



BOARD OF TRUSTEES
March 8, 2022
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Regular Meeting Agenda

Individuals wishing to make public comments must attend the meeting in person or may submit comments by sending an email to euckerkk@wellingtoncolorado.gov. The email must be received by 4:00 p.m. Tuesday, March 8, 2022. The comments will be provided to the Trustees and added as an addendum to the packet. Emailed comments will not be read during the meeting.

The Zoom information below is for online viewing and listening only.

Please click this URL to join.

<https://us06web.zoom.us/j/84118095061?pwd=NzBwLzhPeHQrR1pEamRrR2Fpbmk0Zz09>

Passcode: 004257

Webinar ID: 841 1809 5061

Or One tap mobile:

+17207072699,,84118095061# US (Denver) or +13462487799,,84118095061# US (Houston)

Or join by phone:

US: +1 720 707 2699 or +1 346 248 7799 or +1 253 215 8782 or +1 646 558 8656

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Amendments to Agenda
4. Conflict of Interest

B. COMMUNITY PARTICIPATION

1. Public Comment

C. PRESENTATION

1. Colorado Open Records Requests (CORA)
 - Presentation: Krystal Eucker, Town Clerk

D. CONSENT AGENDA

1. Minutes of the January 25, 2022 Regular Meeting

E. ACTION ITEMS

1. Draft Land Use Code - Revised Draft
 - Presentation: Cody Bird, Planning Director
2. Authorize the Execution of the Contract for the Security Fencing at the Water and Wastewater Treatment Plants
 - Presentation: Nathan Ewert, Engineer
3. Ordinance No. 06-2022 - An Ordinance of the Town of Wellington, Colorado, Acting by and through the Town Wastewater Enterprise, Approving a Green Project Reserve Loan from the Colorado Water Resource and Power Development Authority to Finance Wastewater Related Improvements; Authorizing the Execution of a Loan Agreement and a Bond to Document the Loan; and Providing for Payment of the Bond from Net Revenue of the Wastewater System
 - Presentation: Vik Runkel, Interim Finance Director

F. LIQUOR LICENSE AUTHORITY

1. Annual Renewal - Ridley's Family Market
 - Staff presentation: Krystal Eucker, Town Clerk

G. REPORTS

1. Town Attorney
2. Town Administrator
3. Staff Communications
4. Board Reports

H. ADJOURN

The Town of Wellington will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements. Individuals needing special accommodation may request assistance by contacting at Town Hall or at 970-568-3380 ext. 110 at least 24 hours in advance.



Board of Trustees Meeting

Date: March 8, 2022
Submitted By: Krystal Eucker, Town Clerk
Subject: Colorado Open Records Requests (CORA)

- **Presentation:** Krystal Eucker, Town Clerk

EXECUTIVE SUMMARY

The Colorado Open Records Request (CORA) presentation will provide a basic overview of some of the elements of CORA.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. CORA Requests - Board Presentation

CORA Presentation

Colorado Open Records Act





What is CORA?

- The Colorado Open Records Act, (CORA) C.R.S. § 24-72-201 to 206, provides that all public records shall be open for inspection by any person at reasonable times, except as otherwise specifically provided by law.
 - Facilitate open government
 - Transparency & Accountability



Public Records

- Public records include all writings that are made, maintained, or kept by a municipality for use in the exercise of government functions or the receipt/expenditure of public funds
- Writings include books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials.
- Requests for information are different than public records requests.



Response to CORA Requests

- Records that are not readily available at the time of the request shall be made available at a reasonable time after the request. A “reasonable time” shall be presumed to be three working days or less.
- Such period may be extended if extenuating circumstances exist. However, such period of extension shall not exceed seven working days.



Charges for Records Requests

- Cost for other facilities to print, copy or photograph a record
- Cost for copying documents
- Research and retrieval of records (No charge for the first hour of staff time)



Prohibited from CORA Disclosure

Not all records maintained by a municipality are subject to CORA disclosure. Below are some of the records that are prohibited from disclosure.

- Personnel files
- Reference letters
- Trade secrets and confidential commercial information
- Names, addresses, and phone of public utility customers
- Executive session materials
- “Deliberative Process Privilege” record



The Town of Wellington Records Policy and two versions of the Records Request Form (electronic and print version) are available on the website at:

<https://www.wellingtoncolorado.gov/488/Public-Records>



Board of Trustees Meeting

Date: March 8, 2022

Submitted By:

Subject: Minutes of the January 25, 2022 Regular Meeting

EXECUTIVE SUMMARY

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. 01.25.22 BOT Minutes-DRAFT



BOARD OF TRUSTEES

January 25, 2022

6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

MINUTES

A video recording of this meeting is available on the Town of Wellington's YouTube page at <https://www.youtube.com/channel/UCPgBl-EYjaSam4hF3mkoFNA>

A. **CALL TO ORDER**

Mayor Hamman called the meeting to order at 6:32 p.m.

1. Pledge of Allegiance

Mayor Hamman asked that all rise for the pledge of allegiance.

2. Roll Call

Mayor Troy Hamman
Mayor Pro Tem Wyatt Knutson
Trustee Jon Gaiter
Trustee John Jerome – Absent
Trustee Rebekka Kinney
Trustee Ashley Macdonald
Trustee Tim Whitehouse

Also Present:

Patti Garcia, Town Administrator
Dan Sapienza, March & Olive, LLC, Town Attorney
Hallie Sheldon, Management Analyst
Krystal Eucker, Town Clerk
Kelly Houghteling, Deputy Town Administrator
Mahalia Henschel, Communications Specialist
Dave Myer, Engineer II
Meagan Smith, Deputy Public Works Director
Nathan Ewert, Civil Engineer II
Mike Flores, Wastewater Superintendent
Jim Miller, Streets Superintendent
DJ Jones, Water Superintendent
Vik Runkle, Interim Finance Director

3. Amendments to Agenda

Mayor Hamman asked if there were any amendments to the agenda this evening, to which there were none.

4. Conflict of Interest

Mayor Hamman asked if there were any conflicts of interest this evening, to which there were none.

B. COMMUNITY PARTICIPATION

1. Public Comment

The meeting was opened for public comment on non-agenda items, and comments were provided by Calar Chaussee, Jesy Andreen, Bryan Mason, Henry Bays, and Shirrell Tietz,

C. PRESENTATION

1. Wellington Main Streets Annual Report

Kallie Cooper, Executive Director of the Wellington CO Main Streets Program (WMSP) provided an overview of the community events that have been hosted in 2021. WMSP has also been involved in fundraising events and grant opportunities.

D. CONSENT AGENDA

1. Minutes of the January 25, 2022 Board of Trustee Meeting

Trustee Gaiter moved to approve the consent agenda; Trustee Macdonald seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Kinney, Macdonald, Knutson, Hamman,

Nays – None

Abstain - Whitehouse

Motion carried.

E. ACTION ITEMS

1. Proposed Water and Sewer Rate Adjustments

Ms. Smith informed the Board that water and sewer rate adjustments have been discussed in several venues for many months. Both the main water treatment plant expansion project and the wastewater treatment plant expansion project are nearing the completion of their design phases, with construction expected to begin in 2022. Both projects will be funded partially through State Revolving Fund (SRF) loans and partially through cash reserves. Rate adjustments are needed to maintain financial health for both the Water and Sewer enterprise funds, to enable completion of these vital expansion projects, and are a requirement of the loan qualification for the wastewater treatment plant expansion.

Water and sewer rate adjustment scenarios were presented to the Board.

The meeting was opened for public comment: Shirrell Tietz, Lisa Chollet, Christine Gaiter, Jesy Andreen, Jim Kerwood, Wyatt Schwendeman-Curtis, and Calar Chaussee provided comments.

After Board discussion, the general consensus was for staff to provide an ordinance at the next regular meeting with the C2 and 4 scenarios discussed this evening.

2. Front-End Loader Purchase Request

Mr. Gowing informed the Board that the Town's front-end loader is over 20 years old and was originally purchased in 2005 as a pre-owned item. This is the only loader in the Town fleet and is used by all Public Works divisions for a variety of purposes, including snow removal, wastewater plant solids handling, water plant solids handling, projects requiring earthmoving, materials handling, and a variety of miscellaneous functions. As such, the loader is a critical piece of equipment needed for many of the Department's highest priority duties, some of which can be emergency in nature. It is critical to have a reliable loader capable of meeting Town needs.

The meeting was opened for public comment: Shirrell Tietz provided a comment.

Mayor Pro Tem Knutson moved to approve a purchase out of the streets fund for the Front-End Loader in the amount of \$199,500.00 agenda; Trustee Macdonald seconded the motion.

Roll call on the vote resulted as follows:

Yeas – Gaiter, Kinney, Macdonald, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

3. Resolution 11-2022 - A Resolution of the Town of Wellington Designating Representatives Authorized to Coordinate with Colorado Department of Public Health and Environment and the Colorado Water Resources and Power Development Authority Regarding Financial Assistance Matters

Mr. Myer informed the Board that the Board of Trustees must designate individuals as persons authorized to sign deliverable documents on behalf of Wellington on all financial matters associated with grants and loans administered by the Colorado Department of Public Health and Environment and the Colorado Water Resources and Power Development Authority.

The meeting was opened for public comment, to which there were none.

Trustee Gaiter moved to approve the Resolution 11-2022 - A Resolution of the Town of Wellington Designating Representatives Authorized to Coordinate with Colorado Department of Public Health and Environment and the Colorado Water Resources and Power Development Authority Regarding Financial Assistance Matters; Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Kinney, Macdonald, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

4. Resolution No. 06-2022 - A Resolution Authorizing the Execution of an Agreement with Colorado Intergovernmental Risk Sharing Agency (CIRSA) for Legal and Loss Control Services for the Town of Wellington

Ms. Garcia informed the Board that CIRSA is a Municipal Self-Insurance Pool dedicated to providing Colorado public entities with proactive risk management guidance and the best possible coverage and service. CIRSA is a Colorado-based company with over 270 members (municipalities and affiliated member public entities) throughout Colorado. CIRSA has been in business for over 30 years and provides core property/liability and workers' compensation programs but also provides safety training and loss control services. Joining CIRSA will also allow the Town of Wellington to participate in their business meetings with voting rights.

The meeting was opened for public comment, to which there were none.

Trustee Macdonald moved to approve Resolution No. 06-2022 - A Resolution Authorizing the Execution of an Agreement with Colorado Intergovernmental Risk Sharing Agency (CIRSA) for Legal and Loss Control Services for the Town of Wellington; Trustee Kinney seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Kinney, Macdonald, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

5. Resolution 08-2022 - A Resolution Authorizing Staff to Seek Grant Funding from the Colorado Department of Transportation
Ms. Houghteling informed the Board that Staff is seeking \$2,000,000 in grant funding from the Colorado Department of Transportation. This grant requires a 10%-20% local match. Staff included \$400,000 in the 2022 Capital Improvement Plan Budget if grant funding is received. The grant application includes the infrastructure improvements from 1st Street through 5th Street on Cleveland Avenue/SH1.

The meeting was opened for public comment; Shirrell Tietz made a comment.

Trustee Kinney moved to approve the Resolution 08-2022 - A Resolution Authorizing Staff to Seek Grant Funding from the Colorado Department of Transportation; Trustee Macdonald seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Kinney, Macdonald, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

6. Resolution No. 09-2022 - A Resolution of the Board of Trustees Making Appointments to the Community Activities Commission

Ms. Garcia informed the Board that on January 20, 2022, Trustees Macdonald and Whitehouse along with town staff and members of the Wellington board and commissions conducted advisory board interviews for the Wellington Parks and Recreation Advisory Board and the Community Activities Commission. Pursuant to those interviews, it is being recommended that Wyatt Schwendeman-Curtis, Diana Sinatra, Mario Quinonez, and JD Richardson be appointed to the Community Activities Commission.

Trustee Macdonald moved to approve Resolution No. 09-2022 - A Resolution of the Board of Trustees Making Appointments to the Community Activities Commission; Trustee Gaiter seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Kinney, Macdonald, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

7. Resolution No. 10-2022 - A Resolution of the Board of Trustees Making Appointments to the Wellington Parks and Recreation Advisory Board

Ms. Garcia informed the Board that on January 20, 2022, Trustees Macdonald and Whitehouse along with town staff and members of the Wellington board and commissions conducted advisory board interviews for the Wellington Parks and Recreation Advisory Board and the Community Activities Commission. Pursuant to those interviews, it is being recommended that Lorilyn Bockelman and Kallie Cooper be appointed to the Parks and Recreation Advisory Board.

The meeting was opened for public comment, to which there were none.

Trustee Macdonald moved to approve Resolution No. 10-2022 - A Resolution of the Board of Trustees Making Appointments to the Wellington Parks and Recreation Advisory Board; Trustee Kinney seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Kinney, Macdonald, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

8. Consideration of the Wellington, CO Main Streets Program 2022 Memorandum of Understanding with the Town of Wellington

Anita Hardy with the Wellington Main Street Program (WMSP) informed the Board that WMSP has been active since 2014 and has played a key role in keeping downtown businesses active and creating opportunities for the community to be part of downtown activities. The Memorandum of Understanding (MOU) that is being considered solidifies the town's commitment to supporting Main Streets 2022 efforts. The MOU being considered includes a total of \$82,500 for the 2022 Main Street Program.

The meeting was opened for public comment, to which there were none.

Trustee Kinney moved to approve the Consideration of the Wellington, CO Main Streets Program 2022 Memorandum of Understanding with the Town of Wellington; Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Kinney, Macdonald, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

F. REPORTS

1. Town Attorney

Mr. Sapienza informed the Board that Kristin Brown has been working on the rules and regulations of the Marijuana Authority.

2. Town Administrator

a. Review of current Emergency Declaration

Ms. Garcia provided an overview of the Emergency Declaration and sought direction from the Board to continue the Declaration or end the Declaration. After discussion, the consensus of the Board was to review the Declaration in March of 2022.

b. 2022 Grant Opportunities Summary

Ms. Houghteling provided an overview of grants that have been awarded to Wellington, grants that have been submitted, pending grants, and potential grants.

3. Staff Communications

a. Larimer County Sheriff's Office Monthly Report - December 2021

4. Board Communications

A request was made to add a link on the website's home page and the social media post to the current agenda and packet.

G. EXECUTIVE SESSION

1. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators pursuant to Section 24-6-402(4)(e), C.R.S. – regarding negotiations with North Poudre Irrigation Company. As required by C.R.S. §24-6-402(2)(d.5)(II)(A) and (II) (E) the executive session proceedings will be electronically recorded and the record will be preserved for 90 days through April 25, 2022.

2. For the purpose of receiving legal advice pursuant to Section 24-6-402(4)(b), C.R.S. – regarding

potential litigation involving marijuana facilities. As required by C.R.S. §24-6-402(2)(d.5)(II)(A) and (II) (E) the executive session proceedings will be electronically recorded and the record will be preserved for 90 days through April 25, 2022.

Trustee Macdonald moved to go into executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators pursuant to Section 24-6-402(4)(e), C.R.S. regarding negotiations with North Poudre Irrigation Company and for the purpose of receiving legal advice pursuant to Section 24-6-402(4)(b), C.R.S. regarding potential litigation involving marijuana facilities; trustee Gaiter seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Kinney, Macdonald, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

The Board of Trustees moved into executive session at 10:10 p.m.

No official action was taken during the executive session.

Trustee Macdonald moved to close the executive session; Trustee Gaiter seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Kinney, Macdonald, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

The Board of Trustees closed the executive session at 11:02 p.m.

H. ADJOURN

Upon a motion duly made, the meeting was adjourned at 11:02 p.m.

Krystal Eucker, Town Clerk

Board of Trustees Meeting

Date: March 8, 2022
Submitted By: Cody Bird, Planning Director
Subject: Draft Land Use Code - Revised Draft

- **Presentation:** Cody Bird, Planning Director

EXECUTIVE SUMMARY

The Planning Commission adopted the Wellington Comprehensive Plan on August 2, 2021. The Comprehensive Plan provides the long-range vision and recommendations for the growth and development of the Town and is the basis for zoning, subdivision regulations and other land use codes. The Commission has also been evaluating and making recommendations for updates to the Town's land use codes to reflect the Comprehensive Plan and to bring the land use codes into compliance with changes to regulatory requirements, emerging technologies, changes in development practices, water conservation and more.

The Planning Commission has been working on the draft land use code in sections and has discussed draft language in work sessions beginning in September 2021. A complete first draft of all the sections was made available on the Town's website for public review and comment on February 4, 2022. The draft was presented to the Planning Commission at the February 7, 2022 work session and presented to the Board of Trustees on February 15, 2022.

Attached with this report is a revised draft land use code (with changes tracked) reflecting public comments, Planning Commission and Board of Trustees comments, and general review and formatting updates that have been included since the first draft was made public. A summary of public comments and responses is also attached with this report.

BACKGROUND / DISCUSSION

A summary of the topics presented and discussed at past meetings is identified in the table below.

Commission Work Session Date	Topics	Chapter / Draft Version
September 13, 2021	•Proposed Code Format and Outline •Zone District Descriptions •Table of Land Uses and Definitions •Landscaping and Screening Standards •Landscape and Irrigation Design Manual	Chapter 3 / Draft 1 Chapter 5 (part) / Draft 1 Chapter 9 (part) / Draft 1 Supplement / Draft 1
October 4, 2021	•General Provisions •Application Procedures	Chapter 1 / Draft 1 Chapter 2 / Draft 1
November 1, 2021	•Zone District Descriptions •Land Use Definitions •Table of Land Uses	Chapter 3 / Draft 2 Chapter 9 (part) / Draft 2

December 6, 2021	•Zone District Descriptions •Land Use Definitions •Table of Land Uses •Proposed Methodology for Use Regulations	Chapter 3 / Draft 3 Chapter 5 (part) / Draft 1 Chapter 9 (part) / Draft 3
January 10, 2022	•Table of Land Uses •Use Regulations •Results of Downtown Neighborhood Questionnaire	Chapter 3 / Draft 4 Chapter 4 / Draft 1
February 7, 2022	•Complete Draft •Development Standards •Subdivision Regulations •Nonconformities •Floodplain Regulations •Definitions •Landscape and Irrigation Design Manual	All Chapters / Draft 1 Supplement / Draft 2
February 15, 2022 Joint Work Session with Planning Commission and Board of Trustees	•Complete Draft •Landscape and Irrigation Design Manual	All Chapters / Draft 1 Supplement / Draft 2
March 7, 2022	•Complete Draft •Landscape and Irrigation Design Manual	All Chapters / Draft 2 Supplement / Draft 3

In addition to the above public meetings, information on the Land Use Code has been shared through a series of online media including Facebook, Nextdoor, and Instagram. Stakeholders and the public were also engaged through a Downtown Neighborhoods Questionnaire. The questionnaire was advertised using various online media, and table tents and coasters were distributed to businesses around town in late November and early December to bring attention to the project and online resources. There were 112 community members that responded to the questionnaire, of which, 15 of the respondents identified as living within the downtown. The results of the questionnaire is available on the Town's Land Use Code website.

Public comments on the complete first draft of the land use code received to-date can generally be organized into three categories:

- Zoning and uses on McKinley Ave. and Harrison Ave.
- Clarification in the landscaping and screening section
- Clarification on secondary signs.

Item 1 - Zoning on Harrison Ave. and McKinley Ave.:

The primary concern has been with the boundary and uses of C-2 and R-4 zone districts. The understanding is that there is a desire to see Harrison Ave. and McKinley Ave. included within the R-4 zone district. There were comments about removing brewpubs and multi-family dwellings as permitted uses from the R-4 zone district which has been addressed with the revised draft of the code update.



Item 2 - Landscaping and Screening:

Primary concerns were related to landscape material standards being too onerous for single-family dwellings. The standards are applicable to new commercial and multi-family development and infill redevelopment associated with a site plan or subdivision application. An applicability section has been added to the beginning of the landscaping section to clarify when the standards are required.

Item 3 - Signs:

Comments were primarily centered around the desire to have more political signs during an election. A new subsection has been added to allow additional temporary signage during an event. Additionally, a new section has been added for sandwich board signs to provide more options for temporary signs for downtown businesses.

The Planning Commission is scheduled to conduct a public hearing on the land use code at its regular meeting March 7, 2022 beginning at 6:30pm. Following the Planning Commission hearing, the Commission will forward recommendations to the Board of Trustees.

The Board of Trustees is also scheduled to conduct a public hearing at its regular meeting March 22, 2022 beginning at 6:30pm.

In addition to the public hearings scheduled before the Planning Commission and the Board of Trustees, public comments may also be made on the Town's website. The revised draft land use code is available on the Town's website, and comments can be provided by submitting the comment form on the Land Use Code project page (<http://www.wellingtoncolorado.gov/497/Land-Use-Code>).

STAFF RECOMMENDATION

Receive and file draft land use code and consider public comments.

ATTACHMENTS

1. Draft Land Use Code - Version 2
2. Draft Landscape and Irrigation Design Manual
3. Public Comments

CHAPTER 1: GENERAL PROVISIONS

1.01 Purpose and Organization

1.01.1 Purpose. The purpose of this Land Use Code is to create a vital, cohesive, well-designed community in order to enhance the Town's small-town character and further the residents' goals as identified in the Comprehensive Plan. These zoning regulations are designed to:

- A. Promote the health, safety, values, and general welfare of Town residents.
- B. Establish a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone.
- C. Ensure adequate provision of transportation, water supply, sewage disposal, schools, parks, and other public improvements.
- D. Regulate and restrict the location, use, and appearance of buildings, structures and land for residence, business, trade, industry, or other purposes, including federal requirements pertaining to floodplains.
- E. Regulate and restrict the height, number of stories and size of buildings and structures including their distance from any street or highway; the percentage of each lot that may be occupied by buildings and other structures; and size of yards, courts, and other open spaces.
- F. Promote good design and arrangement of buildings or clusters of buildings and uses in residential, business, and industrial development.
- G. Encourage innovative and quality site planning, circulation on and transportation to sites, architecture and landscaping that reflect land development best practices.
- H. Prevent the overcrowding of land; poor quality development; waste and inefficiency in land use; danger and congestion in travel and transportation and any other use or development that might be detrimental to the stability and livability of the Town.
- I. Encourage the redevelopment, infill, and renewal of developed spaces in a manner that protects the Town's existing development context.
- J. Establish streets and availability of active transportation routes that promote walking, bicycling, and other active transportation forms that create safe and viable options for all.
- K. Establish regulations that promotes adequate light and air, maintains acceptable noise levels, and conserves energy and natural resources.

1.01.2 Organization. The Wellington Land Use Code is organized into nine (9) chapters as follows:

- Chapter 1 General Provisions – The General Provisions address the Land Use Code’s organization, its purpose and authority, rules for interpretation, and legal provisions.
- Chapter 2 Application Procedures – The Application Procedures guides the reader through the procedural and decision-making process by providing divisions pertaining to general procedural requirements and a common development review process, as well as providing a separate division for each type of development application and other land use requests.
- Chapter 3 Zoning Districts – All zone districts within the Town of Wellington and their respective list of permitted uses, prohibited uses and particular development standards are located in Chapter 4 Use Regulations and Chapter 5 Development Standards.
- Chapter 4 Use Regulations – The Use Regulations identifies permitted and prohibited use allowances for their respective zoning districts, while also providing use-specific standards that meet certain development needs.
- Chapter 5 Development Standards – The Development Standards establish standards which apply to all types of development applications unless otherwise indicated. This chapter is divided into sections addressing standards for site planning and design, engineering, environmental and cultural resource protection, buildings, and transportation.
- Chapter 6 Subdivision Regulations – The Subdivisions Regulations establish the Town’s land division requirements.
- Chapter 7 Nonconforming Uses – The Nonconforming Uses protects and regulates nonconforming uses, structures, lots, site improvements, and applications (referred to collectively as “nonconformities”) and specifies the circumstances and conditions under which those nonconformities may continue.
- Chapter 8 Floodplain Regulations – The Floodplain Regulations address the Town’s development and planning measures to mitigate for potential flood hazards.
- Chapter 9 Definitions – The Definitions encompass the terms used throughout the Land Use Code.

1.01.3 Organizational Method. This method of organization provides a user-friendly and easily accessible Land Use Code by consolidating most town regulations addressing land use and development, standardizing the regulatory format, providing common development review procedures, separating and clarifying standards, and maintaining definitions.

1.02 Authority

- A. This Land Use Code is adopted pursuant to the authority contained in the Colorado Revised Statutes (C.R.S.). Local governments are provided broad authority to plan for and regulate the use of land within their jurisdictions, as authorized in Title 29, Article 20, et seq. and Title 31, Article 23, et seq. of the C.R.S., as amended. Additional statutory authority may also exist for specific types of development regulation.
- B. Whenever a section of the Colorado Revised Statutes cited in this Land Use Code is later amended or superseded, this Land Use Code shall be deemed amended to refer to the amended section or section that most nearly corresponds to the superseded section.

1.03 Effective Date

This Land Use Code is effective [immediately](#) upon approval of the Board of Trustees [and 30 days following publication of Ordinance No. ##-2022](#).

1.04 Applicability

1.04.1 Generally. Unless otherwise provided, this Land Use Code applies to any:

- A. Development or redevelopment of land;
- B. New building or use;
- C. Addition or enlargement of an existing building or use;
- D. Change in occupancy of any building; or
- E. Change of use.

1.04.2 Applications. Unless otherwise provided, this Land Use Code applies to any of the following development applications:

- A. Any subdivision plat;
- B. Any site plan;
- C. Any plot plan;
- D. Any land entitlement process plan;
- E. Any special use authorization;
- F. Any conditional use review;
- G. Any building permit for a use other than a single-family detached dwelling; or
- H. Any certificate of occupancy.

1.05 Relationship to Other Ordinances

The standards of this Land Use Code are in addition to all other standards, guidelines, policies, and Municipal Code requirements otherwise applicable to land use and development. To the extent that there is a conflict between a requirement of this Land Use Code and another Town standard, guideline, policy or requirement, refer to *Chapter 1.07 Interpretation and Conflicting Provisions*.

1.06 Relationship to Comprehensive Plan

The adopted Wellington Comprehensive Plan is the official policy document of the Town of Wellington. This provides a consistent statement of the Town's plan and policies for future development to bring about the Town's vision for the future. This Land Use Code implements the policies established in the comprehensive plan.

1.07 Interpretation and Conflicting Provisions

1.07.1 Interpretation. In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, values, convenience, comfort, prosperity, and general welfare. (Ord. 11-2007 §1)

1.07.2 Conflicting Provisions.

- A. Conflict with Other Provisions of Law. Whenever the requirements of this Land Use Code are at a variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive or that imposing the higher standards shall govern. (Ord. 11-2007 §1)
- B. Conflict with Private Covenants or Deeds. In case of a conflict between this Land Use Code and any private restrictions imposed by covenant or deed, the responsibility of the Town shall be limited to the enforcement of this Land Use Code. When provisions within this Land Use Code are more restrictive than those imposed by covenant or deed, or when any such private instruments are silent on matters contained within this Land Use Code, the provisions of this Code shall rule. (Ord. 11-2007 §1)

1.08 Transition from Prior Regulations

A development application for approval, including the approval, conditional approval, or denial of approval of that plan, shall be governed only by the duly adopted laws and regulations in effect at the time the complete application is submitted.

1.09 Application Fees

1.09.1 Generally.

- A. All fees assessed pursuant to this Land Use Code are non-refundable.
- B. Any property owner submitting a development application is responsible for paying all costs and fees incurred by the Town in reviewing and processing that application, including, but not limited to: attorney fees; engineering fees; surveying fees; consulting fees; recording fees; and legal publications and notice expenses.
- C. Final approval of any application submitted pursuant to this Land Use Code shall be contingent upon payment of all fees and expenses to the Town. The Town is not obligated to record documents, issue building permits or process any applicant submittals until all outstanding costs and fees have been paid.
- D. If the Town must pursue collection of an applicant's outstanding fees or costs, it is the applicant's responsibility for the payment of all attorney fees and costs incurred by the Town in such collection efforts. The Town reserves the right to suspend an application, withhold approval or postpone public hearings if an applicant fails to pay any fee due under this Land Use Code. In addition to any other remedy available, any delinquent charges due under this Land Use Code may be certified to Larimer County and collected in the same manner as municipal taxes.

1.10 Review and Decision-Making Bodies

This Land Use Code uses the review and decision-making bodies established in *Chapter 2 Administration of the Wellington Municipal Code* to make development application decisions.

DRAFT

CHAPTER 2: APPLICATION PROCEDURES

2.01 Purpose and Organization

2.01.1 Purpose. This chapter describes the review procedures for land use applications and development activity in the Town of Wellington (the Town). This chapter ensures consistency and efficiency in the administration of the Town's land use regulations.

2.01.2 Organization. This chapter is organized into the following sections:

- 2.02 – Public Notice
- 2.03 – Procedures Table
- 2.04 – General Application Procedures
- 2.05 – Land Use Code Amendment
- 2.06 – Comprehensive Plan Amendment
- 2.07 – Rezone
- 2.08 – Administrative Adjustment
- 2.09 – Lot Line Adjustment
- 2.10 – Easement Adjustment
- 2.11 – Minor Deviation
- 2.12 – Site Plan
- 2.13 – Plot Plan
- [2.14 – Sign Permit](#)
- [2.44-15](#) – Conditional Use Application
- [2.45-16](#) – Minor Subdivisions
- [2.46-17](#) – Major Subdivisions
- [2.47-18](#) – Planned Unit Development
- [2.48-19](#) – Condominium/Townhome Plat
- [2.49-20](#) – Revised Final Plat
- [2.20-21](#) – Annexation
- [2.21-22](#) – Variance
- [2.22-23](#) – Appeals
- [2.23-24](#) – Special Review

2.02 Public Notice and Public Hearing

Public Notice

2.02.2 Generally. For every public hearing required by the Land Use Code, the Town shall notify the public of the date, time, and place of that hearing; the address and legal description of the property involved; the purpose of the hearings; the right of interested persons to appear and be heard; the name of the applicant; and where additional information may be obtained by:

- A. *Published Notice.* Notice shall be published once in a newspaper published with general circulation in the Town at least 15 days prior to all hearings, except for annexation hearings. Noticing requirements apply to each subsequent hearing.
- B. *Written Notice.* Written notice shall be mailed at least ~~30-15~~ days prior to the hearing to ~~all property owners of real property record, as recorded at the office of the Larimer County assessor, of properties located~~ within 500' of the subject property. The applicant is responsible for providing the list of names and addresses of owners ascertained according to the records of the Larimer County Assessor's Office, unless more current information is made available in writing to the Director prior to the mailing of the notices as they appear in the records of the County Clerk and Recorder. The Town will verify the list of names and addresses prior to noticing.
 - 1. Written notice shall be mailed first-class postage, except subdivision review which shall be by certified mail.
 - 2. The applicant is responsible for obtaining the list of owners and providing it to the Planning Director or designee with the application submittal.
- C. *Posted Notice.*
 - 1. Notice shall be posted at the Town's designated official posting locations referenced at the Town's website (cite website location), at least five (5) days prior to the hearing.
 - 2. Posting notice on the subject property on a sign approved by the Town of Wellington at least 15 days prior to the hearing. Location approval is required prior to sign placement.

2.02.3 Computation. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

Public Hearing

2.02.4 Generally.

- A. All required public hearings shall comply with the procedures adopted by the Town.
- B. The decision-maker conducting the public hearing shall record the public hearing by any appropriate means. A copy of the public hearing may be acquired by any person upon application to the Planning Director or designee and payment of a fee to cover the cost of duplication.

2.02.5 Hearing Continuations. The Town Board of Trustees, Planning Commission, or Board of Adjustment may continue the hearing to a subsequent meeting at a certain date and time or may close the hearing and continue the meeting to deliberate the issues until a final decision is made.

If a hearing is continued to a certain date and time, no further notice of a continued hearing or meeting need be published.

2.03 Procedures Table

2.03.2 **Overview.** The following table summarizes the major review procedures for land use applications and development activity in the Town of Wellington. Not all procedures addressed in this chapter are summarized in this table (see subsequent sections of this chapter for additional details on each procedure).

Application Type	Pre-application Conference Required Y = Yes O = Optional	Authority		
		Staff Review	Planning Commission	Town Board <u>of</u> <u>Trustees</u>
Entitlements				
Amendment	O	R	R	D
Rezone	Y	R	R	D
PUD	Y	R	R	D
Conditional Use	Y	R	R	D
Annexation	Y	R	R	D
Variance	Y	R	R	D*
Special Review	Y	D	--	--
Plans				
Site Plan	Y	R	D	--
Plot Plan	O	D	--	--
Administrative				
Administrative Adjustment	Y	D	--	--
Lot Line Adjustment	Y	D	--	--
Easement Adjustment	Y	D	--	--
Minor Deviation	Y	D	--	--
Plats				
Major Subdivision				
Preliminary Plat	Y	R	R	D
Final Plat	O	R	R	D
Minor Subdivision	Y	R	R	D
Revised Final Plat	Y	D	--	--
Condominium/Townhome Plat	Y	D	--	--

2.04 General Application Procedures

General Review Procedures

2.04.2 **Purpose.** This section outlines the general application procedures and review process for all land use applications.

2.04.3 **Applicability.** This section applies to all land use applications unless an exception to the general procedures is expressly identified in subsequent sections of this chapter.

2.04.4 **Procedure.**

A. *Pre-application Meeting.*

1. Intent. The pre-application conference provides an opportunity for an informal review of an application, and discusses the submittal requirements, development standards, schedule, and approval criteria. The pre-application meeting is not a formal review of the application. The guidance and feedback provided during the pre-application meetings are not considered binding upon the application, applicant, or the Town.
2. Standards.
 - a. The applicant shall request in writing, on the official form provided by the Town, a pre-application meeting with the Planning Director or designee. The applicant shall provide the required information as deemed necessary by the Planning Director or designee to conduct an informal review of the proposed development at least 10 business days in advance of a pre-application meeting.
 - b. A pre-application conference shall be held within 30 days of receipt of all necessary information unless a later date is agreed to by the applicant and the Planning Director or designee.
 - c. The Planning Director or designee may waive the pre-application meeting requirement if determined that the request does not warrant review prior to application.

B. *Land Use Application Submittal.*

1. Intent. The intent of the land use application is to formally review an application.
2. Standards. Application submittals shall be made on a form provided by the Town and accompanied by all required submittal documents and supporting information identified on the application, checklist and as discussed in the pre-application conference.
 - a. The applicable land use application fees shall be paid at the time of submittal of any land use application.
 - b. Unless otherwise specified in this Land Use Code, applications for review and approval may be initiated by:
 - i. The owner of the property that is subject to the application;
 - ii. The property owner's authorized agent, representative, or contract purchaser; or

- iii. Any review or decision-making body for the Town.
 - c. If an authorized agent or representative files an application under this Land Use Code on behalf of the property owner, the representative shall provide the Town with written, notarized documentation that the owner has authorized the filing of said application.
 - d. If a review or decision-making body initiates action under this Land Use Code, it shall do so without prejudice toward the outcome.
- 3. Filing Fees. Application filing fees are set by the Town Board by resolution and may be reviewed and updated from time-to-time. Applications will not be processed until fees are paid in full. The fees paid are not refundable in whole or in part for applications withdrawn by an applicant unless recommended by the Planning Director and approved by the Town Administrator. All or a portion of the fees may be refunded depending on the amount of review and processing time already incurred by the Town.
- 4. Additional Fees. If the Town Manager determines that additional funds are needed to complete the application review, including retention of outside professional services, the Town Manager may impose additional application fees, to recover the Town's actual costs in completing review.
 - a. The applicant shall be billed by the Town for all additional costs and any other fees incurred by the Town on a as needed basis per the Town's D-5 form;
 - b. Costs shall be a lien upon the property, and the Town reserves the right to stop work on a project and/or withhold approvals and permits if costs are not paid within 30 days after written notice. For withdrawn applications, any unused deposit shall be returned to the applicant within 60 days less any incurred "pass through" costs, as of the date of the formal withdrawal request.
- C. *Completeness Determination.*
 - 1. Following receipt of a development application, the Planning Director or designee shall certify that the development application submittal is complete.
 - 2. If the application is determined to be incomplete, the Planning Director or designee shall return the application to the applicant and provide a statement in writing specifying the additional information required. No further review activities will proceed until a completed application is accepted. Returned applications that are not resubmitted and accepted within 60 days shall be determined to be abandoned and of no further effect. A new application may be submitted, including applicable fees.
- D. *Application Review and Preparation of a Staff Report.*
 - 1. Following a completeness determination, the Planning Director or designee circulates the application to staff and appropriate referral entities for review.
 - 2. The Planning Director or designee may also refer applications to other boards, commissions, government agencies, and non-governmental agencies not referenced in this chapter.

3. The Planning Director or designee may request a meeting with the applicant to discuss the application and any written comments. Based on the written comments, the applicant may request an opportunity to revise the application prior to further processing. Additional submittals and review may be subject to additional fees, as determined by the Planning Director or designee.
 4. If the application requires review and approval by the Planning Commission or Town Board, the Planning Director or designee shall prepare a staff report once written comments have been adequately addressed. The staff report shall be made available to the applicant and the public, prior to the scheduled hearing on the application. The staff report shall indicate if the application complies with all applicable standards of this Land Use Code.
- E. *Public Notice*. Public noticing requirements, when required, must meet the requirements established in Section 2.02.
- F. *Public Hearings*. Public hearing requirements, when required, must meet the requirements established in Section 2.02.3.
- G. *Final Approvals*.
1. Decision. After consideration of the application, the staff report, comments received by the public and other reviewers, and the public hearing, the decision-making body shall either approve, approve with conditions, or deny the application based on the applicable approval criteria. Written notification of the decision shall be provided by the Planning Director or designee to the applicant within 10 business days following the decision and shall become part of the public record. All decisions shall include:
 - a. A clear written statement of approval, approval with conditions, or denial (whichever is appropriate); and
 - b. A clear statement of the basis upon which the decision was made, including specific findings of fact with reference to the relevant standards.
 2. Approval Criteria. The decision-making body shall find that the application complies with all applicable standards of the Land Use Code and applicable approval criteria.
 3. Conditions of Approval. The decision-making body may approve the application with conditions as necessary to bring the proposed development into compliance with this Land Use Code or other regulations, or to mitigate the impacts of that development to the surrounding properties and streets.
 - a. All conditions of approval shall be reasonably related to the anticipated impacts of the proposed development or use or shall be based upon standards duly adopted by the Town.
 - b. Any condition of approval that 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 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. Unless otherwise provided in this Land Use Code, any representations of the applicant in submittal materials or during public hearings shall be binding as conditions of approval.

H. *Post Decision Actions.*

1. Modification or Amendment of Approval. Unless otherwise permitted in this Land Use Code, any modification of approved plans, permits, or conditions of approval shall require a new application to be submitted and reviewed in accordance with the full procedure and fee requirements applicable to the application type.
 2. Recording of Decisions. Once approved, the resolution, ordinance, or notice of decision shall be filed with the Town Clerk and recorded in the Office of the Larimer County Clerk and Recorder at the expense of the applicant.
 - a. For applications approved by the Planning Director or designee or Planning Commission, a notice of land use decision shall be issued by the Planning Director or designee or Town Clerk.
 - b. For applications approved by the Town Board, an ordinance or resolution shall be issued as determined by application type.
 3. Lapse of Approval. Application approval shall be valid for a period of one year from the date of approval. Unless otherwise noted, authority to grant extensions shall reside with the decision-making body that granted the original approval. Extensions to the approval time frames may be granted only when all the following conditions have been met:
 - a. The provisions of this Land Use Code expressly allow the extension;
 - b. An extension request must be filed 10 days prior to the lapse-of-approval deadline with adequate justification; and
 - c. Any applicable conditions of approval have been met.
 4. Revocation. Application approval may be revoked or suspended upon finding that the use, building, or site for which the permit was issued is substantially different than what was represented in the application or that one or more of the conditions or requirements contained in the application approval has been violated.
 5. Denial and Reapplication. No application that is substantially similar shall be submitted within a period of one year.
- I. *Effect of Inaction.* If a review or decision-making body fails to take action on an application within the specified timeframe, such inaction shall be deemed a denial of the application unless the decision-making body grants an extension. [Continuation of a public hearing or continuation of a meeting is not automatically deemed an extension. An extension may be granted by separate motion, or if desired, included in a motion to continue.](#)

Administrative Review Procedures.

2.04.5 **Purpose.** This section outlines the review process for all administrative land use applications which do not require a public hearing.

2.04.6 **Applicability.** This section applies to all administrative land use applications not requiring a public hearing unless an exception is expressly identified in subsequent sections of this chapter.

2.04.7 **Procedure.**

- A. *Pre-application Meeting.* Same as referenced in Section 2.04.3.
- B. *Land Use Application Submittal.* Same as referenced in Section 2.04.3.
- C. *Application Fees.* Same as referenced in Section 2.04.3.
- D. *Completeness Determination.* Same as referenced in Section 2.04.3.
- E. *Application Review.* Same as referenced in Section 2.04.3.
- F. *Final Approvals.*
 - 1. Decision. After consideration of the application, the Planning Director or designee shall either approve, approve with conditions, or deny the application based on the applicable approval criteria. Written notification of the decision shall be provided by the Planning Director or designee to the applicant following the decision.
 - a. All decisions shall include a clear written statement of approval, approval with conditions, or denial (whichever is appropriate).
 - b. A clear statement of the basis upon which the decision was made, including specific findings of fact with reference to the relevant standards shall be provided to the applicant and included in the public record.
 - 2. Approval Criteria. The Planning Director or designee shall find that the application complies with all applicable standards of the Land Use Code and applicable approval criteria.
 - 3. Conditions of Approval. The Planning Director or designee may approve the application with conditions as necessary to bring the proposed development into compliance with this Land Use Code or other regulations, or to mitigate the impacts of that development to the surrounding properties and streets.
 - a. All conditions of approval shall be reasonably related to the anticipated impacts of the proposed development or use or shall be based upon standards duly adopted by the Town.
 - b. Any condition of approval that 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 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. Unless otherwise provided in this Land Use Code, any representations of the applicant in submittal materials shall be binding as conditions of approval.

G. *Post Decision Actions*. Same as referenced in Section 2.04.2

H. *Effect of Inaction*. If the Planning Director or designee fails to take action on an application within the specified timeframe of 30 days, such inaction shall be deemed a denial of the application unless the applicant and the Planning Director agree to an extension.

Review and Decision-Making Bodies.

2.04.8 Purpose. This section outlines the review and decision-making bodies and their roles. Full duties and responsibilities for each decision-making body can be found in Sections 2.04.6 – 9 of this Land Use Code.

2.04.9 Planning Director

- A. The Planning Director or their duly authorized designee shall review and prepare a staff report for all applications requiring a public hearing. The Planning Director or designee shall also present the application and their recommendation of approval, approval with conditions, or denial at the public hearing for the application.
- B. In the event of an administrative review, the Planning Director or designee shall make the final determination of an application. Applications undergoing administrative review shall follow the procedure for administrative review outlined in section 2.04.06 the specific review procedures for the application.
- C. Decisions made by the Planning Director or designee are appealable to the Planning Commission Board of Adjustments. See Section 2.22-23 for appeal standards and procedure.

2.04.10 Town Planning Commission

- A. The Town Planning Commission (Planning Commission) shall review all applications at a public hearing held during a regular meeting, including the staff report, information from the applicant, and any public comment. This hearing will provide a recommendation of approval, approval with conditions, or denial to the Town Board for all applications requiring Town Board approval.
- B. All applications requiring Planning Commission review or approval shall follow the general review procedures set forth in Section 2.02 and Section 2.04.3 and the specific review procedures for the application.
- C. Decisions made by the Town Planning Commission are appealable to the Town Board. See Section 2.22-23 for appeal standards and procedure.

2.04.11 Town Board of Trustees

- A. The Town Board of Trustees (Town Board) shall review an application at a public hearing held during a regular meeting including the recommendation of the Planning Commission, the staff report, information from the applicant, and any public comment. This hearing will provide a final decision of approval, approval with conditions, or denial of an application.

- B. Applications requiring Town Board approval shall follow the general review procedures set forth in Section 2.02 and Section 2.04.3 and the specific review procedures for the application.
- C. Decisions made by the Town Board are appealable to the District Court. See Section 2.~~22-23~~ for appeal standards and procedure.

2.04.12 ~~Town~~ Board of Adjustment

- A. Any application obtaining Town Board approval shall follow the general review procedures set forth in Section 2.02 and Section 2.04.3 and the specific review procedures for the application.
- B. Decisions made by the Town Board of Adjustment are appealable to the District Court. See Section 2.~~22-23~~ for appeal standards and procedure.

2.05 Land Use Code Amendment

2.05.2 **Purpose.** The text of this Land Use Code may be amended pursuant to this section to respond to a change in conditions or public policy, or to advance the general health, safety, welfare, and morals of the Town.

2.05.3 **Applicability.** The Planning Commission or Town Board of Trustees may initiate an amendment to the text of this Land Use Code. Any person may suggest to the Planning Commission that an amendment be given consideration. The Planning Director or designee shall prepare the application at the request upon motion and vote of the Planning Commission.

2.05.4 **Procedure.** All Land Use Code amendment applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is not required for a Land Use Code amendment.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a Land Use Code amendment application shall include:
 - 1. A narrative of the proposed Land Use Code amendment;
 - 2. The existing text in the Land Use Code;
 - 3. An analysis of the proposed impact on residents, if applicable; and
 - 4. Any other information identified by the Planning Director or designee.
- C. *Review and Approval.*
 - 1. Planning Commission Recommendation.
 - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. Staff shall present the staff report and recommendation.
 - b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the amendment to the Town Board, or continue the hearing pursuant to Section

- 2.02.4, with the requirement to submit additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. A copy of the Planning Commission recommendation shall be sent to the Town Board to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.
2. Town Board Approval.
- a. The Town Board shall hold a public hearing and review the amendment at a regular meeting. Public notice shall be given pursuant to Section 2.02. Staff shall present the staff report and recommendation.
- b. The Town Board shall either approve, approve with conditions, or deny the amendment, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the amendment complies with the Town's regulations, goals, and policies.

2.05.5 Findings for Approval.

- A. The amendment is not likely to 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;
- B. The amendment is necessary for the protection of health, safety, welfare, and morals of the community;
- C. The amendment is consistent with the Comprehensive Plan and the intent stated in this Land Use Code; and
- D. The amendment is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas.

2.06 Comprehensive Plan Amendment

2.06.2 **Purpose.** The Comprehensive Plan may be amended pursuant to this section to respond to a change in conditions or public policy, or to advance the general health, safety, welfare, and morals of the Town.

2.06.3 **Applicability.** The Planning Commission may initiate an amendment to the Comprehensive Plan. Any person or the Town Board [of Trustees](#) may suggest to the Planning Commission that an amendment be given consideration. The Planning Director or designee shall prepare the application [at the request upon motion and vote](#) of the Planning Commission.

2.06.4 **Procedure.** All Comprehensive Plan amendment applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is not required for a Comprehensive Plan amendment.

B. *Land Use Application Submittal*. In addition to the requirements set forth in Section 2.04.3, a Comprehensive Plan amendment application shall include:

1. A narrative of the proposed Comprehensive Plan amendment;
2. The existing text in the Comprehensive Plan;
3. An analysis of the proposed impact on residents, if applicable.

C. *Review and Approval*.

1. Planning Commission Approval.

- a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02.3. Staff shall present their staff report and recommendation.
- b. The Planning Commission shall either approve, approve with conditions, or deny the amendment, or continue the hearing pursuant to Section 2.02.4, with the requirement to submit additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.

2.06.5 Findings for Approval.

- A. The amendment is not likely to result in significant adverse impacts upon the natural environment (including air, water, noise, stormwater management, wildlife, and vegetation);
- B. The amendment is necessary for the protection of health, safety, welfare, and morals of the community; and
- C. The amendment is consistent with the Town's goals and policies.

2.07 Rezone

2.07.2 **Purpose**. The boundaries of any zoning district may be changed or the zoning classification of any parcel of land may be changed pursuant to this section.

- A. The intent is to make adjustments to the official zoning map that are necessary as a result of a change in conditions or public policy, or to advance the general health, safety, welfare, and morals of the Town.
- B. A rezone is not intended to relieve particular hardships, nor confer special privileges or rights to any person or party.

2.07.3 **Applicability**. Rezone applications may be initiated by the Planning Commission, the Town Board, or the owner(s) of the property to be rezoned. Any person may suggest to the Planning Commission that a rezone be given consideration.

- A. A rezone application shall not be made when a variance, or administrative adjustment could be used to achieve the same result.

- B. Changes to the standards or characteristics of zoning districts (such as floor area ratio or setbacks) shall be processed as text amendments to the Land Use Code.

2.07.4 Procedure. All rezone applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is required for a rezone application to discuss specific application procedures, criteria, and requirements for a formal application.

- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a rezone application shall include:

1. A site plan depicting the property lines, location of existing buildings, parking, utilities and easements, and any other details required to demonstrate rezone request;
2. A written narrative justifying why the proposed zoning fits in with the surrounding neighborhood and is more appropriate for the property than the existing zoning;
3. A list of all property owners within 500';
4. A map showing all zoning districts within 500';
5. Proof of ownership or a letter of authorization from the owner; and
6. Any other information identified in the pre-application meeting.

- C. *Review and Approval.*

1. Planning Commission Recommendation.
 - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present the staff report and recommendation.
 - b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information necessary to determine whether the application complies with the Town's regulations, goals, and policies.
 - c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.
2. Town Board Approval.
 - a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative shall be present at the meeting to present the proposal. Staff shall present the staff report and recommendation.

- b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information necessary to determine whether the application complies with the Town's regulations, goals, and policies.
 - c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.
- D. ~~Post-Decision Actions~~Protest. Same as referenced in Section 2.04.3, General Application Procedures in addition to the following: ~~Is the protest petition post-decision if the Town Board hasn't voted yet?~~
- 1. Protests. A protest against a rezone application must be submitted to the Town Clerk at least ~~14 days~~24 hours before the Town Board ~~of Trustees's~~ vote on the rezone application.
 - 2. Validation. If a valid protest is submitted, the amendment shall only become effective upon approval by ~~three~~two-thirds of the entire membership of the ~~Town~~ Board of Trustees, whether present or not. For a protest to be valid, it must be signed by either:
 - a. The owners of 20% or more of the area included in the proposed rezone application; or
 - b. The owners of 20% or more of the land within ~~500~~100 feet of the land included in the proposed rezone application.
 - 3. Criteria. The following criteria may result in protest consideration:
 - a. The rezone for the subject property causes detrimental effects to the adjacent property owners.
 - b. The rezone for the subject property is inconsistent with the Comprehensive Plan.
 - ~~3-c.~~The rezone for the subject property creates a conflict of interest between the Town, the adjacent property owners, or other specified Town Policy goals.

2.07.5 Findings for Approval.

- A. The rezone is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The rezone is consistent with the stated intent of the proposed zoning district(s);
- C. The rezone will not result in adverse impacts to the natural environment (including air, water, noise, stormwater management, wildlife, and vegetation) or such impacts will be mitigated;
- D. The rezone of the subject property will not result in material adverse impacts to the surrounding properties;
- E. Facilities and services (roads, transportation, water, gas, electricity, police, fire protection, and sewage and waste disposal) are available to serve the subject property while maintaining adequate levels of service to existing development; and

- F. The rezone is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for those areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.08 Administrative Adjustment

2.08.2 Purpose. This Section allows for greater flexibility as necessary without requiring a formal zoning amendment, Land Use Code amendment, or variance. The administrative adjustment procedure is not intended to serve as a waiver of Land Use Code standards or to circumvent the variance procedure.

2.08.3 Applicability. The administrative adjustment procedure allows for minor modifications or deviations from the dimensional or numeric standards of The Land Use Code up to 10% with approval by the Planning Director or designee.

- A. Changes to the following standards cannot be approved through the administrative adjustments procedure and must be approved through the original application process.
 - 1. Deviations from the dimensional or numeric standards beyond 10%;
 - 2. Amendments to approved Planned Unit Developments;
 - 3. Conditions of approval;
 - 4. An increase in the overall project density or floor area;
 - 5. A change in permitted use intensity;
 - 6. A deviation from the use-specific standards;
 - 7. A change to a development standard already modified through a separate administrative adjustment or variance;
 - 8. Building materials or aesthetic elements; or
 - 9. Requirements for public roadways, utilities, or other public infrastructure or facilities.

2.08.4 Procedure. All applications for administrative adjustments shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.6.

- A. *Pre-application Conference.* A pre-application conference is required for an administrative adjustment application to discuss specific application procedures, criteria and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, an administrative adjustment application shall include:
 - 1. A site plan detailing property boundaries, footprints of all existing and proposed buildings, parking configuration, location of all utilities and easements, and any other details required to demonstrate

conformance with all regulations and development standards applicable to the proposed zoning district;

2. A written narrative justifying why the proposed use fits in with the surrounding neighborhood and detailing existing uses on neighboring properties;
3. Conceptual building plans, including elevations, exterior materials, doors, decks, etc., if applicable;
4. Any other information identified in the pre-application meeting.

C. Review and Approval.

1. Administrative Approval.

- a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
- b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.08.5 Findings for Approval.

- A. The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The relief requested is compatible with the character of the surrounding area in terms of building scale, form, landscape, and site design;
- C. The relief requested is based upon sound planning or urban design principles that are professionally recognized and shall not result in new or increased nonconformities;
- D. The relief requested is based on the context of the property, is not solely for the convenience of one particular application on the site, and is not generally applicable to other sites in the area;
- E. The relief requested is the minimum necessary to meet the intent and applicability of the zoning district and the intent of the administrative adjustment process; and
- F. The relief requested is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for those areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.09 Lot Line Adjustment

2.09.2 Purpose. This section is intended to provide administrative review for minor adjustments to legal boundaries and title of property for proper recording. These adjustments have little or no impacts on public facilities and infrastructure and are within ownership patterns or development patterns that have otherwise been determined in accordance with the Wellington Comprehensive Plan.

2.09.3 Applicability. Adjustments to previously platted lots may be eligible for lot line adjustment where:

- A. The adjustment affects no more than 4 lots;
- B. The adjustment results in no additional lots;
- C. The adjustment does not affect public right-of-way or easement dedications that would adversely impact provision of public services unless a separate instrument can be recorded to provide necessary connectivity;
- D. The adjustment does not result in a vacation request; and
- E. The adjustment does not create nonconformities on any lot.

2.09.4 Procedure. All applications for lot line adjustment shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.6 and shall meet all requirements for a final subdivision plat as set forth in Section 2.16.

- A. *Pre-application Conference.* A pre-application conference is required for a lot line adjustment application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a lot line adjustment application shall include:
 - 1. A site plan detailing property boundaries, footprints of all existing and proposed buildings, parking configuration, location of all utilities and easements, and any other details required to demonstrate conformance with all regulations and development standards applicable to the proposed zoning district;
 - 2. A written narrative justifying why the proposed use fits in with the surrounding neighborhood and detailing existing uses on neighboring properties;
 - 3. Conceptual building plans, including elevations, exterior materials, doors, decks, etc., if applicable;
 - 4. Any other information identified in the pre-application meeting.
- C. *Review and Approval.*
 - 1. Administrative Approval.
 - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
 - b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.09.5 Findings for Approval.

- A. The lot line adjustment is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The lot line adjustment shall meet the intent of the zone district in which it is located and all criteria and regulations specified in that zone district, including but not limited to minimum lot size and setbacks;
- C. The lot line adjustment shall not result in new or increased nonconformities;
- D. The lot line adjustment shall mitigate, to the maximum extent possible, any negative impacts on existing and planned public facilities;
- E. The lot line adjustment has no effect on the conditions applied to the approval and does not violate any Code requirement; and
- F. The lot line adjustment is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for those areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.10 Easement Adjustment

2.10.2 **Purpose.** This section is intended to provide administrative review for minor adjustments to [public easements for proper recording required upon or proposed upon development applications or for existing dedicated public easements](#). These adjustments have little or no impacts on public facilities and infrastructure and are within ownership patterns or development patterns that have otherwise been determined in accordance with the Wellington Comprehensive Plan.

2.10.3 **Applicability.** Easement adjustments, vacations, or additions may be eligible for administrative approval where:

- A. The revisions are due to field conditions that could not have been reasonably anticipated or were discovered at the time of the final plat which result in no material change to the application;
- B. The revisions are due to changes in the development program, and these changes will impact public facilities the same or similarly to the previously approved application; or
- C. The application contains sufficient documentation showing the easement holder concurs with a proposed adjustment or vacation.

2.10.4 **Procedure.** All applications for easement adjustment shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.6 and shall meet all requirements for a final subdivision plat as set forth in Section 2.16.

- A. *Pre-application Conference.* A pre-application conference is required for an easement adjustment application to discuss specific application procedures, criteria, and requirements for a formal application.

B. *Land Use Application Submittal*. In addition to the requirements set forth in Section 2.04.3, an easement adjustment application shall include:

1. A site plan detailing property boundaries, footprints of all existing and proposed buildings, parking configuration, location of all utilities and easements, and any other details required to demonstrate conformance with all applicable regulations and development standards ~~applicable to the proposed zoning district~~;
2. A written narrative justifying why the proposed use easement fits in with the surrounding neighborhood context and how it does not adversely affect the ~~detailing existing uses on~~ neighboring properties;
- ~~3. Conceptual building plans, including elevations, exterior materials, doors, decks, etc., if applicable;~~
- 4.3. Any other information identified in the pre-application meeting.

C. *Review and Approval*.

1. Administrative Approval.
 - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
 - b. Any ~~information, exhibits, plans or elevations, whether conceptual or detailed, that~~ information that are is part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.10.5 Findings for Approval.

- D. The easement adjustment is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- A. The easement adjustment shall meet the intent of the zone district in which it will be located and all criteria and regulations specified in that zone district, including but not limited to minimum lot size and setbacks;
- B. The easement adjustment shall not result in new or increased nonconformities;
- C. The easement adjustment shall mitigate, to the maximum extent possible, any negative impacts on existing and planned public facilities in surrounding neighborhood;
- D. The easement adjustment has no effect on the conditions applied to the approval and does not violate any Code requirement; and
- E. The easement adjustment is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.11 Minor Deviation

2.11.2 **Purpose.** This section is intended to allow minor deviation from approved permits/approvals for changes that are determined necessary to address technical or engineering considerations first discovered during development or use that were not reasonably anticipated during the initial approval process.

2.11.3 **Applicability.** Minor Deviations may not be sought for the following approved applications:

- A. Amendments to Land Use Code;
- B. Rezone Applications;
- C. Administrative Adjustments;
- D. Lot Line Adjustments;
- E. Easement Adjustments;
- F. Variances; or
- G. Appeals.

2.11.4 **Procedure.** All applications for Minor Deviations shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.6.

- A. *Pre-application Conference.* A pre-application conference is required for a minor deviation application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a minor deviation application shall include:
 - 1. A site plan detailing property boundaries, footprints of all existing and proposed buildings, parking configuration, location of all utilities and easements, and any other details required to demonstrate conformance with all regulations and development standards applicable to the proposed zoning district;
 - 2. A written narrative justifying why the proposed use fits in with the surrounding neighborhood and detailing existing uses on neighboring properties;
 - 3. Conceptual building plans, including elevations, exterior materials, doors, decks, etc., if applicable;
 - 4. Any other information identified in the pre-application meeting.
- C. *Review and Approval.*
 - 1. Administrative Approval.
 - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
 - b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part

of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.11.5 Findings for Approval.

- A. The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The relief requested does not include increases in the amount of building floor area or reduction of the amount of open space set aside;
- C. The relief requested is based upon sound planning or urban design principles that are professionally recognized and shall not result in new or increased nonconformities;
- D. The relief requested is based on the context of the property, is not solely for the convenience of one particular application on the site, and is not generally applicable to other sites in the area;
- E. The relief requested is the minimum necessary to meet the intent and applicability of the zoning district and the intent of the minor deviation process; and
- F. The relief requested is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for those areas. (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.12 Site Plan

2.12.2 **Purpose and Applicability.** The site plan shall be submitted to apply for a building permit for all permitted principal uses of multi-family, commercial and industrial developments. The site plan shows lot arrangement and site design so the Town can make sure the site plan complies with all Town regulations. A site plan shall also be submitted for any re-development, substantial changes to an existing site, changes that affect site circulation or access, and for any exterior modifications to an existing building within the C-2, Downtown Commercial District to show compliance with the Cleveland Avenue Architectural Standards. When a development requires approval as a conditional use, the site plan approval process shall be processed concurrently with the conditional use application. (~~Ord. 11-2007 §1~~) (~~Ord. No. 2-2013, § 2, 3-26-13~~)

2.12.3 **Procedure.** All site plan applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.2

- A. *Preapplication Conference.* A pre-application conference is required for a site plan application to discuss specific application procedures, criteria, and requirements for a formal application. This requirement may be waived at the discretion of the Planning Director or designee.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a site plan application shall include:

1. Traffic study or waiver request. In accordance with the Standard Design Criteria and Standard Construction Requirements.
2. Site plan map. The site plan map shall provide information per the site plan application checklist provided by the Planning Director or designee.
3. Demonstrate, in written or graphic form, how the proposed structure is consistent with the Design and Development Standards found in Article 3 of this Chapter 16 of this Code.
4. Final landscape plan per Section 5.04.
5. Provide complete building elevations and perspective rendering, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structures. In addition, Town staff may require building floor plans, sectional drawings, additional perspective drawings, models and/or computer visualizations when the impacts of a proposal warrant such information.

C. Review and Approval.

1. Planning Commission Approval.
 - a. The Planning Commission shall review the application at a regular meeting. Staff shall present their staff report and recommendation.
 - b. The Planning Commission shall either approve, approve with conditions, or deny the application.
2. Town Board consideration of appeals.
 - a. The Town Board shall consider any appeal within forty-five (45) days of the close of the appeal period, except an appeal associated with a concurrent development application requiring Town Board review or approval, which the Town Board shall consider with final action on the concurrent development application. The Town Board shall apply the site plan review criteria to either uphold, modify, or reverse the Planning Commission's decision.

D. Post Decision Actions. Same as referenced in Section 2.04.3, in addition to the following:

1. Any aggrieved party, who wishes to appeal the action shall file a written appeal stating the reasons why the Planning Commission action is incorrect. The applicant shall file the appeal with the Town Administrator/Clerk within seven (7) days of the meeting at which such action was taken.

E. Post Decision Actions. Same as referenced in Section 2.04.3, in addition to the following:

1. Memorandum of Agreement for Public Improvements. Staff may require that the applicant execute a MOAPI to assure the construction of on-site and off-site improvements as a condition of approval of the site plan. Guarantees in the site plan agreement shall be secured by an irrevocable letter of credit in an amount determined appropriate by Town staff.
2. Building permit. A building permit shall be issued only when final site plan plans have been submitted, reviewed, and approved by the Department directors.

- a. Exception. A building permit may be issued for the construction of a foundation and shell only for commercial and industrial uses to allow for the partial construction of a speculation building with unknown tenant and use.
3. Certificate of Occupancy. When building construction and site development are completed in accordance with the approved site plan and building permits, a Certificate of Occupancy may be issued.
4. Phasing and expiration of approval. The site plan shall be effective for a period of three (3) years from the date of approval, unless stated otherwise in the written site plan approval. Building permits shall not be issued based on site plans that have an approval date more than three (3) years old. For multi-phased plans, building permits shall not be issued based on an approval date more than three (3) years from the date of Phase I approval. (Ord. 11-2007 §1) (Ord. No. 13-2011, § 1, 11-22-11)

2.12.4 Findings for Approval.

- A. The site plan is consistent with the Comprehensive Plan and the intent stated in this Land Use Code.
- B. The lot size and lot dimensions are consistent with what is shown on the approved final plat.
- C. No buildings or structures infringe on any easements.
- D. The proposed site grading is consistent with the requirements of _____ (insert reference to any applicable adopted storm drainage criteria or master drainage plans).
- E. The density and dimensions shown conform with Article 5 of Chapter 16 of this Code, Density and Dimensional Standards, or the approved PUD requirements.
- F. The applicable Design and Development Standards have been adequately addressed and the proposed improvements conform with Article 3 of Chapter 16 of this Code. (Ord. 11-2007 §1)

2.12.5 Amendments to Approved Site Plans.

- A. Minor variations in the location of structures, improvements or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town staff. Such changes shall not exceed ten percent (10%) of any measurable standard or modify the use, character, or density of an approved site plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.
- A. Changes to approved site plans that exceed the ten percent (10%) threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new site plan application. Such amendments shall require Planning Commission review and approval to become effective. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Section. (Ord. 11-2007 §1)

2.13 Plot Plan

2.13.2 Purpose and Applicability. The plot plan shall be submitted to apply for a building permit for any building or structure constructed on a single-family home or duplex lot. The plot plan shows where the proposed building or structure will be located on the lot so the Town can ~~make~~ verify compliance with all Town regulations. (~~Ord. 11-2007 §1~~)

2.13.3 Procedure. All plot plan applications shall comply with the following specific procedures in addition of the general procedures in Section 2.04.2

- B. *Pre-application Conference.* A pre-application conference is not required for a plot plan application.
- A. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a plot plan application shall include:
 - 1. Plot plan map.
 - 2. Drainage information. Provide the Town with information regarding how the lot will drain, if requested by the Planning Director or designee. Submit a copy of the subdivision master drainage plan for the area of the lot, if available.
- B. *Review and Approval.* The Planning Director or designee shall review the plot plan map and determine if it is consistent with the findings for approval. The Planning Director or designee will submit their determination to the Building Department to accompany the building permit application. (Ord. 11-2007 §1)

2.13.4 Findings for Approval.

- A. The plot plan is consistent with the Comprehensive Plan and the intent stated in this Land Use Code.
- B. The lot size and lot dimensions are consistent with what is shown on the approved final plat.
- C. No buildings or structures infringe on any easements.
- D. The proposed site grading is consistent with the subdivision grading and drainage plan, if applicable; otherwise, it shall meet the Town's approval.
- E. The density and dimensions shown conform with the Density and Dimensional Standards (Article 5 of Chapter 16 of this Code) or the approved PUD requirements.
- F. The applicable Design and Development Standards have been adequately addressed. (~~Ord. 11-2007 §1~~)

2.14 Sign Permit

- A. *Applications.* Each sign permit requires a separate application. The applicant must file the application on a form furnished by the Building and Planning Department and include payment of the non-refundable permit fee. The applicant must submit all information requested on the application form if applicable.
- B. *Review.*

1. The Building and Planning Department will review a sign permit application to determine if it is complete. If the application is incomplete, the Building and Planning Department will provide a list of items necessary to complete the application within 7 business days after the application was submitted.
 2. The Building and Planning Department will review a complete sign permit application for compliance with this Section and render an administrative decision.
 3. The Building and Planning Department will act on an application by approving, approving with conditions, or denying the application within 30 days of the date the application is deemed complete.
- C. Approval Criteria. The Building and Planning Department will issue a sign permit if the proposed sign conforms with all applicable provisions of this Section and any conditions or stipulations of any applicable rezoning, special use permit, site plan, or development plan.
- D. Expiration. A sign permit becomes null and void if installation does not commence within 420-180 days from the date of permit approval. If work authorized by the permit is suspended or abandoned for 420-180 days from the date the work commences, a new permit is required to complete the installation work, even if no changes are made to the original sign plan.
- E. Revocation. The Building and Planning Department may revoke a sign permit if:
1. It is issued in error; or
 2. The sign or sign supporting structure is installed contrary to the approved plans or in violation of this Section.

