 2020 to update such regulations; and

WHEREAS, the Town has received grant funding support from the Colorado Department of Local Affairs ("DOLA") and the Kirkpatrick Family Fund; and

WHEREAS, the deadline for spending funds to be reimbursed by the DOLA grant is December 31, 2022; and

WHEREAS, on December 6, 2022, the Planning Commission held a duly noticed public hearing, pursuant to C.R.S. § 31-23-206(1), related to revisions to Chapter 12 of the Town's Municipal Code, which replaces current Chapters 16 and 17, for Zoning and Subdivision respectively.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE TOWN OF GREEN MOUNTAIN FALLS, COLORADO, THAT:

Section 1. Chapters 16 and 17 of the Town's Municipal Code are hereby recommended for repeal and shall be replaced by a new Chapter 12 as attached hereto as **Exhibit A**.

PLANNING COMMISSION OF THE
TOWN OF GREEN MOUNTAIN FALLS,
COLORADO

Lamar Mathews, Chair

(SEAL)

ATTEST:

Nate Scott, Town Clerk/Treasurer

Green Mountain Falls

Land Use Code

December 2022 Draft

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Chapter 12: Land Use Code

Article 1: General Provisions

1. Applicability

After the effective date of this Land Use Code, all buildings, structures, and any portion thereof, and uses of land, whether existing or established after the effective date, shall be subject to the provisions of this Land Use Code, subject to the nonconformity provisions in Article 5:8.

2. Title and Short Title

This Chapter, as amended from time to time, shall be known and may be cited as the Town of Green Mountain Falls Land Use Code. It may also be referred to within this document as the "Land Use Code," "LUC," "Chapter 12," or "this Chapter."

3. Effective Date

This Chapter shall become effective on January 21, 2023.

4. Severability

If any of the provisions of this Land Use Code are declared invalid, the other provisions shall remain in full force and effect.

5. Official Zoning Map

(a) The location and boundaries of the zoning districts are hereby established on a map entitled "Official Zoning Map," as it may be amended from time to time, which accompanies and is hereby incorporated in and made a part of this Land Use Code.

(b) The Official Zoning Map shall be available on the Town's Website.

6. Transition Rules

(a) Development Approvals

i. Any development approved under regulations in effect prior to the effective date of this Chapter may be carried out under the terms and conditions of the approval and the development standards in effect at the time of approval, provided the approval has not expired and the development complies with any applicable standards of this Chapter regarding ongoing operations and maintenance.

ii. If the prior approval expires, is revoked, or otherwise becomes invalid, any subsequent development of the site shall be subject to the procedures and standards of this Chapter.

(b) Pending Applications

A development application that has been determined and documented to be complete pursuant to Staff, prior to the effective date of this Chapter may be decided under the regulations in effect when the application was determined to be complete or may be reviewed and decided under this

Chapter at the request of the applicant. Applications shall not be processed under a combination of prior regulations and this Chapter.

(c) Prior Violations

- i. If a development or activity in violation of the prior development regulations fully complies with this Chapter, it shall no longer be deemed a violation.
- ii. Unpaid fees and/or penalties from prior enforcement of violations are still valid and shall remain the responsibility of the violator under the prior regulations, unless otherwise waived by the Town.

Article 2: Districts

1. Zoning Districts

Zoning districts and associated purpose statements are established as shown in Table 2-1.

Table 2-1: Zoning Districts	
Zoning District	Purpose Statement
R-1 – Low-Density Residential ¹	The R-1 district is intended to accommodate low-density residential uses with complementary accessory uses. It is further intended that such a development be served with institutional uses and community facilities compatible with the character of the zone.
R-2 – Medium-Density Residential ²	The R-2 district is intended to accommodate medium-density residential uses with a range of accessory, institutional, and community facility uses.
MX-1 – Mixed Use ³	The MX-1 district is intended to accommodate primarily commercial and institutional uses with limited residential uses at a neighborhood scale.
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PUD – Planned Unit Development ⁵	The PUD district is intended to encourage imaginative concepts in urban design and land development and grant substantial additional benefit to the Town that would not otherwise be required by this LUC.
DV-O – Downtown Village Overlay ⁶	The DV-O district is intended to promote a more expansive and vibrant downtown area oriented for pedestrian use with high-quality architecture.

¹ Combination of current R-1 and 5-A districts. It would lower the five-acre minimum lot size requirement substantially and broaden the district to a variety of low-density residential uses.

² Carry over of current R-2 district.

³ Combination of current B and PF districts. It would create a broader district that can be used for a variety of mixed-use developments.

⁴ Renaming of current PL district to allow both public and private open space in the same district.

⁵ Carry over of current PUD district.

⁶ New overlay to promote comprehensive plan goals.

Table 2-1: Zoning Districts	
Zoning District	Purpose Statement
HP-O – Historic Preservation Overlay ⁷	The HP-O District is intended to protect, preserve, and enhance structures of cultural, social, economic, political, architectural, or historic significance.

2. District-Specific Standards

(a) DV-O, Downtown Village Overlay⁸

The following standards shall apply to all new development in the DV-O district.

i. Parking

Developments in the DV-O district that contain at least 50 percent commercial uses may reduce the amount of parking required in Article 4:7 by 25 percent.

ii. Maximum Height

Developments in the DV-O district that contain at least 50 percent commercial uses may exceed the maximum height requirements in Article 4:1 by an additional 12 feet.

iii. Pedestrian-Orientated Site Features

- (1) To the maximum extent practicable, the area located outside of the right-of-way between a building and a street shall promote visual and pedestrian access onto the site and provide pedestrian-oriented amenities and landscaping to enhance the patron's or public's use of the space for passive activities such as resting, reading, and/or eating.
- (2) At least one primary pedestrian entrance shall be provided for every façade facing a street.

iv. Design

- (1) Primary buildings shall be constructed of high quality, durable materials including but not limited to stone, brick, masonry, or wood.
- (2) The use of asphalt shingles, imitation stone, imitation brick, exterior insulation finish systems (EIFS), or vinyl siding is prohibited on any street-facing building façade.
- (3) Each street-facing façade, regardless of exterior wall plane setback, shall incorporate two or more of the following elements for every 60 horizontal feet:

⁷ New overlay to map historic preservation properties.

⁸ These standards are one part incentives and one part additional design requirements that seek to achieve the goals in the Comp Plan related to spurring additional pedestrian-oriented, high-quality development downtown.

- (a) Projections, recessions, or reveals such as, but not limited to, columns, pilasters, cornices, and bays, and having a change of wall plane that is a minimum of six inches in depth;
 - (b) Change in texture and/or masonry patterns; and/or
 - (c) Awnings or canopies extending at least four feet beyond the building face with a minimum vertical clearance of nine feet above the sidewalk. Glowing awnings (backlit, light showing through the material) are not permitted.
- (b) HP-O, Historic Preservation Overlay
 - i. Design Standards

The Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, a section of the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 C.F.R. Part 68, 1995), shall be hereby adopted and be design requirements for the HP-O district, excepting any standards relating to aesthetic paint color schemes.
 - ii. Maintenance Requirements
 - (1) The City intends to preserve from deliberate or inadvertent neglect the exterior portions of designated properties and all interior portions thereof whose maintenance is necessary to prevent deterioration of any exterior portion.
 - (2) No owner, lessee, or occupant of any historically designated property shall fail to prevent significant deterioration of the exterior of the structure or special feature beyond the condition of the structure on the effective date of the designating ordinance.

Article 3: Uses

1. Permitted Uses Table

- (a) A "X" in a cell of the Permitted Use Table indicates that the use is permitted by right in that zoning district, subject to compliance with any Use-Specific Standards cross-referenced in the right-hand column of that line of the table.
- (b) A "C" in a cell of the Permitted Use Table indicates that the use is permitted only after the petitioner obtains Conditional Use approval pursuant to Article 5:3(d), and subject to any Use-Specific Standards cross-referenced in the right-hand column of that line of the table.
- (c) An "A" in a cell of the Permitted Use Table indicates that the use is permitted as an accessory use only in support of a permitted use on the site, and subject to any Use-Specific Standards cross-referenced in the right-hand column of that line of the table.

- (d) A "T" in a cell of the Permitted Use Table indicates that the use is permitted as a temporary use only after a temporary use permit is obtained pursuant to Article 5:3(f), and subject to any Use-Specific Standards cross-referenced in the right-hand column of that line of the table.
- (e) An "*" indicates that a Use-Specific Standard cross-referenced in the right-hand column of the table applies to the use.
- (f) A blank cell in the Permitted Use Table indicates that the use is not allowed in that zoning district.
- (g) When a proposed land use is not explicitly listed in Table 3-1: Permitted Use Table, the use is not permitted in any district.

2. Unlisted Uses

When a proposed primary, accessory, or temporary land use is not explicitly listed in the Permitted Uses Table, the use is not permitted in the Town, unless Staff determines that it is included in the definition of a listed use or is so similar to a listed use that it shall be treated as the same use. Staff shall make that determination based on a comparison of the size, scale, operating characteristics, multi-modal traffic impacts, storm drainage impacts, utility impacts, and neighborhood impacts of the proposed use with other uses listed in the Permitted Uses Table. Staff's interpretation shall be made available to the public and shall be binding on future decisions of the Town until this LUC is amended to treat the use differently.

Table 3-1: Permitted Uses Table

X = use by right; C = conditional use; A = accessory use; T = temporary use; Blank cell = prohibited; Uses with an * = use-specific standards apply

Zoning Districts	R-1	R-2	MX-1	O	Use-Specific Standards
Residential Uses					
Dwelling, Single Family Detached	X	X	C		
Dwelling, Attached	X	X	C		
Dwelling, Duplex	X	X	C		
Dwelling, Triplex	C	X	C		
Dwelling, Fourplex		C	C		
Dwelling, Multifamily		C	C		
Group Home, Large		C	C		
Group Home, Small		C	C		

Table 3-1: Permitted Uses Table

X = use by right; C = conditional use; A = accessory use; T = temporary use; Blank cell = prohibited; Uses with an * = use-specific standards apply

Zoning Districts	R-1	R-2	MX-1	O	Use-Specific Standards
Manufactured Home Park*		C			Article 3:3(a)i
Nursing Home		C			
Public, Institutional, and Civic Uses					
Art Gallery, Museum, and Library			X	C	
Community Center		C	X		
Community Garden*	C	C	X	C	Article 3:3(b)i
Day Care Facility			C		
Funeral Home			C		
Medical Facility			C		
Parks and Open Space	X	X	X	X	
Places of Worship	X	X	X		
School		C	C		
Commercial Uses					
Adult Entertainment*			C		Article 3:3(c)i
Animal Shelter			C		
Automotive Center and Services			C		
Bar or Brewery			X		
Bed and Breakfast	C	C	X		
Business or Personal Service	C	C	X		
Fast Food Restaurant			C		
Fueling Station			C		
Hotel or Motel			X		
Indoor Entertainment or Recreation			C		

Table 3-1: Permitted Uses Table

X = use by right; C = conditional use; A = accessory use; T = temporary use; Blank cell = prohibited; Uses with an * = use-specific standards apply

Zoning Districts	R-1	R-2	MX-1	O	Use-Specific Standards
Office			X		
Outdoor Entertainment or Recreation			X	C	
Parking Garage			C		
Parking Lot			C		
Retail, Small		C	X		
Retail, Large			C		
Restaurant		C	X		
Self Service Storage Facility			C		
Veterinary and Animal Services			C		
Utility, Communication, and Energy Uses					
Commercial Wireless Telecommunications Service			C	C	
Communication Tower			C	C	
Utility, Major			C		
Utility, Minor	C	C	C	C	
Solar Collector, Ground- or Building-Mounted*	A	A	A		Article 3:3(d)i
Wind Energy Conversion System, Ground- or Building-Mounted*	A	A	A		Article 3:3(d)ii
Accessory Uses and Structures					
Accessory Dwelling Unit*	A	A	A		Article 3:3(e)i
Barns, Sheds, and Outbuildings	A	A	A	C	
Drive-in Facility			A		
Electric Vehicle Charging Station		A	A		

Table 3-1: Permitted Uses Table

X = use by right; C = conditional use; A = accessory use; T = temporary use; Blank cell = prohibited; Uses with an * = use-specific standards apply

Zoning Districts	R-1	R-2	MX-1	O	Use-Specific Standards
Greenhouse	A	A			
Home Occupation*	A	A	A		Article 3:3(e)ii
Outdoor Eating Area*		A	A		
Urban Agriculture	A	A	A		
Recreational Vehicle Parking		A			
Short-Term Rental*	A	A	A		Article 3:3(e)v
Temporary Uses					
Carnival or Festival*			T	T	Article 3:3(e)iv
Food Truck			T	T	
Garage Sale	T	T			
Seasonal Sales			T	T	

3. Use-Specific Standards

(a) Residential Uses

i. Manufactured Home Park

- (1) Manufactured homes that are not installed on a permanent foundation shall be skirted with materials similar in color, texture, and appearance to the siding of the manufactured home.
- (2) Anchorages and tie-downs shall be provided on each manufactured home space or lot to prevent overturning or uplift of the manufactured home.
- (3) All yard areas and other open spaces not otherwise paved or occupied by structures shall be landscaped and maintained.
- (4) In cases where the owner of a manufactured home community intends to change the use resulting in expiration or termination of resident occupancy, the owner shall mail each resident written notice of his intent at least 18 months prior to the change of use.