2.15 Conditional Uses

2.15.2 Purpose. Conditional Use approval provides flexibility and helps diversify uses within a zoning district. Specific conditional uses for each zone district are listed in Article 6.

2.15.3 Applicability. Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this section assures compatibility and harmonious development between conditional uses, surrounding properties and the Town's goals and policies. Conditional uses may be permitted subject to conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria. The scope and elements of any conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied.

2.15.4 Procedure. All conditional use applications shall comply with the following specific procedures in addition to the general application procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is ~~optional~~required for a conditional use application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a conditional use application shall include the following:
 - 1. A written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use review criteria have been satisfied.
 - 2. A map showing the proposed development of the site, including any applicable topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.
 - 3. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance, and scale of all buildings.
 - 4. Such additional material as the Planning Director or designee may prescribe or the applicant may submit pertinent to the application.
- C. *Review and Approval.*
 - 1. Planning Commission Recommendation.
 - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
 - b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
 - c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.
 - 2. Town Board Approval.
 - a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.

- b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.15.5 Findings for Approval.

- A. The conditional use is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The conditional use will be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
- C. The conditional use will not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district.
- D. The conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
- E. Potential negative impacts of the conditional use on the rest of the neighborhood or of the neighborhood on the conditional use have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods. The applicant shall satisfactorily address the following impacts or state a negligible impact:
 - 1. Traffic;
 - 2. Activity levels;
 - 3. Light;
 - 4. Noise;
 - 5. Odor;
 - 6. Building type, style and scale;
 - 7. Hours of operation;
 - 8. Dust; and
 - 9. Erosion control.
- F. The applicant has submitted evidence that all applicable local, state, and federal permits have been or will be obtained.

2.16 Minor Subdivisions

Minor Subdivision Plat

2.16.2 **Purpose.** The purpose of the minor subdivision plat is to provide an administrative process for subdivision of land that meets the requirements of the applicability section below.

2.16.3 **Applicability.** A minor subdivision shall be defined as a subdivision of land that meets the following conditions:

- A. The property has previously been platted within the Town;
- B. The entire tract to be subdivided is five (5) acres or less in size;
- C. The resulting subdivision will produce four (4) or fewer additional lots; and
- D. There will be no exceptions to the Subdivision Design Standards. (Ord. 11-2007 §1)

2.16.4 **Procedure.** All minor subdivisions shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3

- A. *Pre-application Conference.* A pre-application conference is required for a minor subdivision application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a minor subdivision application shall include:
 - 1. Minor subdivision plat.
 - 2. General development information. Provide a written description addressing how the proposed development conforms with the Design and Development Standards, Chapters 16 and 17 of this Code and the Comprehensive Plan.
- C. *Review and Approval.*
 - 1. Administrative Approval.
 - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
 - b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.16.5 **Findings for Approval.**

- 1. The minor subdivision is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- 2. The minor subdivision meets the intent of the zone district in which it will be located and all criteria and regulations specified in that zone district, including but not limited to minimum lot size and setbacks;

3. The minor subdivision does not result in new or increased nonconformities;
4. The minor amendment mitigates, to the maximum extent possible, any negative impacts on existing and planned public facilities in surrounding neighborhood;
5. The minor amendment has no effect on the conditions applied to the approval of the plat and does not violate any requirement of the Code; and
6. The administrative plat is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.17 Major Subdivisions

Preliminary Plat

2.17.2 **Purpose.** The purpose of the major subdivision preliminary plat is to provide the Town with an overall master plan for the proposed development. (Ord. 11-2007 §1)

2.17.3 **Applicability.** A major subdivision shall be defined as a subdivision of land results in more than four (4) additional lots.

2.17.4 **Procedure.** All major subdivision preliminary plat applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is required for a major subdivision preliminary plat application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a major subdivision application shall include:
 1. Preliminary plat.
 2. General development information. Provide a written description of the existing conditions on the site and the proposed development, including an explanation of how the plan is consistent with the Land Use Code and Comprehensive Plan.
 3. Preliminary grading and drainage plan and report. This plan and report must be certified by a Colorado-registered professional engineer, including storm drainage concepts such as locations for on-site detention or downstream structural improvements and soil erosion and sedimentation control plans and specifications. It must also discuss the impacts on and to any existing floodways and/or floodplains on and adjacent to the site as well as any FEMA applications required.
 4. Preliminary utility plan. This plan shall be prepared by a registered professional engineer. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through the subdivision. Town utilities shall be designed in conformance with the Town's Standard Design Criteria and Standard Construction Requirements.

5. Preliminary landscape and open space plan per Section 5.04.
6. Traffic study. This study must be prepared by a professional traffic engineer in conformance with the Division 1 Section 01300 Standard Design Criteria and Standard Construction Requirements.
7. Draft of proposed covenants and architectural design guidelines.
8. Mineral, oil and gas rights documentation. Evidence that the surface owner has contacted all lessees of mineral, oil and gas rights associated with the site and is working towards resolution. Included in the evidence must be the name of the current contact person, their phone number and mailing address.
9. Soils report.

C. Review and Approval.

1. Planning Commission Recommendation.
 - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
 - b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
 - c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.
2. Town Board Approval.
 - a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
 - b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
 - c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.17.5 Findings for Approval.

- A. The preliminary plat represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code and the Comprehensive Plan.
- B. The land use mix within the project conforms to the Town's Zoning District Map and furthers the goals and policies of the Comprehensive Plan including:
 - 1. The proposed development promotes the Town's small town, rural character;
 - 2. Proposed residential development adds diversity to the Town's housing supply;
 - 3. Proposed commercial development will benefit the Town's economic base;
 - 4. Parks and open space are incorporated into the site design;
 - 5. The proposed project protects the Town's environmental quality; and
 - 6. The development enhances cultural, historical, educational and/or human service opportunities.
- C. The utility design is adequate at a capacity that promotes the Town's character while strengthening the Town's vitality.
- D. The transportation design meets the intent of the Comprehensive Plan to provide increased connectivity, reduce traffic impacts, and encourage walkability.
- E. Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
- F. There is a need or desirability within the community for the applicant's development and the development will help achieve a balance of land use and/or housing types within the Town, according to the Town's goals. (Ord. 11-2007 §1)

Final Plat

2.17.6 **Purpose.** The purpose of the final plat is to complete the subdivision of land consistent with the technical standards. (Ord. 11-2007 §1)

2.17.7 **Procedure.** All major subdivision preliminary plat applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is not required for a major subdivision final plat application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a major subdivision application shall include:
 - 1. Final plat.
 - 2. General development information. Provide a written description confirming that the final plat conforms with the preliminary plat. In addition, the description shall address how the proposed development conforms with the Design and Development Standards.
 - 3. Complete engineering plans and specifications.
 - a. *Construction plans and profiles.*

- b. *Structure details*. Sufficient data shall be given to construction of major structures and road appurtenances such as bridges, culverts, gutters, drives, walks, cross pans, etc.; detail shall include orientation line and grade, cross-sections, dimensions, reinforcement schedules, materials, quality specification, etc.
 - c. *Sewage collection and water supply distribution plans, profiles and specifications*. The plans, profiles and specifications shall be prepared by a registered professional engineer and shall conform to the Standard Design Criteria and Standard Construction Requirements.
 - d. *Final drainage plans and reports*. Based upon the approved preliminary drainage plan, a final report is to be submitted in accordance with applicable storm drainage design criteria as determined at the initial preapplication conference.
 - e. *Final grading plan*.
 - f. *Soils reports*. The soils reports shall detail special foundation requirements (shall be submitted after overlot grading is complete) and pavement design (may be submitted prior to building permit).
 - g. *Final street lighting plan*. A final street lighting plan shall be prepared in conjunction with the electric utility. The plan must specify the number, kind and approximate location of street lights.
 - h. *Final landscape plan*.
4. Special documents (as needed).
- a. Special improvement district documents.
 - b. Maintenance bonds.
 - c. Special agreements (as may be required by the Town).
 - d. Work in Right-of-Way permit (from the Town).
 - e. Floodplain Use permit (from the Town).
 - f. Grading permit (from the Town).
 - g. State Highway Utility permit (from Colorado Department of Transportation).
 - h. State Highway Access permit (from Colorado Department of Transportation).
 - i. Construction Dewatering permit (from Colorado Department of Public Health and Environment).
 - j. 404 permit (from Army Corps of Engineers).
 - k. Air Pollution Emission Notice (APEN) (from Colorado Department of Public Health and Environment).
 - l. Work in Ditch Right-of-Way permit (from individual ditch companies).
 - m. Rare Species Occurrence Survey (from U.S. Fish and Wildlife Service).
 - n. Approved adjudication of water rights and a plan of augmentation (if applicable).

- o. Protective covenants, homeowners' association (HOA) documents, articles of incorporation for HOA, and Architectural Design Guidelines finalized and in a form for recording. If there are open space areas to remain in private ownership within the subdivision, the HOA documents must have in place a mechanism which will assure maintenance will be funded in perpetuity.
 - p. FEMA-approved applications (i.e., Conditional Letter of Map Revisions [CLOMR] or Letter of Map Revisions [LOMR]).
 - q. Documentation showing who will own and maintain the open space.
 - r. Documentation for dedication of public sites for open space or other civic purposes.
5. "Clean" final plat for addressing.
- a. Title of project.
 - b. North arrow, scale (not greater than 1"=100') and date of preparation.
 - c. Vicinity map.
 - d. Lot and block numbers, numbered in consecutive order.
 - e. Rights-of-way and street names.
 - f. Property boundary.

C. *Review and Approval.*

- 1. Planning Commission Recommendation.
 - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
 - b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
 - c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.
- 2. Town Board Approval.
 - a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.

- b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
 - c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.
- D. *Post Decision Actions*. The applicant shall submit the following documentation to the Town Planner following final decision of the major subdivision final plat:
- 1. List of contractors. List of all contractors that will be performing the improvements.
 - 2. Proof of insurance. Proof of workers' comprehensive insurance and liability insurance for each contractor.
 - 3. Open space deed restriction. Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and will remain as open space in perpetuity.
 - 4. Other certificates, affidavits, enforcements, or deductions. As required by the Planning Commission or Town Board. (Ord. 11-2007 §1)
 - 5. Memorandum of Public Improvements (MOAPI). This agreement assures construction of the required improvements. This document shall be signed by the developer and the Town, the signatures shall be notarized and the document shall be recorded by the Town Administrator/Clerk with the County Clerk and Recorder.
 - 6. General warranty deed. This deed conveys to the Town all public lands other than streets shown on the plat or, in lieu of a deed, a check in an amount to be determined by the Town.
 - 7. Improvements guarantee. Letter of credit from a bank in Colorado or other acceptable collateral in the amount stipulated to in the MOAPI or other agreements or contracts, posted in favor of the Town in an amount sufficient to assure construction of public improvements.

2.17.8 Findings for Approval.

- A. The final plat conforms with the approved preliminary plat and incorporates recommended changes, modifications and conditions attached to the approval of the preliminary plat unless otherwise approved by the Town Board.
- A. The development will substantially comply with the Design and Development Standards as set forth in Chapter 16, Article 3 of this Code.
- B. All applicable technical standards have been met.

2.18 Planned Unit Development (PUD)

2.18.2 **Purpose.** The Planned Unit Development (PUD) permits and encourages innovative design and high quality, master-planned developments on large parcels of land.

2.18.3 **Applicability.** Planned Unit Developments may be eligible for approval pursuant to the requirements established in this section.

2.18.4 **General PUD Requirements.** Properties utilizing the PUD Overlay District shall be subject to the following:

- A. The area of land for the PUD may be controlled by one (1) or more landowners and must be developed under unified control or a unified plan of development.
- B. Any areas designated as private streets and/or common open space, including land, an area of water or a combination of land and water within the site designated for a PUD, shall be designed and intended primarily for the use or enjoyment of residents, occupants and owners of the PUD; and provisions shall be made for the establishment of an organization for the ownership and maintenance of such private streets and/or common open space areas unless other adequate arrangements for the ownership and maintenance thereof are provided in a manner acceptable to the Town.
- C. All requirements set forth in this Code otherwise applicable to the area of land proposed for a PUD shall govern, except to the extent that the unified plan of development for residential, commercial, educational, recreational, or industrial uses or any combination thereof may propose exceptions in lot size, bulk, type of use, density, lot coverage, open space, or other standards within the existing land use regulations.
- D. No PUD may be approved by the Town without the written consent of the landowner whose property is included within the PUD.

2.18.5 General PUD Procedure.

- A. All PUD applications shall be submitted and processed simultaneously with the processing of subdivision applications for the property per the procedures set forth in Section 2.167. In addition, an application for a rezone shall be processed per Section 2.07.
- B. Rezoning to a PUD shall occur concurrently with a preliminary plat/preliminary PUD development plan. Public hearings for the zoning of a property as a PUD and for preliminary PUD development plan approval may be combined or can occur separately.
- C. Development within a PUD cannot occur unless and until a final plat for the portion of the property to be developed has been approved and recorded as provided in Section 2.167.
- D. Upon approval of a final PUD development plan, the Town Board shall adopt an ordinance establishing the PUD Overlay District for the property in accordance with that plan.

- E. In addition to all of the information required as part of the sketch plan, preliminary plat and final plat application packages, applications for a PUD development plan and PUD Overlay District shall include additional information as outlined below.

Sketch PUD Development Plan

2.18.6 Purpose. The purpose of the sketch PUD development plan is to provide the Town with a preliminary master plan concept for the proposed development.

2.18.7 Procedure. All sketch PUD development plan applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is required for a sketch PUD development plan application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a major subdivision application shall include:
 - 1. A written PUD description as part of the general development information, which includes:
 - a. A list of all subdivision regulation exceptions proposed for the PUD.
 - b. Identification of the underlying zoning districts for the property and a description of any proposed modifications and/or restrictions to the allowed uses and/or standards within the districts. If any conditional uses are requested, explain how the conditional use review criteria will be addressed.
 - c. Identification and explanation of the benefits which will be provided by the PUD to offset the impact of the modifications requested (i.e., if the minimum lot size is decreased, additional functional, centrally located common open space will be provided; or if the width of the local street right-of-way is decreased by eliminating on-street parking, then there will be designated parking areas within five hundred [500] feet of all residences, etc.). All proposed benefits must offset the proposed modifications.
 - d. An explanation of how the proposed PUD will be compatible with adjacent neighborhoods which now exist or are proposed in the future. Describe any proposed buffering techniques which serve to achieve such compatibility.
 - e. Any additional relevant information which the Town may deem necessary.
- C. *Review and Approval.*
 - 1. Administrative Approval.
 - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.

- b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

Preliminary PUD Development Plan

2.18.8 Purpose. The purpose of the preliminary PUD development plan is to provide the Town with an overall master plan with preliminary engineering detail to ensure all provisions of this Land Use Code can be met.

2.18.9 Procedure. All preliminary PUD development plan applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is not required for a preliminary PUD development plan application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a major subdivision application shall include:
 - 1. A written PUD description as part of the general development information which includes:
 - a. A list of all subdivision regulation exceptions being proposed for the PUD and an explanation of why such exceptions are justified.
 - b. Identification of the underlying zoning districts for the property and a description of any proposed modifications and/or restrictions to the allowed uses and/or standards within the districts. Provide a comparison between the proposed preliminary PUD plan to the elements and standards of the underlying zone districts as contained in this Chapter. If any conditional uses are requested, explain how the conditional use review criteria will be addressed.
 - c. A description of how the proposed PUD overlay rezoning satisfies one (1) or more of the criteria for amendments to the official zoning map.
 - d. Identification and an explanation of the benefits which will be provided by the PUD to offset the impact of the modifications requested. The proposed benefits must offset the proposed modifications.
 - e. An explanation of how the proposed PUD will be compatible with adjacent neighborhoods which now exist or are proposed in the future. Buffering techniques which serve to achieve such compatibility shall be described.
 - f. An explanation of how the preliminary PUD development plan is consistent with the sketch PUD development plan or, if there are differences, the rationale for the changes.
 - g. Draft copies of owners' association documents (covenants, conditions, restrictions, and any architectural design guidelines) that provide an acceptable program for the continuing

maintenance of open space, recreational areas, walkways, and private streets within the PUD that detail the type of organizational structure responsible for such ongoing maintenance and that provide for architectural review based on the design guidelines.

h. Any additional relevant information which the Town may deem necessary.

2. Preliminary PUD development plan map. The preliminary PUD development plan map shall be prepared using the preliminary plat map as the base. The base shall include a clear graphic or written representation of:

a. All principal, conditional and accessory uses within each land use category within the PUD (i.e., single-family, multi-family, commercial, etc.), either listed specifically or by reference to the zoning districts within the Town. In particular, any modifications to the principal, conditional, and accessory uses of the underlying zone districts shall be noted.

b. Standards for principal and accessory uses within each land use category, to include:

i. Minimum lot area.

ii. Maximum lot coverage.

iii. Maximum floor area ratio (total floor area to total lot area).

iv. Maximum building height.

v. Parking requirements for principal, accessory, and conditional uses.

vi. Any additional relevant information which the Town may deem necessary.

c. Proposed phasing for the development.

C. Review and Approval.

1. Planning Commission Recommendation.

a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.

b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.

c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.

2. Town Board Approval.

a. The Town Board shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative

may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.

- b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

Final PUD Development Plan

2.18.10 **Purpose.** The purpose of the final PUD development plan is to complete the subdivision of land consistent with the technical standards.

2.18.11 **Procedure.** All final PUD development plan applications shall comply with the following specific procedures in addition to the general procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is not required for a final PUD development plan application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a major subdivision application shall include:
- C. A written PUD description as part of the general development information, based on the materials submitted for the preliminary PUD development plan and on comments received from the Town at the time of preliminary plan review. All of the items listed above for the preliminary PUD development plan in finalized form shall be included. An explanation shall also be included of how the final PUD development plan is consistent with the preliminary PUD development plan, or if there are differences, the rationale for the changes.
- D. A final PUD development plan map. The final PUD development plan map using the final plat map as the base shall be prepared.
- E. Any additional relevant information which the Town may deem necessary.

2.18.12 **Findings for Approval.**

- A. *Sketch PUD development plan review criteria.* The following review criteria will be used by the Town staff, Planning Commission and Town Board to evaluate all PUD applications at the time of sketch PUD plan/sketch plan review:
 - 1. The proposed benefits offset the proposed exceptions to the zoning and subdivision standards, and the exceptions are in the best interest of the public health, safety, and welfare.

2. The proposed PUD conforms to the PUD restrictions, and the proposed zoning is compatible with the surrounding land uses.
 3. The PUD proposes creative and innovative design and high-quality development, thereby protecting and promoting public safety, convenience, health, and general welfare.
 4. The uses and densities in the proposed PUD are compatible and will be effectively integrated with adjacent neighborhoods which now exist or are proposed in the future.
 5. The proposed PUD is in general conformance with the Comprehensive Plan.
 6. One (1) or more of the criteria for amendment of the official zoning map has been satisfied.
- B. *Preliminary PUD development plan review criteria.* In addition to all of the review criteria for a sketch PUD development plan, the following review criteria will be used by the Town staff and Town Board to evaluate all PUD applications at the time of the preliminary PUD plan/preliminary plat:
1. The preliminary PUD development plan is substantially consistent with the sketch development plan as approved by the Town Board.
 2. All sketch PUD development plan conditions of approval have been adequately addressed on the preliminary PUD development plan.
- C. *Final PUD development plan review criteria.* In addition to all of the review criteria for a preliminary PUD development plan, the following review criteria will be used by the Town staff and Town Board to evaluate all PUD applications at the time of the final PUD plan/final plat:
1. The final PUD development plan is substantially consistent with the preliminary PUD development plan as approved by the Town Board.
 2. All preliminary PUD development plan conditions of approval have been adequately addressed on the final PUD development plan.
 - a. Compliance with PUD Overlay District/final development plan. The Town Board may initiate the process to repeal the ordinance establishing the PUD Overlay District if:
 - i. The project for which the PUD overlay zone was established is not carried out pursuant to the approved final PUD development plan; provided, however, that the Town Board may approve appropriate modifications to the final PUD development plan from time to time prior to completion of the proposed development; or
 - ii. Building activity for the PUD Overlay District has not commenced within a period of one (1) year after the effective date of the creating ordinance, unless otherwise approved by the Town Board.

2.19 Condominium/Townhome Plat

2.19.2 **Purpose.** Condominium or townhome plat approval is intended for adjustments to legal boundaries, easements, and title of property for proper recording. These adjustments have little or no impacts on public facilities and infrastructure and are within ownership patterns or

development patterns that have otherwise been determined in accordance with the Wellington Comprehensive Plan.

2.19.3 Applicability. Condominiumization or Townhome Plats may be eligible for administrative approval where:

A. The subdivision is a condominiumization or townhome subdivision.

2.19.4 Procedure. All applications for administrative plat review shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.4 and shall meet all requirements for a final subdivision plat as set forth in Section 2.16.

A. *Pre-application Conference.* A pre-application conference is required for a condominium or townhome plat application to discuss specific application procedures, criteria, and requirements for a formal application.

B. *Application Submittal.* The condominium or townhome plat application shall follow the requirements established in Section 2.08.3.B.

C. *Review and Approval.* The condominium or townhome plat shall follow the requirements established in Section 2.08.3.C.

2.19.5 Additional Standards – Condominiumization. For final condominiumization approval the following additional provisions are needed:

A. A map showing all common areas (general and limited common elements) and usages of the building and grounds, for the interior division of the building showing horizontal and vertical boundaries of all units, including a distance from a building corner to a property corner or other survey reference; and

B. A copy of the declaration applicable to the condominium project, ~~as defined in Section 38-33-105, C.R.S. 1973,~~ as amended and/or as may be required pursuant to the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101 et.seq., as amended.

C. A copy of the condominium association Articles of Incorporation, bylaws, and covenants. The bylaws and declaration of covenants shall contain the information required by the Condominium Ownership Act of the State of Colorado and the Colorado Common Interest Ownership Act, if applicable. All condominium projects shall comply with this requirement.

D. A management plan that states:

1. The responsible party for managing the common area;
2. Provisions for selecting, appointing, and securing management; and
3. Responsibilities and duties of the management entity.

E. A maintenance plan that states:

1. The responsible entity for repair and maintenance of common areas;
2. What will be included in the maintenance program, including but not limited to provisions for snow removal, trash removal, maintenance of pools, hot tubs, common areas and other amenities; and

3. The mechanism used to fund the management and maintenance activities of the development.
- F. In addition, if there are any restrictive covenants, conditions, or restrictions other than specified in the declaration, they shall be filed concurrently with the filing of the final plat.

2.19.6 Additional Standards – Townhomes.

- A. A townhome lot may be subdivided prior to the construction of the foundation provided that:
 1. The final plat of any such townhome lot shall contain a plat note that provides as follows:
 - a. Pursuant to Section 4.02.8.G of the Town of Wellington Code, the townhome lot identified hereon as “_____” has been subdivided prior to the construction of the townhome or its foundation. Pursuant to said section, the owner(s) of the townhome lot, as well as the owner(s) of any property that abuts the townhome lot must, within ninety (90) days after the construction of the foundation for the townhome, have a survey of the location of the foundation prepared and make a subdivision plat amendment application to the Town that shall cause the townhome lot depicted on the plat to be coterminous with the foundation of the townhome as constructed; and
 2. Within ninety (90) days after the construction of the foundation for the townhome, the owner(s) of the townhome lot shall have a survey of the location of the foundation prepared and, along with the owner(s) of any property that abuts the townhome lot, shall make and pursue to completion an application to the Town to amend the plat of the townhome that causes the townhome lot to be coterminous with the foundation of the townhome as constructed.
- B. With respect to a townhome lot that has been subdivided prior to the construction of the townhome or its foundation, it is unlawful:
 1. For the owner(s) of the lot to fail to, within ninety (90) days after the construction of the foundation, have a survey of the location of the foundation prepared; and
 2. For the owner(s) of the lot and the owner(s) of any property that abuts the townhome lot, to fail to, within ninety (90) days after the construction of the foundation, make and pursue to completion an application to the Town to amend the plat of the townhome lot that causes the townhome lot to be coterminous with the foundation of the townhome as constructed.
- C. For final townhome plat approval the following additional provisions are needed:
 1. A map showing all common areas (general, limited common area), usages of the building and grounds, and the building showing horizontal boundaries for the interior division of all unit;
 2. A copy of the Townhome Association Articles of Incorporation, bylaws, and covenants;
 3. A management plan that states:
 - a. The responsible party for managing the common area;
 - b. Provisions for selecting, appointing, and securing management; and
 - c. Responsibilities and duties of the management entity.
 4. A maintenance plan that states:

- a. The responsible entity for repair and maintenance of common areas;
 - b. What will be included in the maintenance program, including but not limited to provisions for snow removal, trash removal, maintenance of pools, hot tubs, common areas and other amenities; and
 - c. The mechanism used to fund the management and maintenance activities of the development.
- D. In addition, if there are any restrictive covenants, conditions, or restrictions other than specified in the declaration, they shall be filed concurrently to filing of the final plat; and
- E. A copy of the declaration applicable to the townhome project, ~~as defined in Section 38-33-105, C.R.S. 1973,~~ as amended and/or as may be required pursuant to the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101 et. seq., as amended.

2.19.7 Findings for Approval.

- A. The condominium or townhome plat is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The condominium or townhome plat shall meet the intent of the zone district in which it will be located and all criteria and regulations specified in that zone district, including but not limited to minimum lot size and setbacks;
- C. The condominium or townhome plat shall not result in new or increased nonconformities;
- D. The condominium or townhome plat shall mitigate, to the maximum extent possible, any negative impacts on existing and planned public facilities in surrounding neighborhood;
- E. The condominium or townhome plat has no effect on the conditions applied to the approval of the plat and does not violate any Code requirement; and
- F. The condominium or townhome plat is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.20 Revised Final Plat

2.20.2 Purpose. Revised final plat approval is intended for revisions to legal boundaries, easements, and title of property for proper recording. These revisions are within ownership patterns or development patterns that have otherwise been determined in accordance with the Wellington Comprehensive Plan.

2.20.3 Applicability. Revisions to a previously approved final plat may be eligible for administrative approval where:

- A. The revisions are due to field conditions that could not have been reasonably anticipated or were discovered at the time of the final plat which results in no material change to the application; or

- B. The revisions are due to changes in the development program, and these changes will result in no additional lots and will impact public facilities the same or similarly to the previously approved application.

2.20.4 Procedure. All revised final plat applications shall comply with the following specific procedures in addition to the administrative review procedures set forth in Section 2.04.4 and shall meet all requirements for a final subdivision plat as set forth in Section 2.16.

- A. *Pre-application Conference.* A pre-application conference is required for a revised final plat application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Application Submittal.* The revised final plat application shall follow the requirements established in Section 2.08.3.B.
- C. *Review and Approval.* The revised final plat application shall follow the requirements established in Section 2.08.3.C.

2.20.5 Findings for Approval.

- D. The revised final plat is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- A. The revised final plat shall be meet the intent of the zone district in which it will be located and all criteria and regulations specified in that zone district, including but not limited to minimum lot size and setbacks;
- B. The revised final plat shall not result in new or increased nonconformities;
- C. The administrative plat shall mitigate, to the maximum extent possible, any negative impacts on existing and planned public facilities in surrounding neighborhood;
- D. The revised final plat has no effect on the conditions applied to the approval of the plat and does not violate any Code requirement; and
- E. The revised final plat is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.21 Annexation

2.21.2 Purpose. This Section establishes the procedure to bring land under the jurisdiction of the Town in compliance with the Colorado Municipal Annexation Act of 1965, as amended. (Ord. 11-2007 §1)

2.21.3 Responsibilities of Applicant. In addition to other duties imposed upon all applicants by this Code and the Colorado Municipal Annexation Act of 1965, as amended, all applicants shall have the following responsibilities:

- A. The applicant is responsible for having a representative at all meetings where the request is reviewed. Failure to have a representative present will be cause to have the item withdrawn from the agenda of that meeting.
- B. The applicant shall consult with the Planning Department to discuss any special conditions pertaining to the annexation and to obtain an annexation petition. (Ord. 11-2007 §1)

2.21.4 Procedure.

- A. *Pre-application Conference.* A pre-application conference is required for an annexation application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Annexation Petition Submittal.* At least fifteen (15) days prior to the presentation of any annexation petition to the Town Board, the applicant shall submit to the Town an annexation petition including:
 - 1. An Annexation Map depicting at a minimum the property boundaries, location of existing buildings, parking, utilities, and easements as well as current and proposed zoning and land use categories.
 - 2. A Master Plan depicting the preliminary design of the proposed use including lot and block layout and proposed residential density.
 - 3. A request for zoning of the area pursuant to Section 2.07, to be reviewed concurrently with the annexation.
 - 4. Supportive information. The following supportive information shall be submitted with the annexation map and master plan:
 - a. Soils description and limitation.
 - b. Preliminary utility plan.
 - c. Statement on community need for proposed annexation and zoning.
 - d. For all annexations in excess of ten (10) acres, the applicant shall obtain from the school district governing the area to be annexed a statement of the effect of the annexation upon the school district, including an estimate of the number of students generated by the proposed annexation and the capital construction required to educate such students.
- C. *Review and Approval.*
 - 1. The Planning Director or designee shall review all documents submitted for completeness and accuracy.
 - 2. Once it is determined that the annexation petition is complete and accurate, the Planning Director or designee shall present the annexation petition and a resolution initiating annexation proceedings to the Town Board, which shall thereafter establish a date for a public hearing.
 - 3. Upon the establishment of a public hearing date, the notice shall be given in accordance with the Colorado Municipal Annexation Act of 1965, as amended, and shall specifically direct copies of the annexation petition and the resolution initiating the annexation procedure by certified mail to the Clerk of the Larimer County Board of County Commissioners and to the Larimer County Attorney. Copies of the annexation petition and the resolution initiating the annexation procedure

shall also be sent by certified mail to any school district or special district having territory within the annexed area. These copies shall be sent at least twenty-five (25) days prior to the public hearing.

4. The Planning Director or designee shall furnish the annexation map and the master plan to the following entities and may submit copies of the annexation map and the master plan to additional interested entities at their discretion. Such entities shall be advised by the Planning Director or designee of the scheduled hearing date and shall further be notified that any objections to the annexation and master plan must be submitted to the Town in writing no later than seven (7) days after receipt of the annexation map and master plan:
 - a. Telephone companies.
 - b. Franchise utility companies.
 - c. Town Engineer.
 - d. Fire Department.
 - e. Town Water and Sewer Department.
 - f. Colorado Department of Transportation.
5. Planning Commission Recommendation.
 - a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
 - b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
 - c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.
6. Town Board Approval.
 - a. The Town Board shall hold a public hearing and review the application at a regular meeting. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
 - b. The Town Board shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.

- c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Town Board shall be considered a part of and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.21.5 Annexation Impact Report.

- A. For all annexations in excess of ten (10) acres, the Town shall prepare an impact report regarding the proposed annexation not less than twenty-five (25) days before the date of the annexation hearing. One (1) copy of the impact report shall be filed with the Larimer County Board of County Commissioners within five (5) days thereafter. The preparation and filing of the annexation impact report may be waived upon approval of the Larimer County Board of County Commissioners.
- B. The annexation impact report shall include the following:
 1. A map or maps of the Town and adjacent territory showing the following information:
 - a. The present and proposed boundaries of the Town in the vicinity of the proposed annexation.
 - b. The present streets, major trunk water lines, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation.
 - c. The existing and proposed land use pattern in the areas to be annexed.
 2. A copy of any draft or final pre-annexation agreement, if available.
 3. A statement of the Town's plans for extending or providing for municipal services within the area to be annexed.
 4. A statement of the Town's plans for the financing of municipal services to be extended into the area to be annexed.
 5. A statement identifying all existing districts within the area to be annexed.
 6. A statement of the effect of the annexation upon the school district governing the area to be annexed, as is more fully set forth in ~~Paragraph 15-1-30(d)(7)~~ above. (~~Ord. 11-2007 §1~~)

2.21.6 Consideration of Annexation Ordinance. Upon the submission of documentation in accordance with this Chapter and upon compliance with the notice and hearing requirements as set forth in the Colorado Municipal Annexation Act of 1965, as amended, the Town Board may consider the approval of an ordinance annexing the subject property to the Town. If the Town Board considers and disapproves the ordinance, no similar request may be heard for a period of one (1) year from the date of denial.

2.21.7 Findings for Approval.

1. The annexation is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;

2. The annexation shall not create any additional cost or burden on then-existing residents of the Town to provide public facilities and additional community services in any newly-annexed area;
3. The applicant has demonstrated that they arranged with the school district regarding the dedication of school sites, or payment of fees in lieu of said dedication, as may be agreed to among the applicant, the school district, and the Town;
4. All existing and proposed streets in newly annexed territory shall be constructed in compliance with all current Town standards unless the Town determines that the existing streets will provide appropriate access during all seasons of the year to all lots fronting on each street; and that the curbs, gutters, sidewalks, bike lanes, culverts, drains, and other structures necessary to the use of such streets or highways are satisfactory or not necessary to promote public safety. The location, type, character and dimensions of all structures and the grades for all existing or proposed street work shall be subject to approval by the Town;
5. The annexation is in the best interest of the citizens of the Town of Wellington; and
6. The annexation is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.21.8 Final Submission. If the Town Board approves an annexation ordinance, the applicant shall submit to the Planning Department the final annexation map and master plan within ten (10) days of the effective date of the annexation ordinance.

2.22 Variance

2.22.2 Purpose. A variance provides relief from the strict application of a standard to a specific site that would create an unnecessary hardship or practical difficulties on all reasonable use of the property.

2.22.3 Applicability. Variances may be sought for relief from dimensional and numerical standards of this Land Use Code. Variances may not be sought to vary the allowed use on a property.

2.22.4 Procedure. All applications for Variances shall comply with the following specific procedures in addition to the general procedures set forth in Section 2.04.

- A. *Pre-application Conference.* A pre-application conference is required for a variance application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Application Submittal.* The variance application shall include:
 1. A site plan detailing property boundaries, footprints of all existing and proposed buildings, parking configuration, location of all utilities and easements, and any other details required to demonstrate conformance with all regulations and development standards applicable to the proposed zoning district;

2. A written narrative justifying why the proposed variance fits in with the surrounding neighborhood;
3. Conceptual building plans, including elevations, exterior materials, doors, decks, etc., if applicable;
4. Any other information identified in the pre-application meeting.

C. *Review and approval.*

~~1. Planning Commission Recommendation.~~

- ~~a. The Planning Commission shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.~~
- ~~b. The Planning Commission shall either recommend approval, approval with conditions, or denial of the application to the Town Board, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.~~
- ~~c. A copy of the Planning Commission recommendation shall be sent to the Town Board with the applicant to be reviewed during a public hearing by the Town Board at a regularly scheduled board meeting.~~
- ~~d. The review of a development permit may occur concurrently with review for a general rezone or other land development application.~~

~~2.1. Town Board of Adjustments Review/Approval.~~

- a. The ~~Town Board~~ of Adjustments shall hold a public hearing and review the application at a regular meeting. Public notice shall be given pursuant to Section 2.02. The applicant or their representative may be present at the meeting to present the proposal. Staff shall present their staff report and recommendation.
- b. The ~~Town Board~~ of Adjustments shall either approve, approve with conditions, or deny the application, or continue the hearing pursuant to Section 2.02.4, with the requirement that the applicant submit changes or additional information which they find necessary to determine whether the application complies with the Town's regulations, goals, and policies.
- c. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the ~~Town Board~~ of Adjustments shall be considered a part of, and inseparable from, the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.22.5 Findings for Approval.

- A. The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;

- B. Strict application of the regulation will result in an unnecessary hardship and practical difficulties on all reasonable use of the land intended by the existing zoning, as opposed to convenience or benefit of the applicant or a specific application;
- C. The need for the variance is due to specific and unique physical conditions on the site that do not exist on similarly situated land in the area;
- D. The manner in which strict application of the regulation deprives the applicant of reasonable use of the land compared to other similarly situated land in the area;
- E. The circumstances warranting the variance are not the result of actions by the applicant, or could not be reasonably avoided by actions of the applicant;
- F. Granting the variance will not harm the public health, safety and welfare or the purposes and intent of these regulations;
- G. The relief requested is the minimum necessary to alleviate the hardship and practical difficulties; and
- H. The relief requested is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

2.23 Appeals

2.23.2 Purpose. This section sets forth the process for appealing land use decisions made by any applicant, administrative official, board, or commission under this Code.

2.23.3 Applicability. An appeal application may be initiated by any person aggrieved by a final decision made by an administrative officer or agency, based upon or made in the course of the administration or enforcement of this Code. Appeals are made in accordance with C.R.S. § 31-23-307.

- A. Appeals may be taken by any officer, department, board, or commission of the Town affected by the grant or refusal of the building permit, or by other decision of the administrative officer or agency, based on or made in the course of administration or enforcement of this regulation.
- B. *Appeal of Administrative Decisions.* Appeals of all administrative decisions shall be to the Board of Adjustment.
- C. *Appeal of Planning Commission Decisions.* Appeals of all Planning Commission decisions shall be to the Town Board.
- D. *Appeal of Town Board Decisions.* Appeals of any final decision by the Town Board decisions made pursuant to this Code shall be to the District Court in the manner set forth in the Colorado Rules of Civil Procedure.

~~D-E.~~ *Appeal of Board of Adjustment Decisions.* Appeals of any decision of the Board of Adjustments shall be to the District Court.

2.23.4 Procedure.

- A. *Pre-application Conference.* A pre-application conference is not required for an appeal of an administrative decision, but may be used to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Application Submittal.* Appeals shall be:
1. Made in writing and submitted to the Planning Director stating the specifics of the appeal, the grounds for the requested relief, and include all pertinent records of the decision.
 2. Made within [7-30](#) days of the final decision.
 3. Demonstrate that the decision is final and that all other administrative remedies have been exhausted.
- C. *Review.* Upon receipt of a formal application staff will conduct an internal review and may supplement the application with any additional records on the decision.
1. Upon submittal of a formal application, staff shall only review the application to confirm that it is complete and that the appeal is heard by the appropriate review body. The staff report shall not make a formal recommendation, but rather shall include only the necessary facts to warrant an appeal, which shall be provided by the appellant.
 2. The appellant has the burden of proving the necessary facts to warrant approval of an appeal by the appropriate decision-making body. Such proof shall be provided at time of a written application with the non-refundable application fee. If the appellant fails to provide facts warranting an appeal, the application shall be rejected.
 3. An appeal stays all proceedings from further action unless the Town Administrator determines that a stay would create adverse impacts to the health, safety, and welfare of the Town or subject neighborhood.
- D. *Public Hearings.*
1. The ~~Town Board~~ [of Adjustments or Town Board of Trustees, as applicable,](#) shall review the application subject to the criteria in this section. Upon the close of the public hearing the [Board of Adjustments or](#) Town Board [of Trustees, as applicable,](#) shall either affirm the decision of the administrative official or Planning Commission, affirm the decision of the administrative official or Planning Commission with specific conditions and modifications, overturn the decision of the administrative official or Planning Commission and make the decision that the ~~Town Board~~ [of Adjustments or Town Board of Trustees, as applicable,](#) determines should be made, or continue the application to collect additional information pertinent to the application or to take the matter under advisement.
 - a. If the hearing is postponed, new notice shall be required.

- b. The continued hearing shall occur at the next ~~Town Board~~ regular meeting, or at some other time within 60 days with the consent of the applicant. No application may be postponed more than once ~~by the Town Board~~ without the applicant's consent.
2. No decision of the ~~Town Board~~ of Adjustments or Town Board of Trustees, as applicable, may exceed the authority granted to the administrative official or Planning Commission under these regulations,
3. The appeal authority may reverse a previous decision in whole or in part, or may modify the order, requirement, decision, or determination appealed from.
4. The appeal authority may attach conditions of approval on any appeal to ensure the health, safety, and welfare of the Town.

2.23.5 Findings for Approval. In reviewing and determining whether to affirm, reverse, or amend a decision of another decision-making body, the current decision-making body shall consider the following findings:

- A. Whether the decision of the administrative official or Planning Commission was a clear error, as opposed to fairly debatable, according to the provisions of these regulations.
- B. The interpretation instructions of these regulations.
- C. The purposes, intent, and design objectives of any standards that are subject to the appeal.
- D. The record on the application, including the official plans and policies of the Town used to evaluate the application or make the decision.
- E. Whether the final decision and the grounds for relief requested in the appeal are within the authority granted by these regulations.
- F. Whether there are other more appropriate and applicable procedures to achieve the applicant's proposed objective, such as a plan amendment, text amendment, planned zoning districts, a zoning map amendment, or a variance.

2.23.6 Post Decision Actions. Any further appeals from the appropriate appeal authority shall be made as provided by law.

2.24 Special Review

2.24.2 Purpose. Special Review approval provides an administrative process for approving permitted uses that have specific design standards associated with them

2.24.3 Applicability. Because of their unusual or special characteristics, special uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this section assures compatibility and harmonious development between conditional uses, surrounding properties and the Town's goals and

policies. Special review uses may be permitted subject to compliance with standards specified in Chapter 4 to ensure compatibility with surrounding uses.

2.24.4 Procedure. All special review applications shall comply with the following specific procedures in addition to the general application procedures in Section 2.04.3.

- A. *Pre-application Conference.* A pre-application conference is optional required for a conditional special use application to discuss specific application procedures, criteria, and requirements for a formal application.
- B. *Land Use Application Submittal.* In addition to the requirements set forth in Section 2.04.3, a special review application shall include the following:
 - 1. A written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use review criteria have been satisfied.
 - 2. A map showing the proposed development of the site, including any applicable topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.
 - 3. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance, and scale of all buildings.
 - 4. Such additional material as the Planning Director or designee may prescribe or the applicant may submit pertinent to the application.
- C. *Review and Approval.*
 - 1. Administrative Approval.
 - a. The Planning Director or designee shall either approve, approve with conditions, or deny the application.
 - b. Any information, exhibits, plans or elevations, whether conceptual or detailed, that are part of the application approved by the Planning Director or designee shall be considered a part of, and inseparable from the approval. All development shall conform to the approved plans, unless otherwise provided for within this Land Use Code.

2.24.5 Findings for Approval.

- A. The use is consistent with the Comprehensive Plan and the intent stated in this Land Use Code;
- B. The use will be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
- C. The use will not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district.

- D. The use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
- E. Potential negative impacts of the use on the rest of the neighborhood or of the neighborhood on the use have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods.
- F. The applicant has submitted evidence that all applicable local, state, and federal permits have been or will be obtained.

DRAFT

CHAPTER 3: ZONING DISTRICTS

3.01 Purpose and Organization

3.01.1 Purpose

This chapter describes each zone district and their associated dimensional requirements. In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, comfort, prosperity and general welfare. These zoning regulations are designed to:

- A. Encourage the most appropriate use of land through the Town and ensure a logical growth of the various physical elements of the Town.
- B. Regulate and determine the size of building lots, yards and other open spaces.
- C. Promote good design and arrangement of buildings or clusters of buildings and uses in residential, business and industrial development.
- D. Prevent the overcrowding of land, poor quality in development, waste and inefficiency in land use, danger and congestion in travel and transportation and any other use or development that might be detrimental to the stability and livability of the Town.
- E. Promote the health, safety, morals and general welfare of Town residents.

3.01.2 Uniformity of regulations.

The regulations established by this Article within each zone shall apply uniformly to each class or kind of structure or land. Unless exceptions are specified in this Article, the following interpretations shall apply:

- A. No building, structure or land shall be used or occupied, changed, constructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the zone in which it is located.
- B. No building or other structure shall be erected or altered to:
 - 1. Exceed the height limitations;
 - 2. Occupy a greater percentage of the area; or
 - 3. Have narrower or smaller rear yards, front yards, side yards or other open spaces.
- C. No yard or lot existing or approved at the time of adoption of this Land Use Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the ordinance codified herein shall meet at least the minimum requirements established by this Chapter.

3.01.3 Zoning Districts.

In order to carry out the provisions of this Code, the Town is divided into the following zoning districts:

Abbreviation	Title
Residential Zone Districts	
A	Agricultural District
R-1	Residential Rural Density District
R-2	Residential Low Density District
R-3	Residential Medium Density District
R-4	Downtown Neighborhood District
MH	Manufactured Home Park District
Commercial and Mixed-Use Zone Districts	
C-1	Community Commercial District
C-2	Downtown Core Commercial District
C-3	Mixed-Use Commercial District
Other Non-Residential Zone Districts	
LI	Light Industrial District
I	Industrial District
P	Public District
PUD	Planned Unit Development (PUD) District

3.01.4 Zoning District Map.

The boundaries and classifications of districts established are as depicted on the adopted Zoning District Map bearing the most recent date of publication which has been signed by the Chair of the Planning Commission and the Mayor.

- D. *Interpretation of boundary lines.* If uncertainty exists, district boundaries shall be on section lines; lot lines; the center lines of highways, streets, alleys, railroad rights-of-way, rivers, streams, or such lines extended; or municipal corporation lines; Where a lot is divided by a zoning district boundary line either zone requirements may be extended within the lot for a distance of not more than twenty-five (25) feet as approved by the Planning Director.
- E. *Amendment upon zoning or modification.* Upon approval of any ordinance annexing and establishing zoning or modifying existing zoning for any property, the Town shall amend the prior existing Zone District Map to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, Zone District Map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

- F. *Cost for amending zoning.* Any person who proposes zoning for property being annexed or proposes modifying existing zoning shall bear the entire cost of amending the Zone District Map, including all notification costs. The Town shall provide applicants with a copy of the current fee schedule and fee agreement form.
- G. *Public inspection; storage of original.* The Zoning District Map shall be available and on display at the office of the Town Clerk during normal business hours.

3.02 Residential Zone Districts

3.02.1 A – Agricultural District.

- A. *Intent.* The Agricultural District is an ultra low-density district intended for the pursuit of farm activities or for a transitional status. This zone is characterized by the growing of crops and related functions as well as large lot, rural, single-family detached residential dwellings and agritourism.
- B. *Principal uses.* Permitted principal uses in the A District shall be as listed in *Section 4.03 Table of Allowable Uses*.
- C. *Conditional uses.* Permitted conditional uses in the A District shall be as listed in *Section 4.03 Table of Allowable Uses*.

3.02.2 R-1 – Residential Rural Density District.

- A. *Intent.* The Residential Rural Density District is a very low-density residential district intended ~~for no more than two (2) single-family dwellings per acre and one (1) or more accessory buildings. This zone has been developed~~ to provide for large-lot, detached single-family development in areas more characteristically rural and on the outskirts of the planning area that are supported by neighborhood amenities and public facilities.
- B. *Principal uses.* Permitted principal uses in the R-1 District shall be as listed in *Section 4.03 Table of Allowable Uses*.
- C. *Conditional uses.* Permitted conditional uses in the R-1 District shall be as listed in *Section 4.03 Table of Allowable Uses*.

3.02.3 R-2 – Residential Low Density District.

- A. *Intent.* The Residential Low Density District is intended primarily for detached and limited attached single-family uses on individual lots that are supported by neighborhood amenities and public facilities, with up to four attached units allowed per building and suggested net density ranges ~~up to six dwelling units per acre~~. This zone is characterized by tree-lined local streets, an interconnected pedestrian circulation system, and proximity to schools and parks.
- B. *Principal uses.* Permitted principal uses in the R-2 District shall be as listed in *Section 4.03 Table of Allowable Uses*.

- C. *Conditional uses.* Permitted conditional uses in the R-2 District shall be as listed in *Section 4.03 Table of Allowable Uses.*

3.02.4 R-3 – Residential Medium Density District.

- A. *Intent.* The Residential Medium Density District is intended for a mix of small lot single-family detached dwellings, single-family attached dwellings, and multi-family dwellings intended to provide a walkable environment supported by motorized and non-motorized transportation options, parks, and public gathering spaces that are ideal for people in all stages of life. Multi-family buildings are generally encouraged near viable business centers in order to facilitate appropriate densities. Street and open space designs in these areas shall be used to create compatibility among frontages, which encourage pedestrian interaction and discourage high automobile speeds.
- B. *Principal uses.* Permitted principal uses in the R-3 District shall be as listed in *Section 4.03 Table of Allowable Uses.*
- C. *Conditional uses.* Permitted conditional uses in the R-3 District shall be as listed in *Section 4.03 Table of Allowable Uses.*

3.02.5 R-4 – Downtown Neighborhood District.

- A. *Intent.* The Downtown Neighborhood District is intended for the older neighborhoods adjacent to the downtown core that have smaller, more constrained lots than newer developments and specific architectural characteristics. These neighborhoods are intended to support a variety of housing types including detached and attached single family dwellings that complement the area's character as well as small-scale service establishments, that add vibrancy to the overall Downtown area. These areas are intended to be supported by a traditional, highly connected gridded street system with detached sidewalks, and that incorporate pocket parks and public gathering spaces..
- B. *Principal uses.* Permitted principal uses in the R-4 District shall be as listed in *Section 4.03 Table of Allowable Uses.*
- C. *Conditional uses.* Permitted conditional uses in the R-4 District shall be as listed in *Section 4.03 Table of Allowable Uses.*
- D. *Design Standards.* The following design standards shall apply to all new and infill development in the Downtown Neighborhood Zone District.
 - 1. Residential buildings shall include a front porch on each ground floor unit to ensure new construction blends with the existing neighborhood character. Porches shall be a minimum of six feet deep with a minimum overall dimension of forty-eight square feet and may encroach into the required front setback by up to six feet.

Figure #



2. New and infill buildings shall include characteristics of the traditional architectural styles of the Downtown Neighborhood Area identified as Craftsman, Victorian and Farmhouse. Such features could include:
 - a. Gabled and cross-gabled rooflines;
 - b. Porches running the full length of the front façade
 - c. Rear loaded or detached garages that allow the front façade of the house to be the primary focus
 - d. Steeply-pitched rooflines, curlicue trims, ornate windows, and asymmetrical designs (Victorian);
 - e. Low-pitched rooflines with overhanging eaves, exposed rafters, and heavy, tapered columns (Craftsman); or
 - f. Simple design focusing on wood elements, board on batten siding and hand hewn timbers with a traditionally white color palette (Farmhouse).

Figure #



3.02.6 MH – Manufactured Home Park District.

- A. *Intent.* This is a high-density residential district on a parcel of land under single ownership or control on which two (2) or more manufactured homes are occupied as residences.
- B. *Principal uses.* Permitted principal uses in the MH District shall be as listed in *Section 4.03 Table of Allowable Uses.*
- C. *Application procedure*

1. Standard process for a new mobile home park shall follow the standard rezone and Major Subdivision processes per Sections 1.07 and 1.17 of this Land Use Code.
2. Redevelopment of an existing site with required infrastructure in place would need to follow the site plan application process per Section 1.12 of this Land Use Code.

D. *Building design standards.*

1. The manufactured home must be partially or entirely manufactured in a factory.
2. The manufactured home must be not less than twenty-four (24) feet in width and thirty-six (36) feet in length.
3. The manufactured home must be set on an excavated, backfilled, engineered foundation enclosed at the perimeter so that the top of the perimeter wall sits no more than twelve (12) inches above finish grade. The foundation shall be similar in appearance and durability to a masonry foundation of a site-built dwelling. The foundation shall provide an anchoring system for the manufactured home that is totally concealed under the structure.
4. The exterior siding of the manufactured home must have the same appearance as materials commonly used on residential dwellings. Metal siding must be painted or anodized.
5. The manufactured home must have a pitched roof with a pitch of at least a nominal three (3) in twelve (12). The roof must be covered with shingles, shakes or tile. Eaves of the roof must extend at least one (1) foot from the intersection of the roof and the exterior walls.
6. The manufactured home must have windows that are wood, vinyl-coated or anodized aluminum.
7. The manufactured home must have color-coordinated body and trim. Colors of both the factory components and the site-built components shall be the same.
8. The main entrance to the manufactured home must face or be oriented toward an adjacent street.
9. The transportation mechanisms, including the wheels, axles and hitch, must be removed.
10. No manufactured home shall be occupied for dwelling purposes unless it is properly placed in a manufactured home space and connected to water, sewerage, electric and gas utilities, as appropriate.
11. All manufactured homes shall be certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq., or shall be certified by the Colorado Division of Housing pursuant to Section 24-32-701 et seq., C.R.S.
12. All manufactured homes shall have an enclosed crawlspace underneath the manufactured home and shall not provide a harborage for rodents or create a fire hazard. No enclosed crawlspace shall be used for storage unless the storage area is surfaced with concrete. Adequate access and ventilation shall be provided in accordance with the Guidelines For Manufactured Housing Installation.
13. All manufactured homes shall meet or exceed equivalent engineering standards for other single-family residences.

14. Additions to increase the floor area of manufactured home shall not be permitted except for patios, porches, garages, decks or carports. Garages may be detached or attached.
15. Prior to occupancy, the Building Inspector shall inspect each manufactured home to determine compliance with this Code. No occupancy shall be permitted or certificate of occupancy issued until said inspection and all connections to public utilities have been made. The owner or home builder shall pay to the Town a building permit fee for each residential structure as may be required by this Code. Installation procedures and the building permit fee shall be in accordance with the then current Guidelines for Manufactured Housing Installation, including appendices, published by the International Conference of Building Officials for manufactured homes and as adopted by the Town.
16. All additions shall comply with minimum yard requirements, and a building permit shall be required in advance for any such addition.

E. Site design standards.

1. All streets in a manufactured home park shall be dedicated to the Town and shall be maintained by the park owner or an owners' association.
2. All streets shall be a minimum width of twenty-two (22) feet from back of curb to back of curb, including the width of gutter pans.
3. Primary through streets shall be thirty-four (34) feet from back of curb to back of curb with a four-foot detached sidewalk on one (1) side being located six (6) feet from the back of curb.
4. The developer shall provide for covenants or other mechanisms, which shall be approved by the Town, ensuring that streets are maintained and replaced as required.
5. All streets within the manufactured home park shall be constructed to the Town standards.
6. A minimum of eight percent (8%) of the gross site area shall be reserved for and devoted to improved recreation areas and facilities provided in locations convenient to all manufactured home spaces.
7. A minimum of three hundred (300) square feet of outdoor living area shall be provided on each space.
8. Every manufactured home space shall have two (2) off-street parking spaces adjacent to the manufactured home. There shall be one (1) additional parking space for each manufactured home space within one hundred (100) feet for use by occupants and guests.
1. Off-street vehicle parking shall be provided for recreation facilities located within a manufactured home park. At a rate of one (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee at the maximum shift, Twenty (20) spaces are to be provided for every diamond or athletic field, or one (1) space for every four (4) spectator seats, whichever is greater. (One [1] seat is equal to two [2] feet of bench seating length.)
2. All off-street parking shall meet the provisions of Section 5.05 of this Land Use Code.

3. The developer shall provide for a system of pedestrian circulation within the development. The system shall connect with existing sidewalks, if any are adjacent to the property. The system shall be designed to link residential units with recreation facilities, school bus stops and existing sidewalks in the neighborhoods. Attached and detached sidewalks within the manufactured home park shall be a minimum of five (5) feet in width.
4. All public utilities shall be installed in accordance with the applicable Town standards.
5. A manufactured home park may have multiple master meters for water service.
6. Each manufactured home space shall have its own meter for water and electrical service.

3.02.7 Table of Dimensional Standards for Residential Zone Districts

All primary and accessory structures are subject to the dimensional standards set forth in the table below. These general standards may be further limited or modified by other applicable sections of this Land Use Code. General rules for measurement and exceptions are in Chapter 9, Definitions.

Zones	A	R-1	R-2	R-3	R-4	MH
Lot Standards						
Minimum Site Area	5 acres	N/A	N/A	N/A	N/A	1 acre
Minimum Lot Area Per Dwelling	5 acres	0.5 acres	7,500 sq. ft. for detached 3750 for attached	3,000 sq. ft. for detached 2,500 sq. ft. for attached	4,000 sq. ft. for detached 2,500 sq. ft. for attached	2,400 sq. ft.
Maximum Net Density	0.2 du/acre	2 du/acre	6 du/acre	12 du/acre	12 du/acre	10 du/acre
Minimum Lot Width	120 ft.	120 ft.	60 ft. for detached 30 ft. for attached.	50 ft. for detached 25' or attached	40 ft. for detached, 25 ft. for attached	35 ft.
Principal Building Setbacks						
Minimum Front Yard	50 ft.	50 ft.	20 ft.	15 ft.	15 ft. ¹	10 ft.
Minimum Front Yard to Attached Garage	60 ft.	50 ft.	25 ft.	20 ft.	20 ft.	NA
Minimum Side Yard	20 ft.	20 ft.	7 ft. for detached 0' for attached	7 ft. for detached 0' for attached	5 ft. for detached 0' for attached	5 ft
Zones	A	R-1	R-2	R-3	R-4	MH
Minimum Side Yard (Corner Lot)	20 ft.	20 ft.	15 ft. on nonentry	15' on nonentry	15' on nonentry	15' on nonentry

			side of corner lot	side of corner lot	side of corner lot	side of corner lot
Minimum Rear Yard	~~5-20~~ ft.	20 ft.	20 ft.	~~40-15~~ ft.	15 ft.	10 ft.
Minimum Rear Yard to Rear Entry Garage	20 ft	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Accessory Building and Detached Garage Setbacks						
Minimum Front Yard	60 ft.	60 ft.	35 ft.	35 ft.	35 ft.	25 ft.
Minimum Side Yard	20 ft.	20 ft.	7 ft.	7 ft.	5 ft.	5'
Minimum Rear Yard	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.
Deck and Patio Cover Setbacks						
Minimum Rear Yard	1 du	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
Building and Structure Standards						
Minimum Floor Area (above grade) Per Dwelling Unit	864 sq. ft.	864 sq. ft.	864 sq. ft.	864 sq. ft.	600 sq. ft.	480 sq. ft.
Maximum Building Height	35 ft.	35 ft.	35 ft.	35'	28' ft.	16 ft. Park- Owned Common Structure s – 35 ft.
~~Minimum Distance Between Buildings~~	~~20 ft.~~	~~20 ft.~~	~~10 ft.~~	~~10 ft.~~	~~10 ft.~~	~~10 ft.~~
Maximum Dwelling Units Per Structure	1 du	1 du	1 du	12 du	12 du	1 du

1. Front porches may encroach into the front setback by up to six feet.

3.03 Commercial and Mixed-Use Districts

3.03.1 C-1 – Community Commercial District.

- A. *Intent.* The Community Commercial District is intended for general commercial areas outside of downtown such as activity centers at intersections. These areas are intended to facilitate a variety of businesses that provide employment opportunities and support the retail and service needs of the community. Buildings may be located within a unified campus-like setting integrated with

sidewalks, landscaped features, and public spaces that promote access to motorized and non-motorized transportation options.

- B. *Principal uses.* Permitted principal uses in the C-1 District shall be as listed in *Section 4.03 Table of Allowable Uses*.
- C. *Conditional uses.* Permitted conditional uses in the C-1 District shall be as listed in *Section 4.03 Table of Allowable Uses*.

3.03.2 C-2 – Downtown Core Commercial District.

- A. *Intent.* The Downtown Core Commercial District is intended to preserve the character of the original downtown and to provide for a mixture of uses that will strengthen and expand the core community. As the Town's primary activity center, these areas are intended to be highly connected to an efficient network of motorized and non-motorized connections. Its character is based on historic and civic buildings, ample and landscaped sidewalks, groomed and activated alleys, public art, and gathering spaces – all design with a pedestrian scale perspective that gives the Downtown a unique sense of place and contributes to community pride. As property owners choose to reinvest in the Downtown, Main Street uses should encourage 'select' infill of vacant residential and commercial areas and slightly increase the height of existing buildings to support upper level residential uses.
- B. *Principal uses.* Permitted principal uses in the C-2 District shall be as listed in *Section 4.03 Table of Allowable Uses*.
- C. *Conditional uses.* Permitted conditional uses in the C-2 District shall be as listed in *Section 4.03 Table of Allowable Uses*.

3.03.3 C-3 – Mixed-Use Commercial District.

- A. *Intent.*
 - 1. The Mixed-Use Commercial District is intended to be a setting for development of a wide range of community and regional retail uses, offices and personal and business services, and it is intended to accommodate a wide range of other uses, including multi-family housing and mixed-use dwelling units. The C-3 District should integrate various commercial and multi-family uses while transitioning from the highway to adjacent lower density neighborhoods. The intent of mixed-use areas is to cluster residential and non-residential uses in a compact, walkable setting. These areas provide ease of movement through both motorized and non-motorized transportation options offering convenient access for locals and visitors alike.
 - 2. While some Mixed-Use Commercial District areas may continue to meet the need for auto-related and other auto-oriented uses, it is the Town's intent that the C-3 District emphasize safe and convenient personal mobility in many forms, with planning and design that accommodate pedestrians. Further, the C-3 District is intended to function with, rather than compete with, the Downtown District.

3. The highway corridor is a visible commercial area of the community. Attention to the architectural standards outlined in Section 5.09 is required for approval.

B. *Permitted uses.* Permitted principal uses in the C-3 District shall be as listed in *Section 4.03 Table of Allowable Uses.*

C. *Conditional uses.* Permitted conditional uses in the C-2 District shall be as listed in *Section 4.03 Table of Allowable Uses.*

3.03.4 Table of Dimensional Standards for Commercial Zone Districts

All primary and accessory structures are subject to the dimensional standards set forth in the table below. These general standards may be further limited or modified by other applicable sections of this Land Use Code. General rules for measurement and exceptions are in Chapter 9, Definitions.

Zones	C-1	C-2	C-3
Lot Standards			
Maximum Floor Area Ratio	1:1	2:1	1:1
Maximum Net Residential Density	12 du/acre	12 du/acre	12 du/acre
Building Setbacks			
Minimum Front Yard	25 ft.	0 ft.	25 ft.
Minimum Side Yard ¹	0 ft. ¹	0 ft.	0 ft. ¹
Minimum Rear Yard	20 ft.	25 ft. ²	20 ft.
Building and Structure Standards			
Maximum Building Height	35 ft.	35 ft.	45 ft.

3.04 Other Non-Residential Zone Districts

3.04.1 LI – Light Industrial District.

A. *Intent.* The Light Industrial District is intended to provide locations for research and development-type offices that create minimal noise, smell, and road traffic., Development in the Light Industrial District should encourage the development of planned office and business parks that promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities and streetscapes. Typically, light industrial areas should serve as a separator between heavier industrial and surrounding land uses, such as residential and commercial areas.

B. *Principal uses.* Permitted principal uses in the LI District shall be as listed in *Section 4.03 Table of Allowable Uses.*

C. *Limitations.* Any use in this District shall conform to the following requirements:

1. Dust, fumes, odors, smoke, vapor and noise shall be confined to the site and be controlled in accordance with the state air pollution laws.
 2. Approved outdoor storage areas, equipment and refuse areas shall be concealed from view from abutting rights-of-way and from adjoining residential districts.
 3. All off-street parking areas as defined herein shall be surfaced with poured in place concrete or asphaltic concrete. Approved outdoor storage areas as defined herein may be surfaced with minimum three-quarter inch diameter crushed rock or approved alternative material to a depth of at least four (4) inches. If a crushed rock or alternative material surface is used, the subgrade of such areas shall be treated to the specifications of the Town Engineer. Areas surfaced with crushed rock or approved alternative material shall be treated with dust retardants, as needed, and kept free of weeds, trash and other debris. Appropriate fire-lane aisles and, if required, fire hydrants shall be provided.
 4. Light fixtures in parking areas shall be hooded and mounted not more than twenty-five (25) feet above the ground level and oriented in such a manner so as not to shine into residential areas. Lighting shall conform to the requirements in Section 5.02 of this Code.
- D. *Conditional uses.* Permitted conditional uses in the LI District shall be as listed in *Section 4.03 Table of Allowable Uses*.

3.04.2 I – Industrial District.

- A. *Intent.* The Industrial District is intended to provide a location for a large format buildings for manufacturing, warehousing and distributing, indoor and outdoor storage. . Locations for this zone require good access to major arterial streets and adequate water, sewer and power. Industrial areas should generally be located interior to the large block of industrial/light industrial areas.
- B. *Principal uses.* Permitted principal uses in the I District shall be as listed in *Section 4.03 Table of Allowable Uses*.
- C. *Limitations.* Any use in this District shall conform to the following requirements:
1. Dust, fumes, odors, smoke, vapor and noise shall be confined to the site and be controlled in accordance with the state air pollution laws.
 2. Approved outdoor storage areas, equipment and refuse areas shall be concealed from view from abutting rights-of-way and from adjoining residential districts.
 3. All off-street parking areas as defined herein shall be surfaced with poured in place concrete or asphaltic concrete. Approved outdoor storage areas as defined herein may be surfaced with minimum three-quarter inch diameter crushed rock or approved alternative material to a depth of at least four (4) inches. If a crushed rock or alternative material surface is used, the subgrade of such areas shall be treated to the specifications of the Town Engineer. Areas surfaced with crushed rock or approved alternative material shall be treated with dust retardants, as needed,

and kept free of weeds, trash and other debris. Appropriate fire-lane aisles and, if required, fire hydrants shall be provided.

4. Light fixtures in parking areas shall be hooded and mounted not more than twenty-five (25) feet above the ground level and oriented in such a manner so as not to shine into residential areas. Lighting shall conform to the requirements in Section 5.02 of this Code.

D. *Conditional uses.* Permitted conditional uses in the I District shall be as listed in *Section 4.03 Table of Allowable Uses*.

3.04.3 P – Public District.

A. *Intent.* The Public District is intended to identify and perpetuate the existence of public parks, playgrounds, recreation facilities and public and quasi-public buildings, whether publicly owned or leased. These areas are intended to support the community with accessible walkways, public gathering spaces, and motorized and non-motorized transportation connections and parking that accommodate a large influx of car and pedestrian traffic. Buildings may be small, mixed with other uses in Downtown, or large, providing joint facilities (library, recreation center, etc.) intermixed in residential or mixed-use areas. Civic areas should consider building design, materials, and durability; making developments timeless, and favoring form and function over cost. These areas should also leverage local public art to add beauty and pride to Wellington.

B. *Principal uses.* Principal permitted uses in the P District shall be as listed in *Section 4.03 Table of Allowable Uses*.

C. *Conditional uses.* Permitted conditional uses in the P District shall be as listed in *Section 4.03 Table of Allowable Uses*.

3.04.4 Table of Dimensional Standards for Residential Zone Districts

All primary and accessory structures are subject to the dimensional standards set forth in the table below. These general standards may be further limited or modified by other applicable sections of this Land Use Code. General rules for measurement and exceptions are in Chapter 9, Definitions.

Zones	LI	I	P
Lot Standards			
Maximum Floor Area Ratio	1:1	1:1	–
Building Setbacks			
Minimum Front Yard	25 ft.	25 ft.	–
Minimum Side Yard	10 ft.	20 ft.	–
Minimum Rear Yard	10 ft.	10 ft.	–
Building and Structure Standards			
Maximum Building Height	45 ft.	45 ft.	45 ft.

3.05 PUD – Planned Unit Development District.

A. Intent.

1. This Planned Unit Development (PUD) Overlay District is enacted pursuant to the Planned Unit Development Act of 1972 as amended (Section 24-67-101 et seq., C.R.S.). A PUD is an area of land, controlled by one (1) or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restriction to the existing land use regulations. The PUD is intended to be used as an overlay zone district that supplements the underlying standard zone district.
2. The intent and purpose of this District is to permit and encourage innovative design and high quality, master-planned developments on parcels of land forty acres in size or larger. This District is created to allow and encourage compatible uses to be developed in accordance with a unified development plan in harmony with the environment and surrounding neighborhood.
3. PUDs are expected to preserve critical environmental resources, provide above-average open space and recreational amenities, including exceptional design and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.

B. Permitted uses.

1. Uses permitted in the PUD Overlay District shall be those uses permitted in the underlying standard zone district for the property.
2. An applicant for a PUD Overlay District may request modifications to the permitted uses of the underlying zone district to remove those uses that may be deemed incompatible or inappropriate for the overall PUD development. Conditional uses may be permitted if it can be demonstrated that such uses meet the conditional use review criteria for the underlying zone districts.

CHAPTER 4: USE REGULATIONS

4.01 Purpose and Organization

4.01.1 Purpose. **Table 4.02-1, Table of Allowable Uses** below lists the uses allowed within all zoning districts.

All uses are defined in **Chapter 9, Definitions**. Approval of a use listed in this article, and compliance with the applicable use-specific standards for that use, authorizes that use only. Development or use of a property for any other use not specifically allowed in this article and approved under the appropriate process is prohibited.

4.01.2 Organization. The uses permitted in each of the zoning districts established in the Use Table are defined as follows:

- A. Standards Column. The "Standards" column provides a reference to associated standards for certain uses Permitted by Right and for Conditional Uses. Where a blank space is in the column, there is no associated standard. Where "Y" is in the column, there are associated standards.

Table 4.01-1 Use Table Legend		
Symbol	Meaning	Description
P	Permitted by Right	A " P " in a zoning district column indicates that a use is permitted by right, provided that it meets the supplementary use standards referenced in the far right "Standards" column of the use table, if applicable. These uses are subject to all other applicable regulations of this Land Use Code.
C	Conditional Use	A " C " in a zoning district column indicates that a use requires conditional use review and approval by the Planning Commission and Town Board (see Chapter ***).
A¹	Accessory Use	An " A " in a zoning district column indicates that a use is permitted by right as an accessory use, provided that it meets any necessary supplementary accessory use standards.
T²	Temporary Use	A " T " in a zoning district column indicates that a use requires temporary use review and approval by the Planning Commission ³ (see Chapter ***). Temporary uses must also follow any necessary supplemental temporary use standards.
	Use not Permitted	A "blank cell" in a zoning district column indicates that a use is not permitted as a primary use or conditional use in the zoning district.
Use Not Listed	See Section B., <i>Unlisted Uses</i> , below	

Note: The Use Table only establishes the principal uses allowed in each zoning district. See also Accessory and Temporary Use regulations in Chapter 4.

- B. Unlisted Uses. If a proposed use is not specifically listed in the **Use Table**, the Planning Director shall determine whether the use is permitted or not permitted. This determination shall be based upon the

¹ Please direct the consultant team on if staff wants to see P and C only or to include A and T?

² See comment above.

³ Should this be the PC or TB?

similarity in nature and character to one or more uses that are listed in the Use Table. In making this determination, the Planning Director may refer to the following factors as guidance:

1. Criteria for Use Determination.
 - a. Whether the use has similar visual, traffic, environmental, parking, employment, and other impacts as an expressly listed use. The Planning Director may refer to empirical studies or generally accepted planning or engineering sources in making this determination. The burden is on the applicant to establish that the use is similar to the expressly listed use; or
 - b. Whether the use is within the same industry classification as another permitted use. In making this determination, the Planning Director may refer to the most recent edition of the North American Industry Classification Manual (Executive Office of the President, Office of Management and Budget, 2017)(“NAICS”). If the use is not defined in the NAICS, the Administrator may refer to the American Planning Association, Land-Based Classification Standards LBCS Tables (April 1, 2001).
2. If Not Authorized Then Prohibited. If the Planning Director determines that a proposed use does not fit within a given use type and is not functionally the same as a permitted, accessory, conditional, or temporary use, then the use is a prohibited use.

4.02 Table of Allowable Uses

This chapter shall follow the requirements established in **Table 4.02-1, Table of Allowable Uses**.

Table 4.02-1 Table of Allowable Uses													
Use	Zoning District												
	Open	Residential					Commercial			Industrial		Misc.	Use Specific Standards
	A	R-1	R-2	R-3	R-4	MH	C-1	C-2	C-3	LI	I	P	
Residential													
Manufactured Home	P	P	P		P	P							Y
Mixed-Use Dwelling					PC		P	P	P				
Multi-Family Dwelling				P	G				P				Y
Single-Family Attached Dwelling	C		P	P	P								Y
Single-Family Detached Dwelling	P	P	P	P	P								
Group Living / Lodging													
Bed and Breakfast				C	C		C						
Boarding and Rooming House				C	C				P				Y
Use	Zoning District												

	<u>Open</u>	<u>Residential</u>					<u>Commercial</u>			<u>Industrial</u>		<u>Misc.</u>	<u>Use Specific Standards</u>
	<u>A</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>MH</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I-1</u>	<u>I-2</u>	<u>P</u>	
Group Home		P	P	P	P				P				
Hotel/Motel							P	C	P	P			
Long-Term Care Facilities				C			C		P				
Agriculture													
Agriculture	P	P									C		
Greenhouse/Nursery									P	P			
Stable	P	P											Y
Commercial / Office													
<i>Animal Services</i>													
Kennel	C								P	P			Y
Veterinary Facilities, Large animals	P								C	C	P		Y
Veterinary Facilities, Small animals	P						P		P	P			Y
<i>Food</i>													
Brew Pub, Distillery Pub, or Limited Winery					G		P	P	P	P			Y
Food Catering									P	P			
Grocery Store							P	C	P	C			Y
Restaurant, Fast Food							P		P	C			Y
Restaurant, Fast Food with Drive-Thru							C		P	C			Y
Restaurant, Sit-down							P	P	P	P			Y
<i>Entertainment / Recreation</i>													
Adult Entertainment Establishments											P		Y
Art Studio					C		P	P	P	P	P		
Bar/Tavern							P	P	P	P	P		Y
Club/Lodge							P	C	P				
Entertainment Facility							P		P				
Golf Course	P	P	P						C			P	Y
Nightclub									P	P	P		Y
Use													
<u>Zoning District</u>													
	<u>Open</u>	<u>Residential</u>					<u>Commercial</u>			<u>Industrial</u>		<u>Misc.</u>	

	<u>A</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>MH</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>LI</u>	<u>I</u>	<u>P</u>	<u>Use Specific Standards</u>
<u>Recreational Entertainment, Indoor</u>							<u>P</u>		<u>P</u>	<u>P</u>		<u>P</u>	
Recreational Entertainment, Outdoor							P		P	P			Y
Tourist Facilities								P	P			P	
<i>Retail Sales / Personal Services</i>													
Building and Landscaping Materials Supply							C		C	P	P		
Child Care Center					C		P	P	P				
Convenience Store							P	P	P	P			Y
Convenience Store with fuel sales							P		P	P			Y
Financial Institution							P	C	P				Y
Health and Membership Club							P	C	P	P			
Pawn Shop							P	P	P				Y
Personal Services					C		P	P	P	C			
Print Shop									P	P			
Retail Store							P	P	P				Y
<i>Office</i>													
Professional Office					C		P	P	P	P			
<i>Automotive</i>													
Car Wash							P		P	P			Y
Heavy Equipment Sales and Rental	C										P		Y
Motor Vehicle Dealership									P	P			Y
Motor Vehicle Repair, Heavy											P		Y
Motor Vehicle Repair, Light							P		P	P	P		Y
Motor Vehicle Storage										P	P		
Service Station							C		P	P	P		Y
<u>Use</u>	<u>Zoning District</u>												

	Open	Residential					Commercial			Industrial		Misc.	Use Specific
	A	R-1	R-2	R-3	R-4	MH	C-1	C-2	C-3	LI	I	P	Standards
Marijuana ⁴													
Medical Marijuana Store									P				Y
Retail Marijuana Store									P				Y
Industrial / Natural Resources													
Auction	C									P	P		
Brewery, Distillery, or Winery							C	C	P	P	P		Y
Commercial Dry Cleaning Facility										C	P		
Contractor and Contractor Storage										C	P		Y
Industrial and Manufacturing, Heavy											P		Y
Industrial and Manufacturing, Light									C	P	P		Y
Mini-Storage Facility									C	P	P		Y
Research and Development									C	C	P		
Resource Extraction	C										P	C	Y
Wholesale Distribution, Warehousing, and Storage										P	P		
Workshop							C	C	P	P	P		Y
Institutional / Civic / Public													
Death Care Services													
Cemetery	P	P										P	Y
Funeral Services							C		P	P			Y
Education													
College							P	C	P	P		P	
School												P	
Technical School							P	C	P	P		P	Y
Assembly													
Use	Zoning District												

⁴ Rely on staff to determine the appropriate zoning district allowance.

	<u>Open</u>	<u>Residential</u>					<u>Commercial</u>			<u>Industrial</u>		<u>Misc.</u>	<u>Use Specific</u>
	<u>A</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>MH</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>LI</u>	<u>I</u>	<u>P</u>	<u>Standards</u>
Community Facility		P	P	P	P		P		P	P		P	
Religious Land Use	C	P	P	P	P		C		P	P			
<i>Government / Non-Profit</i>													
Civic Space	P	P	P	P	P		P	P	P	P		P	
Public Facilities	C						C	C	C	C	C	P	
<i>Medical</i>													
Medical Care Facility									P	P			
Medical Office							P	C	P				Y
Infrastructure													
<i>Transportation / Parking</i>													
Airport											C	C	Y
Off-Street Parking Facility							C	P	C	P	P	P	Y
Transit Facilities									P			P	
<i>Communications</i>													
Communication Facility	C									C	C	C	Y
Wireless Telecommunications Facility	C									C	C	C	Y
<i>Waste-Related</i>													
Recycling Facility											P		
Salvage Yard											C		Y
Solid Waste Facility											C	C	Y
Accessory Uses													
Accessory Building	P	P	P	P	P	P							Y
Accessory Dwelling Unit	P	P	P		P				P				Y
Accessory Use	P	P	P	P	P	P	P	P	P	P	P	P	Y
Home Occupation	P	P	P	P	P	P		P	P				Y
<u>Open-Air Farmers' Market</u>								P	P	P			Y

4.03 Use Specific Standards⁵

4.03.1 Adult Entertainment Establishments⁶.

- A. Operation. It shall be unlawful to operate or cause to be operated a sexually oriented business in violation of any of the following restrictions:
1. Zoning district. Sexually oriented businesses are only allowed in the Industrial District if approved as a conditional use.
 2. Distance restriction. It is unlawful to operate or cause to be operated a sexually oriented business within seven hundred fifty (750) feet, measured in a straight line, without regard to intervening structures, objects or Town limits, from the closest exterior wall of the structure in which the sexually oriented business is located to the property line of any of the following:
 - a. A religious land use;
 - b. A use approved for residential purposes;
 - c. A school or licensed child care facility; or
 - d. A park, recreational center, or community center.
 3. Single building restriction. No sexually oriented business shall be operated in the same building, structure or portion thereof as any other sexually oriented business.
 4. Discontinued operations. A sexually oriented business lawfully operating is not rendered a nonconforming use by the subsequent location of any use outlined in Paragraph (1) above; however, if the sexually oriented business ceases operation for a period of sixty (60) days or more regardless of any intent to resume operation, it may not recommence operation in that location. (Ord. 4-2005 §1; Ord. 11-2007 §1)
- B. Definitions. The following definitions shall apply to this Article.
1. *Adult bookstore, adult novelty store or adult video store* means a commercial establishment which devotes a significant or substantial portion of its stock-in-trade, advertising, floor space, shelf space or storage space to, or receives a significant or substantial portion of its revenues from, any one (1) or more of the following:
 - a. The sale, rental or viewing (for any form of consideration) of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction, description, display or exhibition of specified sexual activities or specified anatomical areas;or

⁵ Some Use Specific Standards may change within the next few months as changes in the use table are revised by the staff, stakeholders and the public.

⁶ Carried forward existing regulations. We will review and flesh these uses in the ensuing weeks.

- b. The sale or rental of instruments, devices or paraphernalia which are designed for use in connection with, or marketed primarily for engaging in, specified sexual activities, excluding condoms and other medically recognized birth control devices and disease-prevention products.
- 2. *Child care facility* means any facility, by whatever name known, licensed by the State and maintained for compensation, for the whole or any part of a day, for the care of five (5) or more children under the age of sixteen (16) years who are not related to the owner, operator or manager thereof.
- 3. *Community center* means a building or other structure which is Town-owned or used by the Town that provides services to the community and is open to the general public.
- 4. *Park* means a park, reservation, playground, recreation area, bikeway, trail, greenbelt or other area in the Town owned or used by the Town or landowner's association and devoted to use as a park, reservation, playground, recreation area, bikeway, trail, greenbelt for members of that association and devoted to active or passive recreation, including developed and undeveloped land.
- 5. *Residential property* means any area subdivided and approved by the Town for residential land use or any property or lot devoted to full-time residential use.
- 6. *School* means a facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools and high schools.
- 7. *Sexually oriented business or adult entertainment establishment* means:
 - a. Any business where individuals appear in a state in such a manner as to intentionally display specified anatomical areas or which encourages specified sexual activities, whether as the primary, or principal, use of the premises or whether as a secondary, or incidental or accessory, use of the premises for the purpose of entertaining the patrons of such establishments (but not including performances in which persons appear in a state of nudity and which, taken as a whole, contain serious literary, artistic, political or scientific value).
 - b. An adult bookstore, adult novelty store or adult video store.
- 8. *Specified anatomical areas* means:
 - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the areolae; or
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- 9. *Specified sexual activities* means:
 - a. Human genitals in a state of sexual stimulation, tumescence or arousal;
 - b. Acts, actual or simulated, of human masturbation, sexual intercourse, oral copulation, bestiality or sodomy;

- c. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;
 - d. Flagellation, mutilation, sadism, sadomasochism or torture for purposes of sexual arousal, gratification or abuse; and
 - e. Excretory functions as part of or in connection with any of the activities set forth in Subparagraphs a through d of this definition. (Ord. 4-2005 §1; Ord. 11-2007 §1)
- C. Hours of Operation. Sexually oriented businesses may only operate from the hours of 7:00 a.m. to 12:00 a.m. each day. Businesses falling within the definition of a sexually oriented business may be open for such additional hours as their owners in their discretion desire, provided that no activities carried on by a sexually oriented business may be available during such additional hours, that is other lawful activity not involving sexually oriented businesses may freely occur. (Ord. 4-2005 §1; Ord. 11-2007 §1)
- D. Premises. Sexually oriented businesses shall only conduct or offer sexually oriented business activities indoors (within an enclosed structure), and no sexually oriented business may permit or cause any sexually oriented business activity from outside the structure in which it is enclosed. (Ord. 4-2005 §1; Ord. 11-2007 §1)
- E. Age Limits. No one under eighteen (18) years of age shall be admitted to or be present in any adult entertainment establishment from the hours of 7:00 a.m. to 12:00 a.m. on any day. This minimum age limitation also applies to any employees, agents, servants or independent contractors working on the premises. Notice of this minimum age limitation shall be posted prominently outside all entrances to any adult entertainment establishment. (Ord. 4-2005 §1; Ord. 11-2007 §1)
- F. Signage and Exterior.
 - 1. In addition to the other requirements of this Code or the Land Use Code, it shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct or maintain any sign for the sexually oriented business other than one (1) primary sign and one (1) secondary sign, as provided herein.
 - 2. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
 - a. Be a flat plane, rectangular in shape;
 - b. Not exceed seventy-five (75) square feet in area; and
 - c. Not exceed ten (10) feet in height or ten (10) feet in length. (Ord. 4-2005 §1; Ord. 11-2007 §1)
 - 3. No rope lights, neon lights, flashing lights, search lights are part of the exterior.

4.03.2 Airport.

- A. An Airport shall have a twenty (20) acre minimum property size for the overall site, and buildings and structures directly related to aircraft operations, storage, and/or passenger processing.
- B. The Airport shall comply with all Federal Aviation Administration regulations including but not limited to runway design, noise standards, and height limitations.

4.03.3 Bar/Tavern.

- A. No Bar/Tavern shall be located within five hundred (500) feet of any residential district or use.
- B. 4.03.3.A does not apply to any Bar/Tavern located in C-2 Zone.

4.03.4 Bed and Breakfast.

- A. The owner shall always occupy and manage any Bed and Breakfast.
- B. The maximum number of rented bedrooms is five (5).
- C. The maximum length of stay for any guest is fourteen (14) consecutive days in any one calendar month.
- D. The Bed and Breakfast owner is responsible for the collection of all applicable Town and County taxes.
- E. Only breakfast may be served on the premises only for Bed and Breakfast guests and employees.
- F. No other meals shall be provided for guests on the premises.
- G. Guestrooms shall not be equipped with cooking facilities including, but not limited to, stoves, hot plates, or microwave ovens.
- H. No Bed and Breakfast shall be located within one thousand (1,000) feet of any other Bed and Breakfast.

4.03.5 Brewery, Distillery, or Winery.

- A. No Brewery, Distillery, or Winery shall be located within five hundred (500) feet of any residential district.
- B. A Brewery, Distillery, or Winery shall have a five (5) acre minimum parcel size.
- C. A Brewery, Distillery, or Winery includes on-site consumption as a primary or secondary use, which includes a minimum of twenty-five percent (25%) of the gross floor area.
- D. A Brewery, Distillery, or Winery may include other secondary uses like retail sales or outdoor events.
- E. A Brewery, Distillery, or Winery is limited to three hundred (300) guests.
- F. Outdoor events associated within a Brewery, Distillery, or Winery's operations are limited to Sunday through Thursday 11 am to 8 pm, and Friday through Saturday 10 am to 11 pm.
- G. All Breweries, Distilleries, or Wineries shall utilize best management practices and available technology to minimize potential adverse odors associated with the use.
- H. All waste shall be managed, treated, stored, and/or disposed of in accordance with Local, County, State, and Federal rules, regulations, and ordinances pertaining to waste.

4.03.6 Boarding and Rooming House.

- A. No more than ten (10) occupants (including any resident staff and family) shall occupy any boarding house at one time.
- B. The maximum length of stay for any guest is fourteen (14) consecutive days in any one calendar month.
- C. No meals shall be provided for guests on the premises.

- D. No Boarding and Rooming House shall be located within one thousand (1,000) feet of any other Boarding and Rooming House.

4.03.7 Brew Pub, Distillery Pub, Limited Winery.

- A. No Brew Pub, Distillery Pub, or Limited Winery shall be located within two hundred fifty (250) feet of any residential district or use.
- B. 4.03.7.A does not apply to any Brew Pub, Distillery Pub, or Limited Winery located in C-2 Zone.
- C. No Brew Pub, Distillery Pub, or Limited Winery shall be located within five hundred (500) feet of any other Brew Pub, Distillery Pub, or Limited Winery.
- D. Overhead doors servicing trucks for loading and unloading materials shall not face streets unless they are set back at least one hundred (100) feet from the street.
- E. Service trucks for the purpose of loading and unloading materials and equipment or removing wastes shall be restricted to the hours between 8:00 AM and 8:00 PM.
- F. No outdoor storage is permitted, including parking and storage of vehicles associated with the business.

4.03.8 Building and Landscaping Materials Supply.

- A. C-1 and C-3 Zones.
 - 1. No Building and Landscaping Materials Supply shall be located within five hundred (500) feet of any residential use or district.
 - 2. Outdoor display, storage, sales, or rental of building and landscaping materials shall be screened.
 - 3. Screening for outdoor display, sales, or rental of building and landscaping materials shall be constructed from concrete or masonry and be at least six (6) feet tall.
 - 4. No screening wall shall exceed ten (10) feet tall.
 - 5. Only outdoor storage may exceed the ten (10) foot screening height requirement. Screening for storage may be constructed from concrete, masonry, or an approved alternative by the Director.
 - 6. In no instance shall any outdoor display, storage, sales, or rental of building and landscaping materials be stacked higher than the required concrete or masonry screening wall.
 - 7. No materials for sale shall be displayed between the principal structure and the front property line.

4.03.9 Car Wash.

- A. No Car Wash shall be located within two hundred fifty (250) feet of any residential use or district.
- B. A Car Wash shall not be open for business between the hours of 10:00 PM and 7:00 AM.

4.03.10 Cemetery.

- A. A Cemetery shall have a two (2) acre minimum property size.
- B. No structure, excluding fences or walls, shall be located within one hundred (100) feet from any residential use.
- C. Graves and monuments shall set back at least twenty feet (20) from any property line.

D. All cemeteries shall be platted according to **Chapter 6, Subdivision**.

4.03.11 Communication Facility.

- A. [Communication facilities shall meet any requirements prescribed in 4.03.55.](#)
- B. [Communication facilities shall be located at least one thousand \(1,000\) feet from any residential use.](#)

4.03.12 Contractor and Contractor Storage.

- A. All outdoor storage areas shall be located at least one hundred (100) feet from any property line.
- B. All structures shall be located at least fifty (50) feet from any property line.
- C. The minimum property size for a Contractor and Contractor Storage shall be two (2) acres.
- D. Outdoor storage areas shall be screened and comply with Chapter 4.04.5.D.
- E. Maintenance of vehicles or machinery shall be incidental to the Contractor and Contractor Storage and the incidental use shall only include minor repair.
- F. Office space shall be incidental to the Contractor and Contractor Storage and shall comply with Chapter 4.04.5.C.
- G. No retail sales associated with a Contractor and Contractor Storage may occur on the property unless retail sales are approved with a different use that allows retail sales.
- H. No on street parking of vehicles or equipment associated with the use is allowed.
- I. Hours of operation are limited between the hours of 7:00 AM and nine 9:00 PM.

4.03.13 Convenience Store.

- A. C-1 and C-2 Zones.
 - 1. No Convenience Store shall be located within one hundred (100) feet of any residential use or district.
 - 2. No Convenience Store shall exceed two thousand (2,000) square feet in building area.
 - 3. No Convenience Store shall be located within two hundred fifty (250) feet of any other Convenience Store.
 - 4. No outdoor display is permitted.
 - 5. Drive-thrus are not permitted.
- B. C-3 and LI Zones.
 - 1. No Convenience Store shall be located within fifty (50) feet of any residential use or district.
 - 2. Drive-thrus may be allowed if the following requirements are met:
 - a. The Convenience Store is located two hundred fifty (250) feet from any residential district or use.
 - b. The Convenience Store is less than two thousand (2,000) square feet in building area.
 - c. A drive-thru lane is provided on site.
 - d. The drive-thru lane is at least ten (10) feet wide.

- e. The drive-thru lane provides at least three (3) vehicle stacking spaces before the drive-thru window.
- f. Vehicle stacking spaces shall be ten (10) feet wide by twenty (20) feet long.

4.03.14 Convenience Store, with fuel sales.

A. All Zones.

- 1. Convenience Store, with fuel sales shall not be located within one hundred (100) feet of any residential use or district.
- 2. Any pump island or other structure shall be setback a minimum of twenty (20) feet from adjacent property lines or street and highway right-of-way lines.
- 3. Overhead canopies or weather protection structures shall be setback a minimum of ten (10) feet from adjacent property lines or street and highway right-of-way lines.
- 4. Outdoor display is only limited to ice chests, vending machines, secured propane tank storage, and firewood storage.
- 5. Drive-thrus are not permitted.

B. C-1 Zone.

- 1. No Convenience Store, with fuel sales shall exceed two thousand (2,000) square feet in building area.
- 2. No Convenience Store, with fuel sales shall be located within two hundred fifty (250) feet of any other Convenience Store, with fuel sales.
- 3. The total fuel pumps shall not exceed four (4).

4.03.15 Financial Institution.

A. All Zones.

- 1. Drive-thrus/ATMs may be allowed if the following requirements are met:
 - a. The Financial Institution is located one hundred fifty (100) feet from any residential district or use.
 - b. A drive-thru/ATM lane is provided on site.
 - c. The drive-thru/ATM lane is at least ten (10) feet wide.
 - d. The drive-thru/ATM lane provides at least four (4) vehicle stacking spaces before the drive-thru window/ATM.
 - e. Vehicle stacking spaces shall be ten (10) feet wide by twenty (20) feet long.
 - f. The Financial Institution shall not exceed three (3) drive-thru/ATM lanes.

B. C-2 Zone.

- 1. No Financial Institution shall exceed two thousand (2,000) square feet in building area.
- 2. No Financial Institution shall be located within two hundred fifty (250) feet of any other Financial Institution.
- 3. Drive-thrus are not permitted.

4.03.16 Funeral Services.

- A. Funeral Services including a Cemetery shall follow the requirements established in Chapter 4.03.10.
- B. Funeral Services shall be located at least five hundred (500) feet from any residential district or use.
- C. Funeral Services including cremation or embalming shall follow the additional requirements below.
 - 1. Prior to the issuance of a certificate of occupancy, the Funeral Services operator shall provide documentation of the issuance of all applicable federal, state, and local permits and provide all the equipment manufacturers' specifications for construction, installation, operation, and maintenance.
 - 2. Funeral Services shall be constructed, installed, operated, and maintained in accordance with all manufacturers' specifications and all applicable federal, state, and local permits. Town inspectors shall have the right to enter and inspect the operations to determine compliance with this provision.
 - 3. Each incinerator shall have a modern automated control panel and a dedicated natural gas meter.
 - 4. The height of the exhaust stack shall be a minimum of two (2) feet above the roof line or other nearby obstruction to minimized downdrafts of the exhaust.

4.03.17 Golf Course.

- A. The designed centerline of each hole shall be a minimum of one hundred (100) feet from adjacent property boundaries to reduce the potential of golf balls exiting the subject property.
- B. Appropriate controls, like netting, shall be installed to prevent golf balls from exiting the subject property.
- C. Total lot coverage with principal and accessory buildings shall not exceed twenty five percent (25%).
- D. Residential uses on the subject property are prohibited.
- E. No principal or accessory building, swimming pool, or tennis court shall set back less than (50) feet from any property line.
- F. All exterior lighting for the purposes of illuminating the golf course or any accessory use shall terminate at 10:00 PM. Lighting for walls, security measures, sconces, and parking facilities are excluded from this requirement.

4.03.18 Grocery Store.

- A. C-1 Zone.
 - 1. Any Grocery Store exceeding 15,000 square feet shall require a Conditional Use Permit.
- B. C-2 Zone.
 - 1. Any Grocery Store exceeding 10,000 square feet shall require a Conditional Use Permit and meet the following standards.
 - a. No drive-thrus are permitted.
 - b. No Grocery Store shall be located within five hundred (500) feet of any other Grocery Store.

C. C-3 and LI Zones.

1. Any Grocery Store exceeding 25,000 square feet shall require a Conditional Use Permit.

4.03.19 Heavy Equipment Sales and Rental.

- A. No Heavy Equipment Sales and Rental use shall be located within one thousand (1,000) feet of any residential use or district.
- B. Outdoor display, storage, sales, or rental of heavy equipment shall be screened.
- C. Screening for heavy equipment shall be constructed from concrete or masonry and be at least six (6) feet tall.
- D. No screening wall shall exceed twelve (12) feet tall.
- E. No outdoor display, storage, sales, or rental of heavy equipment shall be taller than the required concrete or masonry screening wall unless located in the rear of the site. If located in the rear, outdoor display, storage, sales, or rental of heavy equipment shall not exceed twenty (20) feet tall.
- F. No materials for sale shall be displayed between the principal structure and the front property line.

4.03.20 Home Occupation.

- A. A Home Occupation shall meet the following requirements.
 1. The use shall be conducted entirely within a dwelling and carried on by the inhabitants of the dwelling. Except for daycare businesses which shall be allowed to commence operations as of 6:00 a.m. the hours of operation during which clients or customers are allowed to come to the home in connection with the business activity are limited to between 8:00 AM and 9:00 PM.
 2. The use shall be clearly incidental and secondary to the use of the dwelling and shall not change the dwelling's character.
 3. The total area used for a Home Occupation shall not exceed one-half ($\frac{1}{2}$) the floor area of the user's dwelling unit.
 4. There shall be only the incidental sale of stocks, supplies or products conducted on the premises.
 5. There shall be no exterior storage on the premises of material or equipment used as a part of the Home Occupation.
 6. There shall be no offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.
 7. A Home Occupation shall provide additional off-street parking areas adequate to accommodate all needs created by the Home Occupation.
- B. A Home Occupation shall not include the following:
 1. Animal hospital;
 2. Long-term care facility;
 3. Restaurant;
 4. Bed and breakfast;

5. Group home;
6. Pawn shop;
7. Adult-oriented use; or
8. Vehicle repair, servicing, detailing or towing if vehicles are:
 - a. Dispatched from the premises;
 - b. Are brought to the premises; or
 - c. Are parked or stored on the premises or on an adjacent street.

C. Licensing.

1. A Home Occupation shall be permitted only after the owner or inhabitant of the dwelling in which the occupation is conducted has obtained a home occupation license and business license from the Town.
2. The license fee shall be an amount established by resolution by the Board of Trustees to offset the Town's cost.
3. At the time ownership of the property is transferred, or the Home Occupation is discontinued for a period of six (6) months or more, the home occupation license terminates.
4. Following termination, the license may be issued again upon the submission and review of a new application and the payment of an additional fee.
5. If the Town is investigating a violation of this Land Use Code with respect to the particular home occupation at the time the renewal application is made, the license will not be reissued until the investigation is completed and, if necessary, all violations have been corrected.
6. The term of the previous license shall continue during the period of investigation.

4.03.21 Hotel/Motel.

A. C-1 Zone.

1. A Hotel/Motel shall be located at least two hundred fifty (250) feet from any residential district or use.
2. A Hotel/Motel is restricted to one story.
3. A Hotel/Motel shall not exceed 15,000 square feet.

4.03.22 Any Hotel/Motel exceeding 15,000 square feet requires a Conditional Use Permit.

Industrial and Manufacturing, Heavy.

- A. An Industrial and Manufacturing, Heavy use shall be located at least one thousand (1,000) feet from any residential district or use.
- B. Any Industrial and Manufacturing, Heavy use producing and curating toxic chemicals or conducting animal slaughtering shall be located at least:
 1. Two thousand six hundred forty (2,640) feet from any residential district, religious land use, medical care facility, or school.
 2. One thousand three hundred twenty (1,320) feet from any commercial use.

3. Six hundred sixty (660) feet from any Industrial and Manufacturing, Light use.

4.03.23 Industrial and Manufacturing, Light.

A. Industrial Zones.

1. An Industrial and Manufacturing, Light use shall be located at least two hundred fifty (250) feet from any residential district or use.
2. Overhead doors shall not face streets unless set back at least one hundred (100) feet from the street.

B. Commercial Zones.

1. An Industrial and Manufacturing, Light use shall be located at least five hundred fifty (500) feet from any residential district or use.
2. No Industrial and Manufacturing, Light use shall be located within two hundred fifty (250) feet of any other Industrial and Manufacturing, Light use.
3. Overhead doors shall not face any street.
4. Service trucks for the purpose of loading and unloading materials and equipment or removing wastes shall be restricted to the hours between 8:00 AM and 8:00 PM.
5. Accessory outdoor storage shall be allowed in the rear of the subject property if screened appropriately per Chapter ***.
6. Any Industrial and Manufacturing, Light use over 5,000 square feet of building area shall require conditional use approval.

4.03.24 Kennel.

- A. A two hundred fifty (250) foot separation shall be maintained between the area and structures where animals are housed and any property line.
- B. Outside runs for commercial kennels shall be operated only with an attendant present on the premises twenty four (24) hours a day.
- C. At a minimum, the animals shall be enclosed within a six foot (6') fence or wall to restrain animals from running at large.
- D. Visual screening shall be required to buffer adjacent land uses.
- E. No more than twenty five percent (25%) of the building floor area may be used for related accessory retail sales.
- F. No more than twenty five percent (25%) of the building floor area may be used for related accessory grooming uses.

4.03.25 Manufactured Home.

- A. Manufactured home design standards/building requirements.
 1. The manufactured home must be partially or entirely manufactured in a factory.

2. The manufactured home must be not less than twenty-four (24) feet in width and thirty-six (36) feet in length.
3. The manufactured home must be set on an excavated, backfilled, engineered foundation enclosed at the perimeter so that the top of the perimeter wall sits no more than twelve (12) inches above finish grade. The foundation shall be similar in appearance and durability to a masonry foundation of a site-built dwelling. The foundation shall provide an anchoring system for the manufactured home that is totally concealed under the structure.
4. The manufactured home must have brick, wood or cosmetically equivalent exterior siding on all exterior walls, which provides a consistent, continuous facade from the bottom of the soffit (top of the wall section) downward to the top of the exposed perimeter foundation. The exterior siding of the manufactured home must have the same appearance as materials commonly used on residential dwellings. Metal siding must be painted or anodized.
5. The manufactured home must have a pitched roof with a pitch of at least a nominal three (3) in twelve (12). The roof must be covered with shingles, shakes or tile. Eaves of the roof must extend at least one (1) foot from the intersection of the roof and the exterior walls.
6. The manufactured home must have windows that are wood, vinyl-coated or anodized aluminum.
7. The manufactured home must have color-coordinated body and trim. Colors of both the factory components and the site-built components shall be the same.
8. The main entrance to the manufactured home must face or be oriented toward an adjacent street.
9. The transportation mechanisms, including the wheels, axles and hitch, must be removed.
10. No manufactured home shall be occupied for dwelling purposes unless it is properly placed in a manufactured home space and connected to water, sewerage, electric and gas utilities, as appropriate.
11. All manufactured homes shall be certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq., or shall be certified by the Colorado Division of Housing pursuant to Section 24-32-701 et seq., C.R.S.
12. All manufactured homes shall have an enclosed crawlspace underneath the manufactured home and shall not provide a harborage for rodents or create a fire hazard. No enclosed crawlspace shall be used for storage unless the storage area is surfaced with concrete. Adequate access and ventilation shall be provided in accordance with the Guidelines For Manufactured Housing Installation.
13. All manufactured homes shall meet or exceed equivalent engineering standards for other single-family residences.
14. Additions to increase the floor area of manufactured home shall not be permitted except for patios, porches, garages, decks or carports. Garages may be detached or attached.

15. Prior to occupancy, the Building Inspector shall inspect each manufactured home to determine compliance with this Code. No occupancy shall be permitted or certificate of occupancy issued until that inspection and all connections to public utilities have been made. The owner or home builder shall pay to the Town a building permit fee for each residential structure as may be required by this Code. Installation procedures and the building permit fee shall be in accordance with the then current Guidelines for Manufactured Housing Installation, including appendices, published by the International Conference of Building Officials for manufactured homes and as adopted by the Town.

16. All additions shall comply with minimum yard requirements, and a building permit shall be required in advance for any such addition.

B. Density, dimensional and spacing standards.

1. The minimum area manufactured home space shall be four thousand (4,000) square feet.
2. The minimum lot length shall be eighty (80) feet.
3. The minimum lot width shall be fifty (50) feet.
4. The maximum building height shall be thirty-five (35) feet.
5. The maximum gross density shall be ten (10) units per acre.
6. The distance between any building or manufactured home from a property line of the manufactured home park shall be twenty (20) feet.
7. The front setback of a manufactured home shall be at least fifteen (15) feet from the back of the curb; provided, however, that in order to encourage the enclosed storage of parked vehicles, the setback from the back of the curb to a garage shall be either five (5) feet or fifteen (15) feet or greater.
8. Side spacing shall provide for a minimum distance of twenty (20) feet between manufactured homes.
9. Rear spacing shall provide for a minimum distance of twenty (20) feet between units when units are side-to-end and a minimum distance of ten (10) feet between units when units are end-to-end.
10. There shall be a minimum setback of twenty (20) feet between any service facility or manufactured home park permanent building and any manufactured home.
11. Accessory buildings and structures shall be constructed in accordance with the adopted Building Code. Accessory buildings and structures shall include steps, attached or detached patios that are open on three (3) sides, attached or detached decks that are open on three (3) sides, attached or detached storage units, attached or detached garages and attached or detached carports. Accessory buildings or structures may be located adjacent to a manufactured home space line; provided, however, that a minimum of six (6) feet of separation is provided between a garage and

any other structure on an adjoining space. Any other building or structure shall provide a minimum of ten (10) feet between it and any structure on an adjoining space.

12. The limits of each manufactured home lot shall be clearly marked on the ground by permanent monuments set pursuant to Section 38-51-101, C.R.S.

C. Parking.

1. Every manufactured home space shall have two (2) off-street parking spaces adjacent to the manufactured home. There shall be one (1) additional parking space for each manufactured home space within one hundred (100) feet for use by occupants and guests.
2. Off-street vehicle parking for recreation facilities. Off-street vehicle parking shall be provided for recreation facilities located within a manufactured home park. One (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee at the maximum shift, shall be provided for enclosed recreation facilities. Twenty (20) spaces are to be provided for every diamond or athletic field, or one (1) space for every four (4) spectator seats, whichever is greater. (One [1] seat is equal to two [2] feet of bench seating length.) Handicapped parking spaces shall be provided in conformance with the Americans With Disabilities Act, as may be amended from time to time.

D. Outdoor Living Area.

1. No less than eight percent (8%) of the gross site area shall be reserved for and devoted to improved recreation areas and facilities provided in locations convenient to all manufactured home spaces.
2. An outdoor living area shall be provided on each space equal to at least ten percent (10%) of its area, provided that in no case shall such area be less than three hundred (300) square feet or required to be more than five hundred (500) square feet. The minimum horizontal dimension of such area shall be not less than fifteen (15) feet.
3. Such outdoor living area shall be properly drained, located for convenience and optimum use and walled, fenced or landscaped to provide reasonable privacy.

E. Tenant Storage.

1. A separate uniform tenant storage structure shall be provided for each space, located on each space.
2. There shall be a minimum of two hundred twenty-four (224) cubic feet of storage area provided for each manufactured home space.
3. Design and location of tenant storage shall enhance the appearance of the park, and the exterior siding of the structure shall have the same appearance as materials commonly used on residential dwellings.

4.03.26 Medical Office.

A. C-2 Zone.

1. No Medical Office shall be located within five hundred (500) feet of any other Medical Office.
2. Any Medical Office over 2,500 square feet of building area shall require conditional use approval.

4.03.27 Mini-Storage Facility.

- A. The Mini-Storage Facility shall be secured so that access is limited to tenants (or owners) and fire, police, or emergency service officials.
- B. Mini-Storage Facilities shall provide adequate drive aisles between all buildings for vehicle circulation and fire and emergency access.
- C. No Mini-Storage unit shall be used for the storage of explosives, ammunition, hazardous, or flammable materials.
- D. All buildings in the self-storage warehouse facility shall be architecturally compatible with the surrounding development in terms of architectural style and building materials and color.
- E. Mini-Storage units shall be used solely for the purpose of storage of goods and possessions and shall not be used for operation of a business, hobby, band rehearsal, or any type of activity not related to the storage of personal property of the owner or tenant of the unit.
- F. The Mini-Storage Facility may include an accessory on-site office.
- G. No office shall exceed more than three thousand (1,500) square feet.
- H. No outdoor storage is permitted in the C-3 zone.
- I. Outdoor storage may be allowed within LI and I zones in approved on-site areas for vehicles and recreational equipment if they are covered by an awning or canopy structure.
- J. Hours of public access to a Mini-Storage Facility shall be restricted to 6:00 AM. to 10:00 PM.

4.03.28 Mixed-Use Dwelling.

- A. A single-story Mixed-Use Dwelling unit shall be permitted if the following standards are met.
 1. The nonresidential use shall front the street.
 2. The residential use shall be located behind the nonresidential use.
 3. The residential use shall not exceed 50%⁷ of the total Mixed-Use Dwelling.
 4. No single-story Mixed-Use Dwelling shall exceed three thousand (3,000) square feet.
- B. A multiple story Mixed-Use Dwelling shall be permitted if the following standards are met.
 1. The first floor shall be used for nonresidential uses.
 2. No residential uses are allowed on the first floor.
 3. All residential parking shall be provided in the rear of the site.

4.03.29 Motor Vehicle Dealership.

- A. A Motor Vehicle Dealership shall be located five hundred (500) feet from any residential district or use.

⁷ Example (2,000 sf single story Mixed-Use Dwelling): Max residential area – 1,000 sf and Max nonresidential area – 1,000 sf

- B. No Motor Vehicle Dealership shall be located within five hundred (500) feet of any other Motor Vehicle Dealership.
- C. No more than fifty percent (50%) of the total building floor area may be used for related accessory uses such as retail sales, vehicle repair and service, and vehicle washing.
- D. Vehicle inventory spaces shall not count towards the minimum parking requirements.

4.03.30 Motor Vehicle Repair, Heavy.

- A. All Motor Vehicle Repair, Heavy repair activities shall take place within an enclosed space.
- B. Motor Vehicle Repair, Heavy facilities shall be located five hundred (500) feet from any residential use, religious land use or school.
- C. Motor Vehicle Repair, Heavy facilities shall set back at least fifty (50) feet from the front property line and twenty-five (25) feet from the rear property line.
- D. Disabled or damaged vehicles are not allowed to remain in an exterior location unless screened from public view.
- E. Screened areas for disabled or damaged vehicles are only allowed in areas to the rear or side of the principal structure of the Motor Vehicle Repair, Heavy facility.
- F. Screening for disabled or damaged vehicles shall be constructed from concrete or masonry and be at least six (6) feet tall.

4.03.31 Motor Vehicle Repair, Light.

- A. All Motor Vehicle Repair, Light repair activities shall take place within an enclosed space.
- B. Motor Vehicle Repair, Light facilities shall be located two hundred fifty (250) feet from any residential use, religious land use or school.
- C. Disabled or damaged vehicles are not allowed to remain in an exterior location unless screened from public view.
- D. Screened areas for disabled or damaged vehicles are only allowed in areas to the rear of the principal structure of the Motor Vehicle Repair, Light facility.
- E. Screening for disabled or damaged vehicles shall be constructed from concrete or masonry and be at least six (6) feet tall.

4.03.32 Multi-Family Dwelling.

- A. A Multi-Family Dwelling shall not exceed twelve (12) units.
- B. All Multi-Family Dwelling sites shall provide at least 20% of functional open space.

4.03.33 Nightclub.

- A. No Nightclub shall be located within five hundred (500) feet of any residential district or use.
- B. No Nightclub shall be located within two hundred fifty (250) feet of any school or religious land use.

- C. Service trucks for the purpose of loading and unloading materials and equipment or removing wastes shall be restricted to the hours between 8:00 AM and 8:00 PM.

4.03.34 Off-Street Parking Facility.

- A. Off-Street Parking Facilities shall meet the following requirements established in Table 4.03.33-1.

Table 4.03.33-1 Off-Street Parking Facilities	
Zone	Maximum Parking Square Footage Area
C-1	20,000
C-2	15,000
C-3	30,000

- B. An Off-Street Parking Facility may exceed the limits established if a parking garage is provided; however, no parking floor shall exceed the square footage limits.
- C. Parking garages shall follow the zone height requirements.
- D. Exterior parking garage elevations shall be compatible with the architecture found in the zone in terms of style, material, and other exterior elements.
- E. Parking garages shall include a minimum of two of the following elements on any facade facing a public street or space:
 - 1. Window and door openings comprising a minimum of twenty-five (25) percent of the ground floor facade;
 - 2. Awnings;
 - 3. Sill details; or
 - 4. Columns.

4.03.35 Pawn Shop.

- A. All Zones.
 - 1. A Pawn Shop shall be located five hundred (500) feet from any residential district or use.
 - 2. No Pawn Shop shall be located within two hundred fifty (250) feet of any school or religious land use.
 - 3. No Pawn Shop shall be located within one thousand (1,000) feet of any other Pawn Shop.
- B. C-1 and C-2 Zones.
 - 1. No Pawn Shop shall exceed two thousand (2,000) square feet in building area.
 - 2. No outdoor display is permitted.

4.03.36 Recreational Entertainment, Outdoor.

- A. Any Recreational Entertainment, Outdoor use shall be located five hundred (500) feet from any residential district or use.
- B. Any Recreational Entertainment, Outdoor use shall close by 10:00 PM.

- C. All exterior lighting for the purposes of illuminating the Recreational Entertainment, Outdoor use or any accessory use shall terminate at 10:00 PM. Lighting for walls, security measures, sconces, and parking facilities are excluded from this requirement.
- D. Noise generated by the use shall not exceed 45 dBA at any residential property line between the hours of 10:00 PM and 8:00 AM.

4.03.37 Religious Land Use.

- A. C-1 Zone.
 - 1. All play areas shall be screened pursuant to Chapters 5.03 and 5.04.
 - 2. Full cutoff lighting shall be provided in all parking areas.

4.03.38 Research and Development.

- A. All Zones.
 - 1. Research and Development facilities shall not contain or utilize toxic or explosive materials.
 - 2. All facilities shall be completely enclosed.
- B. C-3 Zone.
 - 1. Any Research and Development facility shall be located two hundred fifty (250) feet from any residential district or use.
 - 2. No Research and Development facility shall be located within five hundred (500) feet of any other Research and Development facility.
 - 3. Any Research and Development facility over 5,000 square feet of building area shall require conditional use approval.
- C. LI Zone.
 - 1. Any Research and Development facility shall be located five hundred (500) feet from any residential district or use.
 - 2. Any Research and Development facility over 10,000 square feet of building area shall require conditional use approval.

4.03.39 Resource Extraction - reserved.

4.03.40 Restaurant, Fast Food.

- A. Any Restaurant, Fast Food shall be located two hundred fifty (250) feet from any residential district or use.
- B. No Restaurant, Fast Food shall have a drive-thru window.
- C. Any Restaurant, Fast Food shall have a trash management program for the daily removal of on-site trash and litter.
- D. Loading is prohibited between the hours of 10:00 PM and 8:00 AM.

4.03.41 Restaurant, Fast Food with Drive-Thru.

- A. No Restaurant, Fast Food with Drive-Thru shall exceed five thousand (5,000) square feet in building area.
- B. Any Restaurant, Fast Food with Drive-Thru shall be located two hundred fifty (250) feet from any residential district or use.
- C. All drive-thru interactions shall occur within three (3) feet of a designated “drive-thru lane”.
- D. A drive-thru lane shall be at least ten (10) feet wide.
- E. A drive-thru lane shall originate at the last stacking space from the “point of order”.
- F. A drive-thru lane shall provide at least three (3) vehicle stacking spaces before the “point of order”.
- G. Vehicle stacking spaces shall be ten (10) feet wide by twenty (20) feet long.
- H. Any Restaurant, Fast Food with Drive-Thru shall designate a “point of order” on site where meal orders are communicated by patrons to staff.
- I. A “point of order” may be established before or at the drive-thru window.
- J. If a “point of order” is established before the drive-thru window, it shall be located at least thirty (30) feet from the first, or only, drive-thru window.
- K. Two (2) drive-thru windows may be allowed on site.
- L. If multiple drive-thrus are proposed, they shall be spaced at least forty (40) feet from one another.
- M. No drive-thru lane shall be closer than five (5) feet from an adjacent property line.
- N. Any Restaurant, Fast Food with Drive-Thru shall have a trash management program for the daily removal of on-site trash and litter.
- O. Loading is prohibited between the hours of 10:00 PM and 8:00 AM.

4.03.42 Restaurant, Sit Down.

- A. No Restaurant, Sit Down shall have a drive-thru window.
- B. Accessory outdoor customer seating/dining areas are permitted if they meet the applicable district’s dimensional standards.
- C. Any Restaurant, Sit Down shall have a trash management program for the daily removal of on-site trash and litter.
- D. Loading is prohibited between the hours of 10:00 PM and 8:00 AM.

4.03.43 Retail and Medical Marijuana Stores.

- A. All retail and medical marijuana stores shall comply with the regulations established in Ordinance No. ***-2021⁸ as approved by the Town of Wellington voters to regulate marijuana within town limits.

⁸ Added language in the use regulations that links the newly adopted marijuana ordinance. We will provide a hyperlink that will take the reader to the approved marijuana ordinance.

- B. After January 1, 2023, the Town may make changes to regulations related to Retail and Medical Marijuana Stores.

4.03.44 Retail Store.

A. C-1

1. No Retail Store shall exceed ten thousand (10,000) square feet in building area.
2. No outdoor storage or display is permitted.

B. C-2

1. No Retail Store shall exceed five thousand (5,000) square feet in building area.
2. No outdoor storage or display is permitted.

C. C-3

1. A Retail Store shall meet the following requirements established in Table 4.03.43-1.

Table 4.03.43-1 Retail Store	
Property Size	Maximum Building Square Foot Percentage
≤ 1 acre	20%
1.01 to 10 acres	25%
> 10 acres	30%

2. Outdoor storage or display shall be limited to 15% of the total building area.
3. Any outdoor storage or display shall be screened.
4. Screening shall be constructed from concrete or masonry and be at least six (6) feet tall.
5. Screening for storage may be constructed from concrete, masonry, or an approved alternative by the Director.

4.03.45 Salvage Yard.

A. Measurements and Setbacks.

1. Any Salvage Yard shall be located one thousand (1,000) feet from any residential use or district.
2. No Salvage Yard shall be located within one thousand three hundred twenty (1,320) feet from any other Salvage Yard.
3. Any Salvage Yard shall set back at least fifty (50) feet from the front property line and twenty-five (25) feet from the rear property line.
4. Any Salvage Yard shall be at least a minimum property size of five (5) acres.

B. Operation.

1. No hazardous wastes or hazardous materials shall be accepted or deposited at any salvage yard, except as incidental to the salvage operation.
2. Salvage operations shall be conducted to remove hazardous wastes and materials and dispose of them according to state and federal requirements.

3. Service trucks for the purpose of loading and unloading materials and equipment or removing wastes shall be restricted to the hours between 8:00 AM and 8:00 PM.

C. Screening.

1. Screening shall be provided for all disabled or damaged vehicles, tools, and equipment.
2. Screening for disabled or damaged vehicles, tools, and equipment shall be constructed from concrete or masonry and be at least six (6) feet tall.
3. No screening wall shall exceed twelve (12) feet tall.
4. In no instance shall any disabled or damaged vehicles, tools, or equipment be stacked higher than the required concrete or masonry screening wall.

4.03.46 Service Station.

- A. Service Stations shall not be located within one hundred (100) feet of any residential use or district.
- B. Any pump island or other structure shall not be less than twenty (20) feet from adjacent property lines or street and highway right-of-way lines.
- C. Overhead canopies or weather protection structures shall not be less than ten (10) feet from any right-of-way line or property line.
- D. In the C-1 zone, the total fuel pumps shall not exceed four (4).

4.03.47 Single-Family Attached Dwelling.

- A. No Single-Family Attached Dwelling shall exceed six (6) units.
- B. All Single-Family Attached Dwellings shall provide rear entry parking garages where alley access exists.

4.03.48 Solid Waste Facility.

- A. Any Solid Waste Facility shall comply with all applicable Larimer County, State of Colorado, and Federal regulations and permit requirements prior to approval.
- B. Any Solid Waste Facility shall be:
 1. Located one thousand (1,000) feet from any residential use or district.
 2. At least a minimum property size of ten (10) acres.

4.03.49 Stable.

- A. In addition to the regulations prescribed in B – F below, a Stable shall comply with the regulations established in Chapter 7 – Health, Sanitation, and Animals, Article 4 – Animals of the Wellington Municipal Code.
- B. A Stable is only allowed on a lot that has at least one (1) acre of land.
- C. A person shall keep only the number of horses permitted for the lot area as described in Table 4.03.48-1.

Table 4.03.48-1 Stable Standards	
Property Size	Number of Horses
1 to 2 acres	2
2.01 to 5 acres	4
5.01 to 10 acres	8
> 10 acres	8 + 1 for each 0.5 acre after 10 acres

- D. A Stable shall include a pen, corral, fence, or similar enclosure containing at least eight hundred (800) square feet of land for each animal with a stable under a roof containing at least one hundred (100) square feet for each animal.
- E. A Stable must have proper drainage so as not to create offensive odors, fly breeding, or other nuisances.
- F. A pen, corral, fence, or similar enclosure shall be at least four (4) feet tall and shall maintain a strength to retain the horse(s).

4.03.50 Technical School.

- A. C-2 Zone.
 - 1. No Technical School shall exceed three thousand (3,000) square feet in building area.
 - 2. No Technical School shall be located within two hundred fifty feet of any other Technical School.
 - 3. Any Technical School exceeding 3,000 square feet shall require a Conditional Use Permit.

4.03.51 Veterinary Facilities, Large Animals.

- A. Any Veterinary Facilities, Large Animals shall be located on a property of at least one (1) acre.
- B. Any Veterinary Facilities, Large Animals shall be designed and constructed to:
 - 1. Eliminate any emission of odor offensive to persons owning, occupying, or patronizing properties adjacent to the subject property.
 - 2. Reduce the sound coming from any Veterinary Facilities, Large Animals to the level of sixty-five (65) decibels at any given abutting property line.
- C. Exterior areas used to exercise, walk, or keep animals shall set back at least one hundred (100) feet from any lot line.
- D. All exterior exercise areas and runs shall be fenced.
- E. Animals are prohibited from being outdoors between 8:00 PM and 8:00 AM.
- F. Animals shall only be walked or exercised in on-site outdoor areas.
- G. No animal boarding is allowed for any length of time except if boarding is necessary to provide surgical or other medical care to the animals.
- H. All buildings and accessory structures shall set back at least two hundred fifty (250) feet from any residential property line.
- I. All litter and animal waste shall be contained and controlled on the subject property.

4.03.52 Veterinary Facilities, Small Animals.

- A. Any Veterinary Facilities, Small Animals, including all treatment rooms, cages, pens, kennels, and exercise runs, shall be maintained within a completely enclosed, soundproof building.
- B. Any Veterinary Facilities, Small Animals shall be designed and constructed to:
 - 1. Eliminate any emission of odor offensive to persons owning, occupying, or patronizing properties adjacent to the subject property.
 - 2. Reduce the sound coming from any Veterinary Facilities, Small Animals to the level of sixty-five (65) decibels at any given abutting property line.
- C. No animal boarding is allowed for any length of time except if boarding is necessary to provide surgical or other medical care to the animals.

4.03.53 Wholesale Distribution, Warehousing, and Storage.

- A. LI Zone.
 - 1. Any Wholesale Distribution, Warehousing, and Storage use shall be located two hundred fifty (250) feet from any residential use or district.
 - 2. No Wholesale Distribution, Warehousing, and Storage use shall exceed 15,000 square feet.

4.03.54 Workshop.

- B. All Zones.
 - 1. All permitted repair work, vehicle washing, lubrication, and installation of parts and accessories shall be performed within an enclosed structure.
 - 2. Any Workshop shall be located five hundred (500) feet from any residential use or district.
 - 3. All dismantled vehicles, parts, and repair supplies shall be stored within an enclosed building or totally screened from view by a solid fence or wall. All vehicles awaiting repair or service shall be stored on-site in approved parking spaces and not on a public right-of-way.
- C. C-1 and C-2 Zones.
 - 1. No Workshop shall exceed two thousand (2,000) square feet in building area.
 - 2. Any Workshop exceeding two thousand (2,000) square feet shall require a Conditional Use Permit.

4.03.55 Wireless Telecommunications Facility.

- A. [Permitted Zoning District. Wireless telecommunications facilities shall be permitted only pursuant to Table 4.02-1.](#)
- B. [Use Permitted by Conditional Review. It is unlawful for any person to install or operate such a wireless telecommunications facility unless a use by conditional review has first been approved by the Board of Trustees. The approval of such use by conditional review does not relieve the operator from otherwise complying with all applicable regulatory requirements of the Town, state and federal governments.](#)

C. Height and Setback Requirements. In all zoning districts where wireless telecommunications facilities are allowed as uses by conditional review, the following apply:

1. Roof- or building-mounted commercial mobile radio service facilities may protrude no more than five (5) feet above the parapet line of the building or structure, nor more than two-and-one-half (2½) feet outside of the building wall unless sufficient screening methods are demonstrated and accepted as part of the approval;
2. Roof- or building-mounted whip antennas of no more than three (3) inches in diameter, in groupings of five (5) or less, may extend up to twelve (12) feet above the parapet wall; and
3. Applicable zoning setback requirements must be met. At a minimum, all freestanding facilities shall be set back at least three hundred (300) feet from all residentially zoned properties or residential structures on properties otherwise zoned.

D. Accessory Building Requirements.

1. Accessory buildings located on the ground shall be no larger than four hundred (400) square feet and must be constructed of durable, low-maintenance materials, architecturally compatible and integrated with existing buildings and structures. Sites with greater than one hundred (100) cubic feet of cabinet area, visible from a public right-of-way or residentially zoned or used area, must enclose the equipment in accessory buildings.
2. Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient..

E. Building- or Roof-mounted Requirements. Building- or roof-mounted facilities are to be screened from public view, either by screening, location or other techniques deemed sufficient.

F. Freestanding Wireless Telecommunications Facilities Requirements. All freestanding wireless telecommunications facilities shall be designed and constructed in such a manner that they are:

1. Capable of serving, through original construction, expansion or replacement, a minimum of two (2) users.
2. Constructed as a monopole, which tapers toward the top of the pole to the degree allowed by structural requirements, unless some other decorative type of structure is proposed and approved.
3. Of a neutral color, including fencing, buildings and cabinets, or to match existing buildings.
4. Hold only lighting required by the Federal Aviation Administration, and no signage.
5. No higher than fifty (50) feet from the ground, with an additional twenty (20) feet per co-locating user permitted, up to seventy (70) feet. Exceptions may be granted upon request by the applicant.
6. Constructed in accordance with a certified engineer's specifications and in compliance with all applicable Building Code provisions.

G. Conditional Mitigation Measures Co-location.

1. The Town encourages co-location of wireless telecommunications facilities to minimize the number of sites.
2. No wireless telecommunications facility owner or operator shall unfairly exclude a competitor from using the same facility or location. Unfair exclusion of use by a competitor may result in the revocation of the use by conditional review or site development plan. .

B-H. Abandonment. At the request of the Town, the operator must furnish a statement to the Town indicating the operational status of the facility. If the use has been discontinued, the date on which the facility was last used shall also be provided. Commercial mobile radio service facilities not used for a continuous period of six (6) months shall be disassembled within twelve (12) months of the last use.

4.04 Accessory Uses and Structures

4.04.1 Purpose. This section authorizes the establishment of accessory uses and buildings that are incidental and customarily subordinate to principal uses. An accessory use is “incidental and customarily subordinate” to a principal use if it complies with the standards established in this section. All principal uses allowed in a zoning district shall be deemed to include those accessory uses, buildings, and activities typically associated with the use, unless specifically prohibited in this section.

4.04.2 Approval Procedure.

- A. Any of the accessory uses identified in this section may be allowed as accessory to an authorized principal use provided that:
 1. The proposed accessory use is allowed as a principal or accessory use in the base district where proposed; and
 2. The proposed accessory use or building is consistent with the general and specific standards for accessory uses in this subsection.
- B. Simultaneously with a Principal Use. Accessory uses or buildings may be reviewed as part of review of an associated principal use. In cases where the principal use is subject to a Conditional Use Permit, an accessory use may only be authorized in accordance with an approved Conditional Use Permit.
- C. Subsequent to a Principal Use.
 1. Unless exempted, a building permit shall be required in cases where an accessory use or building is proposed subsequent to a principal use.
 2. In cases where the principal use is subject to a Conditional Use Permit, an accessory use may only be authorized in accordance with the provisions in **Chapter 2, Conditional Use Permits**.

4.04.3 Interpretation of Unidentified Accessory Uses. The Planning Director shall evaluate applications for accessory uses that are not identified in this section on a case-by-case basis, based on the following standards:

- A. The definition of "accessory use" in **Chapter 9, Definitions**, and the general accessory use standards and limitations established in Chapter 4.04;
- B. The purpose and intent of the base districts in which the accessory use is located;
- C. Potential adverse effects the accessory use or building may have on other lots, compared with other accessory uses permitted in the district; and
- D. The compatibility of the accessory use with other principal and accessory uses permitted in the district.

4.04.4 General Standards for all Accessory Uses. All accessory uses and buildings shall be subject to the general standards in this section, as well as any applicable supplemental standards in Chapter 4.04.5 and all standards applicable to the associated principal use as set forth in **Chapter 4 Use Standards**.

- A. Size. All accessory uses shall:
 - 1. Be clearly subordinate in area, extent, and purpose to the principal use or structure; and
 - 2. Not violate the bulk, density, parking, landscaping, or open space standards of this Land Use Code when taken together with the principal use or structure.
 - 3. The floor area of any detached accessory building shall not exceed 50 percent of the floor area of the principal structure. The total combined floor area of all buildings shall not exceed the maximum lot coverage for the zoning district in which it is located. The Planning Director may authorize a building to exceed this percentage if the building is used as a guest house, or is used for animal production or crop production associated with an agricultural use.
- B. Function. All accessory uses shall directly serve the principal use or building, and be accessory and clearly incidental to the principal use or building.
- C. Timing. Accessory uses shall not be constructed or established prior to the start of construction of the principal use or building. An accessory building shall not be used until the construction of the primary building is complete.
- D. Height. Accessory buildings shall be limited to a maximum height of 24 feet unless exempted from the height requirements in this Code.
- E. Location.
 - 1. Accessory uses or buildings shall be located on the same lot as the principal use or building.
 - 2. Accessory buildings shall not be located within platted or recorded easements.
 - 3. The Planning Director may authorize an accessory building on a vacant lot if the structure is used for animal production or crop production associated with an agricultural use, or used in conjunction with a park or community garden.
- F. Design Compatibility.
 - 1. Except where exempted, all accessory buildings shall be designed to be aesthetically compatible with the principal building. Compatibility shall be measured in terms of building materials, building

orientation, building placement, and building mass. Non-enclosed stables, gazebos, greenhouses, and carports ten feet or less in height with a roofed area of 300 square feet or less are exempted from this compatibility requirement.

2. Applicants for accessory buildings not exempted in accordance with this subsection who request exceptions from the design compatibility requirements shall demonstrate screening methods or design features that will be used to minimize any potential adverse effects on neighboring properties.

G. Ownership. Accessory uses or buildings shall be owned or operated by the same person as the principal use or buildings.

4.04.5 Supplemental Accessory Use Standards.

A. Accessory Dwelling Unit.

1. A Detached Accessory Dwelling Unit shall only be located in the rear of a lot.
2. A Detached Accessory Dwelling Unit must comply with the required setbacks by the zoning district in which the unit is located. If the accessory dwelling unit is part of the primary dwelling (attached), it must comply with principal building setbacks for the zoning district in which the unit is located.
3. An Accessory Dwelling Unit must comply with the zoning district's height requirements. An Accessory Dwelling Unit must not exceed the height of the primary dwelling.
4. An Accessory Dwelling Unit must not exceed one thousand (1,000) gross square feet in area.
5. An Accessory Dwelling Unit must connect utilities to those of the primary dwelling.
6. An Accessory Dwelling Unit must maintain the architectural design, style, appearance, and character of the primary dwelling.
7. The property owner must occupy the principal dwelling as the owner's permanent residence. For purposes of these regulations, "property owner" means the title holder and/ or contract purchaser of the lot, and "owner occupancy" means that a property owner makes their permanent residence at the site.

B. Drive-Thru Facility. A Drive Through Facility may be permitted as an accessory use subject to the following standards.

1. Setbacks. All Drive-Thru Facilities are set back five feet (5 ft) from any property line.
2. Stacking.
 - a. All Drive-Thru Facilities accommodate the required stacking standards.
 - b. A drive-thru/ATM lane is provided on site.
 - c. The drive-thru/ATM lane is at least ten (10) feet wide.
 - d. The drive-thru/ATM lane provides at least three (3) vehicle stacking spaces before the drive-thru window/ATM.
 - e. Vehicle stacking spaces shall be ten (10) feet wide by twenty (20) feet long.

C. Office.

1. An accessory office shall be allowed for an approved use.
2. The office shall not occupy more than twenty five percent (25%) of the gross floor area of the approved use.
3. If the approved primary use is not located in a structure, the office structure shall not occupy more than five percent (5%) of the property area on which the primary use is located or five thousand (5,000) square feet, whichever is less.

D. Outdoor Storage.

1. Outdoor storage areas shall be screened according to **Chapter 5, Development Standards**.
2. All outdoor storage areas shall be completely fenced and screened from public view.
3. Screening shall be at least six feet (6') tall, but no more than ten feet (10') tall unless where specifically stated otherwise.
4. One side of the outdoor storage may be left unenclosed, provided that the materials stored in the area shall not be visible from a public roadway or an abutting property.
5. Cyclone or chainlink fencing (with or without slats) shall not be deemed a screening material.
6. Materials shall not be stored within the required setbacks.
7. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.
8. Outdoor storage for commercial or industrial uses shall be limited to those items owned or used by the business.
9. Outdoor storage for a multi-family development, recreational vehicle park, or manufactured home park, shall be only for recreational vehicles or personal recreation items of the tenants.

4.05 Temporary Uses and Structures

4.05.1 Purpose. This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses comply with the standards in this subsection and are discontinued upon the expiration of a set time period. Temporary uses and special events shall not involve the construction or alteration of any permanent building.

4.05.2 Approval Procedure. Any use listed in this section may be permitted as a temporary use provided:

- A. Where indicated in Table 4.02-1 Use Table; and
- B. The proposed temporary use is consistent with the general and specific standards for temporary uses and structures in this section.

4.05.3 General Standards for all Temporary Uses. All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this Land Use Code:

- A. The temporary use or structure shall not be detrimental to property or improvements in the surrounding area, or to the public health, safety, or general welfare.

- B. The temporary use shall comply with all applicable general and specific regulations of this Chapter 4.05, unless otherwise expressly stated.
- C. Permanent alterations to the site are prohibited.
- D. All temporary signs associated with the temporary use or structure shall be properly permitted and removed when the activity ends or permit expires, whichever occurs first.
- E. The temporary use or structure shall not violate any applicable conditions of approval that apply to a principal use on the site.
- F. The temporary use regulations of this section do not exempt the applicant or operator from any other required permits, such as health or building permits.
- G. If the property is undeveloped, it shall contain sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic circulation as required that may be associated with the temporary use, without disturbing sensitive or protected resources, including required buffers, 100-year floodplains, river protection setbacks, and required landscaping. At the conclusion of the temporary use or at expiration of the permit, whichever occurs first, all disturbed areas of the site shall be restored or improved to the condition that existed prior to the use.
- H. If the property is developed, the temporary use shall be located in an area that is not actively used by an existing approved principal use, and that would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability.
- I. Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property, shall be anchored, and meet the requirements of the Building Official or Fire Marshal, including fire rating.
- J. Off-street parking shall be adequate to accommodate the proposed temporary use.

4.05.4 Supplemental Temporary Use Standards.

- A. Open-Air Farmers' Market.
 - 1. An open-air farmers' market shall have no more than 25 vendors on-site at any one time.
 - 2. An open-air farmers' market is limited to a 5 acre site maximum.
 - ~~2-3.~~ An open-air farmers' market shall meet any conditions and requirements prescribed by the Town's special events permitting process.