(b) Public, Institutional, and Civic Uses

i. Community Garden

- (1) Greenhouses and hoop houses are limited to a maximum height of 15 feet, shall be located at least 10 feet from any lot line, and may not cover more than 25 percent of the property.
 - (2) Retail sales shall be prohibited on the Community Garden site, except for the sale of produce grown on that site.
 - (3) The site drainage and maintenance shall prevent water and fertilizer from draining onto adjacent property that is not part of the contiguous land in the urban agricultural use.
 - (4) Refuse and compost areas shall be enclosed at ground level to be rodent-resistant.
 - (5) No outdoor work activity that involves power equipment or generators may occur between sunset and sunrise.
- (c) Commercial Uses
- i. Adult Entertainment
 - (1) All Adult Entertainment uses shall be located not less than 750 feet from an R-1 or R-2 district boundary, Place of Worship or School.
 - (2) No Adult Entertainment establishment shall locate within 750 feet of another Adult Entertainment use.
 - (3) For the purposes of this use the distance shall be a horizontal measurement from the nearest district boundary or lot line of a Place of Worship, School, or another Adult Entertainment use to the nearest point on the lot line of the lot where the Adult Entertainment use is proposed.
- (d) Utility, Communication, and Energy Uses
- i. Ground- or Building-Mounted Solar Collectors

Accessory ground-mounted 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) 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.
 - ii. Wind Energy Conversion System (WECS), Ground or Building Mounted
 - (1) A ground-mounted WECS located on a single lot shall be set back from each property line at least 1.1 times the total height of the WECS.

- (2) A WECS that is placed on a primary or accessory structure and does not exceed the maximum height in the applicable zoning district shall meet the minimum setback for the primary or accessory structure in the zoning district where it is located.
 - (3) The blades of a WECS placed on a primary building shall not extend beyond the property line in any operational position.
 - (4) Each ground-mounted WECS with blades that spin on a horizontal axis and with a height of more than 100 feet shall not be located within 600 feet of any State wildlife management areas, wetlands, and flood control reservoirs.
- (e) Accessory Uses and Structures and Temporary Uses
 - i. Accessory Dwelling Unit
 - (1) Accessory Dwelling Units shall only be permitted on lots greater than 5,000 square feet.
 - (2) There shall be no more than one Accessory Dwelling Unit on a lot.
 - (3) An Accessory Dwelling Unit must not contain more than 1,000 square feet of gross floor area.
 - (4) No portion of a lot on which an Accessory Dwelling Unit is located may be subdivided from or legally described differently than, the lot containing the primary residential unit, and no portion of a structure containing an Accessory Dwelling Unit may have ownership different from the ownership of the primary dwelling unit.
 - (5) There shall be one additional off-street parking space provided for the Accessory Dwelling Unit.
 - (6) Recreational vehicles may not be used as Accessory Dwelling Units.
 - ii. Carnival or Festival

Parking and traffic mitigation requirements shall be determined by Staff on a case-by-case basis.
 - iii. Home Occupations
 - (1) The Home Occupation shall not involve internal or external alterations or construction features not normally found in dwellings.
 - (2) Home occupations that involve the boarding animals shall be limited to six animals at any one time.
 - (3) No Home Occupation may use a mechanical equipment or process that creates noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises, including those that create visual or audible interference on any radio or television receiver located off the premises.

- (4) No exterior storage of equipment or materials in connection with the Home Occupation and no display of products, goods, or services that is visible from outside the dwelling unit are permitted.
- iv. Outdoor Eating Area

Outdoor Eating Areas shall not interfere with pedestrian access to any public or private door, shall provide at least 36 inches wide of unobstructed sidewalk for pedestrian traffic, and shall not obstruct required parking or parking lot circulation.
- v. Short-Term Rentals
 - (1) Short-Term Rentals shall require a permit in accordance with Chapter 5 Article VII of the Town Municipal Code and meet all requirements therein.
 - (2) The use of outdoor wood-burning fire pits shall be prohibited for all short-term rentals.

Article 4: Dimensional and Development Standards

1. Dimensional Standards

Dimensional standards are required as shown in Table 4-1.

Table 4-1: Dimensional Standards					
District	R-1		R-2	MX-1	O
	Lots < 10,000 sq. ft.	Lots > 10,000 sq. ft.			
Minimum Lot Dimensions					
Lot Area	5,000 sq. ft.	10,000 sq. ft.	4,000 sq. ft.	1,500 sq. ft.	None
Lot Width	50 feet	100 feet	40 feet	None	None
Minimum Building Setbacks in Feet					
Front	15		15	0	None
Side	5	10	5; 0 with Firewall	5; 0 with Firewall	None
Rear	10		10	5	None
Maximum Building Height in Feet					
Primary Structure	35		35	45	25
Accessory Structure	25		25	25	25
Maximum Density					
Residential units per acre	11 units/acre		18 units/acre	16 units/acre	None

2. Setback from Waterways

No fences or structures shall be within five feet from any waterway including streams, river, creeks, gullies, springs, and washes, measured from the waterways highest seasonal point except as stated in Article 4:6(e)iii.

3. Application of Setbacks

- (a) No structure or use shall be located in a required setback or in areas designated for private or common open space on an approved Site Plan.

- (b) The required front setback shall be measured and provided from the right-of-way line or private roadway as applicable to the structure or use.
 - (c) On a corner lot, the owner shall designate one street frontage as the front lot line, and all other street frontages shall be designated as side street lot line(s).
 - (d) On corner lots where potential front and side lot lines create a continuous curve, a radial line intersecting the midpoint of the curve shall be deemed the boundary between the yards.
- 4. Exceptions to Dimensional Standards
 - (a) Steeples, bell towers, chimneys, roof-mounted mechanical equipment, elevator equipment enclosures, and similar architectural and mechanical elements, may exceed the maximum height of the applicable zoning district by no more than six feet of the applicable maximum height.
 - (b) Porches, balconies, canopies, stairways, steps, and necessary landings and decks, covered patios, enclosed courts, eaves, awnings, bay windows, fire escapes, chimneys, and steps may exceed the minimum setback of the applicable zoning district by no more than 33 percent of the depth of a minimum yard or setback that is required along a front, side, or rear lot line, but not closer than four feet to a side lot line.
 - (c) Signs, fences, and gasoline pumps shall be permitted in front, side, or rear setbacks.
- 5. Fences
 - (a) Barbed wire fencing is not permitted in any district.
 - (b) Fences in a front yard shall not exceed 48 inches in height, except for fences in non-residential areas that are necessary for security as determined by Staff.
 - (c) Except as otherwise provided for within this Section, no fence shall exceed 72 inches in height, except for fences around tennis courts, baseball fields, or other similar public recreational uses.
 - (d) Utility, Communication, and Energy uses shall be permitted fences up to 96 inches in height.
 - (e) Fences shall only be constructed within the applicable property line and shall not be constructed on or over any public easements but may be constructed within a required setback.
 - (f) All fences shall be maintained in good working order by the property owner. In the event that a fence has not been maintained or has been damaged, the Town may require the owner to repair or remove the fence within 30 days of written notice or other reasonable time period as determined by the Town.
- 6. Sensitive Lands, Stormwater, and Drainage
 - (a) Applicability

This Section applies to all subdivision and site plan approvals unless Staff determines that review at the site plan stage is not necessary because the

application complies with avoidance and mitigation measures already applicable to the property due to prior development approvals.

(b) Administrative Adjustments

To better comply with the provisions of this Section while allowing for parcels to remain buildable, Staff may adjust the minimum lot size or lot width dimensions by up to 25 percent upon a determination that doing so would result in minimal disturbance to sensitive lands.

(c) General Requirement

Development of lands that are subject to periodic inundation, subsidence of the earth's surface, high water table, or have difficult topography, unstable soils, wetlands, or other natural or human-created hazards to life or property shall be avoided to the maximum extent practicable.

(d) Wetlands

- i. When there is a substantial likelihood of a wetland existing on a property proposed for development, Staff shall require, at the applicant's expense, a qualified consultant to study the property to determine the existence of a wetland and delineate the boundaries of the wetland on the applicable property.
- ii. No land-disturbing activity, mowing, or temporary or permanent structure shall be allowed within 25 feet of a Delineated Wetland.
- iii. A wetland buffer area extending 25 feet from a Delineated Wetland is required on all Delineated Wetlands.
- iv. Draining of a Delineated Wetland is prohibited.

(e) Stormwater

- i. Stormwater runoff from a construction site directed to a wetland shall be substantially free of silt and debris and shall be discharged at a rate that will not disturb vegetation or increase turbidity.
- ii. Increases in runoff from the 10-year and 100-year frequency storms due to development, redevelopment, or change of use activity on the site shall be detained within the development and released at a rate no greater than existed prior to the development.
- iii. No fences or structures shall be constructed across an open drainage channel or easement that will reduce or restrict the flow of water unless part of an approved retention or detention facility or a revocable permit has been approved to allow the fence or structure. If a revocable permit is required, conditions attached to that permit may require mitigation of impacts related to the crossing.
- iv. The Town may require any water course or stormwater management facility to be located within a dedicated drainage easement that provides sufficient width for maintenance.

(f) Drainage

- i. A stormwater management plan shall accompany an application for site plans involving an increase in impervious surface area except for accessory structures.
- ii. A stormwater management plan shall be prepared to address the impact a development will have on existing drainage facilities and to provide a basis for designing the storm drainage system within the development.

(g) Grading

Any land-disturbing activity that requires the grading of slopes, except the construction of public trails, shall meet the following standards:

- i. All unarmored and structurally unretained graded slopes and fills shall be limited to a 3:1 grade (three feet horizontal to one foot vertical).
- ii. Any graded or fill slope which exceeds a 3:1 grade shall be required to use universally accepted armoring techniques, or retaining structures as approved by the Town Engineer or, at the developers expense, certification by a licensed professional engineer stating that the slopes can be stabilized by plantings, vegetative seeding, mulching. In the instance of slope cuts that involve rock formations it may be required to be certified by a registered geologist.
- iii. Any graded or fill slope which exceeds a 3:1 grade shall be terraced at twenty-foot vertical intervals. Slopes graded between 2:1 and 3:1 shall have a minimum bench width of five feet. Slopes steeper than 2:1 shall have a minimum bench width of five feet and may be required to have wider benches upon Town Engineer determination.
- iv. Any graded slope which exceeds a 3:1 grade shall be grade staked before grading process begins.
- v. Maximum slopes proposed within a minimum of twenty feet of an established property line or any required setback adjacent to a property line shall be 3:1 tying into existing grades along perimeter or property line of the site or retained via retaining walls or other acceptable measures.