CHAPTER 5: DEVELOPMENT STANDARDS

5.01 Purpose and Organization

5.01.1 Purpose. This chapter establishes uniform standards for the development and improvement of property throughout the Town of Wellington to ensure quality development that is consistent with the Town's Comprehensive Plan.

5.01.2 Organization. This chapter is organized into eleven (11) subsequent sections for each development standard. This chapter regulates:

- Exterior Lighting (5.02);
- Fences (5.03);
- Landscaping and Screening (5.04);
- Off-Street Parking (5.05);
- Parks and Open Space (5.06);
- Refuse/Trash Disposal (5.07);
- Signs (5.08);
- Site and Building Design (5.09);
- Stormwater and Sewer (5.10);
- Transportation and Connectivity (5.11); and
- Water (5.12)

5.01.3 Applicability

- A. All development applications and building permit applications shall comply with the standards contained in this Chapter.
- B. The Planning Commission, Board of Trustees and Town Staff, as appropriate, will evaluate each proposal based on these standards set forth in this Chapter and the context within which a project is located. The standards are intended to be specific enough to guide development, but not to preclude creative design solutions. Applicants must substantially conform to the design standards unless it can be demonstrated that an acceptable alternative meets one (1) or more of the following conditions:
 1. The alternative better achieves the stated intent;
 2. The effect of other standards will be improved by not applying a specific standard; and/or
 3. Strict application or unique site features make the standard impractical.

5.02 Exterior Lighting

5.02.1 Purpose. The purposes of this Section are to:

- A. Allow the use of exterior lighting that does not exceed the levels specified in International Engineering Society (IES) recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.
- B. Minimize adverse off-site impacts of lighting such as light trespass and obtrusive light.
- C. Limit light pollution and reduce skyglow.
- D. Help protect the natural environment from the adverse effects of night lighting from gas and oil extraction activities or electric services.
- E. Conserve energy and resources to the greatest extent possible.
- F. Encourage exterior lighting that is functional, aesthetically pleasing, and complimentary to the architectural style of buildings or setting.

5.02.2 Applicability.

- A. Generally. This Section applies to all exterior lighting within the Town. All exterior lighting installed after the effective date of this Land Use Code shall comply with this Section.
- B. Exemptions.
 - 1. Because of their limited hours of operation and their unique requirements for nighttime visibility, playing fields, tennis courts, and similar outdoor recreational uses (both public and private, unless otherwise restricted by the Town) are exempt from the general provisions of this section. However, exterior lighting for those uses is terminated within an hour of the activity's conclusion or as otherwise identified within this Land Use Code.
 - 2. Full cutoff street lighting as part of a federal, state, or municipal installation.
 - 3. Holiday lighting before and after the holiday.
 - 4. Specialized lighting necessary for safety, such as temporary lighting associated with emergency operations, road hazard warnings, etc.
 - 5. Traffic control signals and devices.
 - 6. Sensor activated luminaires if:
 - a. It is located in a manner that prevents glare and lighting onto properties of others or into the public right-of-way.
 - b. The luminaire is set to only go on when activated by motion, and to go off within five minutes after activation has ceased.
 - c. The luminaire is not triggered by activity off the property.
 - 7. Floodlights with external shielding can be deflected up to 25 degrees from a vertical plane as measured through the central axis of the light beam from the luminaire, only if the

luminaire does not cause glare or light to shine on adjacent property or public rights-of-way.

8. Federally funded and state funded roadway construction projects are exempted from the requirements of this Section only to the extent it is necessary to comply with federal and state requirements.
9. Exterior residential fixtures which consist of lamp types with an output of 800 lumens or less (approximate to a 60-watt incandescent bulb or nine-watt LED) are exempt from these regulations, if the fixture types are compliant with those allowed in this Section.
10. Uplighting for flags, address markers, trees, architectural features, and low-voltage landscape lighting, provided that the luminaire is located, aimed and shielded so that direct illumination is focused exclusively on the object and away from adjoining properties and the public street right-of-way. Architectural features may be illuminated by uplighting provided that the light is effectively contained by the structure. In all cases, uplighting must not cause glare or light trespass. Landscape lighting is low voltage (24 volts or less), and is controlled by a photocell and timer set to terminate by 12:00 a.m.
11. Fossil fuel light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels are exempt from these standards.

5.02.3 Standards. All site lighting for nonresidential uses shall conform to the standards established below.

A. Lighting Levels. Light levels shall follow the standards prescribed in Table [5.02.3-1XXX](#).

Table [5.02.3-1XX](#): Exterior Lighting Levels

Exterior Lighting Levels		
Area	Minimum foot-candles	Maximum foot-candles
Parking areas/pedestrian walkways	1	10
Loading facilities	5	20
Under-canopy fueling area	20	40
Off-site (20 ft beyond property line on residential area or public right-of-way)	--	0.1 (as a direct result of on-site lighting)

Design Standards. The lighting plan shall meet the following design standards:

1. Prohibited Lighting. Site lighting that may be confused with warning, emergency or traffic signals is prohibited.
2. Shielding. Light sources shall be concealed and fully shielded and shall feature sharp cut-off capability minimizing up-light, spill-light, glare, and diffusion. Under-canopy fueling areas shall feature flush mount, flat lens light fixtures.

3. Light Spillover. All outdoor lighting systems shall be designed and operated so that the area ten feet beyond the property line of the premises receives no more than one foot-candle in nonresidential zoned areas, and one quarter of a foot-candle for properties adjoining residential districts.

5.02.4 Lighting Plan.

- A. Generally. A lighting plan indicating location and type of all outdoor light sources and indicating lighting levels achieved at all points on the site is submitted with a site plan application. For projects not requiring Director or Planning Commission review, the lighting plan is submitted at the time of building permit application.
- B. Required Information. Additionally, a lighting plan shall include the following information for review:
 1. Plans indicating the location, type, intensity, and height of luminaries including both building and ground-mounted fixtures;
 2. A description of the luminaries, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer;
 3. Photometric data, including that furnished by the manufacturer, showing the angle of light emission and the foot-candles on the ground; and
 4. Any additional information required by the Town needed to determine compliance with this Section.

5.03 Fences

5.03.1 Purpose. The purposes of this Section are to:

- A. Ensure that walls and fences are attractive and in character with the neighborhood.
- B. Maintain fences, recognizing that they are used to create privacy.
- ~~C. Encourage privacy fences located close to residences or other primary buildings on a property and not alongside and rear property lines.~~

5.03.2 Applicability. This Section applies to all fences within the Town. All fences installed after the effective date of this Land Use Code complies with this Section.

5.03.3 General Provisions.

- A. Compatibility.
 1. Walls and fences are architecturally compatible with the style, materials, and colors of the principal buildings on the same lot. If used along collector or arterial streets, those features are made visually interesting by integrating architectural elements, such as brick or stone

columns, varying the alignment or setback of the fence, softening the appearance of fence lines with plantings or through similar techniques.

2. A fence or wall may not consist of a solid, unbroken expanse for more than fifty (50) feet.

B. Materials.

1. Stone walls, or brick walls with a stone or cast stone cap, treated wood fences, vinyl, decorative metal, cast iron fences, stucco walls and stone piers are allowed.
2. Hedges may be used in the same manner and for the same purposes as a fence or wall.
3. Solid walls and fences are permitted only in rear and side yards.
4. Retaining walls are permitted where required for landscaping or architectural purposes.
5. Fences used in front yards (being the yard area that the primary or front entrance of the primary building on the property is oriented towards) are at least fifty percent (50%) open. Allowable fences within front yards are split rail, wrought iron, picket or other standard residential fences of fences of similar material or nature approved by the Director or designee.
6. Other materials may be incorporated in fences and walls by Board of Trustees approval.

C. Prohibited Materials.

1. Fencing, including concertina or razor wire, are prohibited unless specifically allowed by the Board of Trustees.
2. Metal panel fences are prohibited.
3. Fences constructed of wood or plastic pallets are prohibited.
4. Barbed wire or electrically charged fences are only allowed in the Agricultural (A) or Rural Residential (RR) Districts.
5. Electrically charged fences shall have signage at least every twenty-five (25) feet identifying that fencing as being electrically charged.
6. Chain link fencing with or without slats is not allowed as a fencing material for screening purposes.

- D. Retaining Walls.** Retaining walls are designed to resist loads due to the lateral pressure of retained material in accordance with accepted engineering practice and are not unsightly or detrimental to abutting property.

E. Height Limitations. Fences or walls are:

1. No more than forty-two (42) inches high between the front building line and the front property line. These walls are not solid except for retaining walls. For corner lots, front yard fence regulations apply to both street sides of the lot.

2. No more than forty-two (42) inches high if located on a side yard line in the front yard, except if approved by the Board of Trustees and required for unique security purposes. These fences and walls are not solid, except for retaining walls.
3. No more than thirty (30) inches high when located within the site distance triangle, and fences or walls within this site distance triangle are not solid. In the Industrial (I) Zone District, chain link fence is permitted if the height of the fence is not higher than six (6) feet, the fence is not used for screening, and the fencing does not obstruct visibility at any intersection.
4. No more than six (6) feet high for an opaque privacy fence located on a rear property line or on a side yard line in the rear yard.
5. Fences around a recreation court (e.g., tennis, squash racket, squash tennis or badminton) or around a publicly owned recreation area may exceed six (6) feet in height if the fence is at least fifty percent (50%) open.

F. Location. For residential uses only, open and closed fences not exceeding six feet in height in front yard setbacks may extend to the property line of a corner lot; provided that the facade for which the household address has been designated is 180 degrees from the adjacent opposing lot and subject to the restriction that the fence shall not be located in or over any area of a vision triangle or extend beyond the corner of a principal structure into any front yard for which the facade has been designated for the property address number.

F.G. Maintenance. Dilapidated, unsightly or dangerous fences shall be removed or repaired when removal is ordered by the Code Enforcement Officer. Hedges are maintained in a healthy condition, trimmed, and pruned as appropriate for the plant type. Dead plant material in hedges shall be removed or replaced as appropriate when ordered by the Code Enforcement Officer. Hedges shall not encroach upon sidewalks or street rights-of-way. (Ord. 11-2007 §1)

5.04 Landscaping and Screening

5.04.1 Purpose~~General Design Principles~~

- A. ~~Purpose and Intent: The intent~~The purpose of the landscape standards is to preserve the Town's special character and integrate and enhance new development by promoting quality landscape design that:
 1. Reinforces the identity of the community and each neighborhood;
 2. Provides tree-lined streets;
 3. Anchors new buildings in the landscape;
 4. Provides adequate vegetation ~~to~~ for screening and buffering between land uses;

5. Provides tree canopies to reduce urban heat island effect;
6. Preserves existing trees and establishes procedures for replacing removed trees;
7. Is conscientious of water usage;
8. Identifies climate appropriate landscape material; and
9. Protects natural resources such as valuable wildlife habitat.

5.04.2 Applicability. The provisions herein shall apply to all new development or redevelopment subject to site plan review or subdivision application. Building permit applications for individual single-family residences will not require landscape plans. However, all landscaping within the community shall comply with the intent of these regulations.

5.04.3 General Provisions.

~~B. All land development applications shall be accompanied by a landscape plan prepared by a Colorado-licensed Landscape Architect.~~

4.A. Site considerations. Landscape improvements shall be an integral part of the overall site design for each property and shall follow these objectives:

~~a.1.~~ Landscape improvements in all developments shall be consistent with the character of the proposed development and the surrounding area to reinforce neighborhood identity.

~~b.2.~~ All landscape plans shall incorporate a mix of shade trees, ornamental trees, evergreen trees and shrubs, deciduous shrubs, ornamental grasses, and perennials.

~~c.3.~~ Landscape design shall enhance natural features, drainage ways, and environmental resources.

~~d.4.~~ All landscape improvements shall be designed for mature landscapes and shall provide appropriate visibility for cars and pedestrians.

~~e.5.~~ Buildings and parking areas shall be located to preserve existing trees, environmental resources, and natural drainage ways to the greatest extent possible.

~~f.6.~~ Trees shall be located to provide summer shade and limit winter shade on walks and streets.

~~g.7.~~ Landscaping provisions shall not be cumulative or overlapping. When more than one standard applies, the most restrictive landscape standard shall apply.

2.B. Environmental considerations. Landscapes shall follow these xeriscape design principles to facilitate water conservation:

~~a.8.~~ Use appropriate turf varieties to minimize the use of bluegrass.

~~b.9.~~ Design Landscape Plans for water efficiency by arranging plant material by water use hydrozone with higher water use plants grouped together and lower water use plants grouped together.

~~e-10.~~ Use bioswales, water quality ponds, and rain gardens to filter runoff from parking lots, streets, and other impervious surfaces.

~~d-11.~~ Design with xeric and native plant material in accordance with the Design Manual.

~~e-12.~~ Improve the soil with organic matter and ensure proper landscape and irrigation maintenance per section 5.04.3. All areas disturbed by construction shall be reseeded to prevent erosion. Native, noninvasive grasses shall be used for revegetation where practical. Weed control and sediment and erosion control is the responsibility of the landowner on all reseeded areas.

~~5.04.25.04.4~~ Landscape and Irrigation Design Manual

A. These landscape standards were developed in tandem with the Wellington Waterwise Landscape and Irrigation Design Manual (herein referenced as the Design Manual) which includes additional information on the principles of waterwise landscape design. Included are:

1. A series of landscape typologies illustrated to show how varying levels of water use in the landscape effect overall water savings
2. Images to further represent the desired landscape character of streetscapes, parks and open space, and residential, commercial and industrial developments.
3. Suggested plant list organized by water use including high, medium, low and very low water use plant suggestions which match the water requirements.

~~5.04.35.04.5~~ Plant Material Specifications.

A. The plant material specifications included herein apply to all required landscape plan submittals as described in the Applicability Section 5.04.2 above.

~~A-B.~~ Plant material shall consist of native and regionally adapted species per the suggested plant list in the Design Manual.

~~B-C.~~ Prohibited plant species.

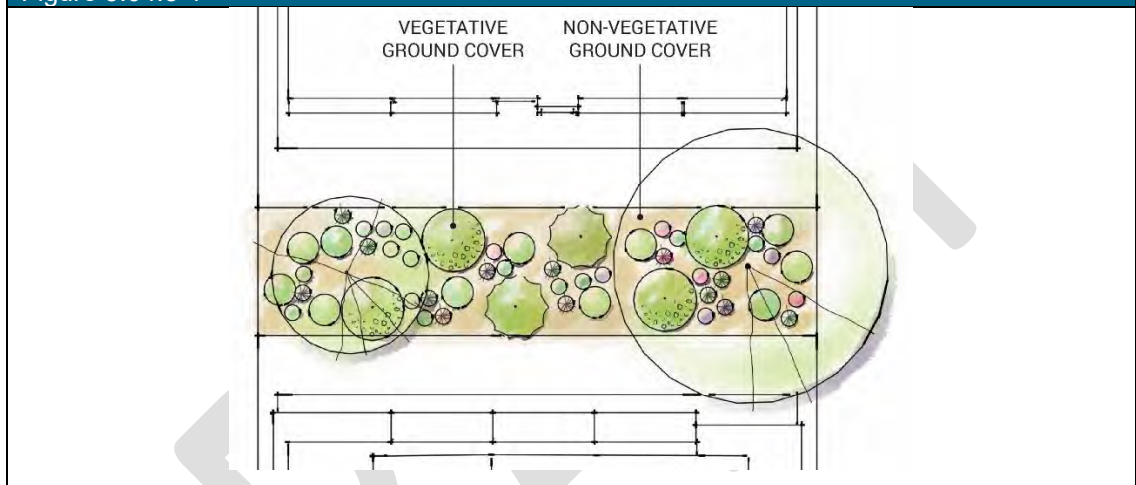
1. The following trees are prohibited in the Town:
 - (1) Russian olive (an invasive species that threatens native trees in riparian ecosystems).
 - (2) Lombardy poplar (susceptible to canker-forming fungi for which there are no available controls).
 - (3) Siberian elm (can dominate native vegetation, especially in disturbed areas; is weak-wooded and subject to continuous dieback when large; can be devastated by the elm leaf beetle).
 - (4) Boxelder maple (primary host plant of the boxelder bug).
 - (5) Cotton-bearing cottonwood (Often considered a public nuisance.)
2. Ash, Fraxinus species (primary host to the destructive Emerald Ash Borer)

3. Plants listed as an invasive species by the Colorado State University Extension Service are prohibited.
4. Plants listed on the Colorado Noxious Weed List are prohibited.

G.D. Landscapes shall consist of a variety of species to enhance biodiversity. No one (1) species may make up more than twenty-five percent (25%) of the total non-grass plant materials on one (1) site.

E. All landscape areas shall be comprised of a minimum percentage of live material which is calculated based on the total accumulative area of the diameter of each plant at maturity, exclusive of trees.

Figure 5.04.5-1



D.F. Up to 20% of required site trees (exclusive of street trees) may be substituted with shrubs or ornamental grasses at a rate of five (5) shrubs or ornamental grasses per one tree.

E.G. Minimum planting sizes on all required landscaping shall be as follows:

1. Deciduous Trees: two-inch (2") caliper
2. Ornamental Trees: one-and-one-half-inch (1.5") caliper
3. Evergreen Trees: six-foot (6') tall
4. Shrubs: five (5) gallon size

F.H. Landscaping shall be no more than thirty (30") inches high when located in a sight distance triangle.

G.I. Trees may not be located within five feet (5') of gas, electric, and cable lines.

H.J. Trees shall not be located within ten feet (10') of water and sewer lines.

I.K. Ornamental trees shall not be located within fifteen feet (15') of streetlights.

J.L. Shade trees shall not be located within forty feet (40') of streetlights.

K.M. Trees planted in lawn areas shall include a five-foot diameter (5' dia) ring of mulch at the base to provide separation between grass thatch and the trunk of the tree.

L.N. No plastic shall be used for weed control barrier under mulches. When used, weed barrier shall be nonwoven polypropylene that allows water and air to penetrate.

M.O. All planting areas shall be mulched to a minimum depth of three inches (3") for mulch material $\frac{3}{4}$ " in size or smaller and a minimum of four inches (4") for material larger than $\frac{3}{4}$ " in size. No planting area shall contain mulch alone without plantings.

N.P. All landscape areas shall be amended with organic compost at a rate of four cubic yards per one thousand square feet (4 cu yds / 1,000 sf), tilled into the top eight inches (8") of soil. Areas planted with native grass seed mixes can reduce the compost rate to two cubic yards per one thousand square feet (2 cu yds / 1,000 sf).

O.Q. Required plant materials shall be grown in a licensed nursery in accordance with proper horticultural practice. Plants shall be healthy, well-branched, vigorous stock with a growth habit normal to the species and variety and free of diseases, insects and injuries.

P.R. All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the American Standard for Nursery Stock, 1990 Edition, American Association of Nurserymen, Inc. (AAN-ASNS) and the Colorado Nursery Act of 1965 (CNA).

Q.S. All landscaping shall be irrigated with an efficient, automated underground irrigation system as required for plant establishment and maintenance.

1. Use of nontreated (non-potable) water for irrigation is required if a permanent, suitable supply is available.
2. Temporary above ground irrigation may be used to establish native grasses and vegetation but must be removed following the second growing season after installation.
3. All irrigation systems shall consist of efficient equipment such as:
 - a. Controllers tied to a weather application to ensure system efficiency;
 - b. Rain sensors; and/or
 - c. Efficient spray heads such as the Hunter MP Rotator
4. Guarantee of installation. Required landscape improvements shall be installed prior to issuance of a certificate of occupancy (CO) for all new construction and redeveloped sites. If weather conditions prevent installation, the developer shall post a financial guarantee for the improvements in an amount equal to one hundred twenty-five percent (125%) of an approved line item cost estimate. The guarantee shall be released upon completion of the installation of the landscaping and acceptance by the Town.
5. Maintenance. To provide for the ongoing health and appearance of landscape improvements, all landscaping shall be maintained and replaced by the landowner or occupant as necessary. All property owners or occupants shall be responsible for maintenance of landscaping within the portion of the public right-of-way between the back

of the curb or street pavement and the adjacent property unless the Town has specifically agreed in a development agreement to take over maintenance.

5.04.45.04.6 Submittal standards for landscape and irrigation plans.

- A. All land development applications shall be accompanied by a landscape plan prepared by a Colorado-licensed Landscape Architect and shall include the following at a minimum.
1. Landscape plan showing plant material sizes at maturity.
 2. Detailed plant list identifying common and botanical names of plant species, specified size of plant material, quantity, and water usage based on the water usage types detailed in the Design Manual:
 3. Total water usage calculations in table format per similar to below based on the water usage categories detailed in the Design Manual:

Water Usage Category	Total Area per Category	Total Gallons of Water per Square Foot per Category
High Water Use		
Medium Water Use		
Low Water Use		
Xeric Water Use ¹		
Totals		

¹ Xeric includes hardscape and other landscape elements that do not require any supplemental watering.

4. Detail drawings showing planting techniques for each type of plant material proposed (trees, shrubs, ornamental grasses, perennials)
 5. Standard landscape notes stating the following:
 - a. Commitment to install soil amendment, and
 - b. General planting and maintenance specifications.
 6. Tree preservation table showing how the development application plans to meet the requirements of Section 5.04.14 as applicable.
 7. General installation and maintenance specifications.
- B. All landscape plans shall be accompanied by an irrigation plan prepared by a Colorado-licensed Landscape Architect or Irrigation Professional to include the following at a minimum:
1. Irrigation tap calculations;
 2. Layout of all irrigation equipment;
 3. Schedule of all irrigation equipment;

4. Statement of water saving methodology; and
 5. General installation and maintenance specifications.
- C. Where non-potable irrigation systems are not available and the Town has approved a connection to the Town's domestic water system, all water taps for irrigation purposes shall be required to be installed and metered separately from any other domestic water tap. Raw water dedication requirements and utility billing charges shall be paid in accordance with a fee schedule adopted by the Town.

5.04.55.04.7 Streetscape Landscape Standards

- A. Purpose and intent: Local streetscapes shall be tree lined and include a waterwise and balanced approach to design of plant material for year-round visual interest.
- B. Applicability: The following requirements shall apply to all proposed commercial and multi-family development along collector and arterial streets as well as any single-family subdivisions with tree lawns along local streets.
- C. General design standards:
1. ~~All streetscapes shall include a~~ No more than fifty percent (50%) of the total landscaped area shall be comprised of high water use plant material such as irrigated turfgrass.
 2. A minimum of one (1) deciduous or ornamental tree is required for every forty (40) linear feet of block frontage or portion thereof. Street trees shall be planted within the tree lawn portion of the right-of-way with adequate spacing per the species to allow for the mature spread of the trees.
 - a. Arterial streets shall include a minimum ten foot (10') wide tree lawn to be landscaped with a minimum fifty percent (50%) live ground cover including a combination of trees, perennials, ornamental grasses, and shrubs. clustered into planting beds.

Figure 5.04.7-1



- b. All collector streets shall include a minimum eight foot (8') wide tree lawn to be landscaped with a minimum of fifty percent (50%) live ground cover, including a combination of trees, perennials, ornamental grasses, or shrubs.

Figure 5.04.7-2



- c. If tree lawns are provided on local streets in association with a single-family subdivision, then they shall meet the Collector Street tree lawn requirements in subsection (b) above.
3. In the Downtown Core, street trees shall be placed in decorative tree grates with a minimum dimension of five (5) feet square. Soil volume shall be ~~##~~ equivalent to three times the width of the tree's root ball at time of planting which can be achieved by use of structural cells, suspended pavements, or other methods as approved by the Planning Department.

Figure 5.04.7-3



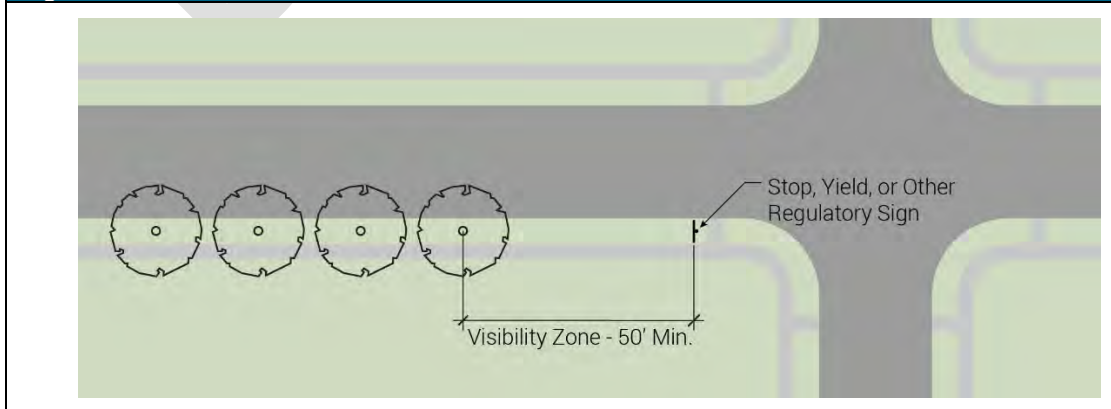
1. Street trees shall be aligned in straight rows centered within the tree lawn in groupings of like species. No gap of groupings shall exceed one hundred twenty feet (120') in length.

Figure 5.04.7-4



2. Street trees shall be set back at least fifty feet (50') from the face of stop signs in order to maintain a regulatory sign visibility zone. Street trees shall be set back a minimum of ten feet (10') from all other regulatory traffic control signs as related to the direction of travel.

Figure 5.04.7-5



3. Street trees shall be limbed up to maintain a minimum eight-foot (8') clearance above all sidewalks.
4. No street trees more than twenty-five feet (25') in height at maturity shall be planted under or within ten feet (10') of overhead powerlines.
5. All street trees shall meet the suggested plant species standards detailed in the Design Manual.
6. All streetscapes shall include an automatic underground irrigation system for all landscaping within the rights-of-way.
7. Trees installed along streets that will be widened in the future shall take into account plans for future widening of streets so that established trees will not be disturbed during future construction.
8. Development shall provide a mechanism for long-term maintenance of streetscape landscaping, such as a homeowners' association and covenants.

5.04.65.04.8 Park and Open Space Landscape Standards

- A. Purpose and intent: Landscaping in park and open space areas that are commonly used by the public for passive and active recreation shall be appropriate to the use and function of the area, respectful of water conservation practices, and include trees, shrubs, ground cover, and site furnishings appropriate to the use.
- B. Applicability: The following requirements shall apply to all new development of public parks, pocket parks, detention ponds, trail connections and common open space areas for both public and HOA use.
- C. General design standards:
 1. All parks shall be landscaped and programmed to create a balance of plant material ~~not to exceed~~ with no more than fifty percent (50%) of the total landscaped area comprised of high water plant species.
 2. All park and open space areas shall include site trees at a rate of a minimum of one (1) tree per one thousand (1,000) square feet of landscaped area, distributed appropriately throughout the site.
 3. Required trees shall be placed in upland areas, above the anticipated high-water mark or floodway of detention ponds or drainage ways.
 4. Only high traffic areas such as sport fields and informal play space adjacent to playgrounds shall contain high water turf.
 5. Park periphery and detention pond areas shall consist of low water or native plant material and grass seed mix.

6. Common open spaces and trail connections shall be landscaped with a balance of low water or native plant material and grass seed mix to reduce the need for supplemental irrigation in hard to reach areas.
7. The retention of native areas for purposes of maintaining viewsheds or healthy existing ecosystems are highly encouraged.
 - a. Existing plant material shall be identified on the Landscape Plan with a statement explaining how the native area will be protected from construction.
 - b. These areas shall be excluded from the landscape area used to calculate required site trees per subsection C.1 above.
8. Parking lots shall be landscaped per Section 5.04.8.
9. Development shall provide a mechanism such as a homeowners' association and covenants for long-term maintenance of parks, detention ponds, and common open space, in order to ensure the continued upkeep of the property.

5.04.75.04.9 Standard Lot Detached and Attached Single-Family Residential Development Landscape Standards

- A. Purpose and intent: To ensure that single-family residences contain consistently landscaped front yards and are designed with water conservation in mind.
- B. Applicability: In addition to landscaping the right-of-way tree lawn, detached and attached single-family parcels developed as part of an overall subdivision, shall meet the following standards. Standalone developments that do not require a subdivision or site plan application are exempt from items C1 and 2 below.
- C. General design standards:
 1. Landscaping on a single-family lot under one half (1/2) acre in size shall include no more than fifty percent (50%) of the total landscaped area comprised of high water use plant material such as irrigated turfgrass.
 2. There shall be a minimum of seventy-five percent (75%) live materials between the front of the single-family residential structure and the curb, excluding paved driveway areas.
 3. Each single-family residential owner shall maintain the owner's yard and landscaping within the adjacent road right-of-way.

5.04.85.04.10 Large Lot Single-Family Residential Development Landscape Standards

- A. Purpose and intent: To ensure higher water use landscape areas remain close to the perimeter of the residence, therefore preserving the native resources on the outskirts of the property both for purposes of water conservation and preservation of the natural character.

- B. Applicability: Landscaping of large single-family rural density lots of one-half (1/2) acre or more in size (R-1 zone district) shall meet the following standards.
- C. General design standards:
1. Shall include no more than twenty five percent (25%) high water use plant material, such as irrigated turfgrass, and no more than one quarter (1/4) acre irrigated, ornamental plant material.
 2. Each single-family residential owner shall maintain the yard and landscaping within the adjacent road right-of-way.

5.04.95.04.11 Multi-Family Residential Development Landscape Standards

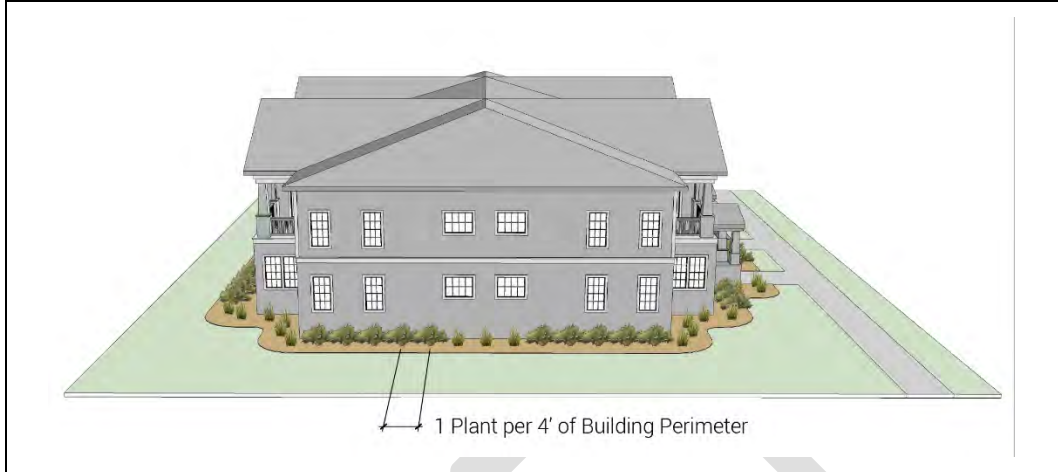
- A. Purpose and intent: To ensure that all multi-family developments contain water conscious, consistent landscapes that are designed to enhance the overall appearance and functionality of the development while integrating the project into the surrounding neighborhood.
- B. Applicability: In addition to right-of-way landscaping, multi-family developments and attached single family developments grouped with common areas and/or streetscape improvements that require a site plan application shall meet the following standards.
- C. General design standards:
1. A minimum of thirty percent (30%) of the site (gross) shall be landscaped.
 2. Landscape areas shall include no more than forty percent (40%) of the total landscaped area comprised of high water use plant material such as irrigated turfgrass.
 3. Plant material shall be arranged to screen utility hardware and mechanical equipment, define entrances, and soften featureless walls.
 4. Building perimeter landscape requirement:
 - a. A planting area with a minimum width of six feet (6') shall be provided around the foundation of all.

Figure 5.04.11-1



- b. The total number of plants shall equal one (1) plant per four linear feet (4') of building perimeter at the foundation.

Figure 5.04.11-2



- c. A minimum of five percent (5%) of the building perimeter requirement shall include trees.
 - d. Required plants shall contain a mix of trees, shrubs, ornamental grasses, and perennials.
5. Street right-of-way buffer requirement:
- e. A minimum buffer width of twenty feet (20') shall be provided between multi-family buildings and all arterial and collector streets and shall contain one (1) tree and five (5) shrubs or ornamental grasses per forty lineal feet (40') of required buffer. Signage may be included in this setback.

Figure 5.04.11-3



6. Site perimeter landscape buffer requirement:

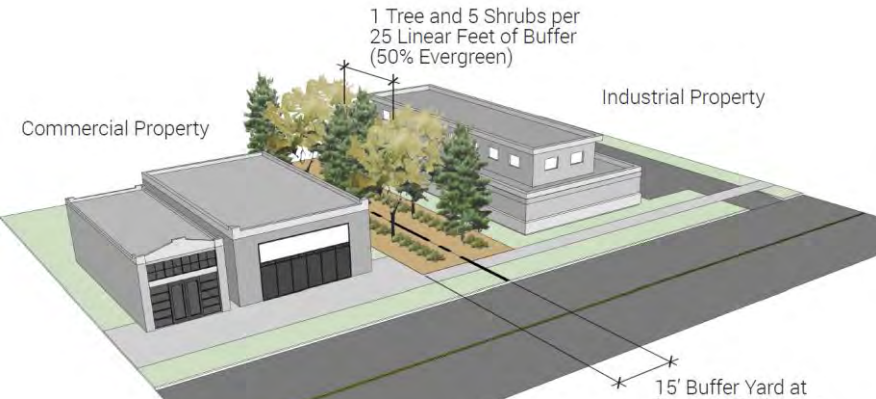
Adjacent Use	Buffer Requirement	Example Image
Detached or Attached Single-family, Multi-family	10' wide 1 tree and 5 shrubs per 40 linear feet	Multi-family Property Residential Property 1 Tree and 5 Shrubs per 40 Linear Feet of Buffer 10' Buffer Yard at Property Perimeter
Commercial	15' wide 1 tree and 5 shrubs per 25 linear feet (50% shall be evergreen)	Multi-family Property Commercial Property 1 Tree and 5 Shrubs per 25 Linear Feet of Buffer 15' Buffer Yard at Property Perimeter
Industrial	15' wide 6' privacy fence plus 1 tree and 5 shrubs per 25 linear feet (50% shall be evergreen)	Multi-family Property Industrial Property Privacy Fence + 1 Tree and 5 Shrubs per 25 Linear Feet of Buffer (25% evergreen) 15' Buffer Yard at Property Perimeter

7. Use native grass for areas that will not function as active recreation areas.
8. Parking lots shall be landscaped per Section 5.04.13.
9. Stormwater detention facilities shall be in accordance with 5.04.15

- D. The building owner or occupant shall maintain the yard and landscaping within the adjacent road right-of-way.

~~5.04.105.04.12~~ Commercial and Mixed-Use Development Landscape Standards

- A. Purpose and intent: To ensure water conscious landscape improvements that are designed to enhance the overall appearance of the development and integrate the project with adjacent land uses and into the surrounding neighborhood. All improvements shall consider the people who will use the site, travel through or by the site and adjacent land uses.
- B. Applicability: All development in Commercial Zone Districts C1 and C3 shall meet the following standards.
- C. General design standards:
1. A minimum of fifteen percent (15%) of the site (gross) shall be landscaped area.
 2. Landscape areas shall include no more than thirty percent (30%) [of the total landscaped area comprised of](#) high water use plant material such as irrigated turfgrass.
 3. Pedestrian walks and other hardscape landscape features and amenities, such as outdoor seating areas, and plazas with recreation and entertainment areas, water features, and public art, and approved permeable pavement may comprise up to fifty percent (50%) of the required landscaped area.
 4. Integrate activities on the subject property with adjacent land uses by utilizing a combination of landscaping, building orientation and appropriate architectural elements.
 5. Landscaping is required around the perimeter of the building along building elevations that face public streets, transportation corridors, public open space, residential neighborhoods, or whenever an entrance door is present.
 - a. Building perimeter landscaping shall be located within twenty feet (20') of the face of the building unless prevented by loading docks.
 - b. Landscaping may be installed in planting beds with a minimum width of six feet (6') or raised planters.
 - c. A minimum of 1 tree shall be provided for every forty linear feet (40') or building perimeter.
 - d. Required plants shall contain a mix of trees, shrubs, ornamental grasses and perennials.
 6. Site perimeter landscape buffer requirement:

Adjacent Use	Buffer Yard Width and Quantity	Example Image
Single-family, townhome, multi-family	15' wide 1 tree and 5 shrubs per 25 linear feet (50% shall be evergreen)	 Commercial Property Residential Property 1 Tree and 5 Shrubs per 25 Linear Feet of Buffer (50% Evergreen) 15' Buffer Yard at Property Perimeter
Commercial	10' wide 1 tree and 5 shrubs per 40 linear feet	 Commercial Property Commercial Property 1 Tree and 5 Shrubs per 40 Linear Feet of Buffer 10' Buffer Yard at Property Perimeter
Industrial	15' 1 tree and 5 shrubs per 25 linear feet (50% shall be evergreen)	 Commercial Property Industrial Property 1 Tree and 5 Shrubs per 25 Linear Feet of Buffer (50% Evergreen) 15' Buffer Yard at Property Perimeter

7. Parking lots shall be landscaped per Section 5.04.8.
8. Stormwater detention facilities shall be in accordance with 5.04.15.
9. All service, loading, and storage areas visible from residential property, public right-of-way, or public trails and open space shall be screened by fences, walls, berms, or any combination thereof in addition to landscaping.
 - a. No fence or wall shall exceed eight feet (8') in height.

- b. Landscaping along fences or walls shall consist of one (1) tree and ten (10) shrubs or ornamental grasses per forty linear feet.
 - c. Required screening shall be approved with a site plan or building permit, as applicable.
 - d. Chain link fencing with slats, tires or used building materials are not acceptable screening materials.
- D. The building owner or occupant shall maintain the yard and landscaping within the adjacent road right-of-way.

~~5.04.11~~5.04.13 Downtown Core Landscape Standards

- A. Purpose and intent: To ensure that pervious areas are incorporated, the urban heat island is mitigated with shade trees, and water conscious landscape design is implemented within the Downtown Core.
- B. Applicability: All development and redevelopment in the Downtown Core shall meet the following standards.
- C. General design standards:
 - 1. Street trees shall be provided per section 5.04.5.
 - 2. Flush mounted or raised landscape planters shall be strategically placed along Cleveland Avenue sidewalk to enhance building entries and provide permeability but shall not block the flow of pedestrian traffic, ADA accessibility requirements, or interfere with utilities or drainage.

~~5.04.12~~5.04.14 Industrial Development Landscape Standards

- A. Purpose and intent: To ensure landscape improvements are designed primarily at the public facing building entry to be consistent with commercial landscape standards and at the perimeter for purposes of screening industrial activities from the exterior of the property.
- B. Applicability: All development in Light Industrial (LI) and Industrial (I) Zone Districts shall meet the following standards.
- C. General design standards:
 - 1. Landscape areas shall include no more than thirty percent (30%) of the total landscaped area comprised of high water use plant material such as irrigated turfgrass.
 - 2. The perimeter of the property shall include landscape area with a minimum width of eight feet (8') to include a pervious surface such as rock mulch and one (1) tree per forty (40) linear feet. A minimum of twenty-five (25%) of the perimeter trees shall be evergreen. Stormwater detention ponds may be included in this landscape requirement.

Figure 5.04.14-1



3. The area between the primary building façade and the public right of way shall meet the commercial design standards detailed in 5.04.10 with all landscape areas including a minimum of seventy-five (75%) live cover.
 4. Parking lots shall be landscaped per Section 5.04.13.
 5. Stormwater detention facilities shall be in accordance with 5.04.15
- D. The building owner or occupant shall maintain the yard and landscaping within the adjacent road right-of-way.

5.04.13 5.04.15 Parking Lot Landscape Standards

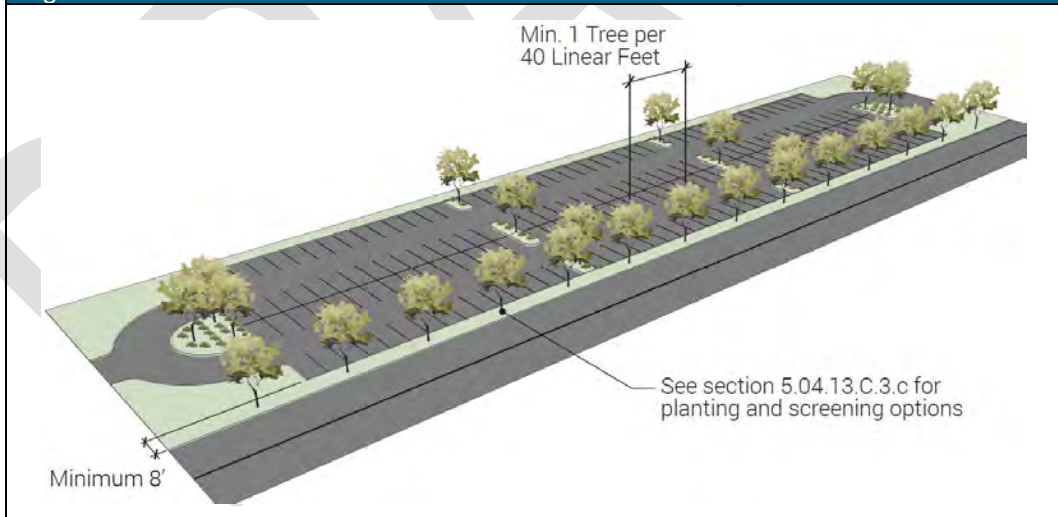
- A. Purpose and intent: Parking lot landscaping is intended to break up large expanses of pavement, create shade, buffer views of parking lots from adjacent streets and development, and enhance the overall appearance of each project.
- B. Applicability: All parking lots with ten (10) spaces or more shall be subject to the following requirements.
- C. General design standards.
 1. All combined parking lot landscape areas shall include no more than twenty percent (20%) of the total landscaped area comprised of high water use plant material.
 2. Interior parking lot landscape requirement:
 - a. A minimum of one landscape island per fifteen (15) parking spaces with a minimum width of nine feet (9').

Figure 5.04.15-1



- b. Each island shall contain one (1) shade tree and seventy five percent (75%) live plant material cover.
- 3. Perimeter parking lot landscape requirement:
 - a. A minimum eight-foot (8') wide landscape area shall be provided at the perimeter of surface parking lots abutting any public right-of-way.
 - b. A minimum of one (1) tree per forty (40') linear feet of required perimeter landscape area.

Figure 5.04.15-2



- c. Screen headlights with one of the following options:
 - i. A hedge of shrubs and ornamental grasses with a minimum height of thirty inches (30") to screen seventy five percent (75%) of headlights;

Figure 5.04.15-3



- ii. A berm with a minimum of thirty inches (30") height; or

Figure 5.04.15-4



- iii. A masonry wall with a height between three and four feet (3-4') paired with landscape material for at least fifty percent (50%) of the length of the landscape area placed on the street side of the wall.

Figure 5.04.15-5



- d. Parking lots of one hundred (100) stalls or more shall provide a twenty foot (20') wide median for pedestrian access and additional shade every fourth row of parking to include the following:
- A minimum five foot (5') wide sidewalk
 - A minimum of one (1) tree per forty (40') lineal feet of median
 - A minimum of seventy five percent (75%) live plant material cover

Figure 5.04.15-6



- Limit areas of irrigated sod to landscape areas with a minimum width of ten (10') feet. Irrigated sod shall not be located within interior parking lot islands.
- Irrigation sleeved shall be installed to interior islands prior to paving of parking lots.
- All landscaping within and adjacent to parking lots shall be owned and maintained by the landowner or occupant.

7. The Town may require that an owner requesting development approvals shall provide a mechanism for ensuring that landscape improvements will be maintained in order to ensure the continued upkeep of the property. (Ord. 11-2007 §1)

5.04.145.04.16 Tree Preservation Standards

- A. Purpose and intent: Preserve the urban tree canopy.
- B. Applicability: All new and infill development and redevelopment.
1. Any tree that fails to survive within five years of installation, regardless of size, shall be replaced with the same species or a species with similar mature size.
 2. All existing trees six-inch (6") caliper or larger proposed for removal on any new or infill development or redevelopment site shall be mitigated at the following rate:

Tree to be removed	Replace with
6" to 12" caliper tree	One 2" caliper min. tree
12" to 24" caliper tree	Two 2" caliper min. trees
24" or larger caliper tree	Three 2" caliper min. trees

3. Street trees shall be replaced at a ratio of one new tree per one removed tree regardless of size.

- 3.4. If it is determined by the Planning Director that the required trees for mitigation will not reasonably fit on the site without crowding out other required site or street trees, then the applicant shall pay a fee in lieu of mitigation in accordance with the Town's adopted fee schedule.

5.04.155.04.17 Storm Drainage Facility Standards

- A. Purpose and intent. Stormwater facilities shall be installed to serve a development to promote innovative and effective land and water management techniques that protect and enhance water quality.
- B. Applicability. All storm drainage facilities shall be appropriately landscaped.
- C. General design standards:
1. Storm drainage improvements shall be constructed to serve development and landscaping associated with storm drainage facilities shall be integrated into the overall design of the project.
 2. Landscaping installed to address storm drainage shall enhance the overall appearance of the project, prevent erosion, and improve water quality of stormwater runoff whenever possible.
 3. Storm drainage facilities may function as open space for active recreation, trail corridors, or habitat enhancement areas if they are designed for such use.

4. The use of planting strips and shallow, landscaped depressions in parking lots and along roads is encouraged to help trap and remove pollutants from stormwater runoff.
- D. Minimum storm drainage improvements shall be constructed such that:
1. All facilities shall be seeded to grass appropriate to the function of the area.
 2. Areas to be used for active recreation shall be seeded to a turf-type grass and irrigated with a permanent irrigation system.
 3. Areas to be maintained for habitat enhancement shall be seeded to native grasses and wildflowers.
 4. Development shall establish complete, weed-free grass areas. Trail corridors may be seeded to native grasses if appropriately integrated with adjacent improvements.
 5. The maximum side slope of drainage facilities shall be no more than 4:1 and the minimum slope at the bottom of a drainage facility shall be no more than one-half percent (0.5%) unless otherwise approved by Town Engineer.
 6. Landscape improvements shall be designed to enhance the function of the facility. Subject to water conservation policies, areas designed for recreation shall include clusters of trees to provide shade, located so they do not impair the function of the facility.
 7. Habitat and water quality enhancement, including wetland plantings in low wet areas, is encouraged.
 8. Ownership and maintenance. Easements for drainage facilities shall be dedicated to the Town but not accepted for maintenance and shall be maintained by the landowner or occupant unless otherwise approved by the Town.
 9. Bioswales and similar forms of private storm drainage systems that are integrated into the site shall not be dedicated to the Town.

5.04.165.04.18 Screening and Buffering

- A. Purpose and intent. Buffers and screening are intended to minimize conflicts between potentially incompatible, land uses and development on abutting property.
- B. Applicability. Buffers shall be installed between parcels of different use on the property with the more intense use. For example a commercial use shall include a buffer on any property line adjacent to a residential use. Additionally, all air-conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing, and telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties.
- C. General design standards:
1. All required buffers shall be located along the entire property line between the two incompatible uses and entirely on the developing property's side of the required buffer.
 2. A required buffer must not be located within the required setbacks identified in Chapter 3.

3. Parking of vehicles and placement of buildings or structures, except for walls, fences, and landscaping, shall not be allowed in the required buffer.
4. All buffers shall be a minimum of ten feet (10') wide and consist of a mix of evergreen and deciduous trees, shrubs and ornamental grasses at the following rates:
 - a. Four trees per one hundred linear feet with at least 20% being evergreen and a minimum height of twenty feet; and
 - b. Ten shrubs or ornamental grasses per one hundred linear feet with a minimum height of five feet.
 - c. If a six-foot high privacy fence or wall is installed, the shrub and ornamental grass requirement can be reduced by 50%.

Figure 5.04.18-1



5. Under no circumstances shall a fence be the only screening material as a buffer between land uses.
- D. Location and screening of required loading and service areas.
1. Loading docks, solid waste facilities, recycling facilities and other service areas shall be placed to the rear or side of buildings in visually unobtrusive locations.
 2. Screening and landscaping of loading areas shall prevent direct views of the loading areas and their driveways from adjacent properties or from the public rights-of-way and shall prevent spill-over glare, noise or exhaust fumes.
 3. Screening and buffering of loading and service areas shall be achieved through walls, architectural features and landscaping per 5.04.16(C) above and shall be visually impervious. Building recesses or depressed access ramps are suitable options to achieve screening and shall be used in combination with walls and landscaping if they do not achieve the desired screen.

5.05 Off-Street Parking and Loading

5.05.1 Purpose. The purposes of this Section are to:

- A. Ensure that adequate off-street parking and loading facilities are provided for new land uses and changes in use;
- B. Minimize the negative environmental and urban design impacts that can result from excessive parking, driveways, and drive aisles within parking lots;
- C. Ensure that adequate off-street bicycle parking facilities are provided and promote parking that offers safe and attractive pedestrian routes;
- D. Establish standards and regulations for safe and well-designed parking, unloading, and vehicle circulation areas that minimize conflicts between pedestrians and vehicles within parking lots and surrounding land uses;
- E. Offer flexible means of minimizing the amount of area devoted to vehicle parking by allowing reductions in the number of required spaces in context-sensitive locations;
- F. Ensure compliance with provisions of the Americans with Disabilities Act (ADA); and
- G. Minimize the visual impact of off-street parking areas.

5.05.2 Applicability.

- A. Any new building, structure, use, redeveloped site, or enlarged or expanded existing building or use, must meet this Section's parking requirements. These developments require permanent parking and off-street loading. Parking spaces may be provided in a garage or properly surfaced open area. In residential districts, public streets designed to accommodate on-street parking may count towards the required minimum parking for a dwelling. One on-street parking space may count towards meeting the parking requirement.
- B. When a change in intensity of use of any building or structure would increase the required parking by more than ten (10) spaces or ten (10) percent, whichever is greater, through an addition or change in the number of dwelling units, gross floor area, gross leasable area, seating capacity, or other specified units of measurements, the increment of additional required parking is provided in accordance with this Section unless an adjustment is permitted in [5.05.8](#) below. If less than ten (10) spaces or ten (10) percent, whichever is greater, are required by a change or series of changes in use, the Director may waive up to the incremental required number of parking spaces after determining that the granting of the waiver will not be detrimental to the public welfare and will be consistent with the Comprehensive Plan.

5.05.3 Compliance Required.

- A. Off-Street Parking and Loading Review. Each application for a subdivision, site plan, zoning permit, or certificate of occupancy shall include information as to the location and dimensions

of parking and loading space, and the means of ingress and egress to those spaces. This information is in sufficient detail to determine the requirements of this Land Use Code are met and shall contain necessary information required by applicable provisions of this Land Use Code.

- B. Parking Reduction Procedures. No existing or proposed parking or loading space is reduced or eliminated. Reductions in parking and loading spaces may be permitted where spaces are no longer required by these regulations or alternative spaces meeting the requirements of these regulations are provided.

5.05.4 Metrics and Interpretations for Computation.

- A. Square Footage (Floor Area). The gross building square footage, as used in this Section.
- B. Fraction of a Space. When the calculation of the number of required parking and loading spaces results in a requirement of a fractional space, any fraction up to and including one-half ($1/2$) is disregarded, and fractions greater than one-half ($1/2$) is interpreted as one (1) whole parking or loading space.
- C. Minimum. The number of required parking spaces a site must provide.
- D. Parking Specific Metrics.
 - 1. Square Footage
 - a. Example: 1/1,000 sf
 - b. Interpretation: 1 parking space for each 1,000 square feet of the building's floor area.
 - 2. Dwelling Unit
 - a. Example: 1/DU
 - b. Interpretation: 1 parking space for each dwelling unit
 - 3. Bedroom(s)/Guestroom(s)
 - a. Example: 1 + (0.75) bedrooms
 - b. Interpretation: 1 parking space plus the number of parking spaces from calculating 0.75 times all bedrooms.
 - 4. Bedroom Unit
 - a. Example: 1/1 BRU
 - b. Interpretation: 1 parking space for a 1 bedroom apartment unit.
 - 5. Acres
 - a. Example: 1/5 acres.
 - b. Interpretation: 1 parking space for every 5 acres.

5.05.5 Additional Rules for Computing Parking Requirements.

- A. **Uses Not Listed.** The Director shall have the authority to determine the required parking and loading facilities for uses not specifically listed in the tables established in this Section. This determination by the Director is in writing and is appealable to the Planning Commission.
- B. **Accessory Uses.** Areas accessory to the principal use of a building, or portion of a building, are to be included in the calculation of floor area of the principal use, unless noted otherwise.
- C. **Alterations, Expansions, and Changes in Use.** For alterations, expansions, or changes in uses, prior to a certificate of occupancy, the Director shall determine in writing, based on information submitted by the applicant, the impact of the proposed change on the parking requirement for the building, and the adequacy of the parking provided.

5.05.6 General Parking Provisions.

- A. **Adequate Parking.** All zoning districts must maintain off-street parking facilities for self-propelled motor vehicles.
- B. **Integrate Parking Lots with Surroundings.** Parking lots do not dominate the frontage of pedestrian-oriented streets, interfere with designated pedestrian routes, or negatively impact surrounding neighborhoods. The pedestrian character of streets and buildings is maximized through continuity of buildings and landscape frontage.
- C. **Landscaping.** Parking lots shall be landscaped, screened, and buffered.
- D. **Shared Access.** Parking lots shall share access drives with adjacent property with similar land uses.
- E. **Lighting.** All parking areas are required to provide lighting in accordance with the lighting standards in 5.02.

5.05.7 Off-Street Parking Requirements. Off-street parking shall be provided in accordance with the minimum ratios specified in Table 5.05.7-1¹.

Table 5.05.7-1: Minimum Parking Requirements

Use	Minimum Parking Ratio
Residential	
Manufactured Home	2/DU
Mixed-Use Dwelling	2/DU
Multi-Family Dwelling	1.5/1 BRU
	2/2 BRU
	2.5/3 BRU

¹ Provide appropriate citation when other sections are complete

Use	Minimum Parking Ratio
Single-Family Attached Dwelling	2/DU
Single-Family Detached Dwelling	2/DU
Group Living / Lodging	
Bed and Breakfast	1 + (0.75) bedrooms
Boarding and Rooming House	0.75/guestroom
Group Home	2/1000 sf
Hotel/Motel	0.75/guestroom
Long-Term Care Facilities	2/1000 sf
Agriculture	
Agriculture	--
Greenhouse/Nursery	2/1000 sf
Stable	1/5 acres
Commercial / Office	
<i>Animal Services</i>	
Kennel	2/1000 sf
Veterinary Facilities, Large animals	2/1000 sf
Veterinary Facilities, Small animals	2/1000 sf
<i>Food</i>	
Brew Pub, Distillery Pub, or Limited Winery	4/1000 sf
Food Catering	2/1000 sf
Grocery Store	4/1000 sf
~~Open Air Farmers' Market~~	~~5/acre~~
Restaurant, Fast Food	5/1000 sf
Restaurant, Fast Food with Drive-Thru	5/1000 sf
Restaurant, Sit-down	6/1000 sf
<i>Entertainment / Recreation</i>	
Adult Entertainment Establishments	8/1000 sf
Art Studio	2/1000 sf
Bar/Tavern	4/1000 sf
Club/Lodge	3/1000 sf

Use	Minimum Parking Ratio
Entertainment Facility	5/1000 sf
Golf Course	2/acre
Nightclub	4/1000 sf
Recreational Entertainment, Indoor	5/1000 sf
Recreational Entertainment, Outdoor	5/acre
Tourist Facilities	2/1000 sf
<i>Retail Sales / Personal Services</i>	
Building and Landscaping Materials Supply	2/1000 sf
Child Care Center	2/1000 sf
Convenience Store	4/1000 sf
Convenience Store with fuel sales	4/1000 sf
Financial Institution	2/1000 sf
Health and Membership Club	4/1000 sf
Pawn Shop	4/1000 sf
Personal Services	3/1000 sf
Print Shop	2/1000 sf
Retail Store	4/1000 sf
<i>Office</i>	
Professional Office	2/1000 sf
<i>Automotive</i>	
Car Wash	1/stall
Heavy Equipment Sales and Rental	2/1000 sf
Motor Vehicle Dealership	2/1000 sf
Motor Vehicle Repair, Heavy	2/1000 sf
Motor Vehicle Repair, Light	2/1000 sf
Motor Vehicle Storage	1/1000 sf
Service Station	2/1000 sf
<i>Marijuana²</i>	
Medical Marijuana Store	4/1000 sf

² Rely on staff to determine the appropriate zoning district allowance.

Use	Minimum Parking Ratio
Retail Marijuana Store	4/1000 sf
Industrial / Natural Resources	
Auction	3/1000 sf
Brewery, Distillery, or Winery	4/1000 sf
Commercial Dry Cleaning Facility	1/1000 sf
Contractor and Contractor Storage	1/1000 sf
Industrial and Manufacturing, Heavy	1/1000 sf
Industrial and Manufacturing, Light	1/1000 sf
Mini-Storage Facility	1/1000 sf
Research and Development	1/1000 sf
Resource Extraction	1/5 acres
Wholesale Distribution, Warehousing, and Storage	1/1000 sf
Workshop	1/1000 sf
Institutional / Civic / Public	
<i>Death Care Services</i>	
Cemetery	4/acre
Funeral Services	2/1000 sf
<i>Education</i>	
College	3/1000 sf
School	2/1000 sf
Technical School	4/1000 sf
<i>Assembly</i>	
Community Facility	6/1000 sf
Religious Land Use	5/1000 sf
<i>Government / Non-Profit</i>	
Civic Space	--
Public Facilities	1/1000 sf
<i>Medical</i>	
Medical Care Facility	4/1000 sf

Use	Minimum Parking Ratio
Medical Office	4/1000 sf
Infrastructure	
<i>Transportation / Parking</i>	
Airport	1/acre
Off-Street Parking Facility	--
Transit Facilities	--
<i>Communications</i>	
Communication Facility	--
Wireless Telecommunications Facility	--
<i>Waste-Related</i>	
Recycling Facility	1/1000 sf
Salvage Yard	1/1000 sf
Solid Waste Facility	1/1000 sf
Accessory Uses	
Accessory Building	--
Accessory Dwelling Unit	1/DU
Accessory Use	--
Home Occupation	1/DU
Open-Air Farmers' Market	5/acre

5.05.8 Adjustments and Reductions to Parking Requirements³.

- A. Procedure. In specific instances established in Paragraphs B – E below, the Director may approve a reduction in required parking spaces. Applications for a reduction includes the following information:
1. A parking demand analysis which substantiates the need for a reduced number of spaces.
 2. A plan showing how the parking spaces are provided on the site.
- B. Shared Off-Street Parking. Shared parking allows parking spaces to be shared among two or more uses that typically experience peak parking demands at different times and is located on the same lot or on nearby lots. Because parking spaces are shared, the total number of parking

³ Included additional reductions that are common best practices. If these methods are too aggressive, we can scale it back.

spaces that would otherwise be required may be reduced. In addition to all other applicable requirements of this Section, the following requirements apply to shared parking:

1. Authority to Reduce Parking. The Director may reduce the total minimum number of required parking spaces, provided that each use participating in the shared parking experiences peak parking demands at different times. The Director shall base this decision on the circumstances of the application.
 2. Parking Study. The Director may require the applicant to submit a parking study to determine the peak parking demand periods or other information needed to determine the viability of shared parking.
 3. Maximum Reduction. The total number of parking spaces required for all uses participating in shared parking shall not be reduced by more than 20%.
- C. Captive Market. Parking requirements for retail and restaurant uses may be reduced where it can be determined that some portion of the patronage of these businesses comes from other uses (i.e., employees of area offices patronizing restaurants) located within the same building or a maximum walking distance of five hundred (500) feet.
- D. On-Street Parking.
1. Generally. On-street parking consists of parking spaces located in a public or private right-of-way. Each parking space that is in a public or private right-of-way abutting the lot may count as required parking space for the purpose of meeting the requirements in [5.05.7](#). Each parking space must be on a paved area abutting the street.
 2. Credit for On-Street Parking. The Director may allow on-street parking spaces, located within five hundred (500) feet of the subject principal use, to be credited to meet the off-street parking spaces for a particular development required by [5.05.7](#). The site plan must identify the on-street parking credit.
- E. Availability of Public Parking. Parking requirements may be reduced if a property has available to it a sufficient supply of existing underutilized public parking spaces in both off-street public parking lots and/or on-street public parking spaces, and where the applicant adequately demonstrates that availability will continue in the future.

5.05.9 Cleveland Avenue Parking.

- A. For all new commercial uses located on Cleveland Avenue bounded by Sixth Street on the east, the alley between Cleveland and Harrison Avenues on the north or a projection of those easements east and west of those points, First Street on the west, and the alley between Cleveland and McKinley Avenues on the south or a projection of that easement east and west of those points, parking is required from the east property line to the west property line along the rear setback.

- B. The rear setback is a minimum of twenty-five (25) feet.

5.05.10 Downtown Parking.

- A. Generally. Downtowns require innovative approaches that provide sufficient parking accommodations while maintaining the area's charm and character. This Section provides alternative parking regulatory options to retain the Town's downtown vibrancy. These options may be used to provide relief against the required parking ratios established in [5.05.7](#).
- B. Applicability. These regulatory options only apply to properties within Downtown.
- C. Parking Ratio Reduction. Any property may apply a 20% reduction to the required ratio established in [5.05.7](#).
- D. Special Parking Plan. Any nonresidential development (including multi-family dwellings) exceeding 10,000 square feet may use a Special Parking Plan (SPP) to reduce parking rates. An SPP is a parking study that shows parking demand to reduce single-vehicle occupancy transportation by incorporating alternative transportation modes, flex peak times, and promoting pedestrian activity.
 - 1. Requirements. An SPP complies with the principles of the Wellington 2021 Comprehensive Plan.
 - a. A qualified professional with demonstrated experience in transportation planning, traffic engineering, or comparable field must prepare the SPP.
 - b. An SPP must determine:
 - i. The anticipated travel demand for the development.
 - ii. How the anticipated travel demand for the development will be met on-site or off-site, including:
 - (a) Number of on-street parking spaces, off -street parking spaces, or shared parking arrangements.
 - (b) Number of bicycle parking spaces.
 - (c) Accommodations for pedestrians, cyclists, motorists, transit riders, and the mobility impaired.
 - iii. The strategies that will be used to reduce single-occupancy vehicle trips, reduce vehicle miles traveled by site users, and promote transportation alternatives such as walking, bicycling, ridesharing, and transit.
 - iv. Clearly defined objectives sought from implementation of the SPP.
 - 2. Strategies. SPP strategies include the following:
 - a. Walking, cycling, ridesharing, and transit promotion and education.
 - b. Shared parking arrangements.
 - c. Enhanced bicycle parking and services.

- d. Carpooling benefits.
 - e. Free or subsidized transit passes, shuttles, or enhanced transit facilities.
 - f. Provisions for alternative work schedules.
 - g. Roadway improvements adjacent to the site that will help encourage transportation alternatives.
3. Decision. In making a final decision, the Director must find the following:
- a. The project includes performance objectives to minimize single-occupancy vehicle trips and maximize the utilization of transportation alternatives to the extent practicable, considering the opportunities and constraints of the site and the nature of the development.
 - b. The project meets the anticipated transportation demand without adversely impacting public infrastructure, such as transit and on-street parking facilities, and the surrounding neighborhood.
- E. Design.
- 1. All off-street parking must be located on the lot being served, or on a separate lot or parcel no more than five hundred (500) feet from the primary pedestrian entrance of the building that it serves.
 - 2. Access for off-street parking shall generally be achieved by means of alleys, off-street vehicular connections between adjacent parking lots, and side streets.
 - 3. Off-street parking in the front of a nonresidential lot is not permitted.
 - 4. On-street parking applies when available. Additionally, on-street parking must adhere to the following requirements and receive design approval by the Town:
 - a. Parallel and angled on-street parking is allowed.
 - b. On-street parking must not encompass more than 70% of the block frontage.
 - c. On-street parking must be inset into the block with street trees or plantings incorporated between groups of parking spaces.

5.05.11 ADA Parking.

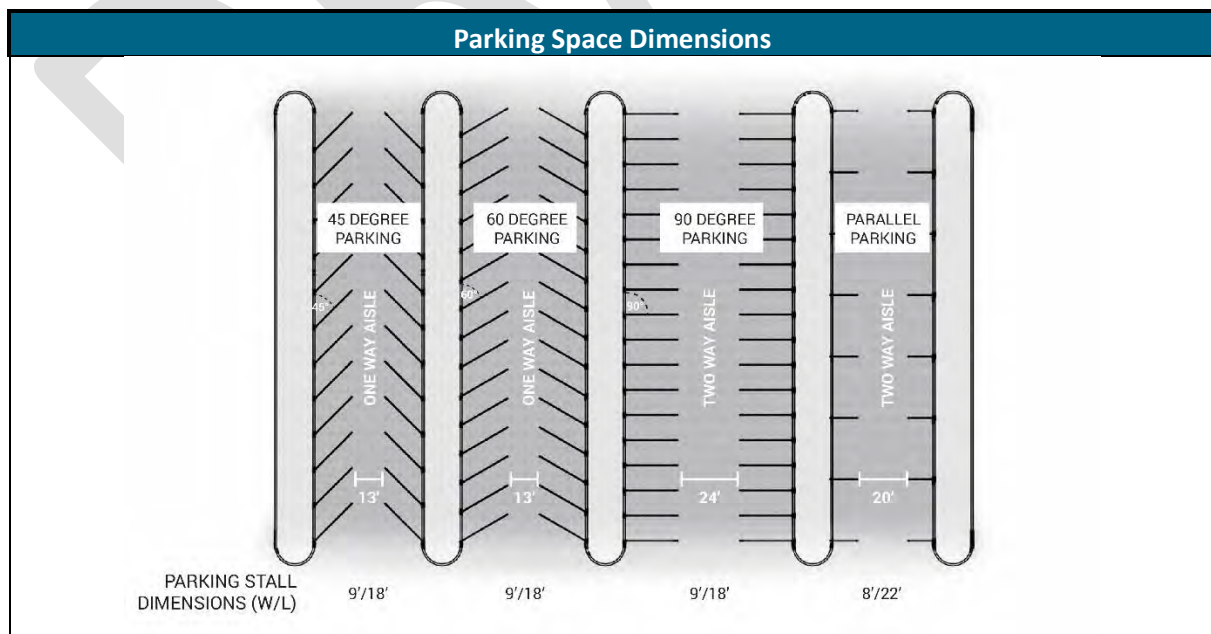
- A. Generally. ADA parking spaces and related ADA accessibility features are required to be installed in accordance with the current edition of the ADA Standards for Accessible Design (the “ADA Standards”) as published by the Department of Justice. Where discrepancies exist between this Land Use Code and the ADA Standards, the ADA Standards shall apply. All required parking shall meet ADA standards.