(h) Wildfires

Unless waived by Staff based on the applicant's demonstration of adequate alternative wildfire mitigation, the following standards are required for all new development and substantial improvements to existing development that require a building permit.

- i. Vegetation and tree canopies shall maintain a minimum clearance of 10 feet from any structure.
- ii. New development in areas designed as a risk of seven and higher in the wildland urban interface risk map as amended by the CO-WRAP Colorado Wildfire Risk Assessment Portal shall meet the

applicable standards of the most recent version of the International Wildland-Urban Interface Code unless excepted by Staff upon a showing of reasonable alternative fire mitigation.

- iii. The construction of new decks and fencing shall be of fire-resistant materials.

(i) Floodplains

i. Applicability

All new development and substantial improvements to existing development in a Special Flood Hazard Area as delineated by the most recent report available from the Federal Emergency Management Agency (referred to as the "floodplain" hereafter) shall comply with the standards in this section. If a building or structure lies partly within the floodplain, these standards apply to the entire building or structure lying within any portion of the floodplain.

ii. Referral Agency

The Town shall forward all applications subject to these floodplain standards to the Regional Floodplain Administration at the Pikes Peak Regional Building Department for review with applicable federal, state, and local floodplain regulations.

iii. Standards

- (1) All structures shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All structures shall be constructed with materials and utility equipment resistant to flood damage below the Floodplain Grade.
- (3) All structures shall be constructed to minimize flood damage.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at or above the Floodplain Grade or designed so as to prevent water from entering or accumulating within the components below the Floodplain Grade. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the Floodplain Grade.
- (5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Materials which are flammable, hazardous, toxic, or explosive, or that in times of flooding could be harmful to human, animal, or plant life may not be produced, stored, or processed in a floodplain.

7. Parking

(a) Minimum Parking Required

The number of off-street parking shall be provided as shown in Table 4-2.

Table 4-2: Minimum Parking Required

Use	Minimum Required Off Street Parking Spaces in All Districts
Residential Uses	
Dwelling, Single Family Detached	1 per dwelling unit
Dwelling, Attached	1 per dwelling unit
Dwelling, Duplex	1 per dwelling unit
Dwelling, Triplex	1 per dwelling unit
Dwelling, Fourplex	1 per dwelling unit
Dwelling, Multifamily	1.5 per dwelling unit
Group Home, Large	1 per 400 sq. ft.
Group Home, Small	1 per 400 sq. ft.
Manufactured Home Park	1 per dwelling unit, plus one guest space per every 2 dwelling units
Nursing Home	1 per 4 persons of design capacity
Public, Institutional, and Civic Uses	
Art Gallery, Museum, and Library	1 per 1,000 sq. ft.
Community Center	1 per 1,000 sq. ft.
Community Garden	None
Day Care Facility	1 per 6 persons of design capacity
Funeral Home	2 plus 1 per 800 sq. ft.
Medical Facility	1 per 600 sq. ft.
Parks and Open Space	None
Places of Worship	1 space per 5 seats in main assembly area
School	3 spaces per 1,000 sq. ft.
Commercial Uses	
Adult Entertainment	1 per 400 sq. ft.
Animal Shelter	1 per 400 sq. ft.
Automotive Center and Services	2 per service bay plus 1 per 200 sq. ft. of retail area
Bar or Brewery	1 per 300 sq. ft. of service area
Bed and Breakfast	1 per each guest room
Business or Personal Service	1 per 300 sq. ft.
Fast Food Restaurant	1 per 300 sq. ft.
Fueling Station	1 per 250 sq. ft. of retail sales area
Hotel or Motel	1 per 2 guest rooms
Indoor Entertainment or Recreation	1 per 400 sq. ft.
Office	1 per 300 sq. ft.
Outdoor Entertainment or Recreation	1 per 4 persons based on maximum capacity
Parking Garage	None

Table 4-2: Minimum Parking Required

Use	Minimum Required Off Street Parking Spaces in All Districts
Parking Lot	None
Retail, Small	1 per 250 sq. ft.
Retail, Large	1 per 400 sq. ft.
Restaurant	1 per 300 sq. ft.
School	1 per every 15 students plus 1 per full-time employee
Self Service Storage Facility	1 per 10 storage units
Veterinary and Animal Services	1 per 400 sq. ft.
Accessory Uses	
Accessory Dwelling Unit	1 per unit
Short-term Rentals	1 per every two bedrooms
Temporary Uses	
Determined on a case-by-case bases at time of permit issuance	

(b) Unlisted Uses

For uses not listed in Table 4-2, Staff is authorized to establish the minimum off-street parking requirement based off the listed use that is deemed most similar to the proposed use.

(c) Shared Parking

Where two or more uses listed share a Parking Lot or Garage, the total off-street parking requirement for those uses shown in Table 4-2 may be reduced by 25 percent. The total off-street parking required shall be the sum of the shared uses parking requirements for the uses eligible to share parking minus 25 percent. Shared parking reductions shall be approved by Staff.

(d) Parking Design and Layout**i. General Use Requirements**

- (1) No required off-street parking or loading space shall be used for any purpose other than the parking of vehicles.
- (2) Parking shall be prohibited in aisle ways, rights-of ways, fire lanes or similar areas not officially designated for parking purposes. These areas shall be posted with "No Parking" signs and/or other means as required by Staff.
- (3) Required parking spaces and areas shall not be used for the sale, display or repair of motor vehicles or other goods and services unless authorized by a temporary use permit.
- (4) Parking lots shall not be used for overnight occupancy and parking of recreational vehicles, campers, trailers, buses, vans, motor homes, moving vans, refrigerator trucks or similar vehicles, except as authorized by Staff.

ii. General Design Requirements

- (1) Parking spaces shall be a minimum of 20 feet in length and 8 feet in width.

- (2) All parking areas shall be properly graded for drainage and be surfaced with colored concrete, asphalt, or dust-free permeable materials such as permeable pavers, gravel, or other porous materials, or other surfacing as approved by Staff.
 - (3) Parking areas shall be designed to minimize conflicts with pedestrians and vehicles.
 - iii. Location of Parking Areas
 - (1) For single-family and duplex dwellings in all districts, off-street parking areas shall be located in a garage or on a driveway.
 - (2) When residential uses are located to the rear of a proposed commercial development on a corner site, parking and service areas may be located to the front or side of the building; provided, that they are adequately screened, so that the building acts as a buffer between the parking areas and residential uses.
 - (3) Required off-street parking, loading, and vehicle stacking spaces shall be located on the same lot as the principal use, except as otherwise provided in Article 4:7(b).
 - iv. Minimizing Vehicular and Pedestrian Conflicts

If vehicular and pedestrian conflicts are apparent, Staff may require an alternative design of parking areas to resolve potential conflicts.

(e) Loading Berths

Buildings with over 15,000 gross square feet shall provide a loading berth of at least 10 feet by 25 feet unless the applicant can demonstrate that the use in question is not of the type to warrant a loading berth.

8. Signs

- (a) Purpose. The purpose of this Section is to:
 - i. Protect the right to free speech by the display of protected message(s) on a sign, while balancing this right against public interests of preserving and protecting the public, health, safety and welfare within the Town;
 - ii. Reduce hazards that may be caused or worsened by driver, bicyclist, and pedestrian distraction caused by signs, especially those projecting along public rights-of-way or near roadway intersections;
 - iii. Preserve and enhance the aesthetic and environmental values of the community, while at the same time providing adequate channels of communication to the public; and

- iv. Regulate signs in in a content-neutral manner in accordance with the Town's policy and intent in a manner consistent with the U.S. and Colorado Constitutions, laws, and court decisions.
- (b) Signs Not Regulated. This Section shall not apply to:
 - i. Signs of a duly constituted governmental body, required to be maintained by law or governmental order, rule or regulation, including without limitation traffic or similar regulatory devices, address numerals, legal notices, warnings at railroad crossings, and other instructional or regulatory signs concerning public health, safety and welfare provided, that the copy and size of the sign do not exceed the requirements of such law, order, rule or regulation.
 - ii. Decorations associated with any national, local, or religious holiday; provided, that such signs shall be displayed for not more than 60 days in any given year.
 - iii. Signs located inside a building at least four feet away from any window through which the sign could be viewed from outside the building.
- (c) Prohibited Signs. The following signs shall be prohibited:
 - i. Signs attached to a tree or utility pole whether on public or private property.
 - ii. Signs located within a public right-of-way.
 - iii. Signs located in the vision clearance triangle or at any location where it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic.
 - iv. Flashing signs, signs emitting sound, rotating or moving signs, animated signs, signs with moving lights or signs that create the illusion of movement, except a sign whereon the current time or temperature is shown by intermittent lighting shall not be deemed to be a flashing sign. A sign that changes copy or color no more than once every four hours shall not be considered a flashing or moving sign.
 - v. Riders or attachments to signs.
- (d) General Requirements for All Signs
 - i. Unless otherwise provided for in this Section, signs may only be erected, altered, and maintained on the same lot as the permitted use(s) which the sign is appurtenant to.
 - ii. All signs shall be maintained and kept in good repair, including without limitation, the repair of glass, plastic or other sign face material that is missing, broken, damaged, or deteriorated; and the repair of any pole, frame support, or similar structure that is broken, damaged, or deteriorated.
- (e) Number of Permitted Signs

- i. A total of five signs are permitted per use except as stated in subsection ii below.
 - ii. The following signs shall be permitted in addition to the permitted signs allowed in each district:
 - (1) At each primary entrance to a residential subdivision, an additional two freestanding signs are permitted each with a maximum height of 6 feet and a maximum gross surface area 100 square feet.
 - (2) Signs located on sites where subdivision, development, redevelopment, initial construction or other major improvement of the property is under way shall be permitted an additional two freestanding, wall, or window signs that shall not exceed 64 square feet in total area nor 32 square feet per face and shall not exceed 8 feet in height.
- (f) Total Sign Area Allowed
- i. On arterial street frontages, the maximum sign area shall be two square feet of sign area for each linear foot of building frontage for the first 100 feet, then one-half square feet of sign area for each linear foot of building frontage thereafter as measured along the building frontage (the longest building frontage with a public entrance), up to the limit in Subsection iii below.
 - ii. On all other street frontages, the maximum sign area shall be one square feet of sign area for each linear foot of building frontage for the first 200 feet of building frontage; then one-half square feet of sign area for each linear foot of building frontage thereafter as measured along the building frontage (the longest building frontage with a public entrance), up to the limit in Subsection iii below.
 - iii. Maximum total sign area per use shall not exceed 600 square feet in any case.
 - iv. No individual sign shall exceed 200 square feet.
 - v. Each tenant or business is permitted one blade sign up to a maximum of six square feet in addition to the signs listed in Subsections i through iv above.
- (g) Maximum Height
- i. In the R-1 District, the maximum sign height shall be 6 feet.
 - ii. In all other districts, the maximum sign height shall be 12 feet.
- (h) Required Setback
- Unless stated otherwise in this Section, all signs on private property must be set back four feet from any public right of way and may not be placed in street medians, corner sight triangles or within a parking space.
- (i) Temporary Signs
- i. Two temporary signs are permitted per property.

- ii. Temporary signs shall not exceed 32 square feet in total surface area per use and shall comply with the applicable setback regulations for the district in which they are located.
- iii. Temporary signs shall remain in place for less than 30 days, except that Staff may, for good cause, extend the time up to 30 additional days upon written application. Only one temporary sign per applicant shall be permitted to exceed the 30-day limit in any calendar year, except by Conditional Use.

(j) Illuminated Signs

Illuminated signs shall be shaded to avoid casting bright light upon property in any residential district or upon any public street, park, public facility, or hospital facility.

(k) Message Substitution

A noncommercial message may be substituted for a commercial message on any sign permitted by this Section.

9. Subdivision Standards

(a) Applicability

This Section shall apply to all subdivisions and land divisions located wholly or partially within the Town unless specifically exempted otherwise.