5.05.12 Parking Design.

- A. Surface. All off-street parking areas are surfaced with poured in place concrete or asphaltic concrete. All driveway portions within street right-of-way are paved and designed to the standards of the Town Engineer.
- B. Off-Street Parking Design. Any off-street parking area must have a design so that vehicles exit without backing onto a public street. Off-street parking areas are designed so that parked vehicles do not encroach upon or extend onto public rights-of-way or sidewalks, or strike against or damage any wall, vegetation, utility or other structure.
- C. Circulation Area Design. Circulation areas must facilitate the safe movement of vehicles without posing a danger to pedestrians or impeding the function of the parking area.
- D. Location. Nonresidential off-street parking facilities are located within 500 feet of the building measured from the nearest point of the building or structure.
- E. Parking Space Dimensions. Parking spaces must meet the following standards prescribed in. All dimensions represent the minimum requirement for any required parking space.

Table ~~XX~~5.05.12-1: Parking Space Dimensions

Parking Space Dimensions					
Parking Angle	Parking Space Width	Parking Space Depth	Aisle Width	Curb Length	Overhang
45°	9 ft	18 ft	13 ft	14 ft 4 in	1 ft 5 in
60°	9 ft	18 ft	13 ft	11 ft 6 in	1 ft 8 in
90°	9 ft	18 ft	24 ft	10 ft	2 ft
0° (Parallel)	8 ft	22 ft	20 ft	24 ft	0 ft



5.05.13 **Bicycle Parking.** Bicycle parking is required for all new uses to encourage the use of bicycles by providing secure and convenient places to park bicycles. These regulations ensure adequate bicycle parking by different uses.

- A. **Measurements.** Bicycle spaces are measured as the ability for a facility to store one bicycle. One bicycle space equals one stored bicycle.
- B. **Minimum Requirements.** Bicycle parking totals shall be equivalent to at least 2% of the required number of vehicle parking spaces, but in no event shall the minimum number of bicycle parking be reduced below two (2) bicycle spaces.
- C. **Standards.** These standards ensure that required bicycle parking is designed so people of all ages and abilities can access bicycle parking and securely lock their bicycle without inconvenience.

1. **Bicycle Parking Facility Types.**

- a. **U-Rack.** A “U-shaped” bicycle facility affixed to pavement that stores up to two (2) bicycles which are locked from the outside.
- b. **Bollard Rack.** A bicycle facility affixed to pavement that stores up to two (2) bicycles which are locked from the outside.
- c. **Grid Rack.** A dual sided bicycle facility affixed to pavement that stores multiple (2 to 20) bicycles which are locked from the outside.
- d. **Low Profile Rack.** A low-lying bicycle facility affixed to pavement that stores multiple bicycles which are locked from the outside.
- e. **Bicycle Locker.** In the shape of an upside-down “U”, staple, or logo, this rack provides two points of ground contact and two points of contact for supporting a bicycle.
- f. **Secure Parking Area.** A weather-protected, standalone bicycle parking structure or building extension with shared racks and access control.

2. **Dimensions and Bicycle Racks.**

- a. **Parking Space and Aisle Dimensions.**
 - i. Each horizontal parking space (a space provided parallel to the ground) must have a minimum length of 72 inches, a minimum width of 18 inches, and a minimum height of 84 inches. If a U or similar rack is provided, one rack may serve two bicycles if it is installed so that it provides the minimum parking space dimensions on each side.
 - ii. A bicycle parking facility must have an access aisle that is a minimum of 72 inches on at least one side of a row of parked bicycles.
- b. **Bicycle Racks.** A bicycle rack must:

- i. Allow a bicycle frame and one wheel to be locked to the rack with a high-security lock;
 - ii. Allow a bicycle to be securely held with its frame supported in at least one place;
 - iii. Be durable and securely anchored;
 - iv. Have a locking surface thin enough to allow standard U-locks to be used, but thick enough so the rack cannot be cut with bolt cutter; and
 - v. Not include any elements within the interior space.
- 3. Location, Access, and Security. Bicycle parking is in publicly accessible, highly visible locations that serve the primary entrance of a building. Parking is visible to pedestrians and bicyclists on the street and is intended for building and site visitors.
 - a. Each space must be:
 - i. Available to the public;
 - ii. Located in a convenient, well-lit area that is clearly visible to both a visitor to the building and a person who is on the sidewalk that accesses the building's primary entrance;
 - iii. Within 150 feet of:
 - (a) the primary entrance of each building within the development, and closer than the nearest non-accessible vehicle parking space; or
 - (b) at least one primary entrance of a building with more than one primary entrance; unless the applicable deciding body approves an alternative location during the site plan process; and
 - iv. Outfitted with a rack to which a bicycle can be locked.
 - b. Each parking facility is prohibited from obstructing pedestrian traffic or interfering with the use of the pedestrian area.
 - c. Any sidewalk rack that is:
 - i. Parallel to the curb must be located so that the nearest vertical component of the rack is a minimum of 24 inches from the curb face and 26 inches from the building face;
 - ii. Perpendicular to the curb must be located so that the nearest vertical component of the rack is a minimum of 48 inches from the curb face and 42 inches from the building face;
 - iii. Diagonal to the curb must be located so that the nearest vertical component of the rack is a minimum of 48 inches from the curb face, and 42 inches from the building face, measured in a line parallel to the orientation of the rack.
 - d. Each sidewalk rack must be a minimum of 10 feet from any standalone fire hydrant.

- e. Each parked bicycle must be accessible without moving another bicycle.

5.05.14 Excess Weight and Recreational Vehicle Parking.

- A. Boats, boat trailers, tractors, trailers, motor homes, buses, detached/dismounted campers and excess-weight vehicles are not parked or kept on private property for longer than seventy-two (72) consecutive hours within any one month period, unless otherwise stated in this Subsection.
- B. Boats, boat trailers, tractors, trailers, motor homes, buses, detached/dismounted campers and excess-weight vehicles may be parked upon a public right-of-way or roadway adjacent to the owner's property, for a maximum total of forty-eight (48) consecutive hours in any one month period.
- C. All boats, boat trailers, trailers, motor homes, buses, detached/dismounted campers and excess-weight vehicles kept or stored on private residential property for longer than seventy-two (72) consecutive hours during any one month period are kept or stored in a rear yard or interior side yard behind the front yard setback, or within an enclosed building, unless otherwise stated in this Subsection.
- D. Despite the forgoing provisions of this Subsection, parking of excess weight vehicles in public areas, including streets, is allowed in the following areas where reinforced streets or pads have been constructed.
 - 1. The west side of First Street from Cleveland Avenue to a point two hundred (200) feet north of Kennedy Avenue.

5.05.15 Loading.

- A. Generally. The required number of off-street loading spaces are determined by gross floor area. Outdoor storage, sales, or display areas must be added to gross floor area if these areas contain materials that are received or distributed by trucks. If a development has more than two uses, the off-street loading space requirement is the highest number of spaces required by any one use. Required loading spaces follow the standards prescribed in Table [5.05.15-1](#).

Table [5.05.15-1](#): Required Loading

Required Loading	
Floor Area Square Footage	Minimum Required Number of Spaces
0 – 10,000 sf	1
10,001 – 50,000	2
50,001 – 75,000	3
75,001 – 100,000	4
100,000 +	4 plus 1 for every 50,000 sf after 100,000 sf

B. Standards.

1. Location. A loading space:
 - a. Must be located within the same development as the building or use served;
 - b. Is prohibited from projecting into a sidewalk, street, or public right-of-way;
 - c. Is prohibited from being located between the front building line and the lot line; and
 - d. Is placed to the rear or side of buildings in visually unobtrusive locations.
2. Dimensions. The size of delivery vehicles intending to serve the site, determine loading space size. The minimum loading space size is:
 - a. 10 feet wide, 30 feet long, and 14 feet high if serving single-unit trucks and similar delivery vehicles; and
 - b. 12 feet wide, 55 feet long, and 15 feet high if serving larger freight vehicles.
3. Maneuvering. The size of delivery vehicles intending to serve the site, determine maneuvering area size. Each maneuvering area for loading spaces must not conflict with parking spaces or with the maneuvering areas for spaces. A maneuvering area must be located on site and be a minimum of:
 - a. 35 feet for spaces serving single-unit trucks and similar delivery vehicles; and
 - b. 50 feet for spaces serving larger freight vehicles.
4. Design. Each loading space must minimize conflicts with other vehicular, bicycle, and pedestrian traffic.
 - a. Loading facilities must maintain a 50-foot minimum distance from any residential property unless completely enclosed by building walls, or a uniformly solid wall, or any combination of the two.
 - b. Screening and landscaping prescribed in Section 5.04 apply to loading facilities and shall prevent direct views of the loading facilities and their driveways from adjacent properties and public right-of-way.

5.06 Parks and Open Space

5.06.1 Purpose. The purpose of this section is to ensure that a comprehensive, integrated network of parks and open space is developed and preserved as the community grows, the Town shall maintain a Park Plan affording varying types of public and private park settings for Town residents' uses.

5.06.2 Types of parks and open space.

- A. *Plazas*. A plaza is typically located in a commercial or industrial area bordered by civic or private buildings to serve as a public gathering place. Plazas may range from very active places

with adjacent complimentary uses, such as restaurants and cafes, to quiet areas with only seating, formal landscape plantings and amenities, such as fountains or public art. Developers are responsible for developing and providing the appropriate amenities for each plaza.

- B. *Pocket parks.* Pocket parks are public open spaces provided by the developer and maintained by the development or associated homeowner's associate. They are integrated into the overall neighborhood design and can either serve as a neighborhood gathering space such as a pool and/or clubhouse, or be comprised of more public space such as a landscaped seating area, children's play area, contemplative garden area, or similar outdoor recreation opportunities for the neighborhood.
- C. *Neighborhood parks.* Neighborhood parks are comprised of open space land provided by the developer to be developed and maintained by the Town for recreation and social gathering. These parks can include multi-use play areas, picnic areas, playground equipment, court game facilities and community gardens.
- D. *Community parks.* Community parks are comprised of land purchased and developed by the Town with Park Impact fees to serve the residents of several neighborhoods. Community parks are to be located on or near arterial streets at the edge of residential areas or in nonresidential areas to minimize the impact of organized recreational activities, such as lighted ball fields.
- D-E. *Regional Parks.* Regional parks are comprised of land purchased and developed by the Town to serve residents of the Town and region. Regional Parks are the largest in size of all park types herein and would have multiple form and function including regional sports and recreation facilities and open space to protect sensitive areas.
- E-F. *Trails.* Trail systems shall link neighborhoods, parks, schools, open spaces, employment centers, community facilities and neighboring communities and thus provide important transportation connections as well as recreational opportunities and access. Developers must provide trails in all areas designated "Parks and Trails" on the Comprehensive Public Facilities Map or the Parks and Recreation Master Plan, as well as provide connections to the Town's existing trail system and destinations within the neighborhood.
- F-G. *Storm drainage facilities.* Storm drainage facilities, including stormwater detention and stormwater retention ponds, can be counted toward the required open space dedication but cannot be counted toward park dedication requirements. Storm drainage facilities shall be owned and maintained by the development or associated homeowner's association in a tract separate from any Park land that is dedicated to the Town.

5.06.3 General provisions.

- A. All parks and open space shall be designed and located per the Town of Wellington Parks and Recreation Master Plan.
- B. *Open space should serve as the neighborhood focus.* Open space, shall be integrated into the overall neighborhood design and used to organize and focus lot, block and circulation patterns and to enhance surrounding development. Street, block, lot and building patterns shall respond to the views, landscape and recreational opportunities provided by the open space.
- C. *Public access.* Areas designated as public open space shall be both visibly and physically accessible to the community. Public access shall be provided to all public open space, natural and developed, directly from the public street and trail system. Open space areas, except for pocket parks and plazas, shall be bounded along at least twenty percent (20%) of the perimeter by a street.
- D. *Buildings shall front public open space.* Development adjacent to open spaces shall front onto the area as much as possible, so that the areas are not enclosed by back yards.
- E. *Open space uses.* Uses designated within the open space shall be appropriate to the context and character of the site and the intensity of the proposed development.
- F. Environmentally sensitive, archeological and historic resources may be dedicated to the Town and maintained by the Town if approved by the Board of Trustees.
- G. Stormwater detention and retention areas that function as open space shall be owned and maintained by a homeowners' association or the landowner.
- H. Areas designated as open space shall be maintained according to the designated function of the area. If the area is to remain in private ownership, a mechanism which will assure maintenance will be funded in perpetuity must be in place at the time of final plat.
- I. *Open space protection.* Areas designated as open space shall be dedicated or conveyed to the Town or protected by a deed restriction, conservation easement or other appropriate method to ensure that they cannot be subdivided or developed in the future and that such areas shall remain as open space in perpetuity. Uses of open space may include recreational or agricultural activities.

5.06.4 Open space requirements.

- A. *Open space includes:*
 - 1. Areas within the community designated for the common use of the residents of an individual development or the community at large;
 - 2. Areas designated for preservation and protection of environmental resources, including floodplains, natural drainage ways and wetland areas;

3. Areas designated for agricultural preservation; and
 4. Areas of archeological and historic significance.
- B. *Non-open space.* Open space shall not include the following:
1. Required setback areas around oil and gas production facilities;
 2. Disconnected remnants of land created by division of sites into lots or parcels that do not qualify as functional open space, unless approved by the Board of Trustees;
 3. Private yards;
 4. Tree areas within a street right-of-way; or
 5. Required parking lot landscaping associated with all uses, except parking specifically designated for access to open space areas and within commercial or industrial projects.
- C. *Amount of open space required.* The amount of functional open space required in each development will be based on the density of the development, the recreational requirements of the anticipated users and the anticipated opportunities for public recreation within walking distance of the site (one-quarter [$\frac{1}{4}$] mile). All development within the Town shall meet the following open space requirements:
- D. *Single-family subdivisions and multi-family residential developments.* Open space for single-family residential development that requires a major subdivision per section 2.17 and multi-family developments shall include, at a minimum:
1. Twenty percent (20%) of the gross land as functional open space to include:
 - a. One (1) centrally located pocket park for every two hundred (200) residential units;
 - b. The land for one (1) neighborhood park within one-quarter ($\frac{1}{4}$) mile radius of the proposed homes or a fair-share, cash-in-lieu contribution for the cost of the neighborhood park that will serve the development; and
 - c. An internal trail system, taking into account trails designated in the Comprehensive Plan and the Parks and Recreation Master Plan.
- E. *Open space and plans.* All land development applications, with the exception of plot plan applications for individual single-family residences, shall be accompanied by the appropriate open space plan. The open space plan shall be included with the landscape plans or submitted as a separate map based on direction from the Director.

5.06.5 Fee in lieu of dedication.

- A. A developer of property may, with approval by the Board of Trustees, pay fee-in-lieu of park dedication in those cases where dedication of land is not feasible or not desired by the Town. Such payment shall be based on the fair market value of the developed property that otherwise would have been required to be dedicated as park space, to be determined after completion of

the platting process. Such payment shall be held by the Board of Trustees for the acquisition of open space sites and land areas by the Town. At the option of the Board of Trustees, a developer may meet open space dedication requirements through a combination of payment of fee-in-lieu of land dedication, impact fees and land dedication.

5.06.6 Fair contribution for public school sites. All development shall dedicate or convey land for public school purposes to the Poudre School District, or make payment in lieu of land dedication or conveyance in accordance with the intergovernmental agreement between the Town and the Poudre School District.

5.07 Refuse/Trash Disposal

5.07.1 Purpose. The purpose of this Section is to provide adequate provisions for on-site waste disposal and collection.

5.07.2 Applicability. This Section applies to all nonresidential development within Town limits. All refuse/trash disposal installed after the effective date of this Land Use Code complies with this Section.

5.07.3 Standards.

- A. Generally. A site shall provide refuse/trash disposal that is:
 - 1. Located to facilitate collection and minimize negative impacts, including to site occupants, neighboring properties, and public rights-of-way; and
 - 2. Constructed to allow for collection without damage to the development site or the collection vehicle.
- B. Screening and Visibility. All refuse/trash disposal requires screening to prevent them from being visible to:
 - 1. Persons located within any dwelling unit on residential property other than that where the refuse/trash disposal is located;
 - 2. Occupants, customers, or other invitees located within any building on nonresidential property other than that where the refuse/trash disposal is located; and
 - 3. Persons traveling on any public street, sidewalk, or other public way.
- C. Design. Screening design shall compliment the materials, colors, and features of the primary building.

5.08 Signs

5.08.1 Purpose and Findings. The purposes of this Section are to:

- A. Provide a comprehensive and balanced system to regulate signs by physical dimension and placement throughout the Town.
- B. Protect state and federal constitutional rights to free speech by:
 - 1. Providing ample opportunities for expression through signs;
 - 2. Providing content-neutral regulations of signs; and
 - 3. Providing clear standards for approval of signs.
- C. Protect public health, safety, and welfare by:
 - 1. Minimizing visual traffic hazards, distractions, and obstructions for motorists, cyclists, and pedestrians;
 - 2. Preventing signs that could confuse motorists ~~because the signs resemble traffic control signs~~;
 - 3. Reducing hazards caused by signs that overhang or project over the public right-of-way;
 - 4. Encouraging sign users to upgrade, update, or remove poorly maintained and nonconforming signs;
 - 5. Preventing signs that are potentially dangerous due to structural deficiencies and disrepair; and
 - 6. Preventing visual clutter or deterioration of the community's appearance and attractiveness that would promote blight.
- D. Promote the ~~City's~~ Town's appearance, character, quality, and business climate by:
 - 1. Encouraging attractive and functional signs;
 - 2. Encouraging signs that harmonize with the sign's site and buildings and with surrounding buildings and developments; and
 - 3. Provide sign standards that will promote a vibrant and attractive Downtown DistrictCore.
- E. Implement the goals and policies of the Comprehensive Plan by establishing uniform standards and procedures to regulate the size, type, number, design, placement, illumination, timeframe for display, and maintenance of signs.

5.08.2 Applicability.

- A. Generally.
 - 1. This Section applies to applications for sign permits and to new and existing signs within the Town of Wellington.
 - 2. Permits Required for Certain Signs. This Section requires sign permit approval before a person may construct, install, operate, display, or otherwise use any sign as specified in

the applicable paragraph for each sign type governed by this Section. Repairs, changes of parts, and preventive maintenance of signs do not require a sign permit.

3. Prohibited Signs. A person ~~may~~ shall not construct, install, operate, display, or otherwise use any sign in a time, place, or manner that this Section prohibits.
4. This Section does not ~~prohibit signs required by state or federal law and does not~~ authorize signs prohibited by state or federal law.
5. Other Requirements Apply. This Section does not supersede the requirements of other regulations of the Municipal Code of the Town of Wellington. A sign permit does not satisfy the requirement for a building permit under Chapter 18: Building Regulations. An applicant must obtain all necessary permits for the construction and installation of a sign.

B. Exemptions.

1. Signs No Larger than One Square Foot. This Section does not apply to signs that do not exceed one square foot in area.

- 1.2. Fences. Signs placed on a fence, other than temporary signs permitted by this section.

- 2.3. Flags. This Section does not apply to flags, a piece of durable fabric or other flexible material with distinctive colors and patterns mounted by attaching one side to a freestanding pole or a pole attached to a building.

- 3.4. Merchandise. This Section does not apply to merchandise available for purchase if visible through a window or in a window display.

- 4.5. Indoor Signs. This Section does not apply to the placement of a sign inside a structure not visible from any point outside the structure (for example, inside a shopping center mall). For indoor signs, "visible" includes any sign displayed within three feet of a window or other transparent opening and oriented to the window so that a person outside of the building could see the sign.

- 5.6. Signs not Visible Off-Site. This Section does not apply to signs not visible off-site. A sign is considered not visible where it is fully obstructed by natural changes in grade, buildings, or landscaping that provides a complete year-round visual barrier. "Fully obstructed" means that the signs are not visible at ground level from the edge of the public right-of-way or the property line for an adjacent residential property line.

- 6.7. Government Signs. This Section does not apply to signs erected, maintained, or displayed by the State, Federal, County, or City-Town government and the Poudre School District. Government uses in all zoning districts may include signs.

7. Required Signs. This Section does not apply to any sign or device the State, Federal, County, or City-Town government requires a person to erect, maintain, or display.

8. Traffic Control Devices. The Town finds that traffic control devices are needed to protect the health and safety of motorists, pedestrians, and other persons in the public right-of-way, that there are no alternative avenues of communication further this compelling public interest, and that signs other than traffic control devices in the same location can create clutter, confuse motorists and pedestrians, and create a dangerous situation. Therefore,
This Section does not apply to traffic control devices on private or public property that the Manual on Uniform Traffic Control Devices adopted in-by this State requires.

5.08.3 Prohibited Signs. A person may-shall not construct, install, operate, display, or use the following types of signs:

- A. Flashing signs;
- B. Signs that feature-include motion;
- C. Billboards;
- D. Signs attached to a tree or utility pole;
- E. Signs in the right-of-way of any public street or road; and
- F. Any other sign not permitted under this Section.

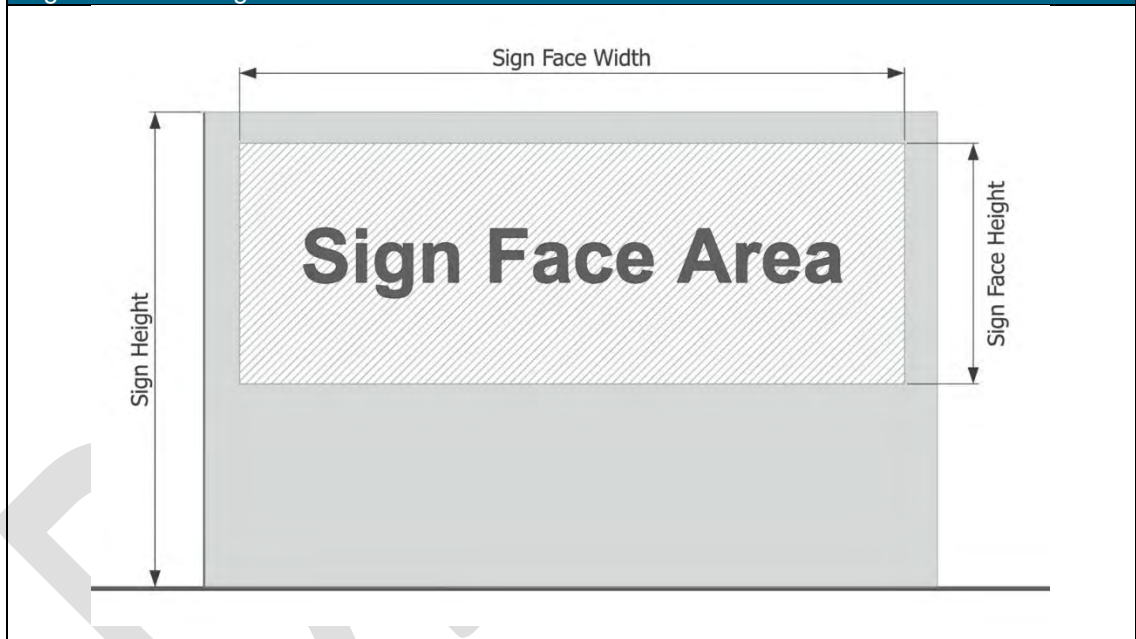
5.08.4 General Requirements

A. Sign Features.

- 1. Lighting. Externally lighted signs must have shielding to prevent the lights from shining directly onto adjacent properties or into the line of vision of the drivers and pedestrians on adjacent roads or sidewalks.
- 2. Manual Reader Boards.
 - a. Signs may include manual reader boards as indicated in the sign standards for each district. Signs in residential developments may not include reader boards.
 - b. The sign standards express the maximum portion of the sign face area that may consist of a reader board as a percentage.
- 3. Electronic Reader Boards.
 - a. Signs may feature electronic reader boards as indicated in the sign standards for each district. Signs in residential developments may not include electronic reader boards.
 - b. The sign standards express the maximum portion of the sign face area that may consist of a reader board as a percentage.
 - c. The message must not change more frequently than once per minute.
 - d. The message itself and the transition to a new message must not include scrolling, animation, zoom, fade, dissolve, exploding, or any other simulation of movement.
 - e. Electronic reader boards must consist of a black or similar dark background.

- f. Electronic reader boards must have ambient light monitors to automatically adjust the brightness of the sign so that it does not exceed 5,000 nits during daylight hours and 500 nits from dusk to dawn.
 - g. A sign user may not display an electronic reader board within 150 feet of a dwelling unit.
- B. Clearance. A sign user shall not install a projecting sign, awning sign, canopy sign, or any other sign extending over a sidewalk or driveway that is less than nine feet above grade.
- C. Setbacks. Signs may encroach on ~~required~~ bufferyards and setbacks ~~provided~~ required by this Chapter Section. However, all signs must comply with the sign setback if provided for the sign types in this Section.
- D. Measurements.

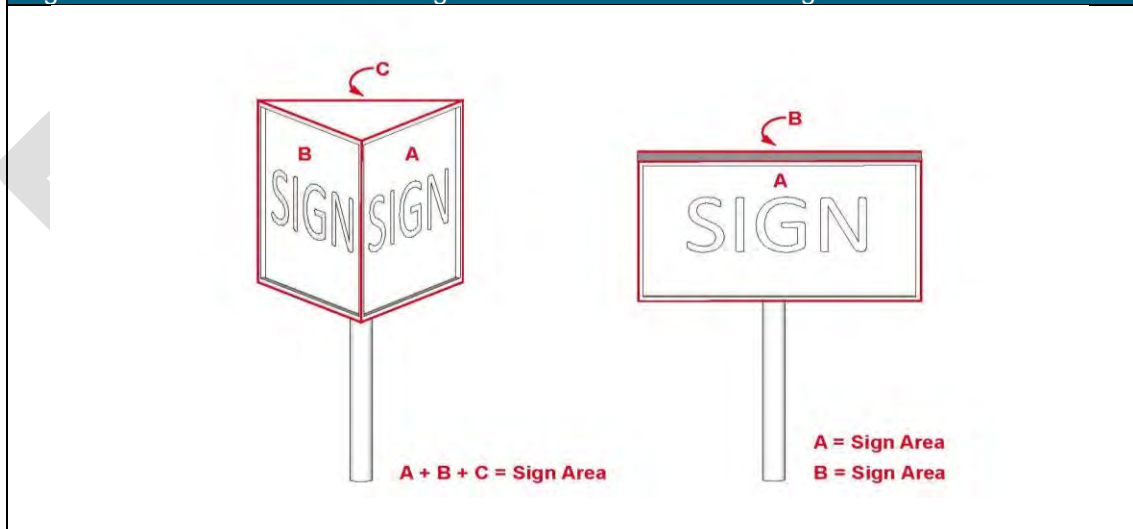
Figure 5.08.4-1 Sign Measurement



1. Height of sign. For freestanding signs, height is the distance from the highest point of the sign to the base of the sign at the ground level. Figure 5.08.4-1: *Sign Measurements* illustrates this measurement. This Section defines a maximum sign height for sign types.
2. Sign Face Area.
 - a. The sign face area, measured in square feet ("sf."), is the width multiplied by the height of a single rectangle, parallel with the ground, that contains all sign copy, decorative embellishments, and internally illuminated or backlit panels, fabric, or similar material that is not an architectural design element of the building. Figure 5.08.4-1: *Sign Measurements* illustrates this measurement.

- b. For freestanding signs, sign area includes cabinets, background panels, or colors but does not include building architecture or the sign support or base.
- c. The sign face area for an irregularly shaped sign is the sum of separate rectangles that each contain a portion of the sign elements.
- d. For wall signs, sign face area for a single sign includes all related sign elements on the same exterior wall or structure. Related sign elements have similar construction and are no more than five feet apart, measured horizontally or vertically.
- e. Multi-Faced Signs. Figure 5.08.4-1. *Measurement of Sign Face Area for Multi-Faced Signs* illustrates sign face area measurements for multi-faced signs.
 - i. If the faces of a multi-faced sign have the same area, have an interior angle of less than 45 degrees, and are not more than 18 inches apart, then the sign face area is the area of one face of the sign.
 - ii. Where the faces of a multi-faced sign are not the same size, the interior angle formed by the faces is less than 45 degrees, and the faces are not more than 18 inches apart, the sign face area is the area of the larger sign face.
 - iii. If the interior angle formed by the faces of a multi-faced sign is more than 45 degrees, or if the faces are more than 18 inches apart, then the sign face area is the cumulative area of all sides of the sign.

Figure 5.08.4-2 Measurement of Sign Face Area for Multi-faced Signs



5.08.5 Sign Districts. This Section regulates sign characteristics by district. Many zoning districts have common characteristics for the purposes of sign regulations, and this Section combines zoning districts into common sign districts. Table 5.08.5-1: *Sign Districts* designates the zoning districts included in each sign district.

Table 5.08.5-1. Sign Districts

Sign District	Abbreviation	Zoning Districts
Rural	RUR	Agricultural District (A) Residential ~~District, Single-Family~~ Rural Density ~~District~~ (R-1)
Residential	RES	Residential ~~District, Single-Family Medium~~ Low Density ~~District~~ (R-2) Residential ~~District, Single-Family Senior Housing~~ Medium Density ~~District~~ (R-3) ~~Residential District, Multi-Family~~ Downtown Neighborhood District (R-4) Manufactured Home Park District (MH)
Downtown/Community Commercial	DCC	Community Commercial District (C-1) Downtown ~~Core~~ Commercial District (C-2) ~~Transitional District (TR)~~
Commercial/Industrial	CID	~~Highway-Mixed-Use~~ Commercial District (C-3) Light Industrial District (LI) Industrial District (I)

5.08.6 Primary Signs.

A. ~~Definition~~Applicability. ~~This section applies to~~ A primary sign is ~~any~~ permanent freestanding or attached primary sign that serves as the principal sign for the lot.

B. ~~Primary Sign Types~~.

~~C.B.~~ Primary Sign Allowances by District.

1. A sign user may display primary signs that comply with the standards shown in Table 5.08.6-1. *Primary Sign Standards*.
2. The sign user may allocate the sign face area allowance between attached and freestanding signs, but the total area of all attached and freestanding signs may not exceed the cumulative area allocation for the district.

Table 5.08.6-1. Primary Sign Standards

Standard		RUR	RES	DCC	CID
Allowed?		Yes	Yes	Yes	Yes
Permit Required?		NR	NR	Yes	Yes
Dimensions					
Number		N/A	N/A	N/A	N/A
Height	Attached	No higher than principal building	No higher than principal building	N/A	N/A
	Freestanding	6 ft.	6 ft.	No higher than principal building	No higher than principal building
Total sign face area allowance for attached and freestanding signs		4 sf. for residential	4 sf. for residential	1 sf. per ft. of building fronting the public way not to exceed 50 sf.	1 sf. per ft. of building fronting the public way not to exceed 100 sf.
		50 sf. for NR	50 sf. for NR		

Standard	RUR	RES	DCC	CID
Sign Features				
Illumination	NR	NR	Yes	Yes
Manual Reader Board	No	No	50%	50%
Electronic Reader Board	No	No	No	50%
Key: Yes=sign type or characteristic allowed No=sign type or characteristic not allowed NR=requirement for non-residential uses only “—”=standard does not apply.				

D.C. Multitenant Developments. Multitenant developments may display primary signs as provided in this Paragraph.

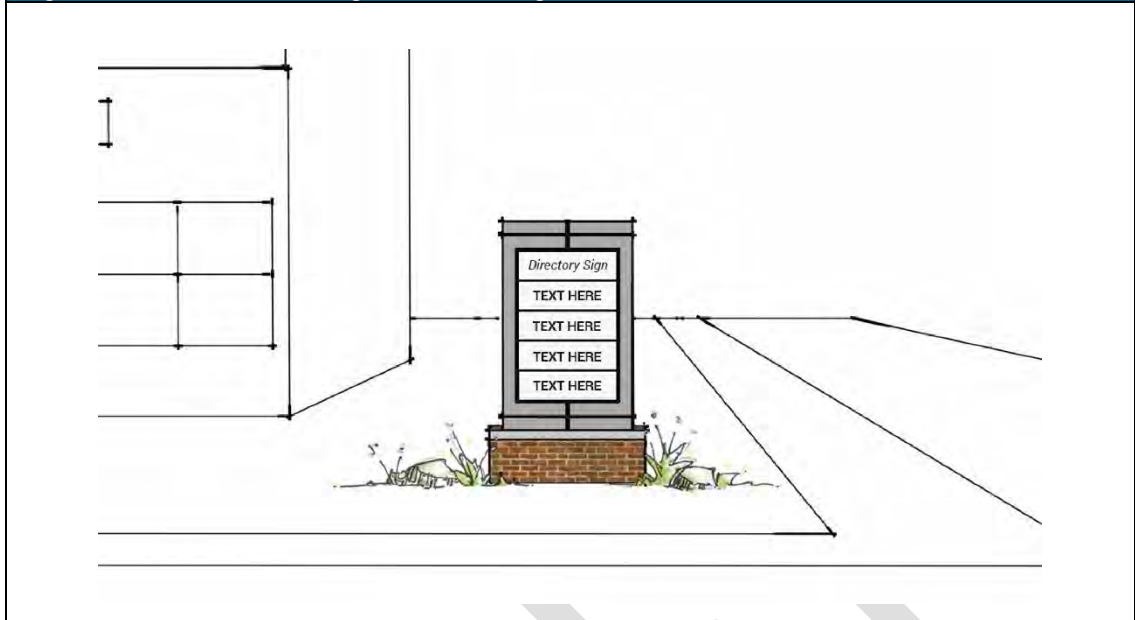
1. Freestanding Signs.

- A multitenant development may display one freestanding sign per frontage on a public way with a sign face area not to exceed 100 square feet and that is no taller than the height of the principal building.
- Multitenant developments must comply with the general standards of Paragraph 0 regardless of the number of tenants or the number of lots in the development. Each tenant or user may not display a separate freestanding sign.

Figure 5.08.6-1 Freestanding Sign



Figure 5.08.6-2 Freestanding Multitenant Sign



2. Attached Signs.

- a. A tenant in a multitenant development with separate entrances for each tenant may display one attached sign on the façade ~~for that tenant's~~for each primary public entrance.
- b. ~~A tenant may display an attached sign no larger than~~The maximum area for the attached sign is one square foot of sign face area per linear foot of the façade~~for that tenant's primary public entrance~~, as measured ~~at~~along the foundation of the building.

E.D. Subdivision Entrance Signs. A residential subdivision may display signs as provided in Table 5.08.6-2. *Subdivision Entrance Sign Standards*.

1. Definition. A subdivision entry sign is a ~~type of permanent~~freestanding sign located at the entrance to a subdivision in a residential district or a distinct phase of a subdivision in a residential district.

Figure 5.08.6-3 Subdivision Entrance Sign

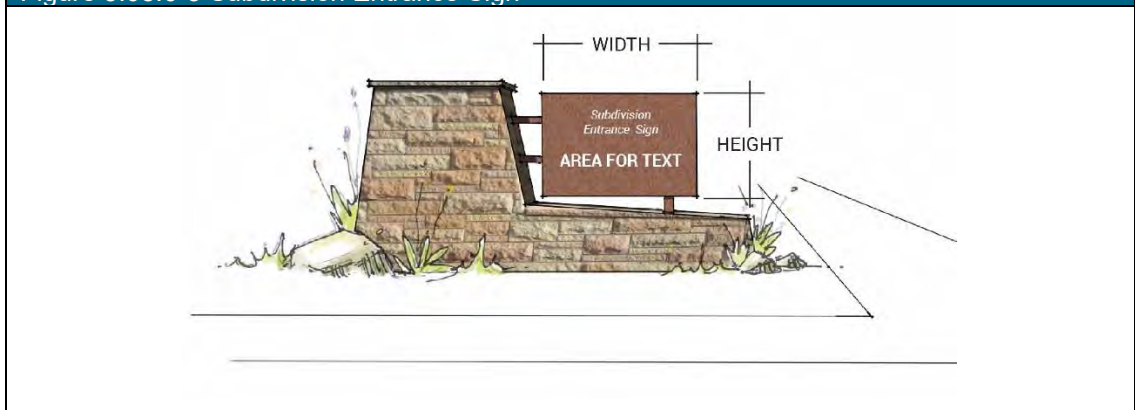


Table 5.08.6-3. Subdivision Entrance Sign Standards

Standard	RES
Dimensions	
Number (Maximum)	2 per entrance
Height	8 ft.
Sign face area allowance	100 sf.
Sign Features	
Illumination	Yes
Manual Reader Board	No
Electronic Reader Board	No
Key: Yes=sign type or characteristic allowed No=sign type or characteristic not allowed	

2. Location Standards. A sign user may locate subdivision entrance signs at the intersection of a public way and an entrance road or private driveway into the development or at the entrance to a separate phase of a development in a residential district. A sign user may install a subdivision entrance sign or signs with one of the following orientations:
 - a. Two signs with one sign face each, located on opposite sides of the entrance road or private driveway;
 - b. One sign with two faces located within a landscaped area dividing two one-way entrance roads or private driveways; or
 - c. One sign with one sign face, located on one side of the entrance road or private driveway.

F.E. Painted Wall Signs in the Downtown Core and Community Commercial Districts.

1. DefinitionApplicability. This subsection applies to any A painted wall sign ~~is a hand-produced work in which paint is applied directly on an exterior wall of a building or structure. A painted wall sign does not include:~~
 - a. ~~Mechanically produced or computer-generated prints or images, including digitally printed vinyl sheets and wraps;~~
 - b. ~~Works containing electrical or mechanical components; or~~
 - c. ~~1. Works that involve changing or moving images or components.~~
2. Location Standard. A sign user may only locate a painted wall sign on a building in the Downtown and Community Commercial Sign District on an exterior wall ~~or structure that does not have direct street frontage~~ faces a side or rear property line, including a wall facing an alley.
3. Sign Area for Painted Wall Signs. A painted wall sign may cover the full dimensions of the wall on which it is located.

Figure 5.08.6-4 Painted Wall Sign



4. Sign Permit. A sign user must apply for a sign permit to display a painted wall sign. The Building and Planning Department will review an application based on the following factors:
 - a. The sign uses durable, exterior grade paints and materials and weatherproof and ultraviolet-protective coatings;
 - b. The sign uses colors that coordinate with the colors of the building;
 - c. The sign is directed at and scaled to pedestrians;
 - d. The sign does not overwhelm or hide character-defining features of a building;
 - e. The sign is placed and sized to reinforce the building's architecture and its surroundings; and
 - f. The sign is placed at the same height and similar façade locations as adjacent tenants, if possible, to provide an integrated block appearance.

G.F. Signs at Interstate 25 Interchange.

1. A ~~sign user on a lot or parcel~~ in the Commercial/Industrial Sign District located within a 750-foot radius of the center of the Interstate 25 and Colorado Highway 1 interchange may display one larger sign under this Paragraph instead of the general standard ~~under thiins~~ Subsections ~~B or C of this Section~~.
2. A ~~sign user~~lot or parcel whose location qualifies for the increased sign allowance under this Paragraph may display one freestanding sign with two parallel faces that is no more than 150 square feet in sign face area per face and no more than 60 feet in height.

H.G. Window signs.

1. ~~Definition~~Applicability. ~~A temporary or permanent sign posted, painted, placed, or affixed to a window or glass door~~ This subsection applies to any window sign.
2. Location. A sign user may display window signs on a window or door in any district without a permit.

3. Sign Area. Window signs may shall not cover more than 50% of the area of the window on which they are located. The window sign area will not count against the overall allowance for attached and freestanding signs.

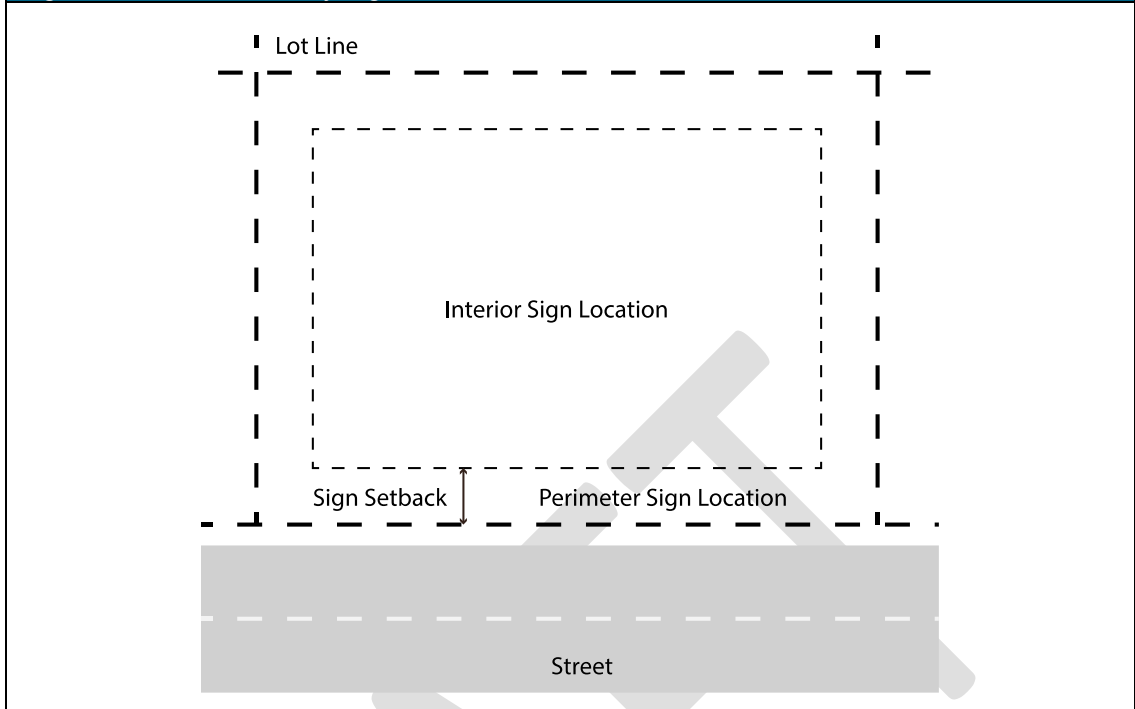
Figure 5.08.6-5 Painted Wall Sign



5.08.7 Secondary Signs.

- A. DefinitionApplicability. This section applies to any A ~~secondary sign is a small permanent sign that is freestanding or attached to a building that is in addition to the primary sign types for the property and that has a height and scale that is subordinate to the primary sign types allowed for the property. Examples of typical secondary signs include house numbers, occupant directories, directional signs, and parking signs. The list of examples is provided to clarify the regulations and does not limit the content of secondary signs.~~
- B. Sign Setback. This Subsection regulates the location and size of secondary signs based on a sign setback that varies by sign district. Figure 5.08.7-1. *Secondary Sign Setback* illustrates the sign setback for secondary sign locations.
 1. Measurement. The sign setback is the setback from any property line and regulates the location and size of secondary signs. Table 5.08.7-1. *Secondary Sign Standards* defines the applicable setback for each district. The setback applies to front and side property lines. Setback distance is the horizontal distance from the portion of the sign (base or face) nearest to a road right-of-way or property line.
 2. Perimeter Signs. Perimeter signs are signs located between the property line and the applicable sign setback.
 3. Interior Signs. Interior signs are located within the interior of the lot, further from the property line than the specified sign setback.

Figure 5.08.7-1 Secondary Sign Setback



C. Number and Location.

1. Table 5.08.7-24. *Secondary Sign Standards* defines the maximum number of perimeter secondary signs per entrance to a public way. All perimeter signs must be located within 5 linear feet from an entrance to a public way parallel to the frontage.
2. Table 5.08.7-34. *Secondary Sign Standards* defines the maximum limit for interior secondary signs based on the number of signs per acre.

Table 5.08.7-2. *Secondary Sign Standards*

Standard	RUR	RES	DCC	CID
Allowed?	Yes	Yes	Yes	Yes
Permit Required?	No	No	No	No
Sign Setback	20 ft.	20 ft.	20 ft.	30 ft.
Perimeter Sign Dimensions				
Number (max. per entrance)	1	1	2	2
Height	4 ft.	4 ft	4 ft.	4 ft.
Area	2 sf.	2 sf.	2 sf.	2 sf.
Interior Sign Dimensions				
Number (max. per acre)	10	10	10	30
Height	6 ft.	6 ft.	6 ft.	8 ft.
Area	2 sf.	2 sf.	2 sf.	2 sf.
				1 at 20 sf.
Sign Features				
Illumination	NR	NR	Yes	Yes

Standard	RUR	RES	DCC	CID
Manual Reader Board	No	No	No	No
Electronic Reader Board	No	No	No	No
Key: Yes=sign type or characteristic allowed No=sign type or characteristic not allowed NR=sign type allowed for non-residential uses only “—”=standard does not apply.				

5.08.8 Sandwich Boards

- A. Applicability. This section applies to any sandwich board. Sandwich boards are allowed only in the DCC sign districts.
- B. Dimension and Location Standards. Table 5.08.8-1. Sandwich Board Standards states the standards for sandwich boards per lot.
- C. Stability. Sandwich Boards shall be anchored to the ground in a manner sufficient to withstand wind loads established by the Building Code (see Chapter 18 of the Wellington Municipal Code).

Table 5.08.8-2. Sandwich Board Standards

Standard	RUR	RES	DCC	CID
<u>Allowed?</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
<u>Permit Required?</u>	<u>--</u>	<u>--</u>	<u>No</u>	<u>--</u>
<u>Duration of Display</u>	<u>--</u>	<u>--</u>	<u>7 am – 8 pm*</u>	<u>--</u>
Dimensions				
<u>Number</u>	<u>--</u>	<u>--</u>	<u>1 / street frontage</u>	<u>--</u>
<u>Height</u>	<u>--</u>	<u>--</u>	<u>4 ft.</u>	<u>--</u>
<u>Area</u>	<u>--</u>	<u>--</u>	<u>6 sf.</u>	<u>--</u>
Sign Features				
<u>Illumination</u>	<u>--</u>	<u>--</u>	<u>No</u>	<u>--</u>
<u>Manual Reader Board</u>	<u>--</u>	<u>--</u>	<u>No</u>	<u>--</u>
<u>Electronic Reader Board</u>	<u>--</u>	<u>--</u>	<u>No</u>	<u>--</u>
Key: Yes=sign type or characteristic allowed No=sign type or characteristic not allowed NR=sign type allowed for non-residential uses only “—”=standard does not apply. * no restriction on number of days				

5.08.85.08.9 Temporary Signs.

- A. Definition. This section applies to any temporary sign ~~is a sign constructed of cloth, canvas, light fabric, cardboard, wood, wallboard, metal, or other light materials, with or without frames, which is intended for use for a limited period of time only. Temporary signs include banners, feather signs, inflatable devices, stake signs, and A- and T-frame signs. Examples of common temporary signs include political signs, public demonstrations, grand opening signs, contractor signs, real estate signs, and signs that announce an event such as a carnival, circus, or similar~~

event. The list of examples is provided to clarify the regulations and does not limit the content of temporary signs.

B. Dimension and Location Standards. Table 5.08.9-1. Temporary Sign Standards states the standards for temporary signs per lot. In addition to the temporary signs allowed by Table 5.08.9-2. Temporary Sign Standards:

1. In the RUR and RES districts, one (2) additional temporary signs not exceeding six (6) square feet are allowed on private residential property three (3) times per year for up to seven (70) days.

Section 4.042. In all other districts, two (2) additional temporary signs are allowed on private property two (2) times per year for up to seventy (70) days.

B-C. Duration for Display. A sign user may display one temporary sign on each lot without any time limitation. All other temporary signs may only be displayed for 4590 days or less per calendar year, measured cumulatively per sign.

Table 5.08.9-3. Temporary Sign Standards

Standard	RUR	RES	DCC	CID
Allowed?	Yes	Yes	Yes	Yes
Permit Required?	No	No	No	No
Duration of Display	90 days	90 days	90 days	90 days
Dimensions				
Number	6	6	<u>2 / street frontage</u>	<u>2 / street frontage</u>
Height (<u>max</u>)	8 ft.	5 ft.	5 ft.	8 ft.
Area (<u>per sign</u>)	32 sf.	6 sf.	6 sf.	32 sf.
Sign Features				
Illumination	No	No	No	Yes
Manual Reader Board	No	No	No	No
Electronic Reader Board	No	No	No	No
Key: Yes=sign type or characteristic allowed No=sign type or characteristic not allowed NR=sign type allowed for non-residential uses only “—”=standard does not apply.				

5.08.95.08.10 Nonconforming and Abandoned Signs

A. Nonconforming Signs.

- Permanent signs that conformed to applicable standards in effect before the effective date of this Land Use Code, but that no longer comply with this Section 5.08. are nonconforming. The sign user may maintain and repair existing nonconforming signs.
- The property owner must remove an existing nonconforming sign upon a change in use of the property.

- B. Abandoned Signs. If a building, structure, or premises is vacant for at least six months ~~period of time~~: the owner of the premises shall ~~cover or~~ remove any nonconforming permanent signs located on the premises.

5.09 Site and Building Design

5.09.1 Purpose. To encourage innovative, quality site planning, architecture and landscaping that reflect improvements in the technology of land development.

5.09.2 Commercial and industrial architecture.

- A. *Elevation and site plans.* Dimensioned elevation drawings or renderings, including front, back, and side elevations, shall be submitted with all site plan applications to illustrate conformance with the regulations herein. Elevations shall indicate materials to be installed on all building surfaces.
- B. *Building form.* The design of all buildings shall employ textured surfaces, projections, recesses, shadow lines, colors, window patterns, overhangs, reveals, changes in parapet heights and similar architectural features to avoid monolithic shapes and surfaces and to emphasize building entries. Designs shall not contain unbroken flat walls of greater than fifty (50) feet in length. Buildings having single walls exceeding fifty (50) feet in length shall incorporate one (1) or more of the following at a minimum of every fifty (50) feet:
1. Changes in color, graphical patterning, texture or material;
 2. Projections, recesses and reveals;
 3. Windows and fenestration;
 4. Arcades and pergolas;
 5. Towers;
 6. Gable projections;
 7. Horizontal/vertical breaks; or
 8. Other similar techniques.
- C. *Facade treatment.* The architectural treatment of the front facade shall be continued, in its major features, around all visibly exposed sides of a building.
- D. *Screening.* All air-conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements and landscaping. In addition, all trash facilities, loading and parking areas shall be properly screened. Screening standards can be found in Section 5.04.

- E. *Architectural details.* All materials, colors and architectural details used on the exterior of a building shall be compatible with the building's style and with other nearby buildings.
- F. New buildings and exterior modifications of existing buildings on Cleveland Avenue within the C-2 Downtown Core Commercial District shall comply with the Cleveland Avenue Architectural Guidelines⁴ contained in Appendix A to the ordinance codified herein, a copy of which is on file at the Town Clerk's office. (Ord. 11-2007 §1)

5.10 Stormwater and Sewer

5.10.1 Purpose. The intent of this section is to ensure that the stormwater drainage system addresses the broader goals of drainage and flood control problem alleviation, environmental preservation enhancement that considers water quality, water way stability and natural habitat and resource protection, and the long-term maintenance of the Town's drainage systems.

5.10.2 Excavation, grading, and erosion control

- A. Excavation and grading. Excavation and grading shall comply with the adopted building codes and the Town's Standard Design Criteria and Standard Construction Requirements.
- B. Erosion control. The prevention of soil erosion and transport of sediments during construction is of paramount importance. Development of sites greater than one half (0.5) acre requires an Erosion Control Plan consistent with the State of Colorado's requirements for Stormwater Management Plans (SWMP), and a copy of the stormwater discharge permit obtained from the State of Colorado.
- C. To the maximum extent feasible, site grading and erosion control techniques shall include, but not be limited to:
 - 1. Limitation of land disturbance and grading;
 - 2. Maintenance of natural vegetation;
 - 3. Minimization of impervious surfaces;
 - 4. Use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined waterways;
 - 5. Use of infiltration devices; and/or
 - 6. Use of recharge basins, seepage pits, dry wells, seepage beds or ditches, porous pavement or sub-drain systems.

5.10.3 Site drainage

⁴ Do these design guidelines exist somewhere? I cannot find them on the Town's website but did find the original ordinance referencing them.

- A. General. The standards of this Section are intended to protect properties, both private and public, against flooding, erosion, sedimentation, and other encroachment due to storm waters.
1. Peak discharge control is required when post-development runoff rates exceed historic one hundred-year base storm runoff rates due to the change in site conditions as a result of the development. Post-development peak discharge for the minor storm event shall not exceed the historic or pre-development conditions for the minor storm event.
 2. The major drainage system that conveys off-site drainage through the development and/or serves as the primary drainage channel for the development and all drainage structures therein must safely convey the base storm peak discharge and maintain them within the confines of public rights-of-way and easements. There is no requirement to provide peak discharge control for the base storm peak discharge.
 3. The minor drainage system that collects on-site drainage and conveys it through the development to primary drainage channels and consists of curb, gutter, inlets, storm drains, culverts, swells, ditches and detention facilities shall be designed to convey flows from the minor storm event and maintain their integrity if overtopped by flows from a base storm event.
 4. Determination of storm runoff shall be made by the methods defined in the following table:

TABLE 6.3.1: Run-Off Rates Determination Methods

Area of Basin for which Peak Flow or Hydrograph is being Calculated	Specific Applications and/or Basin Characteristics	Determination Method
< 25 acres	To determine storage volume for peak discharge control where basin characteristics are applicable to the rational method	Modified rational method
< 5 acres	Area characteristics not applicable to rational method	NRCS WinTR-55
5 - 25 acres	If on one main tributary, if there are multiple tributaries	NRCS WinTR-55, TR-20
25 -640 acres	All circumstances	TR-20
>640 acres	All circumstances	Army Corps of Engineers HECRAS

5. Waivers from peak discharge control requirements must be requested in writing and must include supporting engineering documentation. Waivers may only be granted when:

- a. Residential development is occurring that does not require new subdivision of land. Supporting engineering documentation is not required.
 - b. Subdivision will result in a gross residential density of two (2) dwelling units per acre or less. Supporting engineering documentation is not required.
 - c. The increase in peak discharge for the minor storm from the subdivision is less than ten (10) percent over historic levels.
 - d. It has been determined and can be demonstrated that natural or manmade detention facilities exist downstream, there is adequate capacity to handle the increased peak discharge, and the subdivider has obtained legal right to utilize the required capacity of the existing facility.
 - e. It has been determined that detention will cause a deleterious impact relative to base storm drainage and peak discharge.
 - f. Additions to existing structures will not result in a net increase of impervious area of a site by more than twenty-five (25) percent.
- B. Master Drainage Report. Unless waived by the Town Engineer, the project engineer shall conduct a Master Drainage Report of the area to be developed and adjacent areas that affect the development. The subdivision of a single, previously subdivided lot into no more than two (2) new lots shall be exempt from drainage studies. The report should implement the drainage design and construction in the format described below. Drainage reports shall include:
1. Off-site flows. Describe the effect of off-site flow rates on the development and how they are affected by the development. Determine the necessary control measures or the proper method of conveyance.
 2. On-site flows. Define the system that will convey the on-site flows (both historic and developed) throughout the development and describe how the flows will be dispersed off-site, based on the methodology shown in the most recent version of the Urban Storm Drainage Criteria Manual, published by the Urban Drainage and Flood Control District.
 3. On-site detention. On-site detention or retention facilities are required to store run-off that represents the difference between the one hundred-year historic run-off and developed storm runoff, and shall limit the rate of runoff from the site to the one hundred-year historic flow rate.
 4. Storm drain system. The design of the interior storm drain system shall follow the standards set forth in the most recent version of the Urban Storm Drainage Criteria Manual, published by the Urban Drainage and Flood Control District. The ten-year storm shall be the criteria for the design of all interior drain systems. The design of cross culverts and bridges of major drainage ways shall accommodate the one hundred-year storm frequency.

C. Methodology.

1. Rainfall and runoff analysis. The analysis of storm runoff shall be based on the rainfall data taken from the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Atlas 2, "Precipitation Frequency Atlas of the Western United States, Volume III - Colorado." The Storm Run-Off Rates Determination Method Table No. 5-8 shall be used for determining the quantity of storm runoff.
2. Storage (detention/retention). Requisite detention facility volumes can be determined from the criteria found in the Urban Drainage and Flood Control District detention volume estimating workbook. These volumes are minimum requirements.
3. Storage release mechanism. The release mechanisms from retention/detention ponds shall accommodate recurrence intervals of ten-year and one hundred-year storms by utilizing a structure which employs both orifice and weir flow control. Other methods of release can be specified as approved by the Town Engineer.

D. Procedures. Developments shall be required to submit drainage design plans in conjunction with any application that requires submittal of a drainage report/plan.

1. Drainage design plans may be submitted at the preliminary plat or review stage as set forth in Section 2.17.
2. Drainage design plans may be submitted at the building permit stage only when subdivision and zoning for the property have already been approved.

5.10.4 Sanitary sewer

- A. All residential, commercial, and industrial uses shall have sanitary sewer facilities designed by a registered professional engineer in accordance with the regulations and standards of the Colorado Department of Public Health and Environment.
- B. The sanitary sewer system shall be connected to an existing public sanitary sewer system and consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built.
- C. Sanitary sewer lines are to be of sufficient size and design to collect all sewage from all proposed or portable structures within the subdivision or development and designed per the Town of Wellington Standard Design Criteria and Standard Construction Requirements.

5.10.5 Potable water

- A. Pursuant to C.R.S. 29-20-303, the Town shall not approve an application for development unless it determines in its sole discretion, after considering the application and all of the information provided, that the applicant has satisfactorily demonstrated that the proposed water supply will be adequate. For purposes of this requirement, "adequate" means a water supply

that will be sufficient for build-out of the proposed development in terms of quality, quantity, dependability, and availability to provide a supply of water for the type of development proposed, and may include reasonable conservation measures and water demand management measures to account for hydrologic variability.

- B. All water utilities shall be designed per the Town of Wellington Standard Design Criteria and Standard Construction Requirements.

5.11 Transportation and Connectivity

5.11.1 Purpose. The purposes of this Section are to:

- A. Establish a safe, efficient, attractive transportation system that promotes all modes of transportation and is sensitive to the environment.
- B. Create sidewalks, pathways, and trails that assures a safe, convenient, and attractive pedestrian/bicycle system that minimizes conflicts between vehicles, bicycles, and pedestrians.

5.11.2 Applicability. This Section applies to all development within Town limits. All transportation and connectivity measures implemented after the effective date of this Land Use Code complies with this Section.

5.11.3 Streets. The local street system of any proposed development is designed to be safe, efficient, convenient, and attractive and consider the use by all modes of transportation that will use the system. Streets are an inviting public space and an integral part of community design. Local streets provide for both intra- and inter-neighborhood connections to knit developments together, rather than forming barriers between them. All streets should interconnect to help create a comprehensive network of public areas to allow free movement of cars, bicycles, and pedestrians.

A. Street Layout.

1. All streets are aligned to join with planned or existing streets consistent with the approved Street Master Plan included in the Comprehensive Master Plan.
2. The street layout forms an interconnected system of streets primarily in a grid or modified pattern adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas.
3. The street layout emphasizes the location of neighborhood focus points, other internal open space areas, gateways, and vistas.
4. The use of cul-de-sacs and other roadways with a single point of access are minimized.

5. The integration of traffic-calming features within and adjacent to residential areas are utilized when appropriate.
- B. Controlling Street Access. A strip of land between a dedicated street and adjacent property is not reserved for the purpose of controlling access to that street from that property.
- C. Visibility at Intersections.
 1. No shrubs, ground cover, berms, fences, structures or other materials or items greater than thirty (30) inches in height shall be planted, created, or maintained at street intersections within the site distance triangle.
 2. The site distance triangle is described by starting at the point where the flow-line of the two (2) intersecting streets meet. Two (2) of the legs follow down the flow-line of the respective streets thirty (30) feet to a point, with the final leg between these two (2) endpoints.
 3. Trees are not planted in the site distance triangle.
- D. Pedestrian Crossings at Street Intersections and Mid-block. Pedestrian crossings are accessible to handicapped individuals and mid-block crossings may be required at the time of final plat or site plan approval.
- E. Street and Path Alignment. Street, path, and sidewalk alignment provides for pedestrian, bicyclist, and motorist safety. The street pattern is the most advantageous to serve the adjoining areas. When possible, proposed streets are continuous and in alignment with existing and proposed streets.
- F. Access. Access to all subdivisions shall come from a public street. Driveways are not permitted to have direct access to arterial streets. Driveway access to collector streets may be allowed if access is approved at the time of final plat.
- G. Street Right-of-Way Dedication. The full width of rights-of-way for all streets being platted must be dedicated to the Town. All streets within the Town shall afford public access for emergency services and utilities. In cases where streets form the perimeter of any development have a portion of the proposed right-of-way on an adjacent property, the following standards apply.
 1. The developer shall:
 - a. Acquire the other one-half ($\frac{1}{2}$) of the proposed right-of-way property for the Town and then dedicate the right-of-way to the Town;
 - b. If the landowner of the proposed right-of-way property is unwilling to sell the proposed right-of-way property to the developer, the developer shall pay for the cost of an appraisal for the proposed right-of-way property and legal fees for the Town to evaluate the possibility of acquiring the property in the future; or
 - c. Provide for a traffic study establishing that construction of such right-of-way will not be necessary before the likely development of that adjacent property.

2. The developer shall finalize an agreement with the Town which guarantees the construction of the street to Town standards.
- H. Street Standards. Rights-of-way are dedicated and streets are designed and constructed to accommodate present and future traffic volumes in accordance with all standards.
- I. Street Names. Names of new streets comply with the IGA with Larimer County and the Municipalities of Larimer County concerning standardization of street names. New streets which are extensions of, or which are in alignment with, existing streets shall bear the names of those streets.

5.11.4 Sidewalks, Pathways, and Trails.

- A. Interconnected Network.
 1. A sidewalk network that interconnects all dwelling units with other dwelling units, nonresidential uses and common open space are provided throughout each development.
 2. Sidewalks are separate and distinct from motor vehicle circulation to the greatest extent possible.
 3. The pedestrian circulation system shall include gathering or sitting areas and provide benches, landscaping, and other street furniture where appropriate.
- B. Sidewalks Required.
 1. In all zoning districts, except for the R-1, LI and I Districts, sidewalks are required along both sides of a street.
 2. Within the R-1 District, pedestrian movement may be accomplished with trails through common space if approved at the time of final plat approval.
 3. Within the LI and I Districts, sidewalk shall be required where properties are adjacent to arterial streets, collector streets, and to provide sidewalk continuity in areas where existing or proposed sidewalks will connect. Additional sidewalks in the LI and I Districts are determined based on reasonably anticipated pedestrian needs and uses on a case-by-case basis.
- C. Sidewalk Width. Sidewalk widths comply with the design standards for the category of streets. Sidewalks adjacent to storefronts in commercial areas are a minimum of ten (10) feet in width, or consistent with the average sidewalk width on a block if building in an area with existing sidewalks.
- D. Sidewalk Location. Sidewalks are located within the right-of-way unless otherwise authorized at the time of final plat approval.
- E. Accessibility. Sidewalks and plazas are accessible to handicapped individuals as required by the Americans with Disabilities Act (ADA) and related requirements.

F. Lighting. All sidewalks and other pedestrian walkways shall have appropriate lighting, using poles and fixtures consistent with the overall design theme for the development.

G. Pathways.

1. Pathways are provided to link internal open space areas with peripheral open space areas and shall connect to pathway routes throughout the Town.
2. Pathway routes are designated between residential areas and commercial and employment centers and schools.
3. Pathways on local streets may be delineated by bicycle lanes, bicycle routes, or other bicycle or pedestrian facilities.
4. All other pathways are constructed in accordance with standards established in the Town Parks and Trails Master Plan.

H. Trails.

1. Trails are provided within and surrounding open space areas and connecting open space areas.
2. Trails are a minimum of eight (8) feet in width and are constructed of an impervious service concrete. However, for specific uses and circumstances, the Board of Trustees may approve construction of other impervious surfaces.
3. Unless the Board of Trustees determines the area would not be used, trails are flanked on one (1) side by a soft surface path a minimum of four (4) feet in width. The soft surface path is constructed with a minimum depth of eight (8) inches of compressed gravel, crowned, and compacted with edging to contain the surface material. (Ord. 11-2007 §1)

CHAPTER 6: Subdivision Regulations

6.01 Purpose and Organization

- A. Applicability. This Chapter applies to any subdivision of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise.
- B. Intent. This Chapter promotes the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town by:
 - 1. Encouraging new subdivision developments to relate to the Town's historic development pattern.
 - 2. Promoting compact, well-defined neighborhoods that enhance the Town's character.
 - 3. Creating livable neighborhoods that foster a sense of community.
 - 4. Encouraging the proper arrangement of streets in relation to existing or planned streets and ensuring that streets facilitate safe, efficient and pleasant driving, walking and biking.
 - 5. Providing a variety of lot sizes and housing types in every neighborhood.
 - 6. Protecting sensitive natural and historic areas and the Town's environmental quality.
 - 7. Providing for adequate and convenient open spaces for traffic, utilities, access of fire apparatus, recreation, light and air and to avoid congestion.
 - 8. Providing open spaces for adequate stormwater management.
 - 9. Providing adequate spaces for educational facilities.
 - 10. Providing protection from geologic hazards and flood-prone areas.
 - 11. Ensuring compliance with Chapter 3 through 5 of this Code, the Comprehensive Plan and the Design Standards.
 - 12. Regulating such other matters as the Board of Trustees may deem necessary to protect the best interest of the public.
- C. Administration.
 - 1. All plats, plots and replats of land laid out in subdivision or building lots, and associated streets, highways, alleys or other portions of the subdivision, intended to be dedicated to a public use or the use of purchasers or owners of lots fronting or adjacent to that infrastructure require major or minor subdivision plat approval (see sections 2.14 and 2.15 of this Code).
 - 2. No plat shall be recorded in any public office unless it bears (by endorsement or otherwise) approval of the Board of Trustees.
 - 3. Acceptance of proposed public dedications is given by separate action of the Board of Trustees.

4. Pursuant to CRS sections 31-23-227 and 31-23-214(1), the Board of Trustees delegates the authority to approve plat corrections to the Planning Director. Chapter 2 establishes the applicability and workflow for plat corrections.

D. Plat and other approval expiration.

1. This subsection applies to any of the following (referred to as “approvals”):
 - a. Any Final Plat,
 - b. Any plat, plot or replat approved by the Town Board under any prior land use provisions of the Town Code or any prior version of the Town Code,
 - c. Any minor subdivision plat, or
 - d. Any annexation or annexation map.
2. An applicant shall submit an approval for recordation within one year from the date of final approval by the Town Board.
3. When submitted for recordation, the approval shall:
 - a. Be executed by all owners and proprietors (as defined by CRS § 31-23-111), and
 - b. Include payment of all fees and all other submissions or requirements as set forth in the Town Code or the approving ordinance.
4. An approval that is not timely recorded with the items required by subsection 3 above is deemed expired. Any Town Board approvals for an expired approval are deemed lapsed. A lapsed approval requires resubmission and reconsideration of the development or plat application by the approving agency.
5. A conditional approval of an approval does not toll the required one year submission period. Unless the specifically provides otherwise, any condition must be satisfied within the one year submission period.

6.02 Design and Improvement Standards

- A. Applicability. This section applies to all development applications and building permit applications (referred to as “applications”). All applications shall comply with the density, dimension, design and zoning standards contained in this Chapter.
- B. Relation to zone district standards. Chapters 3 and 4 of this Code prevail over any conflicting standards in this section.
- C. Community Design Principles. The design, layout, and orientation of subdivisions, lots, buildings and infrastructure shall be consistent with the Comprehensive Plan.
 1. The community design standards set forth in this Section apply to every development proposal. The Town's goal is to expedite the planning review process by clearly outlining the Town's expectations for new development.