(b) Subdivision Name

The proposed name of a subdivision shall be approved by staff and shall not use a word that is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the Town except for common locational terms like hills, court, etc.

(c) Adequate Public Facilities

i. Purpose

This Section establishes standards for required infrastructure improvements associated with any subdivision. To be adequate, facilities must be appropriate in type, availability, and capacity.

ii. Facilities

- (1) In a proposed subdivision, the required public facilities may include, but are not limited to, parks, boulevard trees, streets, sidewalks, public sanitary sewer and water extensions, storm water management facilities, soil erosion and sedimentation control, and monumentation. Other items that are necessary or material to the project, such as school sites, may be identified during the development approval process.
- (2) An applicant may seek to stage or phase development to link the timing of development with the adequacy of public

facilities. However, the Board of Trustees shall consider the demand for adequate public facilities generated by subsequent phases of the development and must require a development agreement as to the design and construction of on-site or off-site public or private facility improvements to serve those subsequent phases.

- (3) No development shall be approved unless the public facilities in existence or to be constructed pursuant to an executed development agreement are adequate to handle the demand on those public facilities generated by the development.
- (4) All new subdivision development shall connect to the Town water supply system.

iii. Improvements and Easements

- (1) Required improvements reasonably related to the development shall be installed at the sole expense of the applicant. Assessment of costs to subsequent users or public participation may in certain instances be applicable to a proposed project.
- (2) Bonds or surety deposits shall be required in the amount necessary to cover the cost of installation, unless waived in the development agreement prior to commencing activity involving the installation of public improvements.
- (3) Any unexpended portion of a surety deposit shall be returned to the applicant upon satisfactory completion of the public improvements.
- (4) Easements and/or deeds shall be granted, and rights-of-way dedicated to the public by the applicant as part of the development approval process or through separate instrument, which shall be in a form approved by the Town Attorney.
 - (a) Drainage easements needed for stormwater management shall be provided.
 - (b) Utility easements required by the various public and private utilities shall be provided.

iv. Utilities

All new utilities shall be placed and maintained underground, unless determined by the Town that extraordinary circumstances related to the physical condition of the property render undergrounding impossible. Such utilities shall be constructed within street rights-of-way or within easements dedicated for such use.

v. Street Design

- (1) Street connections shall be provided to adjoining undeveloped and/or underdeveloped lands within and outside the Town to allow future development to connect to a public street system.
 - (2) Street systems shall be designed to be through-streets. Permanent cul-de-sacs and dead-end streets shall only be used when topography, the presence of natural features, and/or vehicular safety factors make a vehicular connection impractical.
 - (3) Alleys are permitted and encouraged and shall:
 - (a) Be a minimum width of 20 feet; and
 - (b) Be dedicated to the Town.
- vi. Connectivity
 - (1) Sidewalks shall be required along both sides of all arterial, collector, and local streets including cul-de-sacs, and within and along the frontage of all new development unless such requirement is waived by Staff upon a showing of site constraints that make such requirement unduly burdensome.
 - (2) Sidewalks shall be constructed to comply with the Americans with Disabilities Act.
 - (3) Sidewalks shall be constructed of durable, smooth, and skid resistant material and a minimum width of five feet.
 - (4) Multi-use trails, separated from automobile traffic, at least 15 feet in width and approved by Staff, may be used in lieu of the sidewalk requirement.
- vii. Maintenance
 - (1) Maintenance of newly installed public facilities shall remain with the applicant for a period of two years from final inspection or as otherwise defined in an owner contract or development agreement.
 - (2) Following the expiration of the required maintenance period, the Town shall assume responsibility for maintenance and upkeep of public facilities upon the acceptance of such facilities in a form approved by the Town.

Article 5: Administration and Review Procedures

1. Summary Table of Review Procedures

Table 5-1 list the development application authorized by this Land Use Code, whether public notice is required, and the role of the Town review and decision-making bodies.

Table 5-1: Summary Table of Review Procedures						
✓ = Required; R = Review and Recommendation; D = Review and Decision; A = Appeal; < > = Public Hearing Required						
Procedure	Land Use Code Reference	Pre-Application Conference	Notice	Review and Decision-Making Bodies		
				Town Staff	Planning Commission	Board of Trustees
Development Permits						
Minor Site Plan	Article 5:3(c)	✓		D	<A>	
Major Site Plan	Article 5:3(d)	✓	✓	R	<D>	<A>
Conditional Use Permit	Article 5:3(e)	✓	✓	R	<R>	<D>
Temporary Use Permit	Article 5:3(f)	✓		D	<A>	
Subdivision Procedures						
Minor Subdivision	Article 5:4(b)	✓	✓	R	<D>	<A>
Major Subdivision – Preliminary Plat	Article 5:4(c)	✓	✓	R	<D>	<A>
Major Subdivision – Final Plat	Article 5:4(c)			R	<R>	<D>
Ordinance Amendments						
Rezoning	Article 5:5(a)	✓	✓	R	<R>	<D>
Rezoning to PUD	Article 5:5(b)	✓	✓	R	<R>	<D>
LUC Text Amendment	Article 5:5(c)		✓	R	<R>	<D>
Historic Preservation						
Landmark and District Designation	Article 5:6(a)		✓	R	<D>	<A>
Certificate of Approval	Article 5:6(b)			R	<D>	<A>
Flexibility and Relief						
Variance	Article 5:7(a)		✓	R	<D>	<A>
Minor Modification	Article 5:7(b)			As required for associated application		
Appeals	Article 5:7(c)		✓	As indicated in this Table 5-1		

2. Common Procedures

(a) Purpose

This section describes the standard procedures and rules applicable to all development applications unless otherwise stated in this Land Use Code.

Application-specific procedures in Article 5:3 through Article 5:7 identify additional procedures and rules beyond those in this section.

(b) Pre-Application Conference

i. Purpose

The pre-application conference is intended to provide an opportunity for the applicant to meet with Town staff to review submittal requirements, review procedures, and applicable Code standards associated with the proposed development.

ii. Procedure

- (1) The applicant shall submit a request for a pre-application conference to the Planning Department on a form prescribed by Staff.
- (2) Prior to scheduling the pre-application conference, the applicant shall submit the following:
 - (a) A written description of the project;
 - (b) Conceptual drawings showing the location, layout, and key elements of the proposed development;
 - (c) Specific uses, location of uses, and densities proposed;
 - (d) Proposed construction phasing, if applicable; and
 - (e) Location of required public improvements, if applicable.
- (3) When required or requested by the applicant, the Director shall schedule pre-application conferences and notify appropriate staff and the applicant of the time and location of the meeting.
- (4) Town staff attending the pre-application conference will identify initial concerns or issues the applicant should address related to the scope, features, and potential impacts of the project as they relate to this Chapter. Town staff will also indicate the approval procedures required for the proposed project.

(c) Application Submittal and Fees

- i. The application shall be submitted to the Planning Department on a form established by the Planning Department. The applicant bears the burden of demonstrating compliance with application requirements.
- ii. Staff may waive certain submittal requirements in order to reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. Staff may waive such requirements upon finding that the projected size, complexity, anticipated impacts, or other factors associated with

- the proposed development clearly, in their opinion, support such waiver.
- iii. Application fees shall be paid at the time of submittal according to the type of application on the development review fee schedule. The fee schedule shall be established by resolution of the Board of Trustees and reviewed periodically.
 - iv. In the event Staff determines that it is necessary to utilize the services of a consultant not on staff, Staff may impose additional fees associated with such outside consultant. Staff shall inform the applicant of the necessity to utilize the services of a consultant and the applicant may choose whether or not to proceed with the application.
- (d) Abandoned Applications and Withdrawal
- i. If an application has not been resubmitted to address staff-noted deficiencies within three months, such application shall be deemed abandoned and all fees forfeited. The applicant may request three additional months to address staff-noted deficiencies.
 - ii. After an application has been accepted, the applicant may withdraw the application at any time by submitting a letter of withdrawal to the Director. An applicant is not entitled to a refund of application fees for withdrawn applications. However, Staff may refund fees not expended during the first round of staff review if the application is withdrawn prior to preparation of any official written comments.
- (e) Minor Application Revisions
- An applicant may revise an application after receiving notice of compliance deficiencies following staff review, or on requesting and receiving permission from the Board of Trustees after that body has reviewed, but not yet taken action on, the application. Revisions shall be limited to changes that directly respond to specific requests or suggestions made by staff or the Board of Trustees, 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 Staff. All other application revisions shall be processed as a new application.
- (f) Concurrent Review
- Where possible without creating an undue administrative burden on the Town's decision-making bodies and staff, this Land Use Code intends to accommodate the simultaneous processing of applications for different permits and approvals that may be required for the same development project in order to expedite the overall review process.
- (g) Town Manager Review and Decision
- i. Department and Agency Referral Review

- (1) The Director shall distribute the complete application to the appropriate staff and other internal and external review agencies.
 - (2) Such review agencies shall provide comments to the Director within 10 days following the distribution.
 - ii. Staff shall submit recommendations and comments to the applicant.
 - iii. If an application is subject to Staff review and recommendation per Table 5-1, Summary Table of Review Procedures, Staff shall prepare a written staff report that summarizes the proposal, findings, and recommendations.
 - iv. Staff shall submit a copy of the staff report to the applicant and the applicable decision-making body, and shall make the staff report and related materials available for public review at least three calendar days prior to the hearing at which the application is scheduled to be heard.
- (h) Scheduling and Notice of Public Hearings
- i. If an application is subject to a public hearing per Table 5-1, Staff shall schedule the public hearing for either a regularly scheduled meeting or special meeting with the applicable body.
 - ii. All public hearings required by this Land Use Code shall be preceded by the notices identified in Table 5-1. Persons with specific issues or concerns regarding a proposed application are encouraged to contact the Planning Department in writing, by phone, or in person prior to the hearing.
 - iii. The Town shall be responsible for the accuracy of and proper publication and posting of notice of the public hearing. The applicant shall be responsible for mailing notice and maintaining the posted notice once posted on the site by the Town.
 - iv. Notice shall be either published, mailed, and/or posted depending on what is most appropriate for the application type.
 - (1) Required published or mailed notices shall:
 - (a) Identify the application type;
 - (b) Describe the nature and scope of the proposed project;
 - (c) Identify the location subject to the application;
 - (d) Identify the date, time, and location of the hearing being noticed;
 - (e) Identify where and when the application and associated materials may be inspected; and
 - (f) Indicate opportunity to appear at the public hearing.
 - (2) Published notice shall appear in a newspaper of general circulation in the Town at least 15 days prior to the scheduled hearing.