2. The Planning Commission and Board of Trustees will evaluate each subdivision plat based on the standards in this section and the context within which a project is located. The standards are intended to be specific enough to guide development, but not to preclude creative design solutions. Applicants must substantially conform to the design standards unless they demonstrate that an acceptable alternative meets one (1) or more of the following conditions:
 - a. The alternative better achieves the stated intent;
 - b. The intent is not achieved by application of the standards in this circumstance;
 - c. The effect of other standards are improved by not applying a specific standard; and/or
 - d. Strict application or unique site features make the standard impractical.
3. Design elements. One of the greatest challenges facing small towns is the successful integration of new development with the original Town pattern. Suburban development patterns that include numerous cul-de-sacs and limited street connections often separate communities and create enclaves of the original towns. To maintain the Town's unique, small-town character and clearly describe the Town's vision, the following design elements established:
 - a. Compact urban growth. As the community grows from the original Town limits, it is important to maintain a continuity of density, diversity and interconnectedness. Urban development should occur adjacent to the Town's core so that the community's prime agricultural land and natural areas are preserved and public infrastructure and utilities are used as efficiently as possible.
 - b. Neighborhood design. New developments should create or augment neighborhoods, rather than single-use residential subdivisions adjacent to one another. Neighborhoods should be organized around a strong center, which may include elements such as common open space, civic and commercial or mixed uses. Street and building design and placement shall facilitate pedestrian movement, the character of streets and sidewalks as inviting public space and the interconnectedness of the streets within the neighborhood and as they connect to the rest of the community. In addition, new neighborhoods shall have a variety of housing sizes and types that help to create a distinct identity rather than a monotonous replication of styles.
 - c. Lots and blocks, streets and sidewalks. The layout of lots and blocks shall continue the Town's existing block pattern to form a grid or modified grid pattern that is adapted to the topography, natural features and environmental considerations. The streets shall connect to create a comprehensive transportation network that facilitates the movement of pedestrians, cars and bicycles.
 - d. Parks and open space. New developments shall use natural open spaces and developed public space (such as parks and plazas) to organize and focus lots, blocks and circulation

- patterns, protected natural areas and quality agricultural land and to create an identity for each neighborhood.
- e. Site design, architecture and landscaping. This Chapter encourages innovative, quality site design, architecture and landscaping to create new places that are integrated with the existing community and reflect the traditional patterns of the region.
 - f. Environment. New developments shall be designed to fit within the environment. To the greatest extent feasible, sites shall preserve natural areas and the plants and wildlife inhabiting those areas. In addition, new developments shall conserve natural resources, especially water.
 - g. Water conservation. As the Town and the State grow, increasing pressure is placed on limited water resource supplies. This can impair water quality and deplete water quantity. All new development shall use raw water for irrigation and to incorporate water-saving measures in building design and landscaping. Developments shall use stormwater management techniques that address water quality as well as quantity.
4. Compact urban growth. The Comprehensive Master Plan includes a compact urban growth policy that encourages and directs development to take place within areas contiguous to existing development in the community. This policy will accomplish several goals, including:
- a. Improving air quality by reducing vehicle miles traveled and by promoting alternatives to the private automobile;
 - b. Preserving natural areas and features, particularly in the periphery of the Town;
 - c. Making possible the efficient use of existing infrastructure and cost-effective extensions of new services;
 - d. Encouraging infill development and reinvestment in built-up areas of the Town; and
 - e. Promoting physical separation from neighboring communities to help each maintain its individual identity and character.
5. Growth management. The Town has established a Growth Management Area as part of the Comprehensive Plan. This is the area reasonably anticipated for annexation. and the plan policies direct growth to established growth boundaries and provide for the coordination of future development in level of service (LOS) standards for infrastructure. The comprehensive plan establishes policies for “purposeful growth” based on thoughtful and well-planned increases in density and intensity that honor and protect town character and values, contains development within its existing and designated footprint is contained, preserves valuable surrounding farmland and open space, promotes efficiencies in infrastructure provision and maintenance, offers adequate facilities, and advances a thriving economy that makes the town self-sufficient. No

development shall be approved unless it is located within the established planning boundaries and is consistent with the Comprehensive Plan.

(Ord. 11-2007 §1)

6. Neighborhood design principles. To encourage the creation of viable neighborhoods that interconnect with each other and integrate new projects into the existing community, thereby strengthening the original Town, the neighborhood layout shall continue the street, lot and block pattern of the original Town, as well as solar orientation, topography, sensitive wildlife and vegetation, drainage patterns and environmental and regional climate issues. Further, the edges of neighborhoods should be formed by features shared with adjacent neighborhoods, such as major streets, changes in street pattern greenways or natural features such as streams and major drainage or riparian corridors. New streets, bikeways, sidewalks, paths and trails shall connect to existing adjacent neighborhoods.
7. Neighborhood structure. The following is a summary of essential elements to consider integrating into new neighborhoods:
 - a. Street, sidewalk and trail connections within new neighborhoods that connect to adjacent existing neighborhoods and strengthen the connection to the existing town.
 - b. Streets that encourage pedestrian activity by creating an inviting atmosphere through attention to the details of landscaping and tree locations, sidewalks, lighting and the building architecture, etc.
 - c. A mixed-use neighborhood center located for easy access.
 - d. A variety of housing types, sizes, densities and price ranges that are well integrated.
 - e. A variety of land uses that are well integrated and a transition of intensity. Nonresidential uses, larger buildings and attached multi-family housing shall locate near commercial centers with a transition to smaller buildings closer to low density neighborhoods.
 - f. Pedestrian and bike connections throughout residential neighborhoods and linked to neighborhood commercial or civic centers and open space systems.
 - g. Parks, open space, public plaza and greens that are well integrated into the neighborhood.
 - h. Street trees (subject to water conservation considerations).
 - i. Architectural, landscaping and site design elements of new developments as outlined in this section.
8. Neighborhood; general provisions. The following principles are contained in the original "Old Town" of the Town. The Comprehensive Plan identifies them as contributing to the Town's small-town character. Although the size of individual development proposals will vary, projects will be evaluated with consideration to these neighborhood design principles and the context within which

a project is located. Failure to incorporate these design principles into a project may be cause for denial of the project by the Board of Trustees.

- a. Each neighborhood has a center and an edge. It is important that every neighborhood have activity centers that draw people together. Use natural and man-made features, such as a drainage ways, major roadways and ditches to define neighborhood edges. Buildings or other features located at gateways entering a neighborhood shall mark the transition into and out of the neighborhood in a distinct fashion using massing, additional height, contrasting materials and/or architectural embellishments to obtain this effect.
- b. Mix of types of dwelling units. A mix of dwelling unit types shall be distributed throughout the development.
- c. Focal points. Focal points, or points of visual termination, shall generally be occupied by more prominent, monumental buildings and structures that employ enhanced height, massing, distinctive architectural treatments or other distinguishing features, as well as landscape features.
- d. Public space as development framework. Public space is used to organize blocks and circulation patterns and to enhance surrounding development. Public open space must be functional and easily accessible and shall be designed to organize the placement of buildings to create an identity for each neighborhood. Buildings should face public open space to allow for casual surveillance.
- e. Design streets as public spaces.
 - i. Buildings shall define streets by using relatively uniform setbacks along each block. Subject to water use considerations, the streetscape shall also be reinforced by lines of shade trees planted in the right-of-way landscape strip and may be further reinforced by walls, hedges, landscaping or fences which define front yards.
 - ii. On a lot with multiple buildings, those located on the interior of the site shall relate to one another both functionally and visually. A building complex may be organized around features such as courtyards, greens or quadrangles which encourage pedestrian activity and incidental social interaction. Smaller, individualized groupings of buildings are encouraged. Buildings shall be located to allow for adequate fire and emergency access.
- f. Order rather than repetition. The orderly arrangement of design elements can unify a space even when the elements are not the same. The location of sidewalks relative to streets, building setbacks and orientation and the placement of trees (subject to water use considerations) can all help create an overall impression of unity even though each home or building has a distinct character.

- g. Use human proportion. Buildings shall be considered in terms of their relationship to the height and massing of adjacent buildings, as well as in relation to the human scale. (In a small town, this means generally one-, two- and three-story buildings.)
- h. Define the transition between the public and private realm. Buildings shall be located to front towards and relate to public streets or parks, both functionally and visually, to the greatest extent possible. Wherever possible, buildings shall not be oriented to front towards a parking lot.
- i. Encourage walking and bicycling. Sites shall be designed to minimize conflicts between vehicles, bicycles and pedestrians. Pedestrian and bicycle access and connections shall be designed to enhance transportation on foot and by bicycle.
- j. Neighborhoods shall have a mix of activities available rather than a purely residential land use. Neighborhood residents shall have convenient access to parks, schools, open space, trails and services. The optimum size of a neighborhood is one-quarter ($\frac{1}{4}$) mile from center to edge.
- k. Fit within the environment rather than on top of it. New developments shall be designed to respond to the natural environment, fit into the setting and protect scenic view corridors. Key design considerations shall include a site layout that responds to natural features both on- and off-site, the size of structures and materials used in the development and the transition between the development and the surrounding landscape.
- l. Housing types and styles that reflect the architecture of the region. Familiar architectural styles shall play an important role in developing an architectural identity for neighborhood dwellings.

D. Lots and blocks.

- 1. Intent. The intent of the block and lot standards is to continue the Town's existing block pattern in a manner that is compatible with site-specific environmental conditions.
- 2. General provisions. Streets shall be designed in accordance with this Chapter and the Town's Design Standards to create blocks that consider interconnectedness, topography, solar orientation, views and other design features. The length of blocks in "Old Town" is typically four hundred (400) feet. Thus, to the greatest extent possible, blocks shall be designed to have a length of between three hundred (300) feet and seven hundred (700) feet (nonresidential streets). The lengths, widths and shapes of blocks shall be designed to accommodate the following:
 - a. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
 - b. Need for convenient access, control and safety of vehicular and pedestrian traffic circulation.
 - c. Limitations and opportunities of topography.

- d. Lot dimension and configuration. Lot size, width, depth, shape and orientation and minimum building setback lines shall conform to Chapters 3 and 5 of this Chapter and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy and view.
 - e. Depth and width of properties shall be adequate to provide for off-street parking, landscaping and loading areas required by the type of use and development contemplated.
- 3. Lot frontage. All lots shall have frontage that is either adjacent to or directly accessible to a street. Flag lots are prohibited unless otherwise approved by the Board of Trustees.
- 4. Corner lots. Corner lots for residential use shall have extra width to accommodate side elevation enhancements, such as porches and bay windows, the required building setback and utility easements on both street frontages. For a corner lot, the front of the lot is defined as the side having the shortest street frontage. In the case of a reverse corner lot, both sides abutting a street shall maintain a front yard setback.
- 5. Double frontage. Double frontage lots for residential uses are not permitted except where essential to provide separation of residential properties from arterial streets or commercial uses, or to overcome specific disadvantage of topography and orientation. A planting screen easement of at least ten (10) feet in width, across which there shall be no vehicular right of access, is required along the property line of lots abutting an arterial street or other high traffic or conflicting use.
- 6. Residential lots adjacent to arterial streets. Residential lots that are adjacent to an arterial street shall comply with the following:
 - a. Lots where dwelling units do not face, an arterial street (i.e., rear yards abut the street), shall:
 - i. have a minimum depth of one hundred fifty (150) feet,
 - ii. prohibit direct access to the street,
 - iii. Include a minimum street setback of seventy-five (75) feet.
 - b. Lots where dwelling units do not face the arterial street or are side loaded relative to the street, shall:
 - i. Include a front or side setback to the house, respectively, of at least fifty (50) feet, And
 - ii. Apply additional buffering techniques per section 5.04 of this Land Use Code.
- 7. Residential lot access to adjacent street.
 - a. Driveway access to a local or collector street from a single-family detached residential lot is limited to one (1) driveway curb-cut or driveway access of no greater than twenty (20) feet in width. A circular drive in which each access to the local or collector street is less than ten (10) feet in width, separated by at least thirty (30) feet, and which is constructed as an integral part of the overall architectural design of the single-family residence, is considered a single driveway access.

- b. Driveway access to a local street from a single-family detached residential lot shall be greater than fifty (50) feet from the intersection of the local street and a collector street or one hundred twenty-five (125) feet from the intersection of the local street and an arterial street as measured from the intersecting right-of-way lines.
 - c. Driveway access to a collector street from a single-family detached residential lot shall be greater than one hundred twenty-five (125) feet from the intersection of the collector street and a local street, another collector street or an arterial street as measured from the intersecting right-of-way lines.
- 8. Multi-family residential, commercial, business and industrial lot access to adjacent street.
 - a. Driveway access to a local or collector street from a multi-family residential, commercial, business or industrial lot shall be greater than one hundred twenty-five (125) feet from any street intersection as measured from the intersecting right-of-way lines;
 - b. Driveway access to an arterial street from a commercial, business or industrial lot shall be at least two hundred fifty (250) feet from any intersection on the arterial street, or from another commercial, business or industrial lot's access as measured from the intersecting right-of-way lines or driveways; or
 - c. If subsection C.2 applies, driveway access to a local street, collector street or arterial street from a multi-family residential, commercial, business or industrial lot shall be determined by a traffic study approved by the Town.

6.03 Dedications

- A. Streets. All street rights-of-way shall be dedicated to the Town.
- B. Sidewalks, walkways, and multi-use trails.
 - 1. All walkways, sidewalks, and multi-use paths located within the right-of-way shall be dedicated to the Town
 - 2. All walkways, sidewalks, and multi-use paths that are not located with the right-of-way shall be dedicated to a duly formed owners' association.
- C. Utilities.
 - 1. Utility easement width. Utility easement widths and locations shall comply with the design standards. Location and adequacy of utility easements is subject to the approval and acceptance of the Town or applicable utility companies.
 - 2. Multiple installations within easements. Easements shall be designed to provide efficient installation of utilities. Public utility installations shall be located to permit multiple installations within the easements. The developer will establish final utility grades prior to utility installations.
 - 3. Underground utilities.

- a. Telephone lines, electric lines, cable television lines and other utility services shall be placed underground.
 - b. The subdivider shall comply with this Section and shall make the necessary arrangements, including any construction or installation charges, with each utility provider for the installation of underground facilities.
 - c. Transformers, switching boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to underground utilities shall be placed underground or on the surface but not on utility poles.
- 4. Transformers shall be placed outside of the vision clearance triangle with placement approved by Town staff during construction.
- 5. Screening or fencing is required (see section 5.04).
- 6. Electric transmission and distribution feeder lines and their necessary appurtenances may not be placed above ground unless they carry greater than 115 kV. Those facilities shall be placed within easements or public streets, or in private easements or rights-of-way.
- D. Park and open space. Parks and open space shall be dedicated to the Town per the quantities detailed in section 5.06 of this Land Use Code.

6.04 Subdivision Improvements and Development Agreements

6.01.1 Public Improvements

- A. The Town shall require a developer to execute a Development Improvements Agreement (DIA) for public improvements agreeing to construct all public improvements required by this Land Use Code, Standard Design Criteria and Standard Construction Requirements, or other applicable regulation of the Town.
- B. Developers shall provide to the Town a construction security for at least one hundred (100) percent of the cost of the required public improvements in the form of a development bond, letter of credit, cash, certificate of deposit or other means, as determined by the Board of Trustees, to complete said public improvements in accordance with approved development plans.
- C. No subdivision plat shall be signed by the Town or recorded at the Office of the Larimer County Clerk and Recorder, and no building permit shall be issued for development, until a DIA has been executed and construction security has been posted.
- D. The DIA shall include a list of all agreed-upon public improvements, an estimate of the cost of such improvements, the form of construction security for the improvements, and any other provisions or conditions deemed necessary by the Town Board to ensure that all public improvements will be completed in a timely, cost-effective manner that meets the Town's engineering standards. A DIA shall run with and be a burden upon the land described in the agreement.

- E. The Town, at its discretion, may require the developer to execute other agreements or contracts setting forth the plan, method, and parties responsible for the construction of any required public improvements shown in the approved documents.
- F. All public improvements shall be inspected by the Planning Director upon completion. If it is determined that the required public improvements are not constructed in compliance with specifications, a list of specific deficiencies shall be provided to the subdivider with the request that such deficiencies be corrected before preliminary approval will be granted. If it is determined that the subdivider will not construct any or all of the public improvements or remedy the deficiencies in accordance with the construction plans, the Town Council may withdraw and employ from the construction security such funds as may be necessary to construct the public improvements or remedy deficiencies.
- G. The following public improvements shall be constructed unless waived by the Town Board.
1. Road base, grading, and surfacing.
 2. Curbs and gutters and driveway returns.
 3. Street lights.
 4. Sidewalks, multi-use paths/trails and open space development.
 5. Sanitary sewer collection system.
 6. Fire hydrants and assembly.
 7. Storm sewers, storm drainage system or manholes, as required.
 8. Utility distribution system for public parks, open space, and medians.
 9. Street signs at all street intersections and other traffic signs.
 10. Permanent reference monuments and monument boxes.
 11. Berm, fence, or buffer along major arterial and collector streets and surrounding development.
 12. Required landscaping and street trees.
 13. Erosion control.
 14. Domestic water system.
 15. Electricity.
 16. Natural gas.
 17. Telephone and cable.
- H. The required time for the completion of all required improvements shall be two (2) years from the recording date of the final plat. Town Council may extend such time for completion at the request of the subdivider. When such improvements are not completed within the required time, the Town may use the collateral to complete the required improvements, withhold building permits, or revoke approval of the final plat.
- I. Warranty.

1. All workmanship and materials for all required public improvements shall be warranted by the subdivider for a period of two (2) years from the date of the Town's acceptance of the required public improvements.
2. The subdivider shall post a warranty security in an amount established by the Town, in its sole discretion. The warranty security shall not exceed one hundred (100) percent of the cost to reconstruct the improvements. The Town shall not release the construction security until the Town has granted final acceptance of the improvements.
3. In the event that any other provision of this Land Use Code or specifications adopted pursuant thereto, or the DIA requires a warranty of workmanship or materials for a different period of time or for a greater amount of construction security, that provision shall apply.
4. The inspection or acceptance of any required improvement by the Town shall not relieve the subdivider of his or her warranty of workmanship and materials.

7.5.2. Private Improvements

- A. In addition to a DIA for public improvements, the Town shall require developers to execute a DIA for private improvements stating the developer agrees to construct all private improvements shown in the final plat documents. The developer shall also post sufficient construction security, in the judgment of the Town, to complete said improvements in accordance with the approved design and time specifications. No subdivision plat shall be signed by the Town or recorded at the Office of the Larimer County Clerk, and no building permit shall be issued for development, until a DIA between the Town and the developer has been executed and construction security has been posted. The DIA shall include a list of all agreed-upon private improvements, an estimate of the cost of such improvements, the form of financial guarantee, and any other provisions or conditions deemed necessary by the Town Board to ensure that all private improvements will be completed in a timely, quality, and cost-effective manner. A DIA shall run with and be a burden upon the land described in the agreement.
- B. The Town, at its discretion, may require the developer to execute other agreements or contracts setting forth the plan, method, and parties responsible for the construction of any required private improvements shown in the final plat documents.
- C. All private improvements shall be inspected by the Director upon completion. One hundred (100) percent of the construction security shall be released within thirty (30) days of private improvements inspection approval.
- D. The required time for the completion of all required private improvements shall be two (2) years from the recording date of the final map or plat. The Town Board may extend such time for completion upon request from the subdivider. When such improvements are not completed within the required time, the Town may use the construction security to complete the required private improvements, withhold building permits, or revoke the final plat approval.

CHAPTER 7: NONCONFORMITIES AND VESTED PROPERTY RIGHTS

7.01 Nonconformities

7.01.1 Purpose. This chapter governs uses, buildings, structures, lots, and other situations that came into existence legally prior to the effective date of this Code or the effective date of future amendments to this Code, but do not comply with or conform to one or more requirements of this Code. All such situations are collectively referred to as “nonconformities”.

7.01.2 General Policy. While nonconformities may continue, this chapter is designed to curtail substantial investment in nonconformities to bring about their eventual improvement or elimination to preserve the integrity of this Code and the character of the Town. Any nonconformity or site condition that becomes nonconforming because of any subsequent rezoning or amendment to this text of this Code may be continued or maintained only pursuant to this chapter. Also, this chapter intends to reduce vacancies, promote appropriate redevelopment and re-use of existing structures and lots, and establish requirements.

7.01.3 Continuation Permitted. Any nonconformity that legally exists on ***¹, or that becomes nonconforming upon the adoption of any amendments to this Code, may be continued pursuant to this chapter.

7.01.4 Determination of Nonconformity Status. In all cases, the burden of establishing that any nonconformity is a legal nonconformity is solely upon the owner of that nonconformity.

7.01.5 Repairs and Maintenance. Incidental repairs and normal maintenance of nonconformities are permitted unless those repairs increase the extent of nonconformity or are otherwise expressly prohibited by this Code. Structures may be structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

7.01.6 Tenancy and Ownership. The status of a nonconformity is not affected by changes of tenancy, ownership, or management.

7.01.7 Exception Due to Variance or Modification. This chapter shall not apply to any development standard or feature that is the subject of a variance or modification granted by the Zoning Board of Adjustment. Where a variance or modification has been granted for a development standard

¹ Date of Code adoption

that does not otherwise conform to the requirements of this Code, that development standard is deemed conforming.

7.01.8 Enforcement of Requirements. The Town may withhold necessary permits, inspections, or other approvals to ensure compliance with this chapter.

7.01.9 Nonconformity Due to Town Action. A use, lot, or structure conforming to Town ordinance shall not be considered nonconforming if the Town reduces the size of the lot on which the structure is located by widening an abutting street or through the exercise, or potential exercise, of the Town's eminent domain power. Any status claimed under this subsection must be the result of Town action only and not otherwise result in a situation that jeopardizes the public health, safety, or welfare. Further, the Town's action must make it impossible or highly impracticable for the structure to be brought into conformity with this Code. The right to rebuild or add-on shall not be given to properties described in this subsection. This subsection is intended to provide conforming status for the use, lot, or structure immediately after such Town action, only regarding the following requirements:

- A. The amount of square footage removed from the structure's minimum required lot area by the Town action;
- B. The number of linear feet removed from the structure's minimum required lot depth or width by the Town's action;
- C. The number of linear feet removed from the structure's minimum required front setback, side setback, or rear setback by the Town's action;
- D. The number of then existing properly marked parking spaces removed from the structure's minimum required off-street parking by the Town's action;
- E. The increased percentage of lot coverage directly attributable to the Town's action; and
- F. The landscaping requirement.

7.01.10 Nonconforming Uses.

- A. General. Any use of land that was legally in existence and nonconforming on the effective date of this Code and has been in regular and continuous use, but which does not conform to the use regulations prescribed by this Code, shall be deemed a nonconforming use.
- B. Registration of Nonconforming Uses. The operator, owner, or occupant of any nonconforming uses of land or buildings shall, within 365 calendar days after the date on which the same became nonconforming, register such nonconforming use by obtaining a certificate of occupancy from the Building Official. The certificate of occupancy (nonconforming) shall be considered as evidence of the legal existence of a nonconforming use, as contrasted to an illegal use or violation of this Code. The Building Official shall maintain a register of all certificates of occupancy issued for nonconforming uses.

C. Change of Use.

1. A nonconforming use may only be changed to a conforming use allowed in the zoning district in which it is located.
2. Once a nonconforming use is converted to a conforming use, it shall not be changed back to a nonconforming use.
3. A nonconforming use shall not be changed to another nonconforming use.

D. Enlargement or Extension of Nonconforming Use. There shall be no increase in the floor area or the land area devoted to a nonconforming use or other enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation that made the use nonconforming was adopted.

E. Loss of Legal Nonconformity Status.

1. Abandonment. If a nonconforming use is discontinued or ceases for any reason for a period of more than 365 calendar days, the use shall be considered abandoned. Once abandoned, the legal nonconforming status shall be lost, the right to operate the nonconforming use shall cease, and re-establishment of the nonconforming use shall be prohibited. Any subsequent use of the property shall comply with the regulations of the zoning district in which it is located. If a nonconforming use is discontinued or ceases, but is re-established within 365 calendar days, then the nonconforming use may continue, provided the nature and degree of the nonconformity will not be changed or increased from that which existed before the nonconforming use was abandoned.
2. Damage or Destruction.
 - a. If the structure in which a nonconforming use is housed, operated, or maintained is destroyed by any means to the extent of more than 50 percent of its fair market value, the use may not be re-established except in compliance with all regulations applicable to the zoning district in which it is located.
 - b. If the structure in which a nonconforming use housed, operated, or maintained is partially destroyed, where the damage does not exceed 50 percent of its fair market value, the nonconforming use may be allowed to continue and the structure may be rebuilt but not enlarged upon approval of a building permit.
3. Action by the Zoning Board of Adjustment. The right to maintain or operate a nonconforming use may be terminated by the Zoning Board of Adjustment in accordance with the provisions of this Code.

7.01.11 Nonconforming Lots.

- A. No use or structure shall be established on a lot of record that does not conform to the lot area, lot width, or lot depth requirements established in this Code for the zoning district in which it is located, except as otherwise provided for in this section.

B. Residential Lots.

1. **Lot Size.** If a lot of record created by subdivision has less width or area than the minimum requirements of the district in which the lot is located, the standard for width or area shall not prohibit the erection of a structure if the lot width and area do not vary more than 10 percent from the minimum requirements of the district in which the lot is located.
2. **Setbacks.**
 - a. Setbacks made nonconforming by the adoption of this Code are exempt from the requirements of this section if the following findings can be made:
 - i. The proposed addition or alteration will either meet current setback requirements or will not encroach any further into the required setback than the existing structure; and
 - ii. If the proposed alteration or addition is located on the side of the existing dwelling, and there is a minimum distance of 10 feet between the side of the existing structure and the nearest dwelling on the adjoining property.
 - b. Residential lots with setbacks made nonconforming by the installation of roadways or other easements/property line adjustments created or enacted by a governmental entity are also exempt from the requirements of this section, and are not required to address the finding(s) above.

- C. **Adjacent Lots in Single Ownership.** If two or more adjacent and vacant nonconforming lots are in single ownership at any time, and such lots individually have less width or area than the minimum requirements of the district in which such lots are located, then such lots shall be considered in combination and treated as a single lot or several lots that meet the minimum requirements of this Code for the district in which they are located. Any construction, replacement, or enlargement of a dwelling or building requires the appropriate subdivision procedures of all necessary lots to achieve compliance with the provisions of this Code.

7.01.12 Nonconforming Buildings/Structures.

- A. **General.** A nonconforming structure is a building or structure the size, dimension, design, or location of which was lawful prior to the adoption, revision, or amendment of this Code, but which fails to conform to the requirements of the development regulations applicable to the property by reasons of such adoption, revision, or amendment.
- B. **Continuation of Use.** Except where prohibited by this chapter, a nonconforming structure may be used for any use allowed in the underlying zoning district, including a legal nonconforming use.
- C. **Maintenance and Repair.** The maintenance or minor repair of a nonconforming structure is permitted, provided that the maintenance or minor repair does not extend or expand the nonconforming structure. For the purposes of this subsection, “maintenance and minor repair” means:

1. Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;
 2. Maintenance of land areas to protect against health hazards and promote the safety of surrounding land uses; and
 3. Repairs that are required to remedy unsafe conditions that cause a threat to public safety.
- D. Enlargement and Expansion. A nonconforming structure in which only permitted uses are operated may be enlarged or expanded if the enlargement or expansion can be made in compliance with all of the provisions of this Code established for structures in the district in which the nonconforming structure is located. Such enlargement or expansion shall also be subject to all other applicable Town ordinances.
- E. Loss of Nonconforming Status/Damage or Destruction.
1. Continuation of Nonconforming Structure. The use of a nonconforming structure may be continued subsequent to the effective date of this Code, if that such continuance is in accordance with the provisions of this chapter and all other applicable codes of the Town necessary to ensure adequate protection and safety of adjacent property and the users and occupants of such nonconforming structure. However, the right to continue a nonconforming structure shall cease and such use contained therein shall conform to the provisions of this Code under any of the following circumstances:
 - a. If a nonconforming structure is destroyed by any means to the extent of more than 50 percent of its fair market value, it may not be re-established except in compliance with all regulations applicable to the zoning district in which it is located. This provision shall not apply to single-family dwelling units in residential zoning districts, which may be reconstructed with substantially the same floor area, provided there is no increase in any other nonconformity.
 - b. If the nonconforming structure is partially destroyed, where the damage does not exceed 50 percent of its fair market value, the nonconforming structure may be rebuilt but not enlarged upon approval of a building permit.
 2. Action by the Zoning Board of Adjustment. The right to maintain or operate a nonconforming structure may be terminated by the Board of Adjustment in accordance with the provisions of this Code.

7.01.13 Nonconforming Signs. Nonconforming signs shall follow the regulations established in Chapter 5.08.9.

7.01.14 Termination.

- A. The violation of any of the provisions of one or more of the following categories or ordinances or requirements shall cause the immediate termination of the right to operate such nonconforming use:

1. Constructing, maintaining, or operating a use conducted in, or associated with, a building or structure erected without a permit from the Town;
 2. Operating a use or occupying a building or structure without a valid Certificate of Occupancy from the Town;
 3. Operating a use in violation of a valid Certificate of Occupancy;
 4. Unlawful expansion of a nonconforming use or nonconforming structure;
 5. Unlawful outside display or storage in required parking spaces;
 6. Violation of any provision of a federal or state statute with respect to a nonconforming use;
 7. Violation of any provision of an ordinance of the Town with respect to a nonconforming use.
- B. It is the clear intent of this subsection that nonconforming uses that operate unlawfully shall be considered illegal uses. Illegal uses shall not be considered nonconforming regardless of remedial measures taken to resurrect nonconforming status.
- C. For purposes of this subsection, the term "violation" shall mean a final finding by a court of record that an ordinance has been violated.

7.02 Vested Property Rights

7.02.1 Purpose. The purpose of this chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S.

7.02.2 Request for Site-Specific Development Approval. For those developments for which the landowner wishes the creation of vested property rights pursuant to Article 68 of Title 24, C.R.S., the landowner shall request the approval in writing at least thirty (30) days prior to the date said approval is to be considered. Failure of the landowner to request such an approval renders the plan not a site-specific development plan, and no vested property rights shall be deemed to have been created.

7.02.3 Notice and Hearing. No site-specific development plan shall be approved until after a public hearing called for that purpose, preceded by notice of such hearing published as provided by law at least fourteen (14) days before the hearing. Such notice may, at the Town's option, be combined with any other required notice. At such hearing, all interested persons shall have an opportunity to be heard.

7.02.4 Approval, Conditional Approval, Effective Date, Amendments, Referendum, and Review.

- A. A site-specific development plan shall be deemed approved upon the effective date of the ordinance granting final approval of the plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan, including any amendments thereto.

- B. The Board of Trustees may approve a site-specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Such conditional approval will result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights.
- C. In the event amendments to a site-specific development plan are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site-specific development plan, unless the Board of Trustees specifically finds to the contrary and incorporates such findings in its approval of the amendment.
- D. The approval of vested property rights shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the site-specific development plan and creation of vested property rights.

7.02.5 Notice of Approval.

- A. Each plat or development agreement constituting a site-specific development plan shall contain the following notice:

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

- B. Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of the use approved and the specific parcel or parcels of property affected and stating that a vested property right has been created shall be published once, not more than fourteen (14) days after approval of the site-specific development plan, in a newspaper of general circulation within the Town. Publication of the notice of creation of the vested property right shall be the obligation of the landowner. The Town shall have no obligation to see that the notice is properly published.

7.02.6 Duration of Vested Property Right. A property right which has been vested as provided herein shall remain vested for a period of three (3) years; except that the Board of Trustees may, in its sole discretion, grant vested property rights for a longer period when warranted in light of all relevant circumstances, including but not limited to the size and phasing of the development, economic cycles and market conditions. The vesting period shall not be extended by any amendments to a site-specific development plan unless expressly authorized by the Board of Trustees in the chapter approving such amendments.

7.02.7 Other Provisions Unaffected. Approval of a site-specific development plan shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the development or use of the property.

7.02.8 Payment of Costs. In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site-specific development plan shall pay all costs occasioned to the Town pertaining to such application, including but not limited to publication of notices, public hearing and review costs, county recording fees and review costs.

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

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CHAPTER 8: FLOODPLAIN REGULATIONS

8.01 Purpose and Definitions

8.01.1 General purpose.

- A. It is the purpose of this Article to meet or exceed the minimum standards for floodplain regulations in accordance with the Federal Emergency Management Agency (FEMA) by provisions designed to:
1. Protect human life and health;
 2. Minimize expenditure of public money for costly flood control projects;
 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 4. Minimize prolonged business interruptions;
 5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
 6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
 7. Ensure that potential buyers are notified that property is in a flood area.

8.01.2 Applicability

- A. The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes delegated the responsibility to local governments to adopt regulations designed to minimize flood loss.
- B. Applicability. This Section shall apply to all areas of special flood hazard and areas removed from the flood plain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the Town.

8.01.3 Methods of reducing flood losses.

- A. In order to accomplish its purposes, this Article uses the following methods:
1. Restricting or prohibiting uses which are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
 2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 3. Controlling the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;

4. Controlling filling, grading, dredging and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

8.01.4 Definitions.

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

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Area of shallow flooding means a designated AO ~~or AH or VO~~ zone on the community's Flood Insurance Rate Map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land in the floodplain within the community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, ~~VO, V1-30, VE or V~~.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means a non-basement building: (i) built, in the case of a building in Zones A, AE, AH, AO, A1-30, A99, B, C, D and X, to have the top of the elevated floor or, in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water; and (ii) adequately anchored so as not to impair the structural integrity of the building during

a flood of up to the magnitude of the base flood. In the case of Zones A, AE, AH, AO, A1-30, A99, B, C, D and X, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-30, VE or V, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

Existing construction means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

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

- ~~a. The overflow of inland or tidal waters, and/or~~
- a. The overflow of water from channels and reservoir spillways;
- b. The unusual and rapid accumulation or runoff of surface waters from any source, and/or
- c. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood Insurance Rate Map or FIRM means an official map of the community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles and water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Flood protection system means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means this Chapter, Chapter 17 of this Code, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood-proofing means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway)– means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.~~means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.~~

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior; or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. [For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.](#)

Levee system means a flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the ~~National Geodetic Vertical Datum (NGVD) of 1929 or other datum~~ [North American Vertical Datum \(NAVD\) of 1988 or other Datum](#), to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

No-rise certification means record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

Recreational vehicle means a vehicle which is:

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

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [Pub. L. 97-348]) includes substantial improvement and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any

wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Structure means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the Code Enforcement Officer and which are the minimum necessary conditions; or
- b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance means a grant of relief to a person from the requirements of this Article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Article. (For full requirements, see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the ~~National Geodetic Vertical Datum (NGVD)~~North American Vertical Datum (NAVD) oof 1988-of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

8.02 General Provisions

8.02.1 Basis for establishing areas of special flood hazard.

The areas of special flood hazard established by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Larimer County, Colorado, and

Incorporated Areas," dated February 6, 2013, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this Article. The Flood Study and FIRM is on file at the Town Hall.

8.02.2 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations.

8.02.3 Sec. 16-10-140. - Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another Code provision, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

8.02.4 Interpretation.

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the Town; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

8.02.5 Warning and disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town, any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

8.03 Administration

8.03.1 Floodplain Development Permit

A floodplain development permit shall be required to ensure conformance with the provisions of this Article.

8.03.2 Designation of Town official for administration.

The Town Planning Director/[town Administrator or their designee](#) is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions and other appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to floodplain management.

8.03.3 Duties and responsibilities of Floodplain Administrator.

A. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this Article.
2. Review, approve, or deny all required floodplain development permit applications to determine whether the proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review proposed development applications to assure that all necessary permits have been obtained from those federal state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required.
4. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation.
5. Notify, in riverine situations, adjacent communities and the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
6. Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
7. When base flood elevation has not been provided in accordance with Section ~~46-10-1208.02.1~~ of this Article, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of this Chapter.
8. When a regulatory floodway has not been designated, require that no new construction, substantial improvements or other development, including fill, shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half (½) foot at any point within the community.

8.03.4 Permit procedures.

A. The ~~Town Clerk~~Floodplain Administrator shall accept applications on forms including but not limited to the following information: plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 3. A certificate from a ~~registered—Colorado p~~Professional ~~e~~Engineer or ~~a~~Architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section ~~16-10-120~~18.04.02 above;
 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- B. Approval or denial of a development permit by the Town shall be based on all of the provisions of this Article and the following relevant factors:
1. The danger to life and property due to flooding or erosion damage;
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 3. The danger that materials may be swept onto other lands to the injury of others;
 4. The compatibility of the proposed use with existing and anticipated development;
 5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 6. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities such as sewer, gas, electrical and water systems;
 7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 8. The necessity to the facility of a waterfront location, where applicable;
 9. The availability of alternative locations not subject to flooding or erosion damage for the proposed use; and
 10. The relationship of the proposed use to the Comprehensive Plan for that area.
- C. All variances shall follow the procedures set forth in Section 2.22
1. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 4. Variances shall only be issued upon:
 - a. Showing a good and sufficient cause;

- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
5. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

8.04 Standards for Flood Hazard Reduction

8.04.1 General standards for flood hazard reduction.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

- A. Anchoring. All new construction or substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- 1. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors as follows:
 - 2. Over-the-top ties shall be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;
 - 3. Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;
 - 4. All components of the anchoring system be capable of carrying a force of four thousand four hundred (4,400) pounds; and
 - 5. Any structural additions to the manufactured home shall be similarly anchored.
- B. Construction materials and methods.
- 1. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - 2. All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
 - 3. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed

and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with this Chapter;
2. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty (50) lots or five (5) acres (whichever is less) if not otherwise provided pursuant to this Section.
3. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards; and
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

- E. Encroachments. In Zones AE and AH the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one-half ($\frac{1}{2}$) foot at any point. In areas of special flood hazards, where base flood elevation data has not been provided, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one half (1/2)~~(1)~~ foot at any point.

8.04.2 Specific standards for flood hazard reduction.

- A. In all areas of special flood hazards where base flood elevation data has been provided as set forth herein, the following provisions are required:
1. *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air condition equipment and other service facilities (including ductwork) elevated a minimum of twelve (12) inches above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this Subsection is satisfied.

2. *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated a minimum of twelve (12) inches above the base flood level or, together with attendant utility and sanitary facilities, be designed so that, below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
3. Enclosures, new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one (1) foot above grade.
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
4. *Manufactured homes.*
 - a. All manufactured homes to be placed within Zone A on the Town's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 - b. All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the Town's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the

manufactured home is elevated a minimum of twelve (12) inches above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movements.

- c. Manufactured homes that are placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the Town's FIRM that are not subject to the provisions of this Paragraph shall be elevated so that either:
 - i. The lowest floor of the manufactured home is a minimum of twelve (12) inches above the base flood elevation; or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
5. *Recreational vehicles.* Recreational vehicles that are placed on sites within Zones A1-30, AH and AE on the Town's FIRM shall either:
- a. Be on the site for fewer than one hundred eighty (180) consecutive days;
 - b. Be fully licensed and ready for highway use; or
 - c. Meet the permit requirements of Section ~~16-10-2408~~[8.03.04 Permit Procedures](#) of this Article and the elevation and anchoring requirements for manufactured homes in Paragraph (4) above. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect types utilities and security devices and has no permanently attached additions.

8.04.3 Standards for areas of shallow flooding (AO/AH Zones).

- A. Located within the Special Flood Hazard Area are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
- 1. *Residential construction.* All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. *Nonresidential construction.* With the exception of critical facilities, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

B. Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

8.04.4 Floodways.

A. Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition). Located within special flood hazard areas are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.
2. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

8.04.5 Alteration of a watercourse.

A. For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed

analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Town floodplain requirements and regulations.
6. Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision.
7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

8.04.6 Properties removed from the floodplain by fill.

- A. A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:
 1. *Residential construction.* The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill.
 2. *Nonresidential construction.* The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

8.04.7 Standards for critical facilities.

- A. A critical facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded

may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

- B. Classification of critical facilities. It is the responsibility of the Town Board of Trustees to identify and confirm that specific structures in their community meet the following criteria:
- C. Critical facilities are classified under the following categories: (a) essential services; (b) hazardous materials; (c) at-risk populations; and (d) vital to restoring normal services.
- D. Essential services facilities include:
 - 1. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
 - 2. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors' offices, and non-urgent care medical structures that do not provide these functions);
 - 3. Designated emergency shelters;
 - 4. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
 - 5. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
 - 6. Air transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).
- E. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
- F. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town Board of Trustees that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town Board of Trustees on an as-needed basis upon request.
- G. Hazardous materials facilities are comprised of facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials and may include:

1. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 2. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 3. Refineries;
 4. Hazardous waste storage and disposal sites; and
 5. Above ground gasoline or propane storage or sales centers.
- H. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, and the chemical(s) is stored in quantities equal to or greater than the threshold planning quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this ordinance, but exclude later amendments to or editions of the regulations.
- I. Specific exemptions to this category include:
1. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
 2. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
 3. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.
- J. These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this Article.
1. At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
 - a. Elder care (nursing homes);
 - b. Congregate care serving twelve (12) or more individuals (day care and assisted living);

- c. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving twelve (12) or more children);
- 2. Facilities vital to restoring normal services including government operations. These facilities consist of:
 - a. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
 - b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).
- K. These facilities may be exempted if it is demonstrated to the Town Board of Trustees that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town Board of Trustees on an as-needed basis upon request.
- L. *Protection of critical facilities.* All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this Article, protection shall include one of the following:
 - 1. Location outside the special flood hazard area; or
 - 2. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the base flood elevation.
- M. Ingress and egress for new critical facilities. New critical facilities shall, when practicable as determined by the Town Board of Trustees, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

CHAPTER 9: DEFINITIONS

9.01 Measurements

9.01.1 Computation of Time.

- A. In computing a period of days, the first day and the last day are included.
- B. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.
- C. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

9.01.2 Terminology.

- A. As used in this Code, words used in the singular include the plural and words used in the plural include the singular.
- B. The words "must," "shall" and "will" are mandatory; "may," "can," "should" and "might" are permissive.
- C. The word "lot" shall include the words "building site", "site", "parcel", "plot" or "tract".
- D. A "building" or "structure" includes any part thereof.
- E. Words used in the present tense include the future tense.

9.02 Defined Terms

The words and phrases used in this Code shall have the meanings defined below unless otherwise specifically provided or unless clearly required by the context. Questions of definition or wording usage are interpreted by the Director based on the context of their usage and the intention of the section of this Code in which they occur.

A

Accessory Building A subordinate building or structure, the use of which is customarily incidental to that of the main building or to the main use of the land, which is located on the same lot (or on a contiguous lot in the same ownership) with the main building or use.

Accessory Dwelling Unit An additional dwelling unit integrated within a single-family dwelling, or located in a detached accessory building, such as carriage houses or agricultural-type outbuildings, located on the same lot as single-family dwellings

Accessory Use a subordinate use, clearly incidental and related to the main structure, building or use of land and located on the same lot (or on a contiguous lot in the same ownership) as that of the main structure, building or use.

Active repair is a term developed to differentiate between inoperable vehicles that are in the process of being made operable and those that are being stored without the benefit of ongoing repair or which are being stored for salvage purposes.

Adjacent means meeting or touching at some point or separated from a lot or parcel by one (1) of the following: a street, alley or other right-of-way, lake, stream or open space.

Adjacent property owner is an owner of record of any estate, right or interest in real property abutting and within three hundred (300) feet of the subject property.

Adult Entertainment Establishments Any adult video or bookstore, adult cabaret, adult booth, adult modeling or display establishment, adult motel, or adult theater.

- (a) Adult booth. A separate enclosure within a structure featuring adult entertainment or adult material. The term adult booth does not include a restroom or a foyer through which any person can enter or exit the establishment.
- (b) Adult cabaret. An establishment that features adult entertainment.
- (c) Adult entertainment. Any modeling, posing, exhibition, display, or exposure, of any type, whether through book, pictures, film displays, live performance, dance, or modeling, that has as its dominant theme, or is distinguished or characterized by an emphasis on any one or more of the following:
 - (i) Any actual or simulated specified sexual activities,
 - (ii) Specified anatomical areas,
 - (iii) The removal of articles of clothing, or
 - (iv) Appearing nude or semi-nude.
- (d) Adult material. One or more of the following material that have as their primary or dominant theme matter depicting, illustrating, describing or relating to adult entertainment, regardless of whether it is new or used:
 - (i) Books, magazines, periodicals or other printed matter;
 - (ii) Photographs, films, motion pictures, video cassettes, slides, or other visual representations;
 - (iii) Recordings or other audio matter;
 - (iv) Instruments, novelties, devices or paraphernalia that are designed for use in connection with adult entertainment.
- (e) Adult modeling or display establishment: Any establishment whose employees engage in adult entertainment or adult private modeling.
- (f) Adult motel: Any motel, hotel, boarding house, rooming house, or other place temporary lodging that includes the word "adult" or "erotic" in any name it uses, or otherwise provides and advertises adult entertainment or adult material.
- (g) Adult private modeling: Modeling, posing, exhibition, display, or exposure by an employee relating to adult entertainment before a non-employee while the non-employee is in an area not accessible to all other persons in the establishment, or while the non-employee is in an area (whether totally or partially screened or partitioned) during that display from the view of all persons outside the area. The term private performance is considered private modeling.

- (h) **Adult theater:** An establishment consisting of an enclosed structure, or a portion or part of an enclosed structure, or an open-air area where a person may view adult material or adult entertainment. Generally, the adult material or adult entertainment is pre-recorded material.
- (i) **Adult video or bookstore:** An establishment that sells or rents adult material. Any establishment meeting all the following criteria is not considered an adult video or bookstore:
 - (i) The adult material is accessible only by employees.
 - (ii) The individual items of adult material offered for sale and/or rental comprise less than 10 percent of the individual items publicly displayed at the establishment as stock in trade in the following categories: videos, books, magazines, periodicals, other printed matter, slides, other visual representations, recordings, and other audio matter.
 - (iii) The establishment does not use the following terms in advertisements or other promotional activities relating to the adult materials: "XXX," "XX," "X," or any series of the letter "X" whether or not interspersed with other letters, figures, or characters; "erotic" or deviations of that work; "adult entertainment" or similar phrases; "sex" or "sexual acts" or similar phrases; "nude" or "nudies" or similar phrases; or any other letters, words, or phrases that promote the purchase or rental of adult material.

Agriculture The use of land for the production of plants and animals useful to humans, including, to a variable extent, the preparation of these products for human use and their disposal by marketing or otherwise, and includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products and farm production. This includes accessory uses for treating or storing farm products and equipment. [See Section 35-1-102, C.R.S.]

Airport Any area of land or water which is used or intended for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way. This includes all necessary runways, taxiways, aircraft storage and tiedown areas, hangars, public terminal buildings and parking, helicopter pads, support activities such as airport operations and air traffic control, and other necessary buildings and open spaces. Includes dusting services. For purposes of this definition, "aircraft " means a device that is used or intended to be used for flight in the air, such as an airplane or helicopter.

Art Studio The workshop of an artist, writer, craftsperson, or photographer, but not a place where members of the public come to receive instruction on a more than incidental basis or to sit for photographic portraits.

Arterial street means a street which is anticipated to carry in excess of three thousand five hundred (3,500) vehicles per day in traffic volume, at desirable speeds ranging from thirty (30) to forty-five (45) miles per hour, and which is defined specifically as such on the Master Street Plan of the Town and is used for travel between areas within and outside the Town.

Auction means an enclosed facility for the temporary storage and offering by an auctioneer which is offered or sold to the highest bidder by means of a request or invitation for bids. This definition includes any animals, motor vehicles or business inventory to be liquidated following or in connection with the closing of a business.

B

Banner means a temporary, generally flexible, sign applied on lightweight material, such as plastic or fabric of any kind, hung either with or without a frame.

Bar / Tavern an establishment providing or dispensing fermented malt beverages and/or malt, special malt, vinous or spirituous liquors, and in which the sale of food products such as sandwiches or light snacks, is secondary (also known as a tavern)

Bed and Breakfast An establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee and which is occupied by the operator of such establishment.

Billboard means a permanent, sign or sign structure attached on which a person places copy on a poster or panel mounted on a pole or metal structure that exceeds the maximum sign face area and height provided by this Code. Typically, a billboard has one of the following configurations: (1) wood posts or pole supports with dimensional lumber as the secondary support (A-frame) with a wood or metal catwalk with display panels, (2) steel A-frame constructed with angle iron or steel supports with metal framing, catwalk, with display panels, (3) multi-mast structure constructed with steel poles, I-beam, or equivalent member as the primary support, with a catwalk, and display panels, or (4) monopole structure constructed with tubular steel support, tubular steel framing, metal catwalk and display panels with a concrete foundation.

Boarding and Rooming House A building or portion of which is used to accommodate, for compensation, four (4) or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building.

Brew Pub, Distillery Pub, or Limited Winery A "brew pub," "distillery pub," or "limited winery" as defined by Section 44-3-103, Colorado Revised Statutes, as amended.

Brewery, Distillery, or Winery A "brewery," "distillery," or "winery" as defined by Section 44-3-103, C.R.S., as amended. The facility is used primarily for the on-site manufacturing of malt liquors, which may include a tap room that is less than or equal to 30 percent of the facility's total floor area, including any outdoor seating or accessory sales areas. A "tap room" means a use associated with and on the same premises as a brewery, at which guests may consume and purchase, for on or off premise consumption, the manufacturer's products and other nonalcoholic beverages.

Building and Landscaping Materials Supply A business that sells and stores building materials or landscaping where the majority of sales are wholesale transactions to other firms. Outdoor storage and retail sales are incidental.

Building means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, which is governed by the following characteristics:

- (a) Is permanently affixed to the land.
- (b) Has one (1) or more floors and a roof.

Building frontage means the horizontal, linear dimension of that side of a building, which abuts a street, a parking area, a mall or other circulation area open to the public and has either a main window display or a public entrance to the building.

Building height means the vertical distance measured from the established curb level to the highest point of the roof. Chimneys, spires, towers, elevator penthouses, tanks and similar projections, other than signs, shall not be included in calculating the height.

C

Car Wash A facility where the primary or secondary function is washing automobiles, pick-up trucks, and small vans, but not trailers or commercial trucks. This includes both mechanical production line methods or self-service equipment. A car wash may also function as an accessory use to an automobile service station or other primary use.

Cemetery Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

Child Care Center A facility, by whatever name known, which is maintained for the whole or part of a day for the care of seven (7) or more children under the age of sixteen (16) years who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated educational purposes, except that a child care center shall not include any of the following three (3) types of family care homes as defined by the State: family child care home, infant/toddler home or experienced family child care provider home. The term includes, but is not limited to, facilities commonly known as day care centers, day

nurseries, nursery schools, preschools, play groups, day camps, summer camps, large child care homes as defined by the State, centers for developmentally disabled children and those facilities which give twenty-four-hour-per-day care for dependent and neglected children. Child care centers are also those facilities for children under the age of six (6) years with stated educational purposes which are operated in conjunction with a public, private or parochial college or a private or parochial school, except that the term shall not apply to a kindergarten maintained in connection with a public, private or parochial elementary school system of at least six (6) grades.

Civic Space Public or quasi-public uses in residential or business areas that are accessible to the public and primarily serve as gathering or meeting areas for the immediate community, or reserved as open space that provides a community amenity or promotes environmental or ecological functions. Civic spaces may be public buildings; defined space in residential, commercial, or mixed-use buildings; or outdoor space constructed to accommodate community gatherings. They can be the settings where celebrations are held, where social and economic exchanges take place, where friends run into each other, and where cultures mix. Civic spaces include active or passive recreational uses, nature and recreation trails, nature preserves (such as wildlife sanctuaries, conservation areas, and game preserves), cultural amenities (e.g. fountains, ice rinks, reflecting pools), open spaces, parks, squares, plazas, playgrounds, or memorial parks. This includes any of the following as defined below:

- (a) Active recreation: Recreational uses requiring constructed facilities for organized activities, such as playing fields, ball courts, and playgrounds.
- (b) Dog park: A park that provides a variety of recreational amenities for dogs and persons that may include benches, parking, restrooms, and water fountains. If dogs are to be unleashed, the area must be fenced.
- (c) Community space: Buildings or facilities that provide gathering places, such as community centers, property owner association meeting spaces, or clubhouses.
- (d) Open space: Areas of trees, shrubs, lawns, grass, pathways and other natural and man-made amenities not within individual building lots, set aside for the use and enjoyment of residents, visitors and other persons, unoccupied by buildings or facilities unless related to recreational activities. Generally, open space is intended to provide light and air and is designed for either scenic or recreational purposes. For the purpose of this Code, open space includes active recreation space, common open space, and dedicated open space.
- (e) Park or plaza: An open space which may be improved and landscaped; usually surrounded by streets and buildings.
- (f) Urban deck: A platform for landscaped greens or engineered to accommodate buildings, which spans over major roadways. The intent of an urban deck is to create and enable pedestrian movement across an otherwise, typically impenetrable barrier, and to provide space for activity that can link both sides of the roadway.
- (g) Wetlands mitigation bank: A natural resource management technique authorized by Part 404 of the Federal Clean Water Act, or other state or federal law, as applicable, using wetland preservation, restoration, creation and/or enhancement to offset or replace wetland functions that are lost due to development. Wetland mitigation banks are typically large areas of wetlands operated by private or public entities, which may sell credits to other entities to compensate for wetland loss or impact at development sites or enter into other similar arrangements.

Club / Lodge organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, excluding clubs operated for profit and/or places of worship or assembly.

Code means the Municipal Code of the Town, including this Land Use Code.

Collector street means a street which is anticipated to carry from two thousand five hundred (2,500) to five thousand (5,000) vehicles per day in traffic volume at desirable speeds ranging from twenty-five (25) to thirty-five (35) miles per hour and which serves a collecting function by distributing traffic between local streets and arterial streets, thereby providing access to adjacent properties and linking neighborhoods with arterial streets.

College An institute of higher education that awards baccalaureate or higher degrees, which may include onsite student, faculty, and/or employee housing facilities.

Commercial Dry Cleaning Facility Establishments primarily engaged in supplying, on a rental or contract basis, laundered industrial work uniforms and related work clothing (such as protective (flame and heat resistant) and clean room apparel), dust control items (such as treated mops, rugs, mats, dust tool covers, and cloths), and shop or wiping towels. Also known as "industrial launderers."

Common open space shall have the same meaning as common open space in Section 24-67-103, C.R.S.

Communication Facility Uses and structures such as radio and television transmitting and receiving antennas, radar stations, and microwave towers.

Community Facility A place, structure, area, or other facility used to provide fraternal, cultural, social, educational, or recreational programs or activities. This includes swimming pools, tennis courts, and similar facilities of a homeowners association, open to the public or a designated part of the public, and which may be publicly or privately owned.

Comprehensive Master Plan or Comprehensive Plan means the Comprehensive Master Plan.

Contractor and Contractor Storage The offices and/or storage facilities for a specialized trade related to construction, electric, glass, painting and decorating, welding, water well drilling, sign making, or similar items. Includes storage yards (for equipment, materials [including sand, road-building aggregate or lumber], supplies and/or vehicles owned or rented by the establishment), roofing and sheet metal, fabrication of cabinetry and related millwork and carpentry, elevator maintenance and service, and venetian blind and metal awning fabrication and cleaning. Incidental sales of materials are included within this definition.

Convenience Store A retail store containing less than five thousand (5,000) square feet of gross floor area which sells everyday goods and services which may include, without limitation, ready-to-eat food products, groceries, over-the-counter drugs, and sundries.

Convenience Store, with fuel sales A retail store containing less than five thousand (5,000) square feet of gross floor area which sells everyday goods and services which may include, without limitation, ready-to-eat food products, groceries, over-the-counter drugs, and sundries. Fuel sales are allowed on site.

[Copy- see "sign copy."](#)

D

Deck means an exterior platform adjacent to the principal structure which may be covered by roof or uncovered, and has no walls other than an open hand rail in compliance with current building codes.

Dedicated land means land transferred to the Town by platting, title, deed, or other legal method approved by the Town Attorney.

Dedication means any grant by the owner of a right to use land for the public in general, involving a transfer of property rights and an acceptance of the dedicated property by the appropriate public agency.

Density means the overall average number of dwelling units located on the gross or net residential acreage (as applicable) contained within the development and calculated on a per-acre basis. Gross density is calculated by dividing the total number of units by the total acreage. Net density is calculated by dividing the [total number of units] by the [total acreage minus all publicly dedicated land].

Design standards includes the Town Standard Design Criteria and Standard Construction Standards, the Lot and Block Standards beginning at Section 16-3-110; Street Standards beginning at Section 16-3-130; Parking Standards beginning at Section 16-3-150; Sidewalk and Path Standards beginning at Section 16-3-240; Park Standards beginning at Section 16-3-270; Landscape Design beginning at Section 16-3-330.

Developer means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

Development means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land or the dividing of land into two (2) or more parcels. When appropriate in context, development shall also mean the act of developing or to the result of development. Development shall also include:

- (a) Any construction, placement, reconstruction, alteration of the size or material change in the external appearance of a structure on land;
- (b) Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
- (c) Any change in the use of land or a structure;
- (d) Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;
- (e) The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land;
- (f) The demolition of a structure;
- (g) The clearing of land as an adjunct of construction;
- (h) The deposit of refuse, solid or liquid waste or fill on a parcel of land;
- (i) The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property; and
- (j) The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.

Development shall not include:

- (a) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way;
- (b) Work by any public utility for the purpose of inspecting, repairing, renewing or constructing, on established rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic-generating activity;
- (c) The maintenance, renewal, improvement or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;
- (d) The use of any land for an agricultural activity;
- (e) A change in the ownership or form of ownership of any parcel or structure; or
- (f) The creation or termination of rights of access, easements, covenants concerning development of land or other rights in land.

Drive-thru facility means an establishment which, by design, physical facilities, services or packaging procedures, encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

Driveway means a constructed vehicular access serving one (1) or more properties and abutting a public or private road.

Dwelling means a building used exclusively for residential occupancy, including single-family dwellings, two-family dwellings and multi-family dwellings.

Dwelling unit means one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Dwelling, two-family or duplex means a building occupied by two (2) families living independently of each other.

E

Easement means a right to land generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses.

Eave means the overhanging lower edge of a roof.

Electronic Reader Board means [a sign capable of displaying copy that can be electronically or mechanically changed by remote or automatic means.](#)

Entertainment Facility a building or part of a building devoted to showing motion pictures or dramatic, musical or live performances, but does not include a sexually oriented business as defined in Article 11.

Excess-weight vehicle means any vehicle, excepting any vehicle owned by or in the control of any governmental authority, which weighs in excess of any adopted weight limit, the weight limit within the Town shall be ten thousand (10,000) pounds. Semi vehicles shall be defined and regulated by Chapter 8, Article 4 of this Code and if a vehicle or trailer falls within the definition of a semi-truck or semi-trailer as defined by Section 8-4-10 the semi-vehicle shall not be regulated as an excess-weight vehicle.

F

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

- (a) Any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, unless such number is otherwise specifically limited in this Code; or
- (b) Any unrelated group of persons consisting of (i) not more than four (4) persons; or (ii) not more than two (2) unrelated adults and their related children, if any.
- (c) And includes family foster care of up to four (4) children which is licensed according to the statutes of the state but does not include individuals living in a group home.

Financial Institution A business where the primary occupation is financial services such as banking, savings and loans, loan offices, and check cashing and currency exchange outlets. It does not include financial services that typically occur in an office or storefront, such as investment companies, loan companies, credit and mortgage, insurance services, or brokerage firms), which are classified under "Office," below.

Flag means a piece of durable fabric or other flexible material with distinctive colors and patterns mounted by attaching one side to a freestanding pole or a pole attached to a building.

Floodplain or flood hazard area. See Section 16-10-30 for definitions pertaining to floodplain regulations.

Floor area, also called **gross floor area**, means the total square footage of the building measured along the outside walls of the building and including each floor level, but not including open balconies, garages or other enclosed automobile parking areas and basement storage areas and not including one-half (½) of all storage and display areas for durable goods.

Food Catering an establishment in which the principal use is the preparation of food and/or meals on the premises, and where such food and/or meals are delivered to another location for consumption or distribution, and where such use occupies not more than five thousand (5,000) square feet in gross floor area.

Foot-candle means a unit of measurement referring to illumination incident to a single point. One (1) foot-candle is equal to one (1) lumen uniformly distributed over an area of one (1) square foot.

Functional open space means open space which is large enough to serve a practical purpose, such as recreation, wildlife habitat or preservation of areas of agricultural, archeological or historical significance and shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells or their appurtenances or other hazards to the public.

Funeral Services An establishment used primarily for human funeral services, which may or may not include facilities on the premises for embalming and, performing of autopsies or other surgical procedures. Examples include funeral homes, mortuaries, crematoriums, or columbarias.

G

Garage sale means a sale of personal belongings or household effects held on the seller's premises, usually in the garage or yard, and is a permitted accessory use in all residential districts, provided that:

- (a) No property may be offered for sale which has not been owned and used by the occupant of the premises or the co-participants in "neighborhood" garage sales. Neighborhood garage sales are allowed only if occupant of the premises receives no profit or commission from sale of other participant's property.
- (b) No garage sale shall be conducted for longer than three (3) days duration.
- (c) No more than three (3) garage sales are allowed annually at any premises.
- (d) Garage sales may be conducted during the daylight hours only.
- (e) Goods may not be stored outside during non-sale hours.

Golf Course A tract of land laid out with a course having nine or more holes for playing golf, including any accessory clubhouse, driving range, offices, restaurant, concession stand, picnic tables, pro shop, maintenance facilities, or similar accessory uses or structures.

Grade means:

- (a) The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
- (b) The degree of rise or descent of a sloping surface.

Grade, finished means the final elevation of the ground surface after development.

Grade, natural means the elevation of the ground surface in its natural state, before man-made alterations.

Greenhouse / Nursery Any land or structure used primarily to raise trees, shrubs, flowers or other plants for sale or for transplanting and may include the sale of nonliving landscape and decorating products.

Grocery Store a retail establishment primarily selling food, as well as other convenience and household goods, which occupies a space of not more than twenty-five thousand (25,000) square feet.

Group Home state-licensed facilities for developmentally disabled, handicapped, seniors or children as defined by and meeting the requirements of Section 31-23-303(2), C.R.S., or similar state statute.

Growth boundary means the growth boundaries established by the Comprehensive Master Plan.

H

Health and Membership Club an establishment that is open only to members and guests and that provides facilities for any of the following: aerobic exercises, running and jogging, exercise equipment, game courts and swimming facilities, and that also includes amenities such as spas, saunas, showers, and lockers.

Heavy Equipment Sales & Rental The sales and maintenance of heavy machinery. This includes establishments primarily engaged in sales, renting, or servicing machinery and equipment for use in business, agricultural, or industrial operations. These establishments typically cater to a business clientele and do not generally operate a retail-like or store-front facility. "Heavy machinery" includes office equipment, machinery tools, construction equipment, farm implements, excavation equipment, or transportation equipment.

Home Occupation an occupation or business activity which results in a product or service and is conducted in whole or in part in a dwelling unit and is subordinate to the residential use of the dwelling unit.

Hotel / Motel A building containing guest rooms in which lodging is provided, with or without meals, for compensation, and which is open to transient or permanent guests, or both. A hotel, motel, or resort only provides temporary lodging, and does not include multi-family or attached dwelling or any other form of permanent residence. Guests are prohibited from using a guest room or suite as a primary permanent residence.

I

Industrial and Manufacturing, Heavy Manufacturing of paper, chemicals, plastics, rubber, cosmetics, drugs, nonmetallic mineral products (such as concrete and concrete products, glass), primary metals, acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins, electrical equipment, appliances, batteries, and machinery. This group also includes asphalt mixing plants, concrete mixing plants, smelting, animal slaughtering, oil refining, and magazine contained explosives facilities.

Industrial and Manufacturing, Light Manufacturing of products, from extracted, raw, recycled or secondary materials, including bulk storage and handling of those products and materials, or crushing, treating, washing, and/or processing of materials. This includes similar establishments, and businesses of a similar and no more objectionable character. It also includes incidental finishing and storage. Goods or products manufactured or processed on-site may be sold at retail or wholesale on or off the premises. This does not include any activity listed under Industrial and Manufacturing, Heavy. Examples of general manufacturing include the manufacture or production of the following goods or products: apparel (including clothing, shoes, dressmaking); boats and transportation equipment; brooms; caskets; communication or computation equipment; dairy products; die-cut paperboard and cardboard; drugs, medicines, pharmaceutical; electrical equipment or machinery; farm machinery; fasteners and buttons; feed and grain; food/baking (including coffee roasting, creameries, ice cream, ice, frozen food, confectionery, and beverage); fruit and vegetable processing, canning and storage; gaskets; glass products made of purchased glass; household appliances; industrial controls; leather and allied products; lithographic and printing processes (including printing plants as defined below); mattresses; medical equipment and supplies; medicines; mill work and similar woodwork; mobile homes; musical instruments; novelties; office supplies; optical goods; photographic equipment; prefabricated and modular housing and components; printing and print supplies (including printing plants); 3-D printing, radio and TV receiving sets; sanitary paper products; scientific and precision instruments; service industry machines; signs; textiles (including dyeing, laundry bags, canvas products, dry goods, hosiery, millinery); tobacco products; toys, sporting and athletic goods; and watches and clocks. A "printing plant" means a facility devoted to printing or bookbinding, including related large-scale storage and transshipment.

Inflatable device means a temporary sign type where air inflates an object using a portable blower motor that provides a constant flow of air into the device. The device consists of flexible fabric, and rests on the ground or a structure equipped with the blower.

Infrastructure means those man-made structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

J

Junk means scrap brass, iron, lead, tin, zinc; all other scrap metals and the alloys; bones; rags; used cloth, rope, rubber, tinfoil, bottles; old or used machinery of any type; used tools; used appliances; used lumber or crates; building materials; industrial equipment, fabrication of any material; used pipe or pipe fittings; used conduit or conduit fittings; used automobile parts; derelict vehicles, farm and heavy equipment construction vehicles; used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

K

Kennel A facility licensed to house dogs, cats, or other household pets and/or where grooming, breeding, boarding or training or selling of animals is conducted as business.

L

Land Use Code means Chapters 16 and 17 of this Code (Sections 16-1-10 et seq. and 17-1-10 et seq.).

Landowner means any owner of a legal or equitable interest in real property and includes the heirs, successors, and assignees of such ownership interests.

Landscaping means any combination of living plants, such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools, fountains or the like. Landscaping shall also include irrigation systems, mulches, topsoil use, soil preparation, re-vegetation or the preservation, protection and replacement of existing trees.

Livestock includes horses, cattle, sheep and llamas, but does not include swine, chickens, goats, roosters, fowl, peacocks, guinea hens or other animals not allowed to be maintained within the Town by this Code (except that swine, chickens, goats, roosters, fowl, peacocks or guinea hens may be permitted with the Board of Trustees' approval in isolated circumstances, including for 4-H-type projects that do not unreasonably impact neighbors).