- (3) Mailed notices shall be sent by the applicant via first-class mail to all property owners as listed in the records of the county tax assessor's office within 200 feet of the subject property, as measured from property boundaries. Certified mail notice shall be returned to the Town.
 - v. Required posted notice shall include at least one sign on the subject property at least 15 days prior to the public hearing. The Town is responsible for posting the sign(s). The applicant is responsible for maintaining the sign(s) once erected. The sign(s) shall be clearly visible from adjacent streets or public rights-of-way and shall remain on the property until after the hearing.
 - vi. Staff may require additional signs based on access and configuration of the property.
 - vii. Required posted notice shall:
 - (1) Identify the application type;
 - (2) Describe the nature and scope of the proposed project;
 - (3) Identify the date, time, and location of the hearing being noticed; and
 - (4) Identify a telephone number for additional information.
 - viii. The applicant shall provide notice by certified mail, return receipt requested, to all mineral estate owners and lessees on the subject property for development applications in accordance with C.R.S. 24-65.5-103. Such 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 mineral estate owners and lessees shall be on the applicant.
- (i) Review and Decision
- i. The applicable review body shall approve, approve with conditions, or deny the application based on the approval criteria listed in this Section. The body may also continue the hearing.
 - ii. Decisions shall be in writing and shall clearly state reasons for the decision citing the applicable LUC provisions.
 - iii. General Approval Criteria
- Decision-making bodies shall review all applications submitted pursuant to this LUC for compliance with the following criteria along with any other application-specific criteria:
- (1) Complies with applicable requirements including this Land Use Code, Town, State, and Federal law;
 - (2) Consistent with any applicable adopted Town plans;
 - (3) Promotes the public health, safety, and general welfare;
 - (4) Minimizes or mitigates adverse impacts associated with the application;

- (5) Will not result in significant adverse impacts upon the natural environment including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated; and
 - (6) Will not result in significant adverse impacts upon other property in the vicinity of the subject property.
- (j) Post-Decision Actions and Limitations
 - i. Effective Date of Approval

Unless otherwise provided in this LUC, a decision made under this LUC shall be final 15 days from the date of the decision unless, prior to the expiration of that period, an appeal has been filed with the Town.
 - ii. Appeal

The applicant or an aggrieved party may file a written appeal regarding a decision made under this LUC, clearly stating the reasons for such appeal, within 15 days of the final action.
- (k) Modifications to Approvals
 - i. Development authorized by any approval under this article may incorporate minor changes from the approved plan, permit, or conditions of approval, as appropriate, without the need for a new application; provided, that Staff determines that the proposed changes:
 - (1) Comply with the standards of this LUC;
 - (2) Are necessary to meet conditions of approval; and
 - (3) Would not significantly alter the function, form, intensity, character, demand on public facilities, or impact on adjacent properties as approved with the administrative site/architectural plan.
 - ii. Any modification of an approved plan, permit, or condition of approval that Staff determines does not meet the criteria of this section above shall require a new application that is submitted and reviewed in accordance with the full procedure and fee requirements applicable to the particular type of the original application.
- (l) Expiration of Approvals
 - i. An application approval shall be valid as authorization for the approved activity unless it expires in accordance with expiration time periods provided in this LUC or the approval itself.
 - ii. A change in ownership of the land shall not affect the established expiration time period of an approval.
 - iii. The original decision-making body may grant extensions of the expiration time period for up to one year, following a written request that explains reasonable cause for such extension, prior to

the expiration date. The final approval authority shall determine whether or not there is reasonable cause for the requested extension. Further extensions shall be subject to the approval of the decision-making body for the original petition.

(m) Limitation on Subsequent Similar Applications

Following denial of an application, the decision-making body shall not decide on applications that are the same or substantially similar within one year of the previous denial. This waiting period may be waived by the decision-making body provided that:

- i. There is a substantial change to circumstances, or new information available, relevant to the issues or facts considered during the previous application review; or
- ii. The new application is materially different from the previous application.

3. Development Permit Procedures

(a) Applicability

Development review is required prior to the issuance of a building permit and construction of physical improvements. Development review is required for all development except interior alterations or improvements that do not increase parking requirements or alter exterior portions of a building.

(b) General Requirements

- i. The requirements of this section shall be in addition to those in Table 5-1 and Article 5:2 including the criteria for approval for all applications in Article 5:2(i)iii.
- ii. During consideration of an application, the Town may consider alternative potential conditions, and no discussion of potential conditions shall be deemed an attempt or intent to impose any condition that would violate the State or Federal constitutions, statutes, or regulations. Discussions of potential conditions to mitigate the impacts of a development do not reflect actions by the Town unless and until the Town takes formal action to attach that condition to a development approval.
- iii. All conditions imposed by the Town as a part of the approval process shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this Land Use Code.
- iv. Where mitigation of the impacts of a proposed plan or development requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, any condition imposed shall include an individualized determination and shall be roughly proportional in nature and extent to the anticipated impacts

of the proposed development, as shown through an individualized determination of impacts.

(c) Minor Site Plan

i. Applicability

A minor site plan is required for any of the following activities:

- (1) Construction of accessory structures of less than 200 square feet;
- (2) Construction of a sign, fence, or retaining wall;
- (3) Construction of or substantial reconstruction of a deck;
- (4) A change in use that involves or requires site improvements;
- (5) Any expansion, alteration, or modification of a lawful nonconforming site feature or building;
- (6) Expansions, alterations, or modifications that increase the gross floor area of an existing structure by no more than 25 percent; and
- (7) The alteration of any vehicular parking area.

ii. Expiration

Approval of a minor site plan shall be effective for a maximum period of three years unless, upon petition by the petitioner, Staff grants an extension due to factors outside of the applicant's control.

(d) Major Site Plan

i. Applicability

A Major Site Plan is required for any development that exceeds the minor site plan review thresholds in Article 5:3(c)i.

ii. Expiration

Approval of a minor site plan shall be effective for a maximum period of three years unless, upon petition by the petitioner, Staff grants an extension due to impacts on the development outside of the applicant's control, which caused such delay, but not including economic conditions.

(e) Conditional Use Permit

i. Applicability

No use classified as a Conditional Use in Table 3-1 may be conducted without first obtaining a Conditional Use permit under this Section. No Conditional Use shall be conducted except in compliance with all applicable provisions of this Land Use Code and with any conditions upon such conditional use approval.

ii. Additional Criteria

In addition to the criteria in Article 5:2(i)iii, applications for a Conditional Use permit shall also:

- (1) Be consistent with the purpose and intent of the zoning district in which it is located;
- (2) Be generally consistent with any related use-specific standards;
- (3) Be compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts); and
- (4) Provide adequate assurances of continuing maintenance.

iii. Expiration

A Conditional Use permit granted pursuant to the provisions of this section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure that was the subject of the Conditional Use permit application. Any proposed revisions or changes to an approved Conditional Use permit application shall be submitted in the same manner, and subject to the same approval process, as the original review.

(f) Temporary Use Permit

i. Applicability

No use classified as a temporary use in Table 3-1 may be conducted without first obtaining a temporary use permit under this Section. No temporary use shall be conducted except in compliance with all applicable provisions of this Land Use Code and with any conditions upon such conditional use approval.

ii. Expiration

- (1) A temporary use permit shall be valid beginning on the date specified on the permit and shall remain valid for the time period indicated on the permit.
- (2) Before the expiration of a temporary use permit, the permittee shall disconnect all temporary uses and structures, and associated property and equipment, and free the temporary use site from all trash, litter, and debris to the satisfaction of Staff.

4. Subdivision Procedures

(a) General Requirements for All Subdivisions

- i. Until a final plat of a subdivision has been approved in accordance with these regulations, no division of land either by recording a plat, conveyance, or other similar action which by definition constitutes a subdivision shall be permitted.
- ii. The applicant shall not record a plat unless the plat has been approved by the Town. Any offer to sell, contract to sell, sale or

deed of conveyance of a major or minor subdivision or any part thereof before a final plat, in full compliance with the provisions of these regulations, has been duly recorded in the office of the county recorder shall be a violation of this Land Use Code.

- iii. All final plats, including amendments thereto, shall be recorded in the county to which the property is located.

(b) Minor Subdivision⁹

i. Applicability

Minor subdivisions shall only be permitted when:

- (1) A plat has previously been approved for the property;
- (2) The proposed subdivision would create two or fewer lots or creates condominium units within a single plat;
- (3) The proposed subdivision would not require land dedication or dedication of public improvements; and
- (4) The application is for one of the following:
 - (a) Boundary or lot line adjustments to an approved final plat including lot line eliminations;
 - (b) Vacations that do not include improved streets;
 - (c) Condominiumization of units within an existing building;
 - (d) A minor change to an approved plat to address engineering or technical constraints with no material effect on the plat and no relocations of streets or rights-of-way; or
 - (e) Corrections of errors on an approved final plat.

ii. Plat Submittal

Minor subdivisions shall require the submittal and approval of a final plat, replat, condominium plat, or amendment to an existing final plat as applicable. All plats approved as a minor subdivision shall be recorded.

iii. Additional Criteria

- (1) In addition to the criteria in Article 5:2(i)iii, applications for a minor subdivision shall also:
 - (a) Demonstrate that the layout of lots, streets, driveways, utilities, drainage facilities, and other services within the proposed subdivision meets the Town's standards related to health and safety and minimizes the amount of land disturbance, maximizes the amount of open space in the

⁹ This amended procedure attempts to clarify which types of applications are eligible for a minor subdivision and eliminates procedures that were duplicative/contradictory (e.g., the current Code allows condominiumization through this process and its own process, same with vacations).

- development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Land Use Code;
- (b) Does not result in the creation of lots that cannot be built under this Chapter;
- (c) Does not affect a recorded easement without approval from the easement holder;
- (d) Provides all required in-lieu fees; and
- (e) Will not limit the Town's ability to effectively provide facilities or services to all lots involved.
- (2) In addition to the criteria above, when a minor subdivision involves a vacation, the application shall also demonstrate that:
 - (a) No roadway proposed to be vacated would leave any adjoining land without a means of access to another public road; and
 - (b) A subdivision plat does not involve lots that have been sold or transferred; or, if there have been sales or transfers, no development on any lots in the subdivision and all of the owners agree to the vacation of the plat.
- (c) Major Subdivision
 - i. Applicability

A major subdivision is required for all land divisions that are not eligible for a minor subdivision.
 - ii. Preliminary Plat
 - (1) A preliminary plat shall be required for all major subdivisions that shows the overall character, proposed layout of land, and provisions of facilities.
 - (2) Additional Criteria
 - (a) In addition to the criteria in Article 5:2(i)iii, applications for a preliminary plat shall also:

- (i) Provide lots, roads, driveways, utilities, drainage facilities, and other services that are designed to minimize the amount of land disturbance, maximize connectivity, maximize the amount of open space, and preserve sensitive areas;
 - (ii) Provide adequate mitigation to areas in natural hazard areas and that proposed uses of these areas are compatible with such conditions;
 - (iii) Show location of public water and sewer system connections;
 - (iv) Provide a clear assumption of responsibility for maintaining roads, open spaces, and other public and common facilities in the subdivision; and
 - (v) If proposed in phases, the plat proposes reasonable phasing for providing required infrastructure.
- (b) In addition to the criteria above, when a subdivision involves a vacation, the application shall also demonstrate that:
 - (i) No roadway proposed to be vacated would leave any adjoining land without a means of access to another public road; and
 - (ii) A subdivision plat does not involve lots that have been sold or transferred; or, if there have been sales or transfers, no development on any lots in the subdivision and all of the owners agree to the vacation of the plat.

iii. Final Plat

- (1) Following approval of a preliminary plat, a final plat shall be required for all major subdivisions that reflects any changes required at the preliminary plat stage and demonstrates conformance with the requirements of this LUC.
- (2) Additional Criteria

In addition to the criteria in Article 5:2(i)iii, applications for a final plat shall also demonstrate compliance with the approved preliminary plat including any conditions of approval.

5. Ordinance Amendment Procedures

- (a) Rezoning
 - i. Applicability

A rezoning is required for all proposals requesting to change the zoning district classification of a parcel of real property to a different zoning district classification.

ii. Additional Criteria

In addition to the criteria in Article 5:2(i)iii, applications for a rezoning shall also:

- (1) Be consistent with the purposes of the underlying zoning district where the development is proposed;
- (2) Ensure that future uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property; and
- (3) Be consistent with the Town's economic development goals and objectives to bring positive growth and sustainable revenues to the Town.