Local street means a street which is anticipated to carry under two thousand five hundred (2,500) vehicle trips per day in traffic volume at desirable speeds of up to twenty-five (25) miles per hour, and which provides access to abutting property and primarily serves local traffic.

Long-term care facility means any of the following:

- (a) Convalescent center means a health institution that is planned, organized, operated and maintained to offer facilities and services to in-patients requiring restorative care and treatment and that is either an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an affiliation with, all services in a general hospital.
- (b) Nursing care facility means a health institution planned, organized, operated and maintained to provide facilities and health services with related social care to in-patients who require regular medical care and twenty-four-hour-per-day nursing services for illness, injury or disability. Each patient shall be under the care of a physician licensed to practice medicine in

the State. The nursing services shall be organized and maintained to provide twenty-four-hour-per-day nursing services under the direction of a registered professional nurse employed full time.

- (c) Intermediate health care facility means a health-related institution planned, organized, operated and maintained to provide facilities and services which are supportive, restorative or preventive in nature, with related social care, to individuals who because of a physical or mental condition, or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and twenty-four-hour-per-day nursing services are required.

Lot means a designated parcel, tract or area of land established by plat or subdivision ~~of at least a sufficient size to meet minimum requirements for use, street frontage coverage and area and to provide required yards and other open spaces in the zoning district in which the lot is located, and which has direct access onto a public or private street.~~

Lot depth means the average distance between the front lot line and the rear lot line.

Lot, double frontage means a lot which fronts on one (1) public street and backs on another.

Lot, flag means a lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.

Lot line, front means the property line dividing a lot from a street. On a corner lot, only one (1) street line shall be considered as a front line, and the shorter street frontage shall be considered the front line.

Lot line, rear means the line opposite the front lot line.

Lot line, side means any lot lines other than the front lot line or rear lot line.

Lot, reverse corner means a corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.

Lot size means the total horizontal area within the lot lines of a lot; synonymous with area of lot.

Lot width means the distance parallel to the front lot line, measured at the front building setback line. Lot width on a curving front lot line means the distance parallel to the tangent of the front lot line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.

Luminaire means the complete lighting unit, including the lamp, the fixture, and other parts.

M

Manufactured Home A single-family dwelling which is partially or entirely manufactured in a factory; which is not less than twenty-four (24) feet in width and thirty-six (36) feet in length; which is installed on an engineered permanent foundation; which has brick, wood or cosmetically equivalent siding extending to the ground level; which has a pitched roof; which has the delivery system including wheels, tires, axles and tongue hitch removed; and which is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended.

Manufacturing means a business which makes products by hand or by machinery.

Medical Care Facility An establishment, whether or not licensed or required to be licensed by the State Board of Health or the State Hospital Board, by or in which facilities are maintained, furnished, conducted, operated, or offered to prevent, diagnose, or treat human disease, pain, injury, deformity, or physical condition, whether medical or surgical, of two or more non-related mentally or physically sick or injured persons; or for the care of two or more non-related persons requiring or receiving medical, surgical, or nursing attention or service as acute, chronic, convalescent, aged, or physically disabled. This use includes an intermediate care facility, mental retardation facility,

outpatient surgery center, birthing facility, diagnostic imaging facility, radiation therapy facility, dialysis facility, medical/physical rehabilitation and trauma unit, or related institution or facility that offers treatment on an outpatient basis. This use may be operated for profit or nonprofit, privately owned, or operated by a local government unit. This use includes any hospital, defined as any licensed and State of Colorado accredited health care institution with an organized medical and professional staff and with inpatient beds available around-the-clock, whose primary function is to provide inpatient medical, nursing, and other health-related services to patients for both surgical and nonsurgical conditions and that usually provides some outpatient services (such as emergency care).

Medical Office A facility operated by one (1) or more duly licensed members of the human health care professions, including but not limited to physicians, dentists, chiropractors, psychiatrists and osteopaths, where patients are not lodged overnight but are admitted for examination and/or treatment.

Mini-Storage Facility A facility containing separate, individual, private storage spaces, which may be of various sizes and which are rented pursuant to individual leases for varying periods of time.

Mixed use means the development of a lot, tract or parcel of land, building or structure with two (2) or more different uses, including but not limited to residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.

Mixed-Use Dwelling Multi-Family Dwelling units contained within a mixed-use building attached above the building's nonresidential uses (the mixed-use building may contain office or commercial uses below the residential use).

Motor Vehicle Dealership A facility for the sale or rental of automobiles, motorcycles, ATVs, boats, or recreational vehicles. This includes incidental vehicular services and repairs.

Motor Vehicle Repair, Heavy An establishment that offers mechanical and body work on motor vehicles including straightening of body parts, body repairs, battery rebuilding, painting, welding, short term storage of automobiles not in operating condition, outdoor similar work on motor vehicles that may involve noise, glare, fumes, smoke, or similar impacts.

Motor Vehicle Repair, Light An establishment that offers only general maintenance activities including engine tune-ups, lubrication, carburetor cleaning, brake repair, car washing, detailing, polishing, replacement of filters, fluids, light bulbs, belts, fuses, oil, and tires, emissions testing, and similar activities.

Motor Vehicle Storage

Multi-Family Dwelling A dwelling contained in a structure also containing other dwellings in which each unit is attached to another at one or more party walls and at either the floor or the ceiling. This includes apartments and manor style apartments. This does not include townhomes or duplexes, which are considered single-family attached dwellings.

Multitenant building or development means a building or series of buildings on a parcel or several parcels under common ownership, management, and control and whose occupants are distinct users that each occupy a portion of the multitenant building or development.

N

Nightclub A bar or similar nonalcoholic establishment containing more than one hundred (100) square feet of dance floor area.

NIT means a unit of illuminative brightness equal to one candle per square meter, measured perpendicular to the rays of the source.

Nonconforming building means a building or structure, or portion thereof, that does not conform to the regulations of this Land Use Code, but that was lawfully constructed under the regulations in force at the time of construction.

Nonconforming use means a use that does not conform to the use regulations of this Land Use Code, but that was lawfully established under the regulations in force at the time the use was established and has been in regular use since that time.

O

Off-street parking area means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or operation of motor vehicles, including driveways or access ways in and to such areas and circulation aisles throughout such areas, but not including approved outdoor storage areas as defined herein or public streets and rights-of-way.

Off-Street Parking Facility An enclosed structure (other than a private garage) or open, hard surfaced area (other than a public street or private road), designed, arranged, and made available for parking vehicles, where such use is operated as a business enterprise with a service charge or fee being paid by the vehicle operator. An off-street parking facility shall include, but not be limited to, a commercial parking lot and public garage.

Open space means any land or water area with its surface open to the sky, which serves specific uses of providing park and recreation opportunities, conserving natural areas and environmental resources, structuring urban development form and protecting areas of agricultural, archeological or historical significance. Open space shall not be considered synonymous with vacant or unused land but serves important urban functions. Usable open space shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells and their appurtenances or other hazards to the public.

Open-Air Farmers' Markets An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items and food and beverages (but not to include second-hand goods) dispensed from booths located on-site.

Outlot means a measured piece of land contained within subdivided land that is not a building lot. An outlot may be conveyed to the public for open space or other public purposes, be retained by the developer for later subdivision or be conveyed to an owner's association.

P

Parcel means a contiguous area of land, except for intervening easements and rights-of-way with a continuous boundary defined any method specified below, when the description of the parcel is recorded in the office of the county clerk and recorder or by reference to a recorded subdivision plat.

Park means an area open to the general public and reserved for recreational, educational or scenic purposes.

Parking garage means an off-street parking area within a building.

Parking lot means any off-street parking area as defined herein.

Patio cover means a cover of any material over an exterior surface that has no walls.

Pawn Shop Any business that loans money on deposit of personal property or deals in the purchase or possession of personal property on condition of selling that property back to the pledger or depositor, or loans or advances money on personal property by taking chattel mortgage security on it, and takes or receives that personal property and issues a lien upon the personal property.

Personal Services shops primarily engaged in providing services generally involving the care of the person or such person's apparel, or rendering services to business establishments such as laundry or dry-cleaning retail outlets, portrait/photographic studios, beauty or barber shops, employment service, or mailing or copy shops.

Plat means a map of certain described land prepared in accordance with the requirements of this Code and Section 38-51-106, C.R.S., as an instrument for recording of real estate interests with the County Clerk and Recorder.

Principal use means the main use of land or of a structure as distinguished from a subordinate or accessory use.

Print Shop an establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint or offset printing equipment and may include the collating of booklets and reports.

Private property rights means the rights of a property owner within the Town to use his or her property within the legal parameters set forth in this Code and subject to applicable state, federal and constitutional law. Nothing herein guarantees any private property rights to develop in a particular manner except pursuant to a valid vested right.

Professional Office An office for professionals, such as physicians, dentists, lawyers, architects, financiers, engineers, artists, musicians, designers, teachers, accountants and others who, through training, are qualified to perform services of a professional nature and where no storage or sale of merchandise exists, except as accessory to the professional services.

Proof of ownership means ownership as specified in a current title insurance commitment or policy, or certification of title, issued by a title insurance company licensed by the State.

Property line means the boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which said lot, parcel or tract abuts.

Property means all real property subject to land use regulation by the Town.

Public areas means streets, parks, open spaces and other property designated or described as for public use on a map or plat of the Town and fee title is vested in the Town, other public body or a special district as defined in Section 32-1-103, C.R.S.

Public Facilities Those constructed facilities, including but not limited to transportation systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric, gas, telecommunication utilities or facilities and publicly owned buildings or facilities.

Public hearing means a meeting called by a public body for which public notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.

Public improvement means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, landscaped open space, off-street parking area, lot improvement or other facility which benefits the public.

Public open space means an open space area conveyed or otherwise dedicated to the Town, State or County or other public body for recreational or conservation uses. Public open spaces are to be unencumbered by oil and gas wells, their appurtenances or other hazards to the public.

Public use means uses which are owned by and operated for the public by the Town, county, state or federal governments or by school districts.

Public utility means a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or stormwater service or similar public services, but shall not include railroads or other forms of rail mass transit or depots or terminals supporting the same, or wireless telecommunication facilities.

Q

Quasi-public means having the nature or characteristics of being public but owned by a private or not-for-profit entity.

R

Raw water means water rights acceptable to the Town for domestic purposes, or water rights acceptable to the Town that may be used for irrigation of public facilities.

Reader board, electronic, means a sign or part of a sign capable of displaying content or visual displays that a sign user can electronically or mechanically change by remote or automatic means.

Reader board, manual, means a sign that serves as a display for characters, letters, or illustrations that a sign user can manually change or rearrange without altering the face or surface of the sign.

Recreational Entertainment, Indoor A place where recreation activities occur completely within an enclosed structure, including but not limited to bowling alleys, skating rinks, pool halls, video and pinball parlors.

Recreational Entertainment, Outdoor A place with outdoor activities, including but not limited to miniature golf, batting cages, water slides, skateboard parks, driving ranges and go-cart tracks.

Recreational vehicle (RV). Definitions pertaining to recreational vehicles and recreational vehicle parks are contained in Section 16-9-10 of this Code.

Recycling Facility A facility used for the collection and/or processing of recyclable material. Processing means the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a facility, if entirely enclosed within a building or buildings, shall be considered a warehouse.

Religious Land Use A structure or group of structures intended for regular gatherings of people to attend, participate in or conduct religious services and other related activities and associated accessory uses. Associated accessory uses may include religious instruction classrooms, church offices, counseling programs, private school, youth programs, parking, child and adult day care facilities, summer camps, recreational facilities, caretaker's quarters, food bank, thrift shop, sale of religious items, and cemeteries.

Research and Development A facility (such as a laboratory) for general research, scientific research, development and/or training where assembly, integration, and testing of products in a completely enclosed building is incidental to the principal use of scientific research, development, and training.

Resource Extraction Any facility, land, or portion thereof, removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances or organic substances, other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged.

Restaurant, fast food with drive-thru means any Restaurant, fast food establishment in which the principal business is the sale of foods and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

Restaurant, fast food means any establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state, and in which the design or principal method of operation includes the following characteristics:

- (a) Food and beverages are usually served in paper, plastic or other disposable containers; and
- (b) The consumption of food and beverages is encouraged or permitted within the restaurant building, within a motor vehicle parked upon the premises or at other facilities on the premises outside the restaurant building or for carryout.

Restaurant, sit-down means any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state; where fermented malt beverages and/or malt, special malt or vinous and spirituous liquors may be produced on the premises as an accessory use; and where the design or principal method of operation includes one (1) or both of the following characteristics:

- (a) Customers are served their food and/or beverages by a restaurant employee at the same table or counter at which the items are consumed; or
- (b) Customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building.

Retail Store A shop or store that, as its primary business, sells new merchandise to the public. Examples include drugstores and discount department stores, and stores that sell apparel, home improvement/furnishings, toys, electronics or sporting goods.

Retention basin means a pond, pool or basin used for permanent storage of water runoff.

Right-of-way means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term right-of-way for land platting purposes means that every right-of-way established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use on the plat on which such right-of-way is established.

S

Salvage Yard A facility used to store used appliances, scrapped glass, rags, paper, metals, automotive parts, or equipment, regardless of whether used for remanufacture, resale or recycling.

Sandwich Board means a portable sign that is ordinarily in the shape of an "A" with back-to-back sign faces, an easel, or a similar configuration.

School A public or private educational facility offering instruction at the elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the schools of Colorado.

Service Station Any building, land area, premises or portion thereof, where gasoline or other petroleum products or fuels are sold and light maintenance activities, such as engine tune-ups, lubrication, minor repairs and carburetor cleaning, may be conducted. A service station shall not include premises where heavy automobile maintenance activities, such as engine overhaul, automobile painting and body fender work, are conducted.

Setback means the required open space unoccupied and unobstructed between the nearest projection of a structure and the property line of the lot on which the structure is located, with the exception of eaves which may project a maximum of eighteen (18) inches into the setback.

Setback, front yard means the setback distance a building or structure must be placed from the front lot line.

Setback, rear yard means the setback distance a building or structure must be placed from the rear lot line.

Setback, side yard means the setback distance a building or structure must be placed from the side lot line.

Shielding means when the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted.

Sight distance triangle means the area at the four (4) corners of an intersection that is to be kept free of shrubs, ground cover, berms, fences, structures or other materials or items greater than thirty (30) inches in height. Trees shall not be planted in the triangular area. The size of the sight distance triangles is determined as follows: at the intersection of any two (2) streets or where a street intersects with an alley, a triangle measuring thirty (30) feet along each curb or edge of roadway from their point of intersection, the third side being a diagonal line connecting the first two (2).

Sign copy means words, numbers, symbols, images, icons, letters, numerals, figures, characters other symbolic representations displayed on or by a sign.

Sign means a visual display of an object or device that includes elements such as colors, lights, motion, symbols, images, icons, letters, numerals, figures, characters, or combines any of those elements, that a person intends to communicate, advertise, identify, announce, direct, inform, or attract attention, and that a viewer can see and comprehend from a public right-of-way. The term "sign" includes a structure used to support or display a sign.

Sign user means a person who constructs, installs, operates, displays, or uses a sign. Sign user includes the owner of the lot serving as the sign's location, the owner of the sign or support structure, a person who installs or constructs a sign, and a person whose message a sign displays.

Sign, A-frame, means a temporary, portable, freestanding sign in the shape of the letter "A" with back-to-back sign faces, an easel, or a similar configuration.

Sign, attached means a sign that is fastened to or affixed on an exterior wall of a building or other structure so that the wall becomes the supporting structure for, or forms the background surface of, the sign.

~~**Sign, attached (wall sign)** means a permanent, attached sign, fastened to or affixed on an exterior wall of a building or other structure so that the wall becomes the supporting structure for, or forms the background surface of, the sign.~~

Sign, feather means a temporary banner in the shape of a feather, quill, sail, blade, or teardrop mounted on a solid or flexible pole or cord. Sometimes referred to as "quill signs" or "sail banners."

Sign, flashing means an internally or externally illuminated sign with an intermittent, blinking, alternating, or flashing light source.

Sign, freestanding means a structure, device, or object that is structurally independent of a building, anchored firmly to or below the ground surface, and that is a sign itself or is the support structure for a sign.

Sign, illuminated means any sign whose design or installation incorporates artificial light, including direct illumination, halo illumination, indirect illumination, or internal illumination.

Sign, moving means a sign or part of a sign that changes physical position by any movement or rotation. "Movement" includes any visible moving, revolving, or rotating parts or visible mechanical movement, or any apparent visible movement achieved by electrical, electronic, or mechanical means.

Sign, painted wall means a hand-produced work in which paint is applied directly on an exterior wall of a building or structure. A painted wall sign does not include: (1) mechanically produced or computer-generated prints or images, including digitally printed vinyl sheets and wraps; (2) works containing electrical or mechanical components; or (3) works that involve changing or moving images or components.

~~**Sign, painted wall** means a hand-produced work in which paint is applied directly on an exterior wall of a building or structure.~~

Sign, permanent means a sign constructed from durable materials affixed to a building, a structure, or the ground so that the sign resists environmental loads, such as wind, and that precludes ready removal or movement of the sign.

Sign, Portable means any sign not permanently affixed to the ground, a structure, or a building.

Sign, primary means a permanent freestanding or attached sign that serves as the principal sign for the lot.

Sign, secondary means a small permanent sign that is freestanding or attached to a building that is in addition to the primary sign types for the property and that has a height and scale that is subordinate to the primary sign types allowed for the property. Examples of typical secondary signs include house numbers, occupant directories, directional signs, and parking signs. The list of examples is provided to clarify the regulations and does not limit the content of secondary signs.

~~**Sign, primary** means a permanent freestanding or attached sign that serves as the principal sign for the lot.~~

~~**Sign, secondary** means a small permanent sign that is freestanding or attached to a building that is in addition to the primary sign types for the property and that has a height and scale that is subordinate to the primary sign types allowed for the property.~~

Sign, stake means a temporary, rigid sign constructed of plastic, vinyl, metal, or wood implanted in the ground by a stake or stakes.

Sign, temporary means a sign constructed of cloth, canvas, light fabric, cardboard, wood, wallboard, metal, or other light materials, with or without frames, which is intended for use for a limited period of time only. Temporary signs include banners, feather signs, inflatable devices, stake signs, and A- and T-frame signs. Examples of common temporary signs include political signs, public demonstrations, grand opening signs, contractor signs, real estate signs, and signs that announce an event such as a carnival, circus, or similar event. The list of examples is provided to clarify the regulations and does not limit the content of temporary signs.

~~**Sign, temporary** means a sign (1) constructed of cloth, canvas, light fabric, cardboard, wood, wallboard, metal, or other light materials, with or without frames, or (2) mounted on that portion of a fence that faces the public right-of-way, and which is intended for is used for a limited period of time only (see time periods established in section 5.08).~~

Sign, subdivision entrance means a type of permanent freestanding sign located at the entrance to a subdivision in a residential district or a distinct phase of a subdivision in a residential district.

Sign, wall – see sign, attached.

Sign, window means a temporary or permanent sign posted, painted, placed, or affixed to a window or glass door.

Single-Family Attached Dwelling A dwelling contained in a structure that shares party walls with another dwelling. This includes duplexes and townhomes.

Single-Family Detached Dwelling A single-family dwelling (a building designed exclusively for occupancy by one (1) family) which is not attached to any other dwelling or building by any means, excluding mobile homes and manufactured housing situated on a permanent foundation.

Site plan means a scale drawing of a lot, showing the actual measurements, the size and location of any existing or proposed buildings, the location of the lot in relation to abutting streets and other details such as parking areas, access points, landscaped areas, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements.

Site specific development plan means the final plat of a subdivision or final development plan of a PUD (Planned Unit Development) when approved by the Board of Trustees pursuant to this Code.

Solid Waste Facility A facility where non-hazardous wastes are taken from collection vehicles, temporarily stored, and ultimately relocated to a permanent disposal site. This includes any facility, incinerator, landfill, materials recovery facility, municipal solid waste landfill, private or public solid waste management facility, recovered materials processing facility, sanitary landfill, or solid waste management facility.

Stable A facility that keeps or boards horses owned for the private use of the owners and/or residents of the property. This also includes horses owned by non-owners or non-residents of the property for private use. Accessory uses are permitted and include but are not limited to offices, storage areas, caretaker's quarters, educating and training in equitation, and caring for, breeding, or training horses associated with the Stable use.

Street means a public way (whether publicly or privately owned) used or intended to be used for carrying vehicular, bicycle and pedestrian traffic, and shall include the entire area within the public right-of-way and/or public access easement.

Streetscape means the distinguishing character of a particular street, within the public right-of-way, including paved materials and the adjacent space extending along both sides of a street, including landscaping, sidewalks, medians, lighting, street furniture and signage.

Structure means a combination of materials to form a construction for use, occupancy or ornamentation, whether installed on, above or below the surface of land or water.

Subdivider or developer means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

Subdivision means the platting of a lot or the division of a lot, tract or parcel of land into two (2) or more lots, plots or sites.

T

Technical School A nonacademic establishment such as a trade school, where instruction is offered in secretarial, computer and data processing, drafting, electronic repair including radio/TV repair, commercial art, allied health care, real estate, banking, restaurant operation, or similar trades, or vocational training such as automobile body and engine repair, construction equipment operation, building trades, truck driving, and mechanical and electrical equipment/appliance repair.

Tenant means a distinct user that occupies a portion of a multi-tenant building, lot, or development, regardless of the legal arrangement allowing occupancy between the owner of the building, lot, or development and the user.

Title commitment means formal documentation from a title company listing the name of the owner of the property under consideration, the legal description of the property and any legal holdings on the property, such as easements, rights-of-way or liens.

Tourist Facilities An establishment set up to primarily provide local tourist information to visitors.

Town Comprehensive Plan means the plan, which was adopted by the Planning Commission and Board of Trustees in accordance with Section 31-23-206, C.R.S., to guide the future growth, protection and development of the Town, affording adequate facilities for housing, transportation, comfort, convenience, public health, safety and general welfare of its population.

Town means the Town of Wellington, a municipal corporation of the State, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

Traffic control device means a sign, signal, marking, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction as controlled by the Federal Highway Administration's Manual on Uniform Traffic Control Devices.

Transit Facilities Includes transit or bus shelters, bus terminals, stations, and associated right-of-way. A "transit shelter" means a roofed structure on or adjacent to the right-of-way of a street, which is designed and used primarily for the protection and convenience of bus passengers. Includes accessory vehicle and bicycle parking.

U

Uplighting means lighting that is directed in such a manner as to shine light rays above the horizontal plane.

V

Vested property rights means the right to undertake and complete the development and use of the property under the terms and conditions of a site-specific development plan.

Veterinary Facilities, Large animals Any facility which is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases.

Veterinary Facilities, Small animals Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals are limited to dogs, cats or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

W

Warehouse, distribution and wholesale The storage of goods, and the sale of goods to other firms for resale, including activities involving significant storage and movement of products or equipment. This use does not involve manufacturing or production. Examples include:

- (a) Carting,
- (b) cold storage,
- (c) distribution facilities (as defined below),
- (d) dry goods wholesale,
- (e) express crating,
- (f) hauling,
- (g) feed locker plants,
- (h) fulfillment centers that combine storage with call centers,
- (i) hardware storage,
- (j) merchant wholesalers (such as restaurant supply sales),
- (k) warehouse or produce/fruit/food storage and wholesale structures,
- (l) wholesale sale of paper supplies, shoes, sporting goods, professional and commercial equipment and supplies, and otherwise preparing goods for transportation.

A "distribution facility" means the intake of goods and merchandise, individually or in bulk, the short-term holding or storage of such goods or merchandise, and/or the breaking up into lots or parcels and subsequent shipment off - site of such goods and merchandise. Distribution may be provided to an entity with an identity of interest with the distribution facility or to businesses and individuals unrelated to the distributor. The term "Distribution Facility" also includes a transshipment facility for the temporary holding, storage and shipment of goods or vehicles.

Warehousing means a business which stores or stocks merchandise or commodities.

Window means an opening constructed in an exterior which admits light or air to a building or structure, is framed and spanned with glass, and which may be mounted to permit opening and closing.

Wireless telecommunication equipment means any equipment used to provide wireless telecommunication service, but which is not affixed to or contained within a wireless telecommunication service facility, but is instead affixed to or mounted on an existing building or structure that is used for some other purpose.

Wireless telecommunication services means services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal Communications Commission for paging systems, enhanced specialized wireless telecommunication, personal communication services or cellular telephone.

Wireless Telecommunications Facility Any freestanding facility, building, pole, tower or structure used to provide only wireless telecommunication services, and which consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless telecommunication services.

Workshop A facility where goods are produced or repaired on a small scale by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, custom car or motorcycle restoring or other similar uses.

X, Y, Z

Yard means that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zone district in which the lot is located.

Yard, front means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

Yard, front setback means the distance a building or structure must be placed from the back of the front property line.

Yard, rear means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

Yard, rear setback means the distance a building or structure must be placed from the back of the rear property line.

Yard, side means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

Yard, side setback means the distance a building or structure must be placed from the back of the side property line.

Zone district means a zone district of the Town as established in Article 5 of this Code, unless the term is used in a context that clearly indicates that the term is meant to include both the zone districts of the Town and the zone districts of an adjoining governmental jurisdiction. Also referred to as zoning district.

Zoning map means the official zoning map adopted by the Board of Trustees by ordinance, as amended.



WELLINGTON WATERWISE

LANDSCAPE AND IRRIGATION DESIGN MANUAL



TOWN OF
WELLINGTON

December 2021 Draft
FOR PUBLIC REVIEW



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INTRODUCTION

BACKGROUND

Wellington’s population has more than doubled in the decade from 2010 to 2020. The Town is expected to continue to grow and include both residential and commercial developments, as well as associated parks, open space, and streetscapes. Residential land uses consume the most water as compared to other types of land uses, largely in part due to outdoor irrigation. Reducing water use for residential outdoor watering is identified as one of the most effective strategies for conserving the Town’s treated water supplies. Reducing outdoor irrigation for other land use types is also desirable. The 2018 Water Efficiency Plan identifies a goal of lowering the Town’s treated water demand by 5% between 2018 and 2023, and a total of up to 10% by 2027 (2018 Water Efficiency Plan).

Irrigation associated with landscape plantings in residential areas uses the most water. This includes private properties, streetscapes, and developed parks. “Xeriscape” is the strategic application of the minimum amount of irrigation water that is required to sustain the level use that a site receives, or to sustain key, highly visible, ornamental features that could not survive without supplemental water. These strategies have been promoted for

more than 35 years by many organizations and government agencies in Colorado, although property owners and the development community have been slow to embrace xeriscape principles. The reasons for not applying the principles of Xeriscaping include a culture that perceives beauty based on “abundant green”, which is imported from other areas of the country where the climate is different, and where precipitation is higher. Water, including for irrigation purposes, has also been relatively inexpensive in northern Colorado, which is a disincentive to conserve the resource.

Some communities in Colorado have taken bold steps to reduce water consumption that is associated with irrigating landscapes. They may have specific requirements for maximum amounts of water that can be applied, special plant lists, design criteria for landscaping and irrigation systems, and submittal requirements associated with zoning changes or obtaining building permits or water taps. This design manual highlights some of the most applicable examples of what has been implemented in other municipalities and proposes various tools that can be employed to conserve water supply for the Town.

PURPOSE

This Landscape and Irrigation design Manual (the Manual) is intended to provide information for designers and property owners to create landscape designs that provide an attractive, comfortable environment for users while minimizing maintenance needs and reducing water use. The Manual was developed by conducting research

into comparable communities, developing a list of best practices, and involving community stakeholders, to create specific recommendations for implementation of best practices for specific site types.



PROCESS

PUBLIC INPUT

Introduction

The effort to develop this Design Manual and the corresponding Landscape Standards included in the Wellington Land Use Code, began with outreach to the community. This effort included discussions with key stakeholders as well as online polling as described herein.

Stakeholder Outreach

Stakeholders included developers, engineers, builders, and landscape architects with experience designing and developing in the Town of Wellington as well as parks and recreation staff and Homeowner's Associations. These discussions resulted in a two lists representing needs for regulatory changes in the Town's Land Use Code and needs for programming such as education, resources and incentives. Primary themes from stakeholder outreach are outlined below:

Elements to include in the Land Use Code:

- Restrict amount of irrigated turf
- Provide recommended plant list
- Require all open spaces not used for athletic fields or play to be native grass
- Specify a maximum allowable irrigated area on large lots
- Require certain percentage of streetscapes to be xeriscape
- Provide a alternative grass option for lawns
- Require waterwise irrigation systems

Elements to be included as a Town Program:

- Promote irrigation system audits or updates
- Easy access to materials such as free mulch
- Rebates for reducing existing water usage
- Demonstration xeriscape garden
- Connect residents and businesses to available resources
- Offer a garden in a box program
- Encourage retrofitting existing landscapes

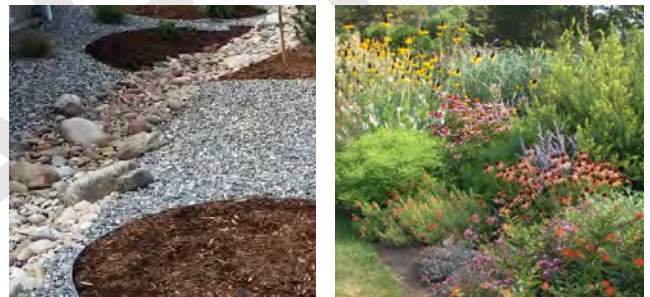
Online Polling

On April 30th, a poll was launched to understand the community's perception of low water (xeric) landscapes. A total of 203 responses were received in the two weeks the poll was open.

The poll asked two questions with the same series of images:

Q1 - Which of these landscapes represents xeriscape or low water landscape?

The top two choices included the following:



Q2 - Which of these landscapes would you prefer to see in Wellington?

The top choice included the following:

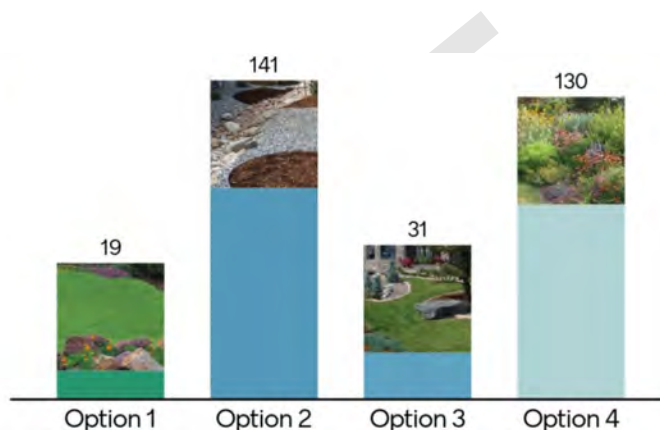


The conclusion to be drawn from this exercise is that although the image representing all rock and no landscape was identified as representative of xeriscape, the preference is for a more lush, green, colorful landscape palette. The least preferred option chosen was the image representing primarily turfgrass. These responses along with the stakeholder feedback directly influenced the resulting Design Manual and Code Standards.

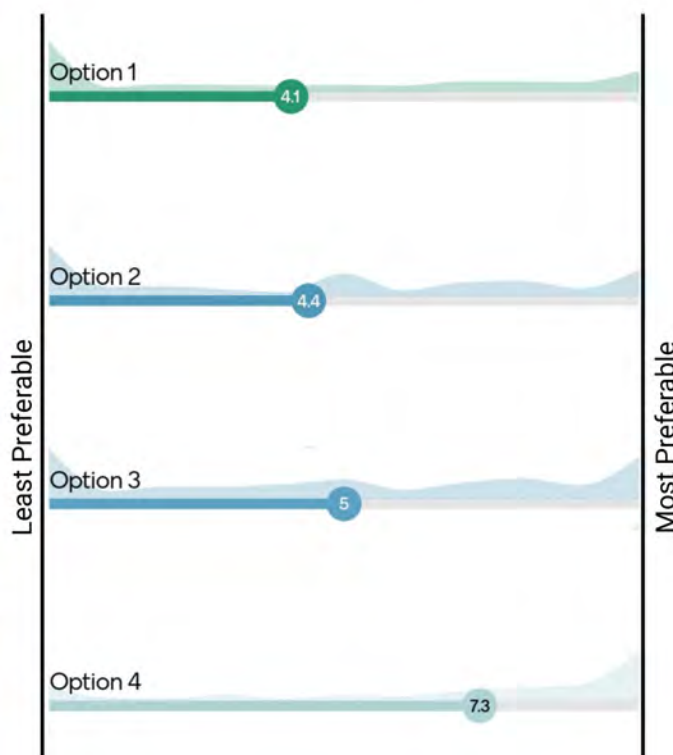
Summary of Feedback

Below is a snapshot of the results from the online polling conducted in April of 2021. Respondents were able to select all that applied in question 1 and were asked to rank the options in question 2 from least preferred to most preferred.

Q1: Which of these landscapes represent a xeriscape or low water landscape?



Q2: Which of these landscapes would you prefer to see in Wellington?



PROCESS

CASE STUDIES

Case studies of comparable municipalities and advisory groups was completed to gain insight into current best practices in landscape and irrigation design and management for water conservation.

Aurora, CO

Overview

The City of Aurora includes a Landscape Reference Manual that supports Chapter 4.7 Landscape, Water Conservation, and Stormwater Management, of the Unified Development Code (UDC). Additionally, the City has a waterwise demonstration garden to exhibit the preferred planting and irrigation techniques.

Details

- Requires permits for installation of turf or irrigation with an area greater than 250 sq. ft.
- Requires compost amendment must be added to the soil before a permit will be issued.
- Include a plant list ranking plant material by water use including a list of plants that require no supplemental water.
- Native vegetation does not need an automatic irrigation system.
- UDC includes section specific to Site Design for Low Impact Development
- UDC requires a variety of plant material including native drought-tolerant vegetation, and perennial and annual flowerbeds.

Centerra, CO

Overview

A showcase for sustainable development, Centerra is a 3,000-acre master-planned community in Loveland, CO. The development includes Landscape and irrigation Design Guidelines to ensure that every single development meets the established water conservation goals.

Details

- Provides principles of general landscape design and planting layout for water conservation such as limiting the use of high water turfgrass.
- Describes proper soil preparation techniques.
- Describes proper mulching techniques.
- Describes hydrozones.
- Includes guidelines on preservation or mitigation of existing vegetation.
- Provides an extensive plant list which lists characteristics such as flower color, blooming season, size, sun/shade needs and water needs.
- Provides irrigation design and construction criteria including guidance for operation, maintenance, and trouble shooting.



Colorado Springs, CO

Overview

The Colorado Springs Landscape Code and Policy Manual Water is divided into four basic sections including general information on Code sections and policy numbers, plan requirements for signature landscapes, site category requirements, and a design manual for signature landscapes.

Details

- Conservation is mentioned throughout the guidance document. Some of the major water conservation goals include:
 1. Use of xeriscape principles;
 2. Use of site-specific plant material matched to soil type and microclimate;
 3. Conservation of indigenous plant communities;
 4. Promotion of landscapes that require minimal supplemental irrigation; and
 5. Prohibition of restrictive covenants requiring turf grass due to water demand.
- Includes a detailed list of suggested plants to use for the region.
- Requires professional qualifications to develop an irrigation plan.
- Includes hydrozones which take into account water demand, slopes, and microclimates.



Erie, CO

Overview

The Town of Erie, Colorado not only includes landscape regulations specific to water conservation per the details below, but additionally, the Town recently retrofitted their own municipal building landscape to remove much of the high water use turf grass in lieu of a more xeric landscape as a demonstration of the principles within their Land Use Code.

Details

- Landscape plans are required to follow design treatments to facilitate water conservation. Treatments include:
 1. Appropriate turf selection to minimize the use of bluegrass;
 2. Use of mulch to maintain soil moisture and reduce evaporation;
 3. Zoning of plant materials according to their microclimate needs and water requirements;
 4. Improvement of the soil with organic matter if needed;
 5. Efficient irrigation systems;
 6. Proper maintenance and irrigation schedules; and
 7. Recirculation of water for decorative water features.



PROCESS

Parker, CO

Overview

The City of Parker Land Development Ordinance Landscape Regulations include several xeriscape requirements.

Details

- Due to excessive watering requirements, seed mixtures or sod containing large percentages of Bluegrass or other traditional turf grasses are to be limited in use. Traditional turf grasses are defined as Bluegrass (*Poa pratensis*) and turf type tall fescue (*Festuca arundinacea*) and cultivars thereof.
- Traditional turf grasses shall only make up fifteen percent (15%) of any required on-site landscaping for commercial and industrial uses. Where recreational components are included, the Planning Director may approve a greater amount of turf grass area. The applicant must demonstrate that the additional turf grass areas are being used in high-traffic areas such as athletic fields, children's play areas, parks and courtyards.
- Traditional turf grasses are prohibited for use on any interior parking lot landscaping.
- Preferred turf grasses include Buffalo Grass (*Buchloe dactyloides*) and Blue Grama (*Bouteloua gracilis*). Other native seed and seed blends will be considered that satisfy the requirements of this Section. There is no limitation on the use of preferred turf grass species

Colorado Growing Water Smart, The Water-Land Use Nexus Guidebook

Overview

Growing Water Smart is a program developed by the non-profit Sonoran Institute in partnership with the Lincoln Institute of Land Policy's Babbit Center for Land and Water Policy with the goal of realizing watershed health and community resiliency. In addition to providing workshops for communities across the west, they prepared the referenced document which provides a long list of basic principles to support water efficient landscaping, green infrastructure, & low impact development.

Details

- Conduct an assessment of saving potential by comparing annual water demands on a new property against an older property or properties with comparable area, plantings, and
- In order to approve new development, there must be:
An estimate of the amount of water supply needed for build out.
- A description of the source of the water supply.
- An estimate of the yield from the source under various hydrological conditions.
- Water demand management measures to be used.
- Any additional information the local government may require.



Sustainable Garden by American Design & Landscape



Colorado Water Conservation Guide

Overview

This is a citizen's guide to conserving water in Colorado which goes into detail about Colorado's fluctuating water supply/demand as well as how to be more efficient with water use in Homes and Cities. In addition to listing interior water savings techniques such as plumbing fixtures and appliances, there is guidance on ways to save with exterior water use per the details below.

Details

- Consider reuse of both potable and non-potable water
- Micro-irrigation (drip or microsprays) is estimated as up to 95% efficient irrigation technique as they deliver water directly on or below the soil surface.
- Includes a table with different types of irrigation technology and where they are most efficient.
- Efficient water use depends on management as much as the equipment utilized.
- Irrigation controllers can help residents use up to 50% less water by controlling the amount of time and water placed on the landscape.
- Non-irrigated native seed areas are not included in Composite Landscape Water Use Rating calculations.

Smart Growth Water-Efficient Landscape Design

Overview

"Water-Efficient Landscape Design is meant to serve as an alternative or supplement to the landscape design section of the Model Land Use Code for Colorado's Small Communities". The document provides a section dedicated to definitions of irrigation and other related terms.

Design Standards

- Landscapes shall use the following xeriscape design principles to facilitate water conservation:
 1. Well-planned planting schemes;
 2. Appropriate turf selection to minimize the use of bluegrass;
 3. Use of mulch to maintain soil moisture and reduce evaporation;
 4. Use plantings and berms to create outdoor rooms in common open space areas.
 5. Zoning of plant materials according to their micro-climatic needs and water requirements;
 6. Improvement of the soil with organic matter if needed;
 7. Efficient irrigation systems; and
 8. Proper maintenance and irrigation schedules .



BEST PRACTICES

PLANTING DESIGN

Good planting design can reduce water use and long-term maintenance needs. The best practices highlighted below primarily result from the case study research performed.

Planting Beds

- Replacing irrigated turf with planting beds will reduce irrigation requirements and can ease maintenance commitments.
- Planting beds can be used to cover small areas where spray irrigation is inefficient.

Low Water Bluegrass Alternatives

- Replacing bluegrass with low water turf grass alternatives in areas that are not primarily used for foot traffic can achieve a similar landscape character while saving annual water use over the replaced area.

Shade Trees

- Providing shade trees to lawn areas or planting beds provides heat regulating benefits which can slow the evaporation of moisture therefore resulting in a reduction in irrigation needs.

Micro-climates or Hydrozones

- Avoid relying solely on irrigation to provide water to high water use plants.
- Create depressions or direct runoff to man-made or naturally occurring low spots to create conditions where species with higher water use requirements can thrive.
- Locate planting beds downhill from large impervious areas like parking lots or hard surface sports courts to take advantage of the runoff while capturing sediment.

High Water Plant Exclusion

- Avoid plants and planting/irrigation design that requires high levels of water use for an irrigation zone when the remainder of the zone would survive with a lesser amount of water.

Tactical Water Use

- Limit high and moderate use plant material to the most heavily used and visible areas.
- Design for low and no water use at parcel edges and low traffic areas.
- Use an irrigation budget to directly water high impact trees and shrubs via drip or bubble systems instead of spraying turf.
- Planting beds can be used to improve privacy or screen visually undesirable areas like trash and maintenance facilities.

Water Use Groups

- Group plants with similar water use requirements to prevent over watering of low-use plants in irrigation zones that require more water.

Focus on Species Diversity

- Use a variety of plant materials including the use of native varieties or species that do not require supplemental water.
- Refer to the suggested plant list in the appendices.
- Non-native species should only be used to achieve design objectives that are not possible through the use of native species. Species with non-native origins are more likely to have higher water requirements than native species.

IRRIGATION DESIGN

Design irrigation systems to use less water and apply water to the landscape more efficiently.

Similar Water Use

- Group plants with similar water use into irrigation zones to avoid over watering lower water use plants.

Non-Potable Water

- Use not-potable water where possible to conserve drinking water for domestic uses.

Overspray

- Irrigation spray heads should be calibrated to avoid overspray onto impervious surfaces such as walks and drives and into walls, fences, buildings, and other structures.

Overwatering

- The amount of irrigation water applied to the landscape shall be the minimum amount required to maintain healthy plant life. Deep watering is encouraged.

Irrigation Timing

- Irrigation should occur between the hours of 7pm-7am to allow infiltration and to avoid excessive evaporation.

Drip Irrigation

- Use drip irrigation infrastructure wherever possible. Minimize areas requiring overhead spray irrigation.

Tree and Shrub Supplemental Irrigation

- Trees and shrubs not in areas receiving spray irrigation should receive individual irrigation via drip or bubbler systems.

Even Distribution

- Design all overhead spray irrigation systems to provide even distribution of sprayed water taking into account wind, landforms, vegetation, and other obstructions.

Establishment Watering

- Certain tree and shrub species can be planted outside of permanent irrigation zones if they receive supplemental watering while establishing root systems, approximately two to three years.

Efficient Equipment

- Install rain sensors to ensure that spray heads turn off while it is raining
- Use smart sensor controllers that are tied to weather applications.
- Where overhead spray heads are necessary, use efficient nozzles such as the Hunter MP Rotator.



BEST PRACTICES

GREEN INFRASTRUCTURE

Green infrastructure is an approach to water management that protects, restores, or mimics the natural water cycle. Incorporating green infrastructure is an effective way to reduce water usage and improve water quality.

Bioswales and Rain Gardens

- Capture stormwater by adding curb cuts to parking lots and streetscapes and depressing the planting area to allow for water to infiltrate rather than run off.
- Provides filtration of runoff before it returns to water courses or enters storm sewer systems.
- Can be planted attractively as a primary feature in the landscape.

Rain Barrels

- Store rainwater locally for later use, reduce irrigation draws and maximize efficiency of use of naturally occurring water.
- Follow applicable state laws with regards to amount of capture allowed and timing of release.

Permeable Pavement

- Incorporate permeable pavement instead of traditional hardscape to restore groundwater resources and reduce the amount of stormwater captured and conveyed off-site.

SOIL AMENDMENT AND COVER

Amending the soil properly prior to planting and using the right mulch can go a long way to reduce the water requirements of a landscape.

Soil Amendments

- Improve soil structure and moisture retention though the addition of composted organic material.
- Many Colorado communities require a rate of three cubic yards per 1000 square feet of landscape area integrated into the native soil to a depth of eight inches.
- Additional techniques include mixing one third compost with two thirds native soil in each planting hole.

Mulch

- Weeds cannot be avoided no matter the mulching technique. The best approach for water retention is to place three to four inches of shredded hardwood mulch on top of the soil in all planting beds.
- Trees planted in grass should include a mulched ring with a diameter of five feet around the trunk of the tree.





LANDSCAPE TYPES

DEFINITION OF LANDSCAPE TYPES

Landscape type is defined in this document by the amount of supplemental irrigation water required to sustain the plants in that landscape. The four landscape types are high, moderate, low, and xeric.

The amount of water is measured in gallons (gal) applied to a square foot (sf) of landscape over the irrigation season or year (yr).

The water requirement ranges to the right were derived by a calculation including the rate at which water evaporated from the soil locally in addition to known water requirements of plant species categorized by the landscape types herein.

Examples of the character and best applications of the landscape types used in this manual are shown on the following pages.

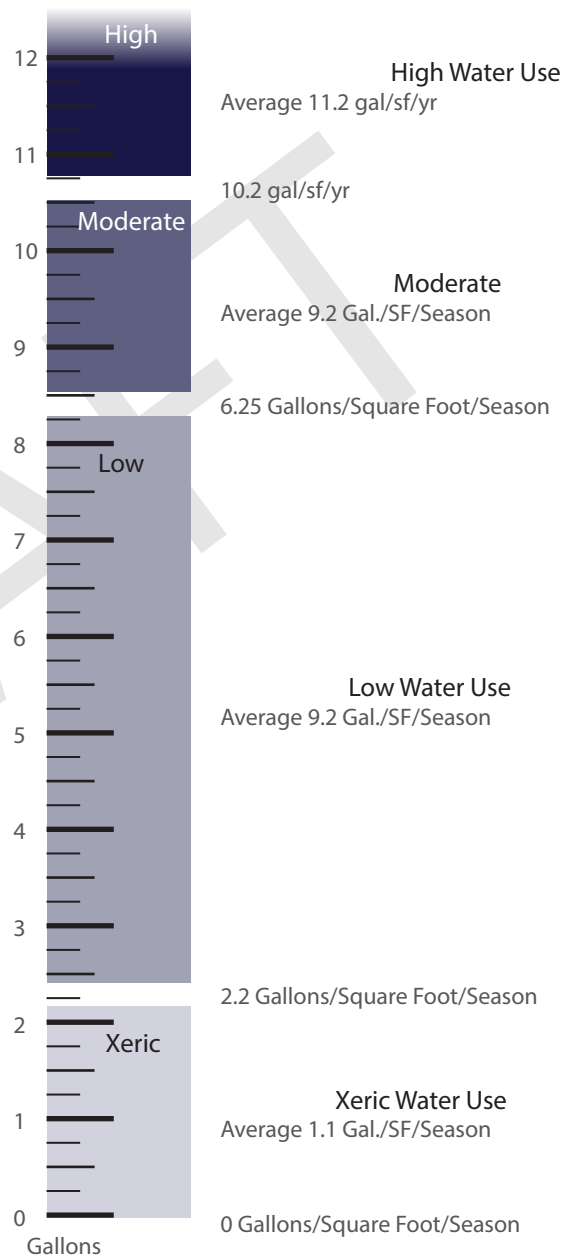
Average Water Use

There are many different ways to landscape a site. Reducing the area and amount of high water landscape types is the most effective way to reduce the overall water use of a site.

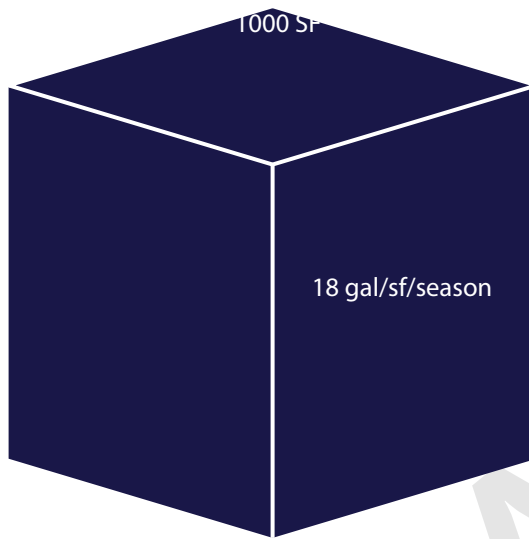
Site wide water use levels are determined by the average gallons per square foot per season applied across the site. This allows high water use areas to be balanced out with low and xeric areas, reducing overall water use.

Lot Average Water Use Reduction

The overall water usage of a property can be reduced by lowering the water usage of individual hydrozones and by increasing the ratio of lower water zones to higher water zones. Hydrozone means a portion of the landscaped area having plants with similar water needs that are served by an irrigation valve or set of valves with the same schedule.

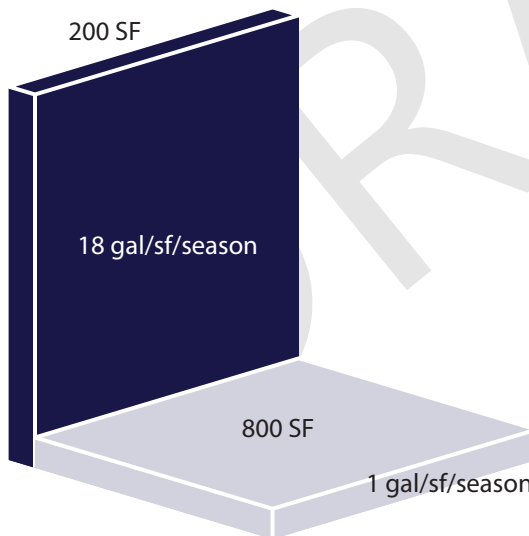


USING HYDROZONES TO REDUCE WATER USE



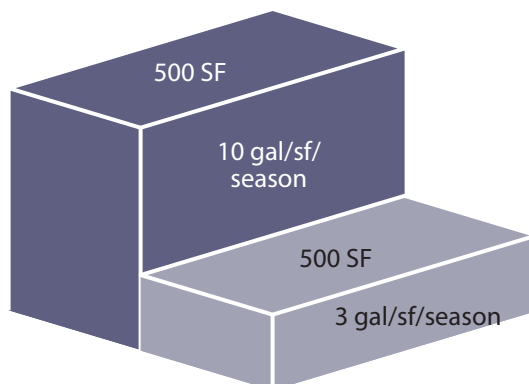
High Water, Large Area

A property that is landscaped exclusively with bluegrass can use several times the amount of water as the same size lawn landscaped using waterwise principles.



High Water, Small Area

A property with a high ratio of xeric to high water use landscape type can significantly reduce the overall water use of a site while preserving many of the visual and use benefits of irrigated bluegrass in high visibility or heavy foot traffic areas.



Balance of Moderate and Low Area

A landscape with a balanced ratio of medium to low water usage landscape types would fall into a medium hydrozone.

LANDSCAPE TYPES

HIGH WATER USE



Irrigated Bluegrass Park



Irrigated Bluegrass Lawn

Description

- The High Water Use Landscape type includes plants that require additional irrigation in excess of 10.2 gal/sf/season. This landscape is typified by bluegrass turf and annual planting beds.
- The total amount of water consumed by high water use landscape types is best limited by minimizing the total area covered by high water use plants.

Examples

Bluegrass Turf

- Traditional lawn areas watered by overhead spray irrigation.

Annual Flowers

- Typically planted in beds and watered heavily due to shallow root systems similar to bluegrass turf.

Shrubs, Grasses, Perennials, and Trees

- Consist of species found near water sources in nature such as birch trees, alder trees, willows, dogwoods, lily of the valley, ferns, and irises to name a few.

Best Applications

High Use, High Intensity, High Visibility Areas

- Maximize value and use of irrigated bluegrass by placing in high visibility, high traffic areas, specifically areas where it is shared by multiple users.
- Similarly, annual flowers are best used in small areas of high visibility for bright pops of color in the landscape.

MODERATE WATER USE



Moderate Water Use Planting Bed



Fescue Lawn

Description

- The moderate water use landscape type includes plants that require additional irrigation between 6.25-10.2 gallons/square foot/season. This landscape type is typified by, low water turf-type grasses, and some perennials, shrubs and trees.

Examples

Shrubs, Grasses, Perennials, and Trees

- Typically planted in beds and watered individually via drip or bubbler heads (not overhead spray).
- Consist of many of the more popular plant species such as maple trees, buckeye trees, crabapple trees, fruit trees, fir trees, euonymus, yew trees and shrubs, serviceberry, daphne, chokecherry, roses, spirea, bellflower, bleeding hearts, and peony.

Low Water Bluegrass Alternatives

- Turf type fescues that are maintained as lawns

Best Applications

Planting Beds

- Organize plants in planting beds and apply drip or bubbler irrigation to allow plants with higher water requirements to be watered with minimal waste.

Low use, High visibility areas

- Plant turf type fescue lawns instead of bluegrass turf in areas where the green lawn look is desired but there is no need to accommodate heavy foot traffic.

Specimen Planting

- Use high water shrubs, ornamental grasses, perennials and trees sparingly and plant species with high aesthetic value singly or in small groups and near other moderate water requirement plant material.

LANDSCAPE TYPES

LOW WATER USE LANDSCAPES



Native Grass Lawn



Low Water Planting Bed

Description

- The Low Water Use Landscape type includes plants that require additional irrigation between 2.2 and 6.25 gal/sf/season. This landscape is typified by low species that have adapted to our local climate as well as cultivars of native species that have been bred specifically to survive in our dry, high desert conditions.

Examples

Shrubs, Grasses, Perennials, and Trees

- Typically planted in beds and watered individually via drip or bubbler heads (not overhead spray).
- Consists of species such as honeylocust trees, kentucky coffee tree, hawthorn trees, some oak tree species, juniper, some pine species, spruce, barberry, butterfly bush, peashrub, lilac, cotoneaster, privet, ninebark, viburnum, potentilla, columbine, coreopsis, lavender, lupine, coneflower, and veronica.

Low Water Bluegrass Alternatives

- Buffalograss, Blue Grama, and other native short growth prairie grasses.

Best Applications

Planting Beds

- Organize plants in planting beds and apply drip or bubbler irrigation.

Low Intensity Use Areas

- Use high and moderate water landscape types sparingly and group together for efficient watering.

Low Maintenance

- Amend soils with organic matter at rates appropriate to the landscape type (see land use code section 5.04.3) and use shredded hardwood mulch to keep weeds to a minimum, reduce evaporation of water from the soil, and keep the plant roots cool.

XERIC WATER USE LANDSCAPES



Xeric Residential Landscape



Native Plant Landscape

Description

- The Xeric Landscape type includes plants and inert materials that require less than 2.2 gallons/square foot/season of supplemental irrigation. This landscape type is typified by native grasses, perennials, shrubs, and trees as well as inert groundcover material that requires no irrigation.

Examples

Native Grasses

- Native short growth prairie grasses and wildflowers.

Shrubs, Grasses, Perennials, and Trees

- Consists of species such as tree of heaven, hackberry tree, some oak tree species, buckthorn trees, sumac, elm trees, western serviceberry, sage, mountain mahogany, rabbitbrush, apache plume, mockorange, forsythia, currant, some juniper species, cactus, many pine species, yucca, yarrow, delphinium, penstemon, wild geranium, aster, daylily, flax, and tulip.

Inert Material

- Wood or stone mulch without plants and accent boulders.

Best Applications

Areas with Irrigation Difficulties

- Use xeric plants in areas that are too small to be watered efficiently or where access to water is difficult or impossible, i.e. too far from or isolated from the irrigation source.
- Use accent boulders to provide texture and variety in planting beds.

Low/No Maintenance Areas

- Areas that are too large or difficult to maintain regularly should be planted with native species that require little to no oversight.

Areas with difficult growing conditions

- Include xeric landscape types alongside roads and in areas receiving very little sunlight (inert materials).

SITE TYPES

OVERVIEW

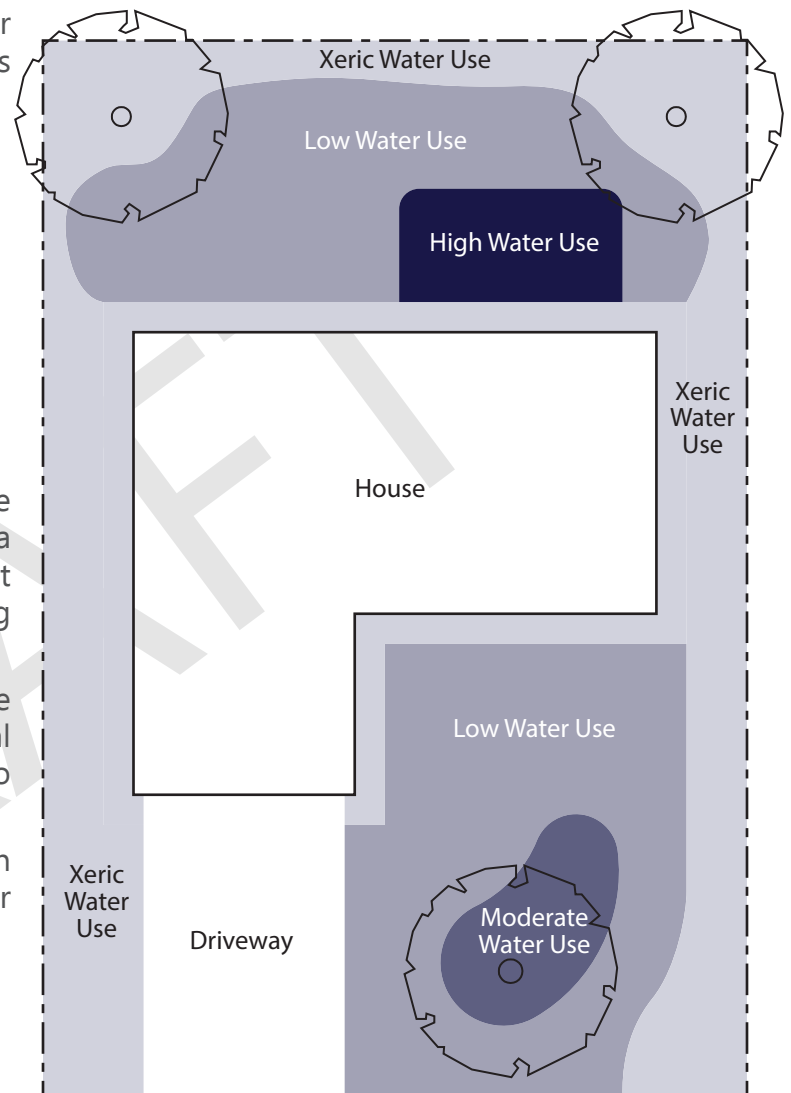
'Site Type' in this document refers to the character and use of a property. Site types covered by this document include:

- Parks and Open Space
- Streetscapes
- Multi-Family Residential
- Standard Lot Single Family Residential
- Large Lot Single Family Residential
- Nonresidential Development
- Industrial Development

For each type of site a graphic similar to the one at the right is used to conceptually illustrate a planting and irrigation design that implements best practices to minimize water use while preserving the aesthetic value of the site.

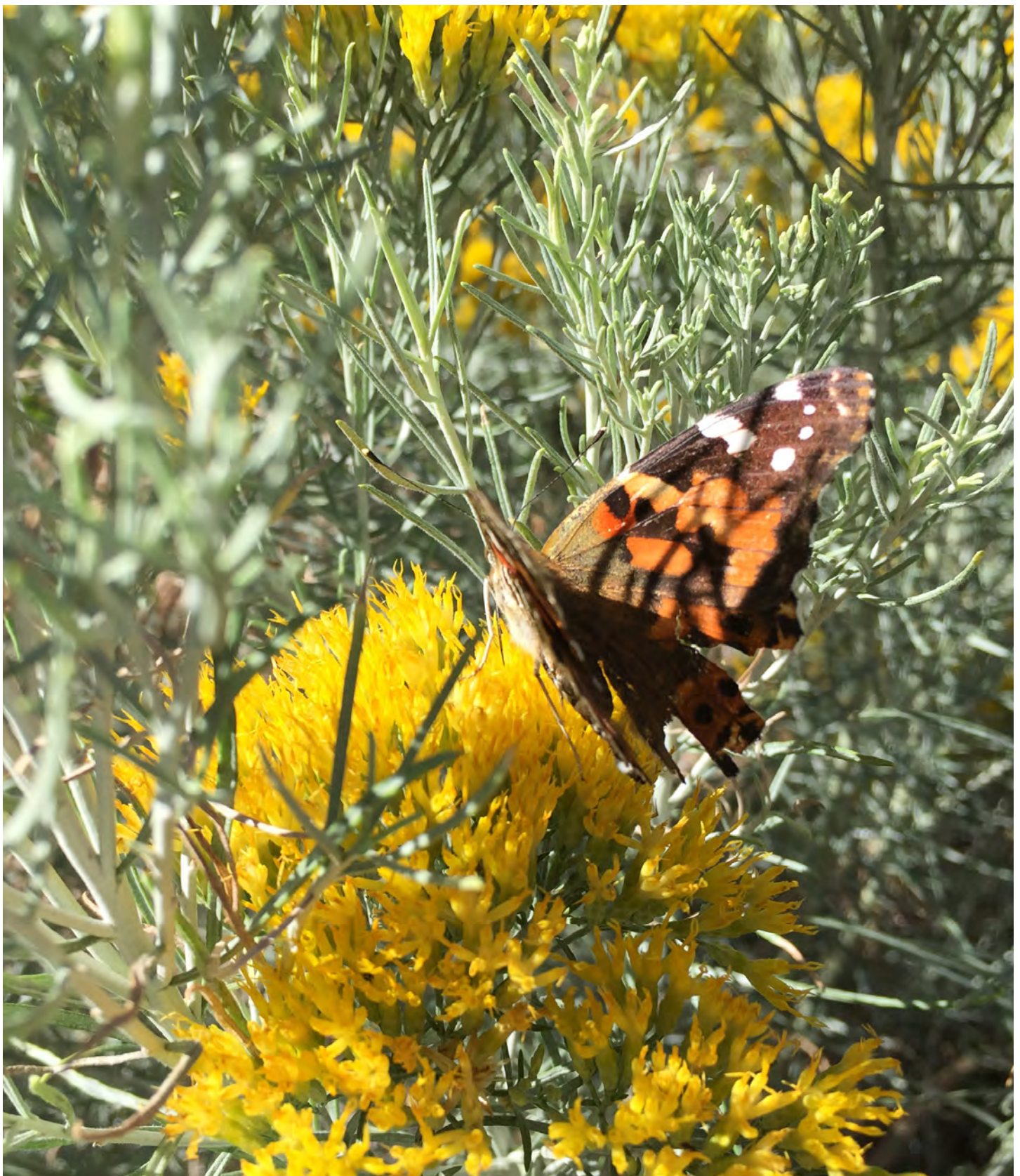
Images provide examples of what each landscape type can look like for each site type. Individual graphics are diagrammatic only and intended to convey design goals.

The graphics to the right show how water use can be reduced by minimizing the area of high water use landscape.



Water Use Landscape Types





SITE TYPES

PARKS AND OPEN SPACE



High Water Use

Use irrigated bluegrass in areas with frequent, intensive use including sports field and play areas.



Moderate Water Use

Incorporate planting beds and lower water turf alternatives along walkways and in low use/low traffic areas.



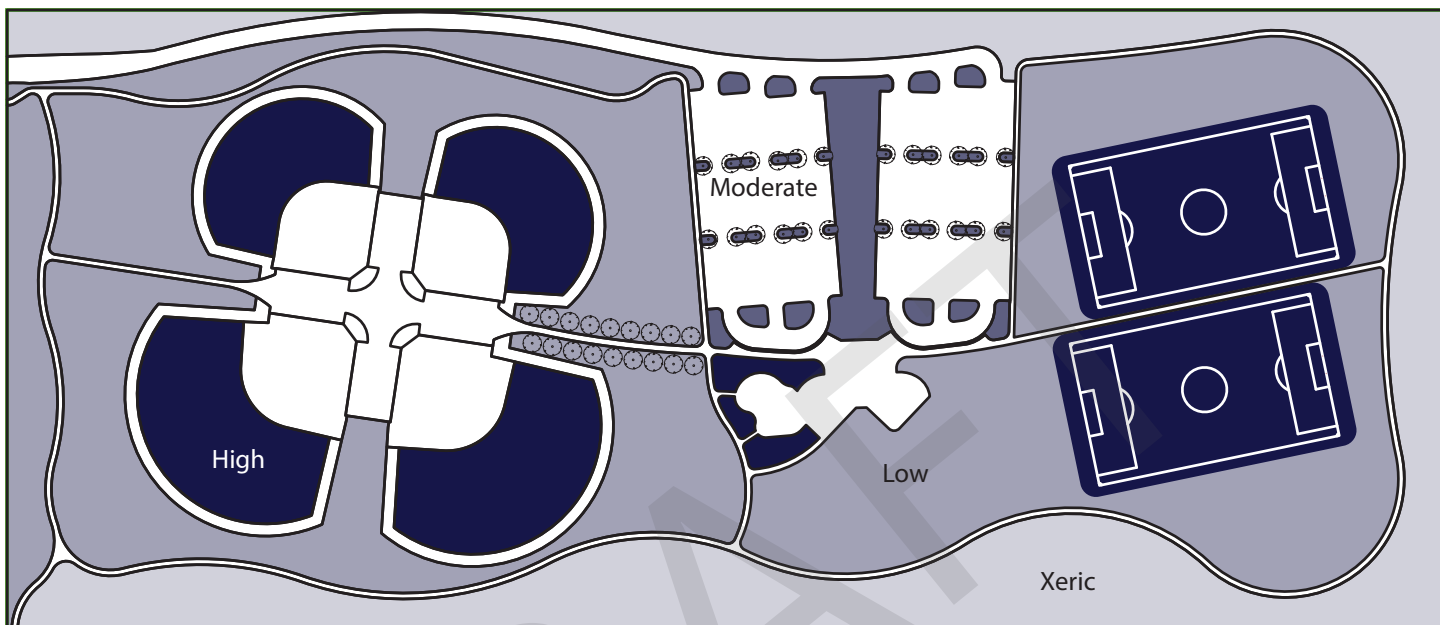
Low Water Use

Plant buffalo grass or blue grama and low water landscape types around the fringes of the site.



Xeric Water Use

Native plant material in passive areas, detention ponds and large open space areas to reduce water and maintenance requirements.



Water Use Landscape Types



These areas apply to all of the elements of parks and open space including detention ponds, active park space, passive park space, trail connections, and natural areas.

Above is an analysis of a large public park space with ballfields, parking lots, active play space, passive play space, trails, and native open space. The typical water usage for each scenario is

illustrated to show the water cost savings with a more balanced approach of low to xeric design.

The preferred scenario is to only use high water turf grass where needed for high traffic play surfaces in combination with a lower water use turf such as a fescue mix in lower traffic areas, xeric planting beds around parking lots, and low to no water native trees, shrubs and grasses around the edges.

SITE TYPES

STREETSCAPE



High Water Use

Limit irrigated bluegrass to locations with high visibility, including gateways and entrances.



Moderate Water Use

Mulch planting beds and install drip irrigation along roads and sidewalks can reduce required irrigation and maintenance of the more typical high water landscape type.