(b) Rezoning to Planned Unit Development (PUD)

i. Applicability

- (1) The PUD procedure shall not be used when a conditional use, variance or rezoning to a base zoning district could achieve a similar result.
- (2) An application to rezone to PUD may be submitted for any tract of land, or contiguous parcels of land, within any combination of zoning districts, held under single ownership or under unified control.
- (3) The PUD shall be overlaid on the existing base district(s).

ii. Effect of Approval

The regulations of this LUC shall remain applicable to areas within a PUD district unless expressly modified by the approved PUD.

iii. Expiration

A PUD shall remain valid until a PUD is subsequently amended or rezoned to another zoning district.

iv. Map Revision

Following approval of a rezoning to PUD, the Official Zoning Map shall be revised to show the PUD overlay.

v. Recording

The PUD plan and zoning amendment shall be recorded with the County Clerk and Recorder.

vi. Additional Criteria

In addition to the criteria in Article 5:2(i)iii, applications for a rezoning to PUD shall also:

- (1) Address a unique situation, provide substantial benefits to the Town, or incorporate innovative design that achieves a higher quality standard than could otherwise be achieved through strict application of a base zoning district; and
 - (2) Provide a variety of housing types and densities, if residential is proposed as part of the PUD.
 - vii. Minor Amendments
 - (1) Minor amendments to an approved PUD plan may be approved by Staff if the proposed amendments do not:
 - (a) Change the ratio of residential units to square feet of non-residential building square footage by more than 10 percent.
 - (b) Increase the number of residential units by more than 10 percent.
 - (c) Increase the gross square footage of non-residential building area by more than 10 percent.
 - (d) Change the allowed uses listed in the approved PUD plan.
 - (e) Change the number or location of vehicular access points in such a way that negatively impacts public safety or the flow of traffic into public streets.
 - (2) Any amendment that is not considered minor shall require the same approval process as the creation of the PUD.
 - (c) Land Use Code Text Amendment
 - i. Applicability

The zoning text amendment procedure applies to all proposals requesting to change the text of this Land Use Code.
 - ii. Additional Criteria

In addition to the criteria in Article 5:2(i)iii, applications for a Land Use Code text amendment shall also:

 - (1) Be compatible with current conditions and the character of current structures and uses in each zoning district;
 - (2) Promote the most desirable use of land in each zoning district;
 - (3) Promote the conservation of sensitive environmental features; and
 - (4) Support responsible development and growth.
- 6. Historic Preservation¹⁰
 - (a) Landmark and District Designation
 - i. Relationship to Rezoning Procedure

¹⁰ These procedures replace the current historic preservation procedures for a more modern and simplified approach.

Notwithstanding any explicit language stating otherwise, the process in this Article 5:6 shall apply to the designation of landmarks and historic districts.

ii. Mapping

Designated landmarks and historic districts shall be mapped as the HP-O district on the Official Zoning Map. References to the HP-O district and designated properties shall be synonymous.

iii. Application Submittal

Every owner of record shall consent to and sign the application for designation.

iv. Additional Criteria

In addition to the criteria in Article 5:2(i)iii, applications for the designation of landmarks shall be at least 50 years old and average at least 50 years old in the case of districts and meet at least one of the following criteria:

- (1) The landmark or district is associated with cultural, artistic, social, ethnic, economic, or political heritage.
- (2) It includes the site of a significant historic event.
- (3) It is identified with a person who significantly contributed to the cultural, artistic, social, ethnic, economic, or political heritage.
- (4) It portrays a historic era characterized by a distinctive architectural style.
- (5) It is identified as the work of an architect or master builder whose individual work has influenced the development of Town, County, the State of Colorado, or the United States.
- (6) It embodies elements of architectural design, detail, materials, or craftsmanship that represent a significant architectural innovation.
- (7) It possesses significant archeological value that has produced or is likely to produce data affecting theories of historic or prehistoric interest.

v. Limitation on Resubmittal of Applications

If an application for designation is denied, applications shall not be considered on a new application that is the same or substantially the same for one year from the date of the denial.

vi. Removal of a Designation.

- (1) Designations may be amended or rescinded by the same procedure set forth in this Article 5:6.
- (2) The Applicant must demonstrate that the designation no longer meets the criteria in this Article 5:6.

- (b) Certificate of Approval
 - i. Applicability
 - (1) General Requirements
 - (a) No person shall carry out or permit to be carried out on a designated property any addition, alteration, relocation or demolition of a building or other designated feature without first obtaining a certificate of approval except maintenance shall not require a certificate of approval.
 - (b) A certificate of approval shall not affect the zoning of the property and the property shall remain in the HP-O district as designated.
 - ii. Review Criteria
 - (1) In addition to the criteria in Article 5:2(i)iii, applications for a certificate of approval shall meet the Secretary of the Interior's Standards for Rehabilitation.
 - (2) In addition to the requirements in Article 5:6(b)ii(1), when a certificate of approval includes the relocation of a designated structure, the following additional criteria shall be met:
 - (a) A structural report submitted by a licensed structural engineer adequately demonstrating that the structure can be moved without significant damage to its physical integrity;
 - (b) A relocation plan that includes posting a bond, insurance, or other security, approved by the city attorney, sufficient to ensure safe relocation, preservation and repair, if required, of the structure; and
 - (c) Designated properties should be moved only when there is no feasible alternative for preservation. When a property is moved, every effort should be made to reestablish its historic orientation, immediate setting, and general environment.
 - (3) In addition to the requirements in Article 5:6(b)ii(1), when a certificate of approval includes demolition of part or the entire designated structure, the following additional criteria shall be met:
 - (a) The structure or portion of the structure proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure;
 - (b) The structure or portion of the structure being demolished cannot be rehabilitated or reused on site

to provide for any reasonable beneficial use of the property; and

- (c) The designated structure or portion of the structure being demolished will be replaced with a structure that meets the applicable standards of the HP-O district.

iii. Amendments

- (1) Staff may approve an amendment to a certificate of approval when the amendment is minor, meets all of the applicable criteria for a certificate of approval and does not significantly alter the design or intent of the original approval.
- (2) All other amendments require new review and approval in accordance with this Article 5:6.

iv. Expiration

A certificate of approval shall be valid for two years from the date of approval. If work is not commenced within that time period, the certificate of approval shall lapse, and a new application must be submitted.

7. Flexibility and Relief Procedures

(a) Variance

i. Purpose

The variance procedure provides a mechanism to authorize variances from the development standards of this Land Use Code when it is demonstrated that such a variance will not be contrary to the public interest or the spirit of this Land Use Code, where, owing to special conditions, literal enforcement of this Land Use Code will result in practical difficulties or unnecessary hardship.

ii. Applicability

The variance procedure is required for applications seeking flexibility of a development standard, other than as provided in the minor modification process, from the development standards applicable to the zoning district in which the subject property is located. Applications that are denied a minor modification shall not be eligible for a variance.

iii. Additional Criteria

In addition to the criteria in Article 5:2(i)iii, applications for a variance shall also:

- (1) Not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) Not substantially affect the use and value of the area adjacent to the property included in the variance; and

- (3) Sufficiently demonstrate that the strict application of the terms of this Land Use Code will result in practical difficulties in the use of the property, that the practical difficulties are peculiar to the property in question, and that the variance will relieve the practical difficulties.

(b) Minor Modification

i. Purpose

The minor modification procedure is intended to allow relatively small adjustments or deviations from the dimensional or numeric standards of Table 4-1 where strict application would result in practical difficulty or undue hardship preventing the use of the land as otherwise allowed by the Land Use Code. Minor modifications are intended to provide greater flexibility when necessary, without requiring a formal zoning amendment or variance.

ii. Applicability

- (1) A deviation from the requirements in Table 4-1 may be proposed as a minor modification.
- (2) Deviations under a minor modification may not exceed a 10 percent variation of the applicable requirements.

iii. Additional Criteria

In addition to the criteria in Article 5:2(i)iii, applications for a minor modification shall also:

- (1) Not create a hardship or adverse impacts on adjacent properties unless adequately mitigated;
- (2) Not be necessitated by the petitioner's actions; and
- (3) Be of a technical nature and required to compensate for an unusual site condition or to protect a sensitive resource, natural feature, or community asset.

(c) Appeals

- i. Appeal of any decision under this Land Use Code shall be held at a properly noticed public hearing.
- ii. In addition to the criteria in Article 5:2(i)iii, appeals shall consider any additional applicable criteria to which the decision was initially made under.
- iii. Appeals shall be reviewed for a clear error in the application of the relevant criteria to the application.
- iv. Any decision that has exhausted its remedies under this Land Use Code may be appealed to the district court having jurisdiction.

8. Nonconformities

(a) Purpose

The purpose of this Section is to regulate and limit the development and continued existence of uses, structures, lots, signs, and site features that

were lawfully established prior to the effective date of this Land Use Code, but that no longer conform to the requirements of this Land Use Code. All such situations are collectively referred to in this section as "nonconformities."

(b) Requirements

i. Authority to Continue

- (1) Nonconformities may continue to be used and occupied, subject to regulations as to the maintenance in this Section, or unless such nonconformity is terminated as provided in this Section.
- (2) Nonconformities shall not be modified in any way that increases the degree of nonconformity.

ii. Determination of Legal Nonconformity Status

The burden of establishing the existence of a legal nonconformity shall be solely on the owner of the property containing the nonconformity.

iii. Maintenance

Maintenance of nonconformities are permitted and encouraged; provided, that the maintenance does not increase the degree of the nonconformity. Maintenance includes the following:

- (1) Repairs necessary to maintain and to correct any damage or deterioration to the structural soundness of, or the exterior or interior appearance of, a building or structure without expanding the height or footprint of the building or structure, unless compliant with this Land Use Code;
- (2) Maintenance of land to protect against and mitigate health and environmental hazards;
- (3) Repairs that are required to remedy unsafe conditions; and
- (4) Repairs necessary to comply with current building Land Use Code requirements.

iv. Destruction of a Nonconforming Structure

A nonconforming structure that has been damaged or destroyed by fire or other causes may be restored to its original condition; provided, that such work is commenced within one year of such event and has been completed or diligently pursued within 18 months of such event.

v. Nonconforming Lots

A nonconforming lot that was made nonconforming by virtue of enactment of this Land Use Code may be used for construction of a building allowed in the applicable zoning district; provided, that all other zoning district and dimensional standards are met.

vi. Nonconforming Parking

Any parking spaces or access to public rights-of-way lawfully existing on the effective date of this Land Use Code that are made nonconforming by virtue of enactment of this Land Use Code shall be allowed to continue; provided, that any change or expansion of any use or structure shall only be permitted if the additional number of parking spaces required by such change or expansion is provided in accordance with this Land Use Code.

(c) Illegal Nonconformities

An illegal nonconformity exists when:

- i. A nonconforming structure is destroyed or substantially destroyed or neglected by an intentional act of the owner or an agent without a proper permit. If this occurs, the nonconforming structure shall lose its nonconforming status and thereafter shall be required to be in conformity with existing Land Use Codes. If a nonconforming use was in the destroyed or substantially destroyed structure, the nonconforming use and all site improvements shall lose their nonconforming status and be required thereafter to come into compliance with existing Land Use Codes.
- ii. A use, structure, or site improvement occurs to a nonconformity without being lawfully authorized in accordance with the provisions of this section. Such use and/or structure shall therefore cease all operations until such time that the required plans and/or permits are approved.

9. Violations, Enforcement, and Penalties

(a) Violations

Each of the following activities is a violation of this Land Use Code:

- i. Any erection, construction, reconstruction, remodeling, alteration, maintenance, expansion, movement, or use of any building, structure, or sign, or development or subdivision of any land, in contravention of any provision of this Land Use Code or any regulation promulgated under this Land Use Code.
- ii. Any development, use, construction, remodeling, or other activity in any way generally inconsistent with the terms or conditions of any permit or approval required to engage in such activity, whether issued under or required by this Land Use Code.
- iii. Each day that a violation occurs or remains uncorrected shall constitute a separate and distinct violation of this Land Use Code.

(b) Remedies

- i. Staff may deny or withhold all entitlements, including forms of authorization to use or develop any land, structure, or improvement, until an alleged violation, associated civil penalty or lien resulting from a previous final order related to such property,

use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit or other approval is responsible for the violation.

- ii. Whenever any building, structure or site or part thereof is being demolished, constructed, reconstructed, altered, or repaired in violation of this Land Use Code or in a manner that endangers life or property, Staff is authorized to issue a stop-work order for the specific part of the work that is in violation or presents the hazard.
- iii. With or without revoking permits, Staff may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Land Use Code or a provision of an entitlement or other form of authorization issued under this Land Use Code.
- iv. The stop-work order shall be in writing and posted at the site of the work, and shall specify the alleged violations. After any such order has been posted, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.

(c) Penalties

- i. Violation of this Land Use Code may be punishable through imposition of a civil penalty as set forth in the Town's municipal Land Use Code.
- ii. The Town 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 Land Use Code or any requirement or condition imposed pursuant to this Land Use Code.
- iii. In any court proceedings in which the Town seeks a preliminary injunction, it shall be presumed that a violation of this Land Use Code 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 Land Use Code violation.

(d) Abatement

The Town may abate any violation of this Land Use Code as follows:

- i. Before action is taken to abate a violation, a final warning notice shall be posted on the property and served personally or by first class United States mail to the owner of record of the property.
- ii. Unless this notice is appealed to the Board of Trustees within ten days of the posting of the final warning, the town shall proceed to abate the violation.
- iii. The Town shall keep an account of the cost, including incidental expenses, incurred by the Town in the abatement of any violation.

The Town 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 without limitation 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.

- iv. The responsibility for payment of the charges for abatement as set forth in this section shall rest solely upon the owner of the property upon which the abatement occurred. When charges for abatement remain unpaid after 30 days from billing, the Town shall record a first and prior lien against the property, to be collected by the county treasurer in the same manner as property taxes.

(e) Cumulative Remedies

The remedies provided for violations of this Land Use Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order. The exercise of one remedy shall not preclude the exercise of any other available remedy.

Article 6: Definitions

1. Rules of Construction

All words and terms used in this Land Use Code have their commonly accepted dictionary meaning unless they are specifically defined in this Land Use Code or the context in which they are used clearly indicates to the contrary. The following rules of construction apply:

- (a) All words used in the present tense include the future tense.
- (b) All words used in the singular number include the plural, and words in the plural number include the singular.
- (c) The masculine gender shall include the female and neutral.
- (d) The word "shall" is mandatory, and not discretionary, and the word "may" is permissive.
- (e) The word "building" shall include the word "structures."
- (f) The phrase "used for" includes the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (g) The words "land," "property", "parcel," "premise," and "tract" are all interchangeable unless the context clearly indicates to the contrary.
- (h) The word "individual" includes a "firm," "association," "organization," "partnership," "trust," "company," or "corporation" as well as a single individual.

2. Definitions

ACCESS

A way or means of approach to provide physical vehicular entrance to a property.

ACCESSORY BUILDING, STRUCTURE OR USE

A building, structure or use located or conducted upon the same lot (or on a contiguous lot in the same ownership) as the primary building, structure or use to which it is related, that is clearly incidental to, and customarily found in connection with, such primary building or use and is operated and maintained for the benefit or convenience of the owners, occupants, employees, customers or visitors of the lot.

ACCESSORY DWELLING UNIT

A subordinate dwelling unit attached or detached from a primary structure, and located on the same lot or parcel, that provides basic requirements for living, sleeping, cooking, and sanitation. A manufactured home or recreational vehicle, travel trailer, camper, or similar vehicle shall not be used as a accessory dwelling unit.

ADULT ENTERTAINMENT

Adult bookstores, adult motion pictures theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios, and other adult establishments.

ANIMAL SHELTER

A facility that is operated for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals, that is used to shelter at least 10 animals in a year, and that is operated by a government entity, humane society, animal welfare society, animal rescue group, or other nonprofit group. This use includes rescue horse facilities, regardless of the number of horses sheltered in a year.

ART GALLERY, MUSEUM, AND LIBRARY

A facility or area that is open to the public and is intended for the acquisition, preservation, study, and exhibition of works of artistic, historical, or scientific value.

AUTOMOTIVE CENTER AND SERVICES

An establishment that is engaged in both the retail sales of a limited or full range of vehicle parts and fuels and the repair and maintenance of automobiles and light trucks. Self service, automated, or full service car washes as a primary use of property are included in this.

BAR OR BREWERY

An establishment primarily engaged in the selling of drinks for consumption on the premises, where entertainment and the incidental sale of prepared food for consumption on the premises are permitted accessory uses. These establishments may charge a fee or admission charge for the entertainment provided. Included in this category are bars, beer gardens, discotheques, night clubs, taverns, hookah bars, and dance halls.

BARN, SHEDS, AND OUTBUILDINGS

An accessory structure designed and constructed to primarily supplement agricultural operations. The structure shall not be a place of human habitation or a place of employment where products are processed, treated or packaged; nor shall it be a place used by the public.

BED AND BREAKFAST

The commercial rental of bedrooms within a private residence, providing temporary accommodations, and typically including a morning meal to overnight guests.

BOARD OF TRUSTEES

The Board of Trustees of the Town of Green Mountain Falls.

BUILDING

Any structure used or intended for supporting or sheltering any occupancy. Where roofed structures are separated from each other by party walls having no openings for passage, each portion so separated shall be deemed a separate building.

BUILDING, PRIMARY

A building in which is conducted, or that is intended to be conducted, the primary use of the lot on which it is located.

BUSINESS OR PERSONAL SERVICE

An establishment primarily engaged in providing services involving the care of a person or his or her apparel or rendering services to business establishments on a fee or contract basis, such as barber shops, clothing rental, tattoo or piercing parlor, photographic studios, cleaning and garment services (but not including power laundries or dry cleaning plants), coin operated laundries, advertising and mailing, building maintenance, office equipment rental and leasing, photo finishing, business supply services, computer programming/data processing services, locksmiths, and repair of business or household goods and equipment generally weighing less than 25 pounds.

CARNIVAL OR FESTIVAL

A temporary festival typically offering amusement rides, variety shows, or other entertainment.

COMMUNICATION TOWER

A tower structure and related equipment enabling the transmission of electronic signals via wired and wireless means.

COMMUNITY CENTER

A building or portion of a building used for nonprofit, cultural, educational, recreational, religious, or social activities that is open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

COMMUNITY GARDEN

The cultivation of food and/or horticultural crops, composting, aquaponics, aquaculture and/or hydroponics including but not limited to gardens, container gardens, edible landscapes, residential greenhouses, herb gardens, rooftop gardens, berry patches, vegetable gardens. All of which may include the production and sale of food products from food grown on the premises. Community Garden may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

COMMERCIAL WIRELESS TELECOMMUNICATIONS SERVICE

A facility that transmits and/or receives signals or waves radiated or captured by a wireless telecommunications antenna. It may include: antennas of all kinds including microwave dishes, horns, and other types of equipment for the transmission or reception of such signals, telecommunications tower or similar structures supporting said equipment, equipment buildings or cabinets, parking area, and/or other accessory development in order to provide telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public. Non-commercial or broadcasting antennas are not considered to be wireless telecommunications utilities.

CONDITIONAL USE

A use that is permitted only after the petitioner obtains conditional use approval pursuant to Article 5:3(d), and subject to any use-specific standards.

CURB CUT

The lowering of a curb, sidewalk, or boulevard to provide vehicular access to a parcel.

DAY CARE FACILITY

A licensed private or public establishment that for gain or otherwise, regularly provides one or more dependents with care, training, supervision, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours a day, in a place other than the dependent's home.

DEDICATION

The transfer of property interests from private to public ownership for a public purpose.

DELINEATED WETLAND

The area mapped as a wetland by a qualified consultant, in accordance with the approved Federal Wetland Delineation Manual and applicable regional supplement.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including a change in use or the creation of a subdivision.

DRIVE-IN FACILITY

An accessory use that by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles, but not including any use meeting the definition of Outdoor Entertainment or Recreation.

DWELLING, ATTACHED

A building containing three or more dwelling units arranged side by side, separated from each other by a firewall and having separate direct means of egress and ingress to each unit from the outside.

DWELLING, DUPLEX

A single building on a single lot containing two dwelling units.

DWELLING, FOURPLEX

A single building on a single lot containing four dwelling units.

DWELLING, MULTIFAMILY

A building containing five or more dwelling units on a single lot, including but not limited to apartments, cooperative apartments, and condominiums. Regardless of how rental units are equipped, any multifamily dwelling in which units are available for rental periods of one week or less shall be considered a hotel, motel, or short-term rental as applicable.

DWELLING UNIT

A single unit providing complete, independent living facilities, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING, SINGLE FAMILY DETACHED

A detached building, whether stick-built or manufactured, containing one dwelling unit located on a single lot.

DWELLING, TRIPLEX

A single building on a single lot containing three primary dwellings.

EASEMENT

A grant of one or more of the property rights by the property owner to and for use by the public, a corporation, or another individual or entity.

ELECTRIC VEHICLE CHARGING STATION

A facility or area where electric-powered or hybrid-powered motor vehicles can obtain electrical current to recharge batteries and that is accessory to a primary use of the property. This use can be incidental to any allowable use in any zone district.

FAÇADE

The exterior walls of a building exposed to public view from a public street. The wall visible from a public street or parking lot and used for the main public access or that has distinguishing architectural features will be considered the primary façade. A wall that is visible from a public street or parking lot serving the business center but not the main access to the building is considered the secondary façade.

FAST FOOD RESTAURANT

An establishment whose primary business is the sale of food and/or beverages in a ready to consume state for consumption within the restaurant building, within a motor vehicle parked on the premises, or off the premises as a carry out order, and whose principal method of operation involves serving food and/or beverages in edible containers or in paper, plastic, or other disposable containers.

FIRE-RESISTANT MATERIALS

Building materials that are designed to be resistant to fire such that under conditions of a standard heat intensity it will not fail structurally or allow transit of heat. Examples of fire-resistant materials include brick, concrete, steel, stone, glass, treated timber, stucco, and cast iron.

FLOODPLAIN

That area within a Special Flood Hazard Area as delineated by the most recent report available from the Federal Emergency Management Agency.

FLOODPLAIN GRADE

The elevation of the regulatory flood plus two feet at any given location in the Special Flood Hazard Area.

FOOD TRUCK

A retail food establishment that is not intended to be permanent and is a motorized wheel vehicle, or a trailer that is licensed for use on public roadways, designed and equipped to serve food and beverages.

FUELING STATION

A facility where fuels like diesel, gasoline, ethanol, natural gas, electricity, and hydrogen; related supplies for motorists; and convenience foods and goods are sold. All services included in Automotive Center are excluded.

FUNERAL HOME

An establishment providing services such as preparing the human or animal dead for burial, cremating human remains, and arranging and managing funerals, and for which permitted accessory uses include a crematorium.

GARAGE

A detached accessory building or a portion of a primary building used for the parking and storage of vehicles, merchandise, or equipment, and that is not a separate commercial establishment open to the general public. When associated with a residential use in a residential district, it shall be limited to use for parking and storage of vehicles, noncommercial trailers, and household equipment.

GARAGE SALE

The sale of used household belongings at a residential dwelling or residential neighborhood including but not limited to "home sale," "estate sale," "attic sale," and "basement sale" and any other type of residential sale of tangible personal property.

GREENHOUSE

A building 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 delicate or out-of-season plants for subsequent sale, for personal enjoyment, or for the temporary storage or display of plant material.

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 Amendments of 1988, as defined in that Act and as interpreted by the courts, or by any similar legislation of the State, including but not limited to facilities providing housing for people with disabilities.

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 Amendments of 1988, as defined in that Act and interpreted by the courts, or by any similar legislation of the State, including but not limited to facilities providing housing for people with disabilities.

HEIGHT (OF A BUILDING)

The vertical distance above grade along the building front measured to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height between the eave and ridge of a gable, hip, or gambrel roof. Maximum height establishes the maximum height in feet above grade, allowed for structures within a given zoning district.

HOME OCCUPATION

Any gainful occupation or profession engaged in by the occupant of a dwelling unit at or from the dwelling unit.

HOTEL OR MOTEL

A building or series of buildings operated as an establishment providing accommodations in habitable units by prior arrangements, for compensation, for periods of thirty days at a time or less. This use may provide ancillary uses such as conference and meeting rooms, restaurants, bars, gift shops, and recreational facilities.

INDOOR ENTERTAINMENT OR RECREATION

A commercial recreation facility that provides completely enclosed or indoor entertainment or recreation space, such as racquet clubs, indoor skating rinks or swimming pools, bowling alleys, billiard, pool, or bingo parlors, amusement arcades, indoor archery ranges, indoor live or motion picture theaters, and fitness centers or gymnasiums, and where food or beverages may be served as an accessory use, but does not include any use meeting the definition of Adult Entertainment.

IMPERVIOUS SURFACE

Any surface artificially covered or hardened so as to prevent or impede the percolation or absorption of water into the ground, including but not limited to asphalt, concrete, roofing material, brick, plastic, gravel, or swimming pools.

LOT

The smallest unit of land division defined by plat or by metes and bounds description, that is not divided by a lot line, right-of-way, or other publicly owned land.

LOT AREA

The area contained within the lot lines of a lot, excluding any right-of-way or private street.

LOT LINE

A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space. Where any portion of a lot extends onto a public right-of-way, the lot line shall be deemed to be the boundary of said right-of-way.

LOT WIDTH

A horizontal distance measured between the side lot lines.

LOT LINE, FRONT

A lot line separating a lot from the predominant public or private street or roadway right-of-way abutting the property, as determined by the Town.

LOT LINE, REAR

On a rectangular lot other than a corner lot, the lot line opposite and most distant from the front lot line; on a corner lot, an interior lot line that is designated at the time of development.

Triangular shaped lots whose lot width narrows when moving away from the front lot line have no rear lot line. The rear lot line(s) on irregular shaped lots with more than four lot lines are those interior lot lines that, when the endpoints of the line(s) are connected, create a line exceeding the width at the building line.

LOT LINE, SIDE

Any lot line other than a front or rear lot line.

LOT OF RECORD

Any validly recorded lot that, at the time of its recording, complied with all applicable laws, ordinances, and regulations.

LOT SIZE

The minimum size lot, in square feet, for certain types of residential development, measured on a horizontal plane.

MAJOR SITE PLAN

A site plan that does not qualify as a minor site plan.

MANUFACTURED HOME

A building, fabricated in an off-site facility for installation or assembly at the building site, transportable in one or more sections, that, in the traveling mode, is eight feet or more in width or 40 feet or more in length, or when erected is 320 or more square feet in size, and is built on a permanent chassis and designed to be used as a dwelling for one family, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained in the building.

MANUFACTURED HOME PARK

A residential development on a site that consists of two or more spaces for the placement of manufactured homes for dwelling or sleeping purposes, regardless of whether or not a fee is charged for the use of such space. This development is typified by a land-lease arrangement between the residents of the manufactured homes in the community and a single ownership entity or common owner(s) in a cooperative arrangement as opposed to a development that consists of individually owned lots subdivided for the placement of manufactured homes. A manufactured home park does not include real property used for the display and sale of manufactured homes, unless the manufactured homes for display or sale are permanently sited as model homes in the park, nor does it include a Recreational Vehicle Parking in which spaces are not intended for long-term occupancy.

MANUFACTURED HOME PARK LOT

A parcel of land in a manufactured home park used for the placement of a single manufactured home for the exclusive use of the residents of the manufactured home. The area of the lot for

rezoning purposes shall not include any common or community open space. The area of the lot shall not include any land devoted to the development of streets (public or private) including any land used for common sidewalk or walkway area located parallel and adjacent to a private street lying adjacent to the lot.

MEDICAL FACILITY

An establishment engaged in providing diagnostic services, extensive medical treatment (including surgical services) and other hospital services, as well as continuous nursing service, including general medical and surgical hospitals, specialty hospitals, medical laboratories, bio medical research and development, outpatient care facilities, medical schools and associated dormitories, medical appliance sales, and similar uses, but not including Veterinary and Animal Services.

MINOR SITE PLAN

A site plan that is eligible for minor site plan review as stated in Article 5:3(c).

MOBILE HOME

A non-HUD compliant structure built prior to June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling when connected to on-site utilities, but not including manufactured homes or recreational vehicles. Mobile homes are not permitted in the Town.

MULTI-USE TRAIL

A path physically separated from motor vehicle traffic, located either within a street right-of-way or a separate right-of-way or easement, and intended for use by some combination of bicyclists, pedestrians, equestrians, and other non-motor vehicle traffic.

NONCONFORMING LOT OF RECORD

Any validly recorded lot existing at the time this Land Use Code was adopted that does not comply with the minimum requirements of the district where it is located.

NONCONFORMING PARKING

Any development that does not provide the number of off-street parking spaces that would be required by this Land Use Code for a new development of the same type. The existence of parking spaces located outside of an approved driveway in the front or street side yard on a property in a residential district that were not approved through a lot and site development approval procedure do not constitute legal, nonconforming parking.

NONCONFORMING SIGN

Any sign established prior to the effective date of this Land Use Code that is not in full compliance with the Land Use Code.

NONCONFORMING STRUCTURE

A structure that does not comply with the height, setback, density, or floor area ratio requirements of the district where it is located.

NONCONFORMING USE

An activity using land or structures that would not be permitted to be established as a new use in the zone where it is located by the regulations of this Land Use Code.

NURSING HOME

An establishment primarily engaged in providing intermediate or long-term nursing and health related care to individuals.

OFFICE

A room or group of rooms used for managing the affairs of an establishment or for the non-retail, non-production conduct of affairs of a service, professional institution, or business nature

including medical offices or clinics, studios for those involved in art, sculpture, and music including organizations operating on a membership basis for the promotion of the interests of the membership, including trade associations, business associations, professional membership organizations, labor unions, or civic or fraternal organizations, but not including place of worship, hospitals, golf and country clubs, or credit unions.

OUTDOOR EATING AREA

Any group of tables, chairs, or other seating fixtures and appurtenances intended for the outdoor consumption of food or beverage by patrons, employees, or tenants, when located adjacent to an establishment having the same operator.

OUTDOOR ENTERTAINMENT OR RECREATION

A commercial recreation facility that is primarily an open-air facility, such as baseball fields, swimming pools, skating rinks, golf driving ranges, miniature golf facilities, drive-in theaters, amphitheaters, outdoor concert halls, racetracks, ranges (skeet, rifle, or archery), bowling alleys, and amusement parks.

PARKING LOT

A surface area whose purpose is to provide accessory or primary use parking spaces for motor vehicles, this category also includes community lots that are established to meet the parking needs in a residential area.

PARKING GARAGE

An above ground and/or belowground structure, or a part of a primary structure, designed for parking automobiles and light trucks and van, in which at least one level of parking is located above or below another level of parking in the same structure. This use does not include parking and storage facilities for recreational vehicles, boats, and trucks seven feet in height or greater.

PARKING SPACE

An enclosed or unenclosed, covered or open area designated for vehicular parking and meeting the requirements in Article 4:7. Parking spaces shall be served by a driveway connecting them with a street or alley and permitting ingress or egress of vehicles.

PARKS AND OPEN SPACE

A publicly or privately owned open space area specifically defined or set aside for active and/or passive recreational uses. Parks and open space includes all landscaping, facilities and apparatus, playing fields, trails and buildings and structures that are consistent with general outdoor recreational purposes.

PLACES OF WORSHIP

A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for the conducting of organized religious services and associated accessory uses.

PLANNING COMMISSION

The Planning Commission of the Town of Green Mountain Falls, which shall also act as the Board of Adjustment and Historic Preservation Board.

PLAT, FINAL

The final map on which an applicant's plan for the division of land for purposes of development is presented to the Town for approval and that, if approved, will be submitted to the County Recorder.

PLAT, PRELIMINARY

A draft map on which an applicant's plan for the division of land for purposes of development is presented to the Town for review and comment regarding compliance with this Land Use Code and other standards and regulations, prior to submittal of a Final Plat for approval.

PROPERTY OWNER

The fee owner of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership. The term includes but is not limited to vendors under a contract for deed.

RECREATIONAL VEHICLE

A temporary structure, less than 40 feet in length, that can be towed, hauled or driven and is primarily designed as temporary housing accommodations for recreational, camping or travel use including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

RECREATIONAL VEHICLE PARKING

Storage of recreational vehicles at a residence as an accessory to the primary use of the property.

RESTAURANT

An establishment that sells food or beverages in a ready-to-consume state, in individual servings, that the customer consumes while seated at tables or counters located in or immediately adjacent to the building in which the use is located, and that may include carry-out service. This includes any portion of an establishment used for seating for the consumption of food on the premises that sells prepared food or beverages, such as a bakery, delicatessen, cafes, and coffee shops.

RETAIL ESTABLISHMENT

An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, including furniture and appliance sales and business centers. These establishments are characterized by the following: 1) They buy and receive as well as sell merchandise; 2) They may process some products, but such processing is incidental or subordinate to the selling activities; and 3) They predominantly sell to customers for their own personal or household use.

RETAIL, SMALL

A retail establishment that is under 5,000 square feet gross floor area.

RETAIL, LARGE

A retail establishment that is over 5,000 square feet gross floor area.

SCHOOL

A public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

SEASONAL SALES

A building or structure used for the retail sales of Christmas trees, holiday décor and seasonal gifts, fresh fruits, vegetables, flowers, herbs, or plants. Such use may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts. Such uses also include "pick your own" establishments where customers gather their own produce from the fields for purchase and off-site consumption.

SELF SERVICE STORAGE FACILITY

An establishment designed and used for the purpose of renting or leasing individual storage spaces to tenants who have sole private access to such space for storing personal property.

SHORT-TERM RENTAL

Short-Term Rentals shall be defined as stated in Chapter 5 Article VII of the Town Municipal Code.

SOLAR COLLECTOR, GROUND- OR BUILDING-MOUNTED

A photovoltaic (PV) panel, array of panels or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating. Ground-Mounted Solar Collector may be a principal or accessory use. Building-Mounted Solar Collector is an accessory use. Building-Mounted Solar Collector includes agrivoltatic systems and parking canopy solar systems.

STAFF

An employee of the Town of Green Mountain Falls designated by the Town Manager to oversee such duties as prescribed herein.

SUBSTANTIAL IMPROVEMENT

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 the start of construction of the improvement.

TEMPORARY USE

A use that is permitted as a temporary use only after a temporary use permit is obtained pursuant to Article 5:3(f), and subject to any use-specific standards.

TOWN MANAGER

The Town Manager of the Town of Green Mountain Falls, or his or her authorized representative.

UTILITY, MAJOR

A facility providing an important regional utility service, such as water, sewer, or drainage, that normally entails construction of new buildings or structures, and that sometimes have employees on the site on an ongoing basis including but not limited to water towers, natural gas regulating stations, electric substations, water treatment plants, sewage treatment plants, above- or below-ground reservoirs, regional stormwater detention ponds, electric power lines that transmit over 110 KV of power, and other large facilities that enable the provision of utility services to large geographic area or a large number of people. Major Utility does not include Geothermal Energy System, Ground- or Building-Mounted Solar Collector, or Ground- or Building- Mounted Wind Energy Conversion System (WECS).

UTILITY, MINOR

Equipment necessary to support utility services to development within the immediate vicinity and that involves only minor accessory structures, and that typically do not have employees located at the site on an ongoing basis including but not limited to electric transformer stations and service boxes, gas regulator stations, telephone service boxes, and well, water and sewer pumping stations, and related underground and aboveground pipes and wires, but excluding electric power transmission lines that transmit over 110 KV of power.

URBAN AGRICULTURE

The cultivation of food and/or horticulture crops, aquaponics, aquaculture, and/or hydroponics. Such use may include the production and sale of food products from food grown on the premises. Urban Agriculture includes the raising of small animals like bees for the purpose of producing honey but does not include slaughtering or selling meat or the keeping of any large animals.

USE BY RIGHT

A use that is permitted by right in a particular zoning district, subject to compliance with any use-specific standards.

VETERINARY AND ANIMAL SERVICES

A commercial establishment engaged in the practice of veterinary medicine, dentistry, or surgery, along with those providing animal related services such as kennels, grooming, or breeding services. A single instance of incidental breeding of a household animal is not included in this definition.

WIND ENERGY CONVERSION SYSTEM, GROUND- OR BUILDING-MOUNTED ("WECS")

All necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation(s).