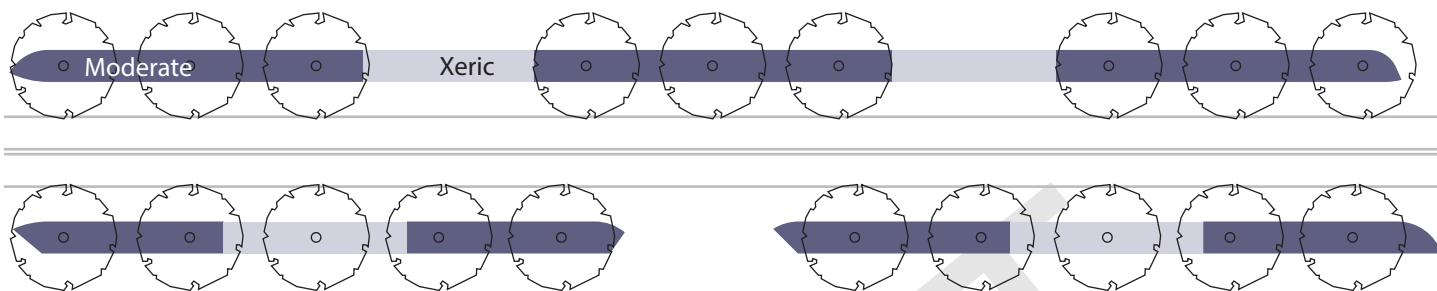
Low Water Use

Capture runoff from impervious surfaces to supplement direct rainfall and reduce irrigation volume requirements and allow sediments and pollutants to settle out of stormwater before reaching a drain inlet. Bioswales require hearty plants that are tolerant of salt and other chemicals found in road runoff.



Xeric

A mix of native and inert materials are appropriate for streetscapes because they don't require supplemental water, aren't affected by difficult growing conditions, and do not require as much maintenance as a higher water landscape type.



Landscape Types



The streetscape standards define planting requirements along public streets to improve right-of-way appearance and manage water use. The standards specify plant locations and spacing in consideration of the safety concerns of planting adjacent to roadways.

Species selection should take into account water use, maintenance requirements, potential hazards, and seasonal interest.

In general, streetscape landscape design should aim to reduce the use of turf grass and other high water usage species in favor of alternatives that require less maintenance and less water use.

SITE TYPES

MULTI-FAMILY RESIDENTIAL



High Water Use

Bluegrass should only be used in high visibility and high foot traffic areas.



Moderate Water Use

Planting beds to soften edges, improve visual character and create privacy.



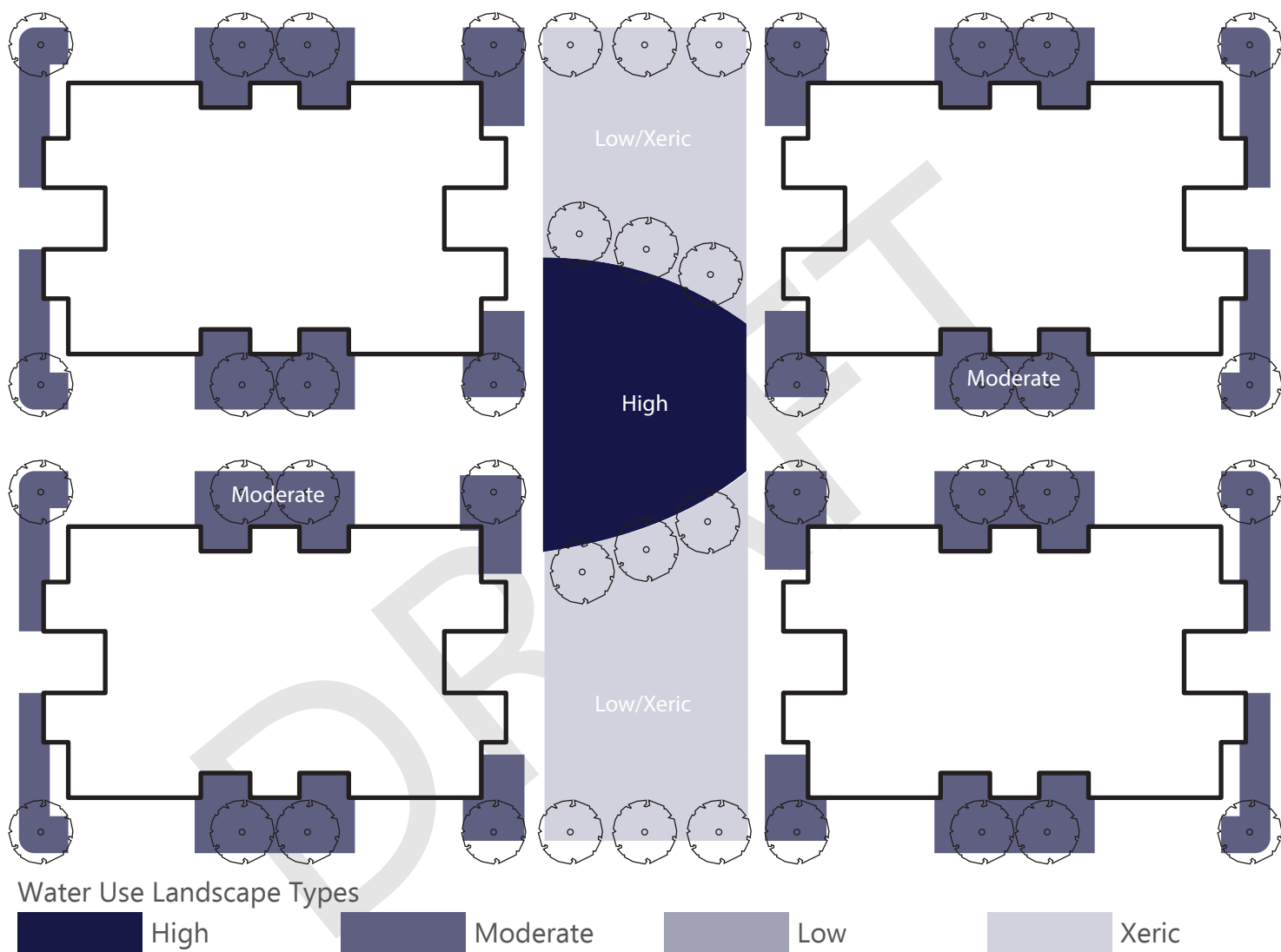
Low Water Use

Replace bluegrass turf with lower water alternatives in low volume or infrequent traffic areas to achieve a similar landscape character while saving annual water use over the replaced area.



Xeric

Use native plants mixed with accent boulders for an attractive landscape that uses little to no supplemental water throughout the growing season.



Multi-family landscape and irrigation standards apply to all multi-family and townhome developments. The standards in the Land Use and Development Code define the requirements for the size and character of planting areas to improve the appearance and function of landscape areas while maintaining water consciousness and integrating developments into surrounding neighborhoods. Planting at multi-family developments should be focused at key areas including screening around

mechanical areas and ornamental plantings around entrances and to provide visual interest along large featureless walls. Irrigated turf should be limited to active recreation areas and replaced with native grasses elsewhere.

Multi-family development standards also apply to shared parking lots and adjacent right-of-ways, both of which property owners are responsible for maintaining.

SITE TYPES

STANDARD LOT SINGLE FAMILY DEVELOPMENT



High Water Use

High water use areas and irrigated bluegrass should be limited to areas that are highly used and highly visible or where high water use specimen trees and shrubs are desirable.



Moderate Water Use

A mix of low to high water plant material which balances to a moderate water use to create full, vibrant planting beds.



Low Water Use

Plant areas that are highly visible but infrequently used in lower water bluegrass alternatives such as buffalo grass or blue grama.

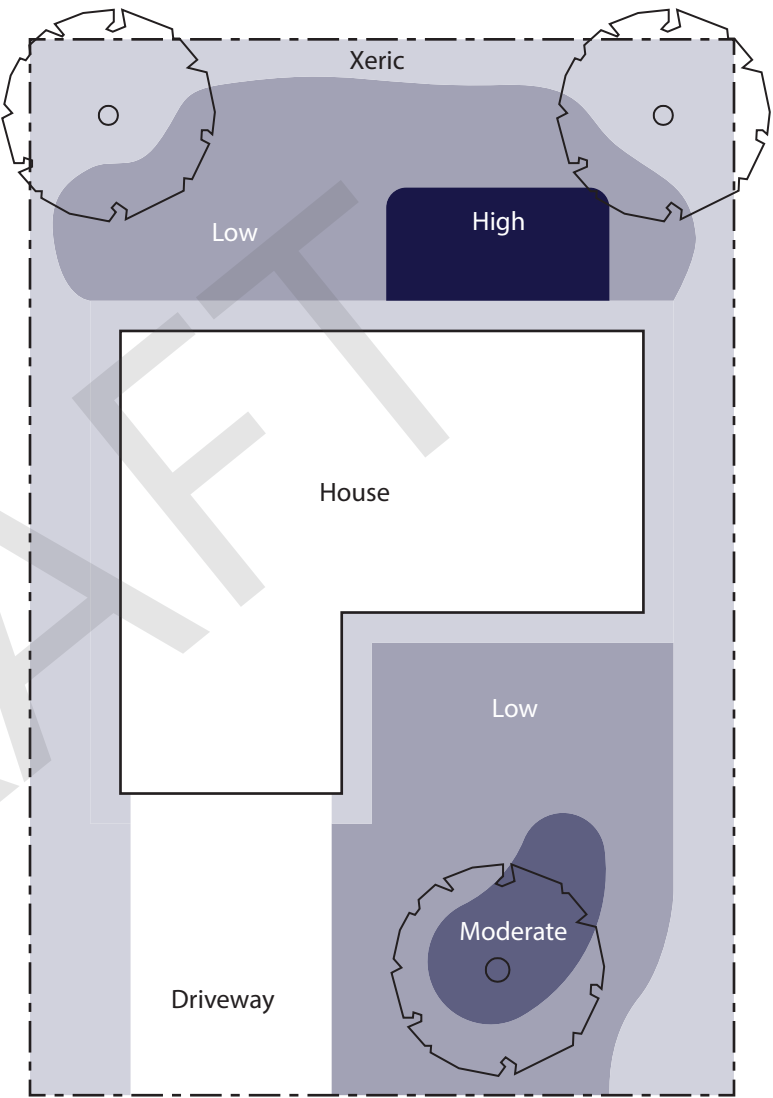


Xeric

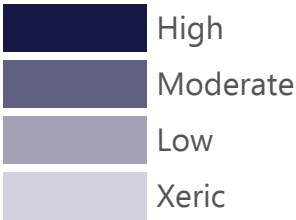
Plant native grasses around property boundaries or areas where low maintenance is desired.

This typology applies to all standard sized single family residential parcels in the Town from Downtown Neighborhoods to the outlying subdivisions with an average lot size of 6,000 to 8,000 SF.

To the right is an analysis of a typical parcel showing a range of planting scenarios from high water use (primarily bluegrass turf) to very low water use (primarily native plants that require little to no supplemental watering). The ultimate goal is to install a balanced landscape which includes no more than 50% bluegrass turf and organizes plant material into hydrozones, grouping plantings with similar water needs to allow for a more efficient watering system. It is not the intention to result in single family parcels that are covered in rock and little landscape, therefore a minimum of 75% of the front yard shall be covered in live plant material per the Land Development Code.



Water Use Landscape Types



SITE TYPES

LARGE LOT SINGLE FAMILY DEVELOPMENT



High Water Use

Maintain irrigated bluegrass in frequently used and highly visible areas rather than using bluegrass as the primary groundcover as pictured above.



Moderate Water Use

Use lower water use bluegrass alternatives in low-use/high-visibility areas to reduce water use without sacrificing visual quality. Divide up turf areas with planting beds with a variety of watering requirements.



Low Water Use

Plant large landscape beds with low water use landscape types. Plant the remainder of the yard in native grasses or buffalo grass and blue grama.

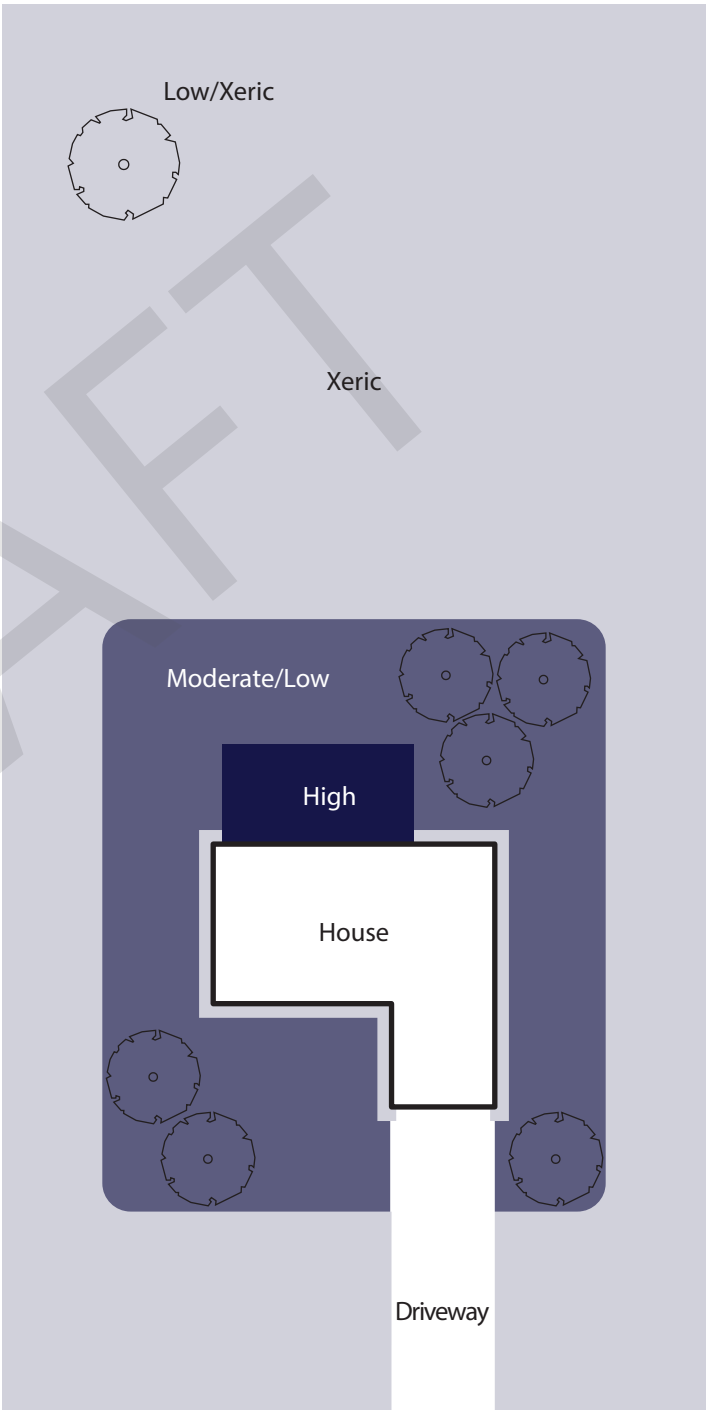


Xeric

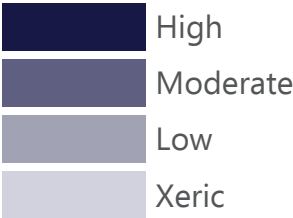
Use a palette of native and xeric plant material close to the house. Plant large open spaces in native grasses and wildflowers that do not require supplemental water and can be left natural with little maintenance or mowed for a more manicured look.

This site type is large size single family residential parcels in the Town. To be considered large a parcel must exceed one half acre (1/2) in size.

The standards for large lot single family development aim to reduce overall water usage while preserving the natural character of the surrounding landscape. By recommending smaller areas of irrigated turf that are kept close to buildings and away from property edges the standards create larger, more contiguous areas of native plants that preserve the natural character of Wellington’s rural surroundings while reducing water usage.



Water Use Landscape Types



SITE TYPES

NONRESIDENTIAL DEVELOPMENT



High Water Use

Concentrate high water plant material such as bluegrass turf to strategic or high traffic locations such as building entries and gathering spaces.



Moderate Water Use

Target use of an irrigation budget to directly water high impact trees and shrubs via drip or bubble systems instead of spraying turf.



Low Water Use

Replace bluegrass with low water alternatives in low volume or infrequent traffic areas to achieve a similar landscape character while saving annual water use over the replaced area.



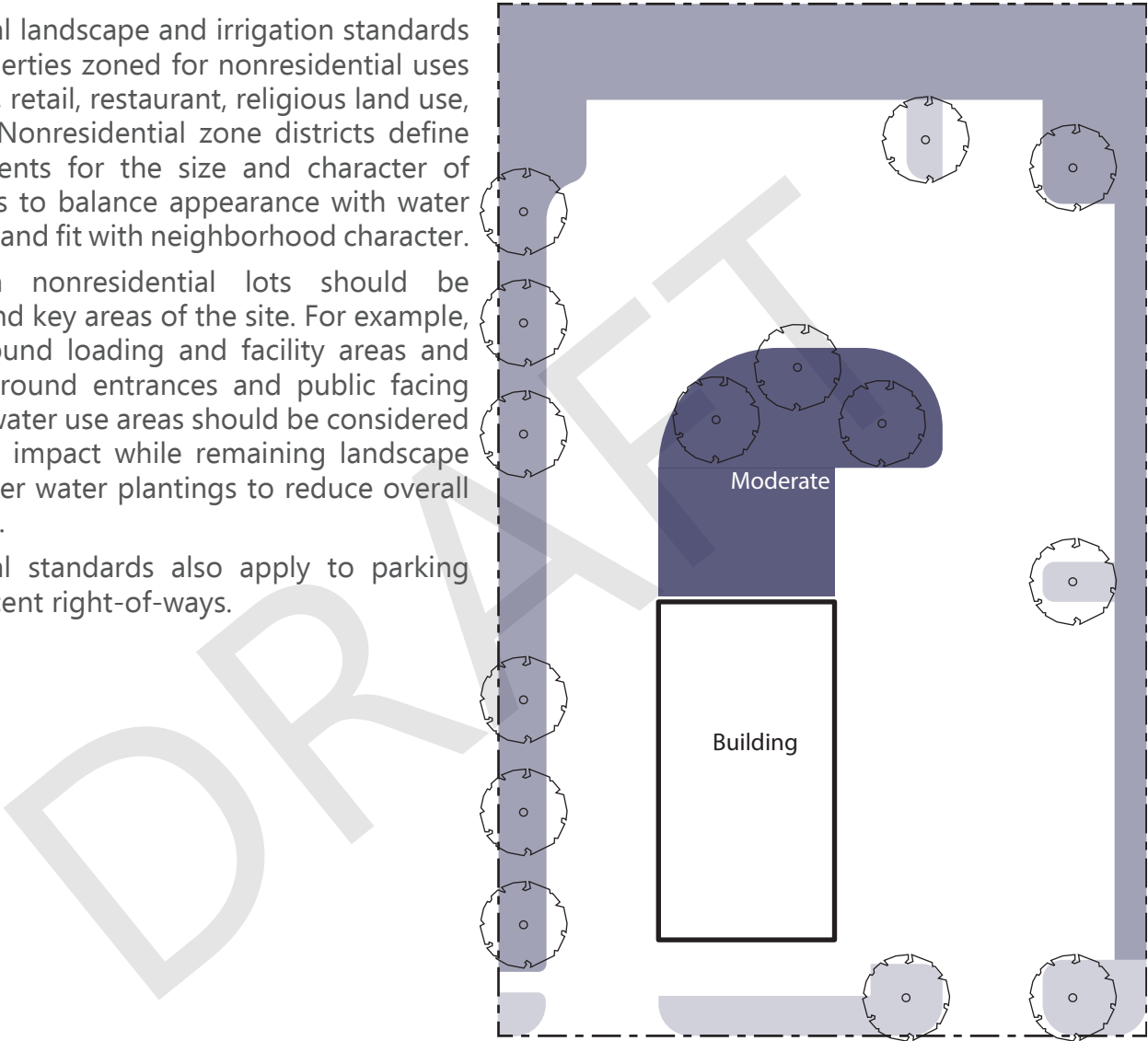
Xeric Planting

Use no water native plantings and low water use planting beds with drip irrigation in areas that are further from the irrigation source.

Nonresidential landscape and irrigation standards apply to properties zoned for nonresidential uses such as office, retail, restaurant, religious land use, schools, etc. Nonresidential zone districts define the requirements for the size and character of planting areas to balance appearance with water requirements and fit with neighborhood character.

Plantings on nonresidential lots should be focused around key areas of the site. For example, screening around loading and facility areas and ornamental around entrances and public facing places. High water use areas should be considered for maximum impact while remaining landscape area uses lower water plantings to reduce overall site water use.

Nonresidential standards also apply to parking lots and adjacent right-of-ways.



Water Use Landscape Types

	High
	Moderate
	Low
	Xeric

SITE TYPES

INDUSTRIAL DEVELOPMENT



High Water Use

Irrigation of high water requirement plants should be limited to areas that will achieve the maximum benefit for the amount of water used (i.e. employee break area, entrances and gateways).



Moderate Water Use

Direct watering of landscape screens through use of drip or bubble systems can maximize the landscape benefit per gallon of water used. Screening vegetation should be placed in landscape beds to reduce water use and maintenance requirements.



Low Water Use

Use low water use plant material in planting beds for perimeter treatments required by the Land Use and Development Code.



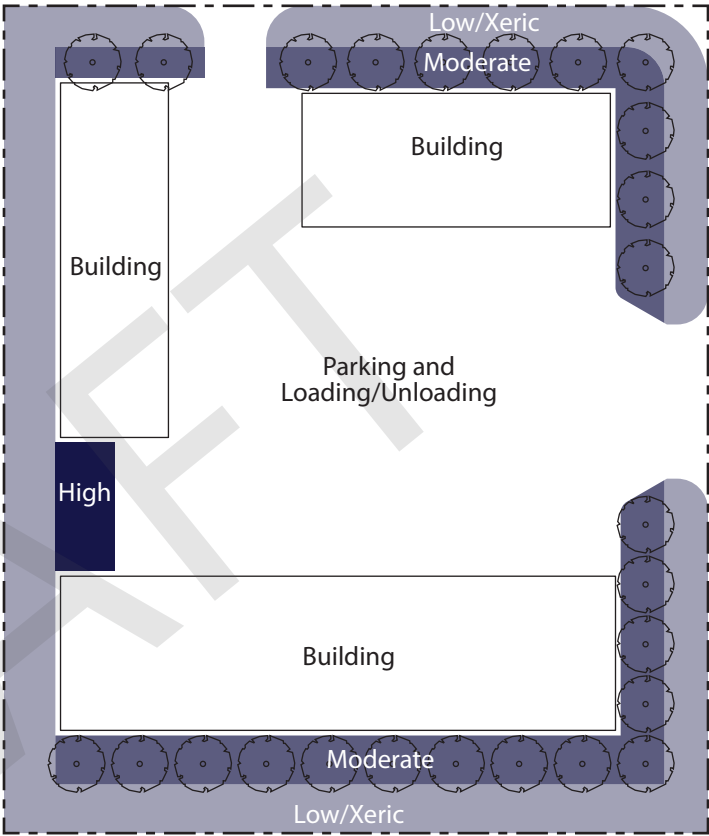
Xeric

Incorporate native plants, accent boulders, and rock mulch into required planting areas for low water use and lower maintenance.

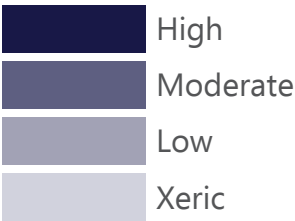
Water usage on properties zoned for industrial use should focus on the development and maintenance of vegetation buffers and screening and landscape infrastructure such as bioswales and other stormwater and water quality management practices or shade plantings to reduce climate control energy expenditures.

Small areas for employee break spaces can be also be high water usage zones.

While commercial areas can benefit from the visual enhancements of additional plantings these benefits are of less impact in industrial areas and should be restricted to areas around street facing entries.



Water Use Landscape Types



WATER SAVINGS WORKSHEET

You can use the formulas below to estimate your current water usage and potential water savings by switching to lower water use landscaping.

1. Find Total Landscaped Area

Total Parcel Area _____ Acres
- Structures and Impervious Area _____ Acres

Landscape Area _____ Acres



2. Estimate Current Water Use

Estimate the percentage of total landscape area at each water use level

Estimate the annual water use of each water use area: (Total Landscape Area * Percentage of Landscape Area * Gal/SF/Year)

High Water Use Area _____ % * 12 Gal/SF/Year = _____ Gal/Year
Moderate Water Use Area _____ % * 9 Gal/SF/Year = _____ Gal/Year
Low Water Use Area _____ % * 3 Gal/SF/Year = _____ Gal/Year
Xeric (No Water Use) Area _____ % * 1 Gal/SF/Year = _____ Gal/Year

_____ Add water use by area to estimate total annual water use

3. Estimate Reduced Water Use

Estimate the percentage of total landscape area at each water use level after implementing lower water use practices.

Estimate the annual water use of each water use area: (Total Landscape Area * Percentage of Landscape Area * Gal/SF/Year)

High Water Use Area _____ % * 12 Gal/SF/Year = _____ Gal/Year
Moderate Water Use Area _____ % * 9 Gal/SF/Year = _____ Gal/Year
Low Water Use Area _____ % * 3 Gal/SF/Year = _____ Gal/Year
Xeric (No Water Use) Area _____ % * 1 Gal/SF/Year = _____ Gal/Year

_____ Add water use by area to estimate total annual water use

_____ Estimated Reduced Water Use -
Estimated Current Water Use =
Water Savings

ADDITIONAL RESOURCES

Below is a list of websites that link to additional resources providing everything from additional plant lists to proposed waterwise techniques in landscape design.

<https://sonoraninstitute.org/>

<https://extension.colostate.edu/>

<https://www.northernwater.org/>

https://www.auroragov.org/business_services/development_center/codes_rules/landscaping

<https://coloradowaterwise.org/XeriscapeColorado/>

<https://cmg.extension.colostate.edu/gardening-resources/online-garden-publications/water-wise-landscaping-xeriscaping/>

<https://www.botanicgardens.org/>

<https://www.fcgov.com/gardens/>

https://www.highcountrygardens.com/?gclid=Cj0KCQiA2ZCOBhDiARIsAMRfv9KRjQkk5Dw2iy5v06i_vfcK4ZBIBkkKIKMIEA-FeThMuWVpSDmNMsaAjlwEALw_wcB

<https://resourcecentral.org/gardens/>



photo credit: Resource Central, Garden in a Box

RECOMMENDED PLANT LIST

TREES

Genus	Species	Common Name	Water Use
Acer	ginnala (all cultivars)	Amur Maple	L-M
Acer	grandidentatum	Bigtooth Maple	L-M
Acer	tataricum	Tatarian Maple	L-M
Aesculus	glabra	Ohio Buckeye	M
Aesculus	pavia	Red Buckeye	M
Aesculus	hippocastanum	Horsechestnut	M
Amelanchier	sp.	Serviceberry	
		Saskatoon Serviceberry	L-M
		Regent Serviceberry	L-M
		Autumn Brilliance Serviceberry	L-M
		Shadblow Serviceberry	L
Catalpa	speciosa	Western Catalpa	L-M
Celtis	occidentalis	Hackberry	Xeric
Cercis	sp	Redbud	M
Crataegus	spp.	Hawthorn	
	ambigua	Russian Hawthorn	L-M
	arnoldiana	Arnold's Hawthorn	L-M
	crus-galli	Cockspur Hawthorn	L-M
	crus-galli var. inermis	Thornless Cockspur Hawthorn	L-M
	douglasii	River Hawthorn	L-M
	mollis	Downy Hawthorn	L-M
	phaenopyrum	Washington Hawthorn	L-M
	succulenta	Fleshy Hawthorn	L-M
	virdia 'Winter King'	Winter King Hawthorn	L-M
Gleditsia	triacanthos inermis 'Imperial'	Imperial Honeylocust	L-M
	triacanthos inermis 'Shademaster'	Shademaster Honeylocust	L-M
	triacanthos inermis 'Skyline'	Skyline Honeylocust	L-M
	triacanthos inermis 'Sunburst'	Sunburst Honeylocust	L-M
Gymnocladus	dioica	Kentucky Coffeetree	L-M
Juglans	nigra	Black Walnut	L-M
Juniperus	spp.	Juniper (all types)	Xeric
Koelreuteria	paniculata	Goldenrain Tree	L-M
Malus	spp.	Apple and Crabapple	M

RECOMMENDED PLANT LIST

TREES

Phellodendron	amurense	Amur Corktree	L-M
Pinus	spp.	Pine	
	aristata	Bristlecone Pine	L-M
	cembroides edulis	Pinyon Pine	L-M
	flexilia	Limber Pine	M
	nigra	Austrian Pine	L
	ponderosa	Ponderosa Pine	L-M
	strobiformis	Southwestern White Pine	M
	sylvestris	Scotch Pine	L-M
Prunus	spp.	Cherries/Plums/Chokecherries	M
Pyrus	spp.	Pear (Ornamental)	M
	calleryana 'Aristocrat'	Aristocrat Pear	M
	calleryana 'Chanticleer'	Chanticleer Pear	M
	calleryana 'Stone Hill'	Stone Hill Pear	M
	fauriei	Fauriei Pear	M
	fauriei 'Korean Sun'	Korean Sun Pear	M
	ussuriensis	Ussurian Pear	M
	ussuriensis 'Prairie Gem'	Prairie Gem Pear	M
Quercus	spp.		
	alba	White Oak	L-M
	bicolor	Swamp White Oak	L-M
	gambelii	Gambel Oak	L-M
	imbricaria	Shingle/Laurel Oak	L-M
	macrocarpa	Bur Oak	L-M
	prinus	Chestnut Oak	L-M
	robur	English Oak	L-M
	robur 'Fastigiata'	Columnar English Oak	L-M
	undulata	Wavy Leaf Oak	L-M
Robinia	pseudoacacia	Black Locust	L
Sophora	japonica	Japanese Pagoda Tree	L-M
Syringa	pekinensis	Peking Lilac	L-M
Syringa	reticulata	Japanese Tree Lilac	L-M
Ulmus	frontier	Elm	M
	george washington		M
	triumph		

RECOMMENDED PLANT LIST

SHRUBS

Genus	Species	Common Name	Water Use
Acer	ginnala 'Bailey Compact'	Bailey Compact Amur Maple	L-M
Acer	ginnala 'Compactum'	Compact Amur Maple	L-M
Acer	ginnala 'Emeral Elf'	Emerald Elf Amur Maple	L-M
Acer	ginnala 'Flame'	Flame Amur Maple	L-M
Acer	tataricum	Tatarian Maple	L-M
Amelanchier	sp.	Serviceberry	
		Saskatoon Serviceberry	L-M
		Regent Serviceberry	L-M
		Autumn Brilliance Serviceberry	L-M
		Shadblow Serviceberry	L
Aronia	sp.	Chokeberry	M
Artemisia	spp.	Sage	
	cana	Silver Sagebrush	Xeric-M
	tridentata	Tall Western Sagebrush	L
Atriplex	canescens	Four-wing Saltbrush	Xeric-L
Berberis	spp.		
	mentorensis	Mentor Barberry	L-M
	thunbergii 'Atropurpurea'	Red Leaf Barberry	L-M
	thunbergii 'Bagatelle'	Bagatelle Barberry	M
	thunbergii 'Crimson Pygmy'	Crimson Pygmy Barberry	L-M
	thunbergii 'Rose Glow'	Rose Glow Barberry	L-M
Buddleia	davidii	Butterfly Bush	M
Caragana	spp.	Peashrub	
	arborescens	Siberian Peashrub	L-M
	arborescens 'Lobergii'	Fern-leaf Siberian Peashrub	L-M
	frutex 'Globosa'	Globe Peashrub	L-M
	maximowicziana	Maximowicz Peashrub	L-M
Caryopteris x clandonensis		Blue Mist Spirea	L-M
Ceanothus	fendleri	Mountain Lilac	Xeric-L
Ceratoides	lanata	Winterfat	L

RECOMMENDED PLANT LIST

SHRUBS

Cercocarpus	spp.	Mountain Mahogany	
	brevifolius	Little-Flowered Mountain Mahogany	Xeric
	intricatus	Littleleaf Mountain Mahogany	Xeric-L
	ledifolius	Curl-Leaf Mountain Mahogany	Xeric-L
	montanus	Common Mountain Mahogany	L-M
Chamaebatiaria	millefolium	Fernbush	Xeric-L
Chrysothamnus	sp.	Rabbitbrush	Xeric-L
Cotoneaster	spp.	Cotoneaster	
	acutifolia	Peking Cotoneaster	L
	apiculatus	Cranberry Cotoneaster	M
	apiculatus 'Tom Thumb'	Tom Thumb Cotoneaster	M
	dammeri 'Coral Beauty'	Coral Beauty Cotoneaster	M
	divaricatus	Spreading Cotoneaster	L-M
	horizontalis	Rock Cotoneaster	M
	horizontalis perpusillus	Ground Cotoneaster	M
	lucidus	Hedge Cotoneaster	L-M
Cowania	neomexicana	Cliffrose	L
Cytisus	spp.	Broom	
	scoparius 'Moonlight'	Moonlight Broom	L-M
	purgans 'Spanish Gold'	Spanish Gold Broom	L-M
Daphne	spp.	Daphne	M
Euonymus	spp.	Euonymus	M
Fallugia	paradoxa	Apache Plume	Xeric-L
Forestiera	neomexicana	New Mexican Privet	L-M
Hippophae	rhamnoides	Sea Buckthorn	L-M
Holodiscus	dumosus	Rock Spirea	L-M
Juniperus	spp.	Junipers	Xeric-M
Kolkwitzia	amabilis	Beautybush	L-M
Ligustrum	spp.	Privet	L-M
	obtusifolium var. regalianum	Regal Privet	L-M
	vulgare 'Cheyenne'	Cheyenne Privet	L
	vulgare 'Densiflorum'	Upright Privet	L-M
	vulgare 'Lodense'	Lodense Privet	L
Lonicera	spp.	Honeysuckle	

RECOMMENDED PLANT LIST

SHRUBS

	'honeYROSE' (sp?)	HoneyROSE Honeysuckle	M
	korolkowii var. floribunda 'Blue Velvet'	Blue Velvet Honeysuckle	M
	syringantha var. wolfii	Lilac-flowering Dwarf Honeysuckle	M-H
	tatarica 'Arnold Red'	Arnold Red Honeysuckle	L-M
	xylosteoides 'Clavey's Dwarf'	Clavey's Dwarf Honeysuckle	L-M
	xylosteoides 'Miniglobe'	Miniglobe Honeysuckle	L-M
Mahonia	repens	Creeping Grape Holly	L-M-H
Perovskia	atriplicifolia	Russian Sage	L-M
Philadelphus	spp.	Mockorange	
	lewisii	Lewis Mockorange	L-M
	microphyllus	Littleleaf Mockorange	L-M
Physocarpus	spp.	Ninebark	
	monogynus	Mountain Nineback	L-M
	opulifolius		L-M
	cultivars		L-M
Pinus	mugo	Mugo Pine	L
Potentilla	spp.	Potentilla	L
Prunus	spp.	Cherries/Plums/Chokecherries	
	besseyi	Western Sand Cherry	L-M
	fruticosa	Ground Cherry	L-M
	tomentosa	Nanking Cherry	L-M
	virginiana	Native Chokecherry	L-M
Quercus	gambelii	Gambel Oak	L
Rhamnus	spp.	Buckthorn	
	frangula 'Asplenifolia'	Fern-leaf Buckthorn	L-M
	frangula 'Columnaris'	Columnar Buckthorn	L-M
Rhus	aromatica	Fragrant Sumac	
	aromatica 'Gro-Low'	Gro-Low Sumac	Xeric-M
	glabra	Smooth Sumac	L-M
	glabra var. cismontana	Rocky Mountain Sumac	L-M
	trilobata	Threeleaf Sumac	Xeric-L
	typhina	Staghorn Sumac	L-M
	typhina 'Lacinata'	Cutleaf Sumac	L-M
Ribes	spp.	Gooseberry/Currant	

RECOMMENDED PLANT LIST

SHRUBS

	alpinum	Alpine Currant	L-M
	alpinum 'Green Mound'	Green Mound Currant	L-M
	aureum	Golden Currant	M
	cereum	Wax Currant	L-M
	"Red Lake"	Red Lake Currant	M
	"Pixwell"	Pixwell Currant	L-M
Rosa	spp.	Shrub Roses	M
Robinia	pseudoacacia	New Mexico Locust	L
Rubus x tridel	"Beneden"	Beneden Thimbleberry	M
Shepherdia	sp.	Buffaloberry	Xeric-M
Spirea	spp.	Spirea	M
Symphoricarpus	spp.	Snowberry	L
	albus	White Snowberry	L
	chenaultii 'Hancock'	Hancock Coralberry	L-M
	doorenbosii 'Magic Berry'	Magic Berry Coralberry	L-M
	doorenbosii 'White Hedge'	White Hedge Snowberry	L-M
	occidentalis	Western Snowberry	L-M
	orbiculatus	Red Coralberry	L-M
	oreophilus	Mountain Snowberry	L
Syringa	spp.	Lilac	
	hyacinthiflora (all cultivars)	Early Lilac	L
	prestoniae (all cultivars)	Late Lilac	L-M
	vulgaris (all cultivars)	Common and French Lilac	L-M
Viburnum	spp.	Viburnum	
	lantana	Wayfaringtree	L-M
	lantana 'Mohican'	Mohican Viburnum	L-M
	lentago	Nannyberry	L-M
	rhytidophylloides 'Alleghany'	Alleghany Leatherleaf Viburnum	L-M
Yucca	sp.	Yucca	Xeric-L

RECOMMENDED PLANT LIST

PERENNIALS

Genus	Species	Common Name	Water Use
Achillea	sp.	Yarrow	Xeric-M
Agastache	sp.	Hyssop	L-M
Ajuga	reptans	Bugleweed	M
Alcea	sp.	Hollyhock	L
Alchemilla	mollis	Lady's Mantle	M-H
Allium	sp.	Ornamental Onion	L
Alyssoides	utriculata	Bladderpod	L
Alyssum	montanum	Mountain Gold	L
Alchemilla	mollis	Lady's Mantle	L-M-H
Amsonia	hubrichtii	Blue Star	L-M
Anacyclus	depressus	Mt. Atlas Daisy	L
Anchusa	sp.	Bogloss	L
Anemone	sp.	Windflower	M
Antennaria	sp.	Pussytoes	L
Anthemis	tinctoria	Chamomile	M
Aquilegia	sp.	Columbine	M
Arabis	caucasica	Rock Cress	L
Arctostaphylos	santii	Emerald Queen Manzanita	L-M
Arctostaphylos	uva-ursi	Kinnikinnick	L
Arenaria	sp.	Sandwort	M
Armeria	maritima	Sea Pinks	M
Artemisia	frigida	Fringed Sage	Xeric
Artemisia	sp.	Sage	Xeric-L
Asclepis	tuberosa	Butterfly Weed	L
Aster	sp.	Aster	L
Aurinia	saxatalis	Basket-of-gold	L-M
Baptisia	australis	False Indigo	L-M
Belamcanda	chinensis	Blackberry Lily	M
Bergenia	cordifolia	Pigsqueak	M
Berlandiera	lyrata	Chocolate Flower	Xeric-L
Boltonia	asteroides	Starflower	M
Brunnera	macrophylla	Siberian Forget-Me-Not / Siberian Bugloss	M
Callirhoe	involucrata	Poppy Mallow	L-M

RECOMMENDED PLANT LIST

PERENNIALS

Calylophus	serrulatus	Sundrops	L
Calamintha	grandiflora	Beautiful Mint	L
Campanula	sp.	Bellflower	M
Centaurea	montana	Hardy Bachelor Button	L
Centranthus	ruber	Jupiter's Beard	L-M-H
Cerastium	tomentosum	Snow-In-Summer	L-M
Ceratostigma	plumbaginoides	Leadwort/Plumbago	L-M
	spp.	Garden Mum	L-M
Coreopsis	sp.	Tickseed	L
Cytisus x 'Lena'	x	Lena Broom	L
Delosperma	sp.	Ice Plant	L-M
Delphinium	sp.	Delphinium	M
Dianthus	sp.	Pinks	M
Diascia	intergerrima 'coral canyon'	Twinspur 'Coral Canyon'	M
Digitalis	sp.	Foxglove	M
Echinacea	purpurea	Purple Coneflower	M
Echinops	ritrp	Globe Thistle	L-M
Epilobium	sp.	Fireweed	L-M
Erigeron	sp.	Daisy Fleabane	L
Eriogonum	umbellatum	Sulphur Flower	Xeric-L
Eryngium	amethystinum	Sea Holly	L-M
Euonymus	fortune 'Coloratus'	Purple-leaved Wintercreeper	L-M
Eupatorium	greggii	West Texas Mist Flower	M
Euphorbia	epithymoides	Cushion Spurge	L
Gaillardia	aristata/grandiflora	Blanketflower	L-M
Galium	odoratum	Sweet Wodruff	M-H
Gaura	lindheimeri	Whirling Butterflies	L
Gazania	sp.	Hardy Gazania	L-M
Geranium	sp.	Hardy Granium	L-M
Geum	sp.	Geum	M
Goniolimon/ limonium	sp.	Statice	L-M
Gutierrezia	sarothrae	Snakeweed	M
Gypsophila	sp.	Hardy Baby's Breath	M

RECOMMENDED PLANT LIST

PERENNIALS

Hedera	helix	English Ivy	M
Helenium	autumnale	Sneezeweed/Helen's flower	M
Helianthemum	nummularium	Sun Rose	M
Heliopsis	helianthoides	False Sunflower	M
Helleborus	sp.	Lenten Rose	M-H
Hemerocallis	sp.	Daylily	M-H
Heuchera	sanguinea	Coral Bells	M
Hosta	sp.	Plaintain Lily	M-H
Hypericum	calycinum	St. John's Wort	M
Iberis	sempervirens	Candytuft	M
Iris	germanica (hybrid)	Bearded Iris	L-M
Knautia	macedonica	Red Pincushion	L
Kniphofia	uvaria	Red Hot Poker	L
Lamiastrum	galeobdolon	Yellow Archangel	M
Lamium	maculatum	Dead Nettle	M
Lavandula	sp.	Lavender	Xeric-M
Lavatera	thuringiaca	Tree Mallow	L
Leontopodium	alpinum	Edelweiss	L
Leucanthemum x superbum		Shasta Daisy	M
Liatris	sp.	Gayfeather	Xeric-L
Linum	perenne	Blue Flax	L-M
Lychnis	chalcedonica	Maltese Cross	M
Lychnis	coronaria	Rose Campion	L-M
Mahonia	repens	Creeping Grape Holly	L-M
Malva	alcea	Rose Mallow	M
Mirabilis	multiflora	Hardy Four-O-Clock	Xeric-M
Mondard	fistulosa menthaefolia	Native Lavender Bee Balm	M-H
Nepeta x faassenii	sp.	Catmint	L-M
Oenothera	sp.	Evening Primrose	Xeric
Origanum	sp.	Oregano/Marjoram	L
Osteospermum	sp.	Sun Daisy	L-M
Paeonia	lactiflora	Peony	M
Papavar	sp.	Poppies	L-M
Penstemon	sp.	Beardtongue/Penstemon	L

RECOMMENDED PLANT LIST

PERENNIALS

Perovskia	atriplicifolia	Russian Sage	L
Persicaria	affinis	Himalayan Border Jewel	L
Phlomis	cashmeriana	Jerusalem Sage	M
Phlox	subulata	Creeping Phlox	M
Platycodon	grandiflorus	Ballon Flower	M-H
Polemonium	caeruleum	Jacob's Ladder	M
Potentilla	sp.	Cinquefoil/Potentilla	L-M
Prunella	laciniata	Self Heal	L
Pulmonaria	sp.	Lungwort	M
Pulsatilla	vulgaris	Pasque Flower	L
Ratibida	columnifera	Prairie Coneflower	Xeric
Rosmarinus	officinalis 'Arp'	Lemon Rosemary	L
Rudbeckia	sp.	Black-eyed Susan	L
Salvia	sp.	Silver Sage	L-M
Salvia	officinalis	Garden Sage	L-M
Santolina	sp.	Lavender Cotton	L-M
Saponaria	sp.	Soapwort	L-M
Scabiosa	sp.	Pincushion	L
Sedum	sp.	Sedum/Stonecrop	L
Sempervivum	sp.	Hen and Chicks	Xeric-L
Solidago	sp.	Goldenrod	L
Stachys	lanata (S. byzantina)	Lamb's Ear	L
Stanleya	pinnata	Prince's Plume	L
Tanacetum	coccineum	Painted Daisy	L
Tanacetum	densum amani	Partridge Feather	Xeric
Tanacetum	niveum	Snow Daisy	L-M
Thymus	sp.	Creeping Thyme	L
Tradescantia	sp.	Spiderwort	M
Verbena	canadensis	Verbena	L
Veronica	sp.	Speedwell/Veronica	L
Vinca	sp.	Myrtle/Periwinkle/Vinca	L-M
Viola	corsica	Corsican Violet	M
Waldsteinia	ternata	Barren Strawberry	L
Zauschneria	arizonica	Hummingbird Trumpet	L
Zauschneria	garrettii	California Fuschia	L

RECOMMENDED PLANT LIST

VINES

Genus	Species	Common Name	Water Use
Campsis	radicans	Trumpet Vine	L-M
Celastrus	scandens	Bittersweet	M
Clematis	sp.	Clematis	M
Lonicera	japonica	Honeysuckle Vine	L-M
Fallopia (Polygonum)	aubertii	Silver Lace Vine	L
Parthenocissus	quinquefolia	Virginia Creeper	L-M

GROUNDCOVERS

Genus	Species	Common Name	Water Use
Antennaria	rosea	Pink Pussytoes	L
Cerastium	tomentosum	Snow-in-Summer	L-M
Delosperma	sp.	Hardy Ice Plant	L-M
Santolina	chamaecyparissus	Lavender Cotton	L-M
Polygonum	affine	Himalayan Fleeceflower	M-H
Sedum	spectabile	Showy Stonecrop	L
Sempervirens	sp.	Hens and Chicks	L
Thymus	pseudolanuginosus	Wooly Thyme	L-M
Veronica	pectinata	Blue Wooly Speedwell	L
Zinnia	grandiflora	Paper Flower	Xeric-L

RECOMMENDED PLANT LIST

ORNAMENTAL GRASSES

Genus	Species	Common Name	Water Use
Agropyron	cristatum	Crested Wheatgrass	Xeric-L
Andropogon	gerardii	Big Bluestem	L-M
Bouteloua	curtipendula	Sideoats Gramma Grass	L
Bouteloua	gracilis	Blue Gramma Grass	L
Buchloe	dactyloides	Buffalo grass	L
Calamagrostis	acutiflora	Feather Reed Grass	M
Chasmanthium	latifolium	Northern Sea Oats	M
Deschampsia	caespitosa	Hairgrass	M
Erianthus (Sacharrum)	ravennae	Hardy Plume Grass	L-M
Festuca	arundinacea	Tall Fescue	L-M
Festuca	ovina glauca	Blue Fescue	L-M
Helictotrichon	sempervirens	Blue Oat Grass	L
Imperata	cylindrica 'Red Baron'	Japanese Blood Grass	L-M
Miscanthus	sinensis	Maiden Hair Grass	M
Oryzopsis	hymenoides	Indian Ricegrass	L
Panicum	virgatum	Switch Grass	L
Pascopyrum	smithii	Western Wheatgrass	L
Pennisetum	alopecuroides	Fountain Grass	M
Pennisetum	setaceum 'Rubrum'	Purple Fountain Grass	M
Phalaris	arundinacea 'Picta'	Ribbon Grass	L-M-H
Schizachyrium	scoparium	Little Bluestem	L
Sorghastrum	nutans	Indian Grass	L
Spartina	pectinata	Prairie Cordgrass	M
Sporobolus	heterolepsis	Prairie Dropseed	M
Stipa	Sp.	Feather/Needle Grass	L

Public Comments
Draft Version 1 - Feb. 3, 2022

Timestamp	Specific code section	Land Use Code Feedback	Full Name	Do you live or work within the Town of Wellington	Response
2/15/2022 23:18	4.02 - Table of Allowable Uses	Make McKinley and Harrison part of R-4 and take all the businesses out of R-4. Take Mixed Use Dwelling and Multi-Family Dwelling out of R-4, the residents have spoken that they don't want that.	Christine Gaiter	I live in Wellington	Multi-family dwelling has been removed as a permitted use from R-4 and mixed-use changed to conditional per the questionnaire results. Additionally, brew pubs have been removed as a permitted use from R-4 removed per Planning Commission and Town Board comment in addition to this comment. The official zoning map will be a separate adoption process following adoption of the land use code. Boundaries of zone districts will be identified at that time. Based on feedback heard so far, the recommendation is to zone much of Harrison and McKinley R-4 with the possible exception of properties nearer to First Street and Sixth Street which are already including some commercial uses.
2/15/2022 23:13	7.01.12.E.1.a & 2	These rules about nonconforming structure is concerning because my house is a nonconforming structure. a) If it is damaged more than 50%, I'm not allowed to rebuild my house. A residence house should always be allowed to be rebuilt. This is a person's home. 2) Board of Adjustment can terminate the right to operate a nonconforming structure. No one should ever have the right to terminate a residential home.	Christine Gaiter	I live in Wellington	This will need to be discussed with the Planning Commission at the work session on March 7. PC QUESTION: Do you want to identify existing homes in C-2 to be considered a conforming use and be allowed to rebuild per current code (effects approximately 5 houses) or broaden the options that home is damaged beyond 50% can be replaced in a certain timeframe or meet certain conditions?
2/15/2022 23:08	5.08	Re: Sign Code: Make permits not required for residents in DCC. Allow unlimited temp signs for 90 days. Allow 32 sf. for temp signs. Fort Collins does not limit yard signs for residence, why are we more restrictive than Fort Collins? Fort Collins allows 32 sf temp signs for residence, why are we more restrictive than Fort Collins?	Christine Gaiter	I live in Wellington	City of Fort Collins divides their temporary signs up into several categories for yard signs, site signs, etc. The yard signs are the most comparable to what is proposed with the temporary signs portion of the draft code update. The draft code does not require permits for temporary signs. Primary (permanent) signs do require permits. The draft code allows 6 temporary signs on residential properties up to 6 sq. ft. each. A revision was added allowing 2 additional temporary signs for up to 70 days. The time period for temporary signs is revised from 45 days to 90 days.
2/15/2022 10:23		Am I able to set an appt to meet with someone to discuss land code?	Tom Stine	I live in Fort Collins	This has been completed. Questions were not related to this Code Update effort
1/7/2022 20:30		Home Occupation is not permitted in Downtown Core. What does this mean for current home occupations in downtown core?	Christine Gaiter	I live and work in Wellington	Home Occupation was added as a permitted use in C-2, Downtown Core.
9/16/2021 7:46		During the 7/2/21 planning commission meeting, Commissioner McCaffrey and the Mayor said that there wouldn't be apartments and 3 stories on Harrison and McKinley and commercial would stay on Cleveland. Will you honor your word by removing C-2 from the description of high density residential? This is a yes or no answer. This was in the document that already was presented in the 9/13/21 meeting but was not removed at that meeting.	Christine Gaiter	I live in Wellington	The current draft of the code describes the C-2 zone as having a mix of uses that "should encourage 'select' infill of vacant residential and commercial areas and slightly increase the height of existing buildings to support upper level residential uses." The current draft does not include reference to high density residential.
2/17/2022 16:55		Are they going to develop north of main street? Take people's houses?	Jennifer	I live in Wellington	The Land Use Code provides statements and descriptions of uses that are allowed and not allowed to provide clarity and flexibility as to what a property owner can do with their property.
2/21/2022 10:11	Zoning	Ch. 3 pages 4-5 Is there a reason why the dwelling-units/acre are left out of the description of the R-3 & R-4 zones?	Kathy Wydallis	I live in Wellington	Dwelling units/acre is identified in the dimensional standards tables. Listing density information in the zone district descriptions is not necessary, so these have been removed from the district descriptions for consistency.

Public Comments
Draft Version 1 - Feb. 3, 2022

Timestamp	Specific code section	Land Use Code Feedback	Full Name	Do you live or work within the Town of Wellington	Response
2/21/2022 10:11	Harrison and McKinley zoning, Cleveland Ave. businesses	As the mayor suggested, to provide peace of mind to the current residents of Harrison and McKinley and to acknowledge the 200 signers of the petition to keep those streets residential, Harrison and McKinley ought to be zoned Residential with some flexibility for unobtrusive commercial purposes rather than zoned Commercial allowing grandfathered in residences. As Commissioner McCaffrey brought up, it seems extremely unfair that if a house on either of those two streets is demolished by fire (or a tree falling on it or other catastrophe making it unlivable) that the owners cannot rebuild a residence. Zoning it Residential with flexibility would solve that unfairness too.	Kathy Wydallis	I live in Wellington	The official zoning map will be a separate adoption process following adoption of the land use code. Boundaries of zone districts will be identified at that time. Based on feedback heard so far, the recommendation is to zone much of Harrison and McKinley R-4 with the possible exception of properties nearer to First Street and Sixth Street which are already including some commercial uses.
2/21/2022 10:11	Uses	Where would a small newspaper business fit in? As a print shop? A newspaper would fit in any of the commercial zones, but pure print shops are relegated to Industrial.	Kathy Wydallis	I live in Wellington	Newspaper sales, a newsstand, or a small scale print shop such as a Kinko's would be considered a retail use. Larger print shops with mass production would be considered an industrial use.
2/21/2022 10:11	Uses	Churches should also be allowed in the commercial and industrial zones. There may not be many churches that are interested, but it ought to be allowed.	Kathy Wydallis	I live in Wellington	Religious land use has been added as a permitted use in the Light Industrial zone district.
2/21/2022 10:11	Uses	Large animal veterinary clinics' rules seem to be written by people unfamiliar with large animals - 1) A large animal vet would probably not want to build in town limits. 2) Thinking that odor or noise can be constantly controlled is unrealistic. 3) Chickens and weaned calves are the noisiest farm animals, and most large-animal vets would rather do anything than work on poultry. Farm animals are usually very quiet at night. 4) Why in the world would we not allow cattle or sheep or horses to be outside between 8pm & 8am? Especially in an industrial or rural zone.... Ranchers work at all hours and drop off and pick up their animals when they can. This would also require the vet to build a barn for the occasions when a rancher's trailer broke down and couldn't pick his animals up or, because of an emergency, the vet had to postpone an appointment with animals already at the clinic. Does the writer of these rules have any idea what large animal vets do? 5) Boarding? We're not talking about pets. These rules sound a bit unnecessary and out of touch. We are still an agricultural community. Most people were aware of this when they moved here. (And lots of us particularly like that aspect of Wellington.) So we have dairy smells now and then....so what! The uninformed large animal vet clinic rules leads me to wonder if the rules for other businesses that I am not familiar with have been written with the same lack of logic and lack of personal knowledge by the rule-writers.	Kathy Wydallis	I live in Wellington	Use regulations for large animal veterinary facilities are based on best practices.

Public Comments
Draft Version 1 - Feb. 3, 2022

Timestamp	Specific code section	Land Use Code Feedback	Full Name	Do you live or work within the Town of Wellington	Response
2/21/2022 10:11	Uses	Auctions have been left completely out of this plan. Motor vehicle repair has been disallowed on Cleveland. If Knaacks or Smelkers want to sell to another mechanic or auctioneer or leave their business to a relative, will they be able to do this? Wellington is a SMALL town. Wellington residents like that about Wellington. Small towns are a lot more practical and flexible about businesses on their main streets. Cleveland does not have to look like something from Disney. Is this hard for Logan-Simpson to understand? Or is this MainStreet's fantasy? I don't know a single soul who is wishing we were like Boulder or Fort Collins. But I suspect that our well-paid consultants think we need to be nudged in that direction. We don't. If there is not a pressing need brought to the Town's attention by its residents....leave it be. Leave our auction and mechanics and Pizza Palace and anything else they and our MainStreet charity don't like alone.	Kathy Wydallis	I live in Wellington	Nonconforming uses are covered in Chapter 7 of the draft code. The use is allowed to remain until the property owner chooses to change the use. A change of ownership does not constitute a change of use.
2/21/2022 10:11	Signs	Signs - I do not understand if the number of temporary signs has been increased. It should be unlimited during election season, and please remember that our election season has been dramatically extended. 30-45 days used to be plenty of time to allow political signs because there was ONE actual election day. Now election season could be said to start 30+ days before ballots are sent out/available and then continues until Election Day. That could be months.	Kathy Wydallis	I live in Wellington	Signs are limited to prevent excessive proliferation which can cause visual impediments to pedestrians and motor vehicle drivers. Provisions have been added to the current draft to increase the number of temporary signs allowed during events.
2/21/2022 10:11	Definitions	What is our definition of a townhouse? How does it differ from a condo? (My son owned a townhouse in Ft. Collins that had its carport connected to the next townhouse's carport. The two townhouses did not share a wall with any other dwelling. The condos did share walls, like apartments. The townhouses and condos were both two-stories. So, what is Wellington's definition of Townhouses and Condominiums?)	Kathy Wydallis	I live in Wellington	Definitions are included in Chapter 9. A townhome would be "single-family attached dwelling." A condominium would be a "multi-family dwelling."
2/21/2022 10:11	Landscaping	Landscaping - I think this was a waste of money. The Town could've asked interested residents or the Parks Board to go to Ft. Collins Nursery or do an internet search for pretty pictures and lists of drought resistant shrubs, trees, and grasses. One of the main problems has not been addressed (or my blurry vision after skimming through this plan didn't see it.) Our soil in the subdivisions is mainly clay, excavated when building the basements and then either spread out over the "yard" on top of the topsoil or the topsoil was scraped off before building began. This is not helpful in trying to get healthy plants/lawns started. Is there any guidance for developers to add topsoil or organic matter before sodding a property? Wildflowers are nice and one of my favorite things, but they tend to look weedy to some people - like HOA board members. Also the use of rocks leads to using herbicides to keep actual weeds to a minimum which leads to unwanted chemicals in Boxelder Creek, our other drainages, and our sewer system/treatment plant.	Kathy Wydallis	I live in Wellington	Section 5.04.5 P states "All landscape areas shall be amended with organic compost at a rate of four cubic yards per one thousand square feet (4 cu yds / 1,000 sf), tilled into the top eight inches (8") of soil. Areas planted with native grass seed mixes can reduce the compost rate to two cubic yards per one thousand square feet (2 cu yds / 1,000 sf)."
2/21/2022 10:42	4.02	This is wrong. Harrison and McKinley Avenues are RESIDENTIAL areas, NOT COMMERCIAL. This code should not be approved as it currently stands. We do not need more bars or brew pubs, restaurants do not belong in RESIDENTIAL neighborhoods, nor do Civic Facilities, Convenience Stores, Pawn Shops, Parking Lots or Retail Space. You are not listening to the people of Wellington who matter the most in this issue, the residents of Harrison and McKinley Avenues. You wouldn't want a big influx of commercial businesses in your neighborhoods either. Your casual disregard for the people's need for their HOMES and NEIGHBORHOODS to remain intact and not be disrupted is appalling. Shame on you if you approve this with total disregard for the people who live here and have lived here for decades.	Sherry Leeper	I live in Wellington	The official zoning map will be a separate adoption process following adoption of the land use code. Boundaries of zone districts will be identified at that time. Based on feedback heard so far, the recommendation is to zone much of Harrison and McKinley R-4 with the possible exception of properties nearer to First Street and Sixth Street which are already including some commercial uses.

Public Comments
Draft Version 1 - Feb. 3, 2022

Timestamp	Specific code section	Land Use Code Feedback	Full Name	Do you live or work within the Town of Wellington	Response
2/22/2022 19:44	C-2	As property owners on McKinley Ave., we don't want businesses allowed in downtown core C-2. We don't want our property rights violated for the purpose of personal gain of special interests.	Wendell James and Phyllis Marjorie Mortensen	I live in Wellington	The official zoning map will be a separate adoption process following adoption of the land use code. Boundaries of zone districts will be identified at that time. Based on feedback heard so far, the recommendation is to zone much of Harrison and McKinley R-4 with the possible exception of properties nearer to First Street and Sixth Street which are already including some commercial uses.
2/23/2022 14:47	Conditional uses land use code	We do not need conditional use 12 plexes downtown. This will not drive more business downtown, but will surely fill developer's pockets with more money. Nor are we in need of more bars or brew pubs or boarding houses. People are already grumbling about too many fast food restaurants, coffee shops and dollar stores. More time should be spent querying the larger community as to what type of businesses *would* generate more business. I think a recreational center/pool would be a far more effective draw. This could be developed out near the new high school and would still draw folks in to eat and drink downtown..	Sherry Leeper	I live in Wellington	Multi-family is not a use identified as allowed in the C-2 Downtown Core district. Multi-family as a conditional use has also been removed from the R-4 Downtown Neighborhoods district.
2/25/2022 20:31		HOA like on steroids. Really need to turn led garden lights at midnight? I will not be putting a 5 foot ring around my trees. I will purchase landscaping material where ever I wish. Who is going to police this mess?	Lyle Kent Allen	I live in Wellington	Landscape standards for new commercial and multi-family applications is clarified with a new section on applicability.
2/25/2022 20:48		Could you please provide a list of detailed changes from our existing code?	Lyle Kent Allen	I live in Wellington	The current code and the draft code are available for review on the Town's website. An executive summary can be developed for presentation at an upcoming Board of Trustees meeting and can be made available on the Town's website.
2/28/2022 12:50		Overall landscape requirements should be less restrictive for SFR. All landscape plans shall incorporate a mix of shade trees, ornamental trees, evergreen trees and shrubs, deciduous shrubs, ornamental grasses, and perennials. - It would be better if this was "may" instead of shall. Landscapes shall consist of a variety of species to enhance biodiversity. No one (1) species may make up more than twenty-five percent (25%) of the total non-grass plant materials on one (1) site. - Would be better of this was for commercial landscaping requirements. Residents should not be restricted if they want all of one species in their yard. Required plant materials shall be grown in a licensed nursery in accordance with proper horticultural practice. Plants shall be healthy, well-branched, vigorous stock with a growth habit normal to the species and variety and free of diseases, insects and injuries. Would be better of this was for commercial landscaping requirements. Residents should not be restricted if they want all of one species in their yard. All land development applications shall be accompanied by a landscape plan prepared by a Colorado-licensed Landscape Architect and shall include the following at a minimum. Would be better of this was for commercial landscaping requirements. This seems overreaching form the Town to REQUIRE licensed landscape architect plans. Residents should not be restricted if they want all of one species in their yard.	Ashley Macdonald	I live and work in Wellington	Landscape standards for new commercial and multi-family applications is clarified with a new section on applicability. The requirement to have a Landscape Architect prepare plans is not for residential landscape it is intended for commercial and multi-family where designers are already involved. This is a typical best practice in most communities in the area, and a practice regularly used by commercial site developers. Similarly, the biodiversity requirement and nursery grown stock are common best practices for commercial and multi-family landscape design.

Public Comments
Draft Version 1 - Feb. 3, 2022

Timestamp	Specific code section	Land Use Code Feedback	Full Name	Do you live or work within the Town of Wellington	Response
2/7/2022	Sign Code	There is a discrepancy in the temporary sign code. In 5.08.8 B it states 45 day duration but then in the table it states 90 day duration. Just wondering which one is the correct duration? I don't remember if the planning commission gave you direction one way or the other. Since the Trustee election goes for 2 months, I think the 45 day duration is too short of a time frame, I would prefer the 90 day duration especially for the bigger November elections.	Christine Gaiter		This has been adjusted, both are listed as 90 days now.
2/16/2022	Sign Code	I've attached the Fort Collins Temporary Sign Code and the proposed Wellington Temporary Sign Code. When comparing the two, you find that the proposed Wellington temporary sign code is more restrictive for residents than the Fort Collins temporary sign code. # of signs: Fort Collins allows an unlimited number of yard signs and site signs. Current Wellington code allows for an unlimited number of temp signs Proposed Wellington code allows 6 with only 2 allowed next to the street. Size: Fort Collins allows 16 sf in Downtown and 32 sf in Single-family residential Current Wellington code allows for 16 sf for temp sign Proposed Wellington code allows 6 sf in Downtown and residential. Current Wellington code allows for 16 sf for temp sign As you can see, the proposed Wellington code is stricter than what we currently have and even stricter than Fort Collins. I would like our sign code to match Fort Collins's sign code in number of temp signs and size of temp signs. There is no reason to be stricter than Fort Collins.	Christine Gaiter		The topic of temporary signs should be discussed further with the Planning Commission to make the final recommendation that gets forwarded to the Board of Trustees. PC QUESTION: What changes are desired for the temporary sign regulations?
2/10/2020		P 46/321, 2.18.5 General PUD Procedure, A.) reads "...per the procedures set forth in Section 2.16". Should this more accurately state that this procedure is by administrative review and approval only (according to the Review and Approval section of 2.16)? Or, is it redundant to restate that? This is not a typo so much as a consistency within the document question.	Melissa Whitehouse		PUDs are different procedurally. PUDs require a preliminary and final application and are most often run concurrently with a corresponding subdivision plat. The intent of the code is to utilize the same procedure for a PUD as a Major Subdivision.
	Floodplain Regulations	There were a few references, primarily within the definitions that needed to be changed to concur with the COLORADO FLOODPLAIN DAMAGE PREVENTION ORDINANCE	Staff		Revisions have been incorporated.
	Landscape Regulations	There were some questions regarding clarity on percentage of high water plant material and applicability	Staff		Revisions have been incorporated.
	Landscape Manual	There were a few general comments in the design manual based on current Town practices	Staff		Revisions have been incorporated. Additionally, the water demand requirement column of the plant list is completed.
	Zoning	Concerned about C-2 vs R-4 zoning and uses	Planning Commission		Revisions have been incorporated.
	Signs	Discussed temporary sign allowance and the desire for more signs during election season	Planning Commission		Revisions have been incorporated.
	General	Town Board discussion included questions on parking, uses, C-2 vs R-4 zoning, and landscaping	Town Board		Revisions have been incorporated.

Board of Trustees Meeting

Date: March 8, 2022
Submitted By: Nathan Ewert, Civil Engineer II
Subject: Authorize the Execution of the Contract for the Security Fencing at the Water and Wastewater Treatment Plants

- **Presentation: Nathan Ewert, Engineer**

EXECUTIVE SUMMARY

Town staff requested bids from qualified fencing contractors for the work required to replace the existing fencing at the Wastewater Treatment Plant as well as fence in the expansion area at the Water Treatment Plant. Work includes removal and disposal of existing fence and gates, installation of 6-foot chain link fence with 3 strand barbed wire, installation of a 30 foot automated cantilever gate, a double swing gate and walk gates. All work will be completed under the one contract that is recommended for authorization.

BACKGROUND / DISCUSSION

The current fence at the Wastewater Treatment Plant (WWTP) is a 20-year old “sheep fence” that was installed when the plant was constructed. The fence does not meet the current security requirements at the site and needs to be replaced. The Town also owns 5 acres to the west of the existing fenced property that is currently not fenced. With the upcoming expansion project fencing the entire site at this time, prior to construction, will provide construction security when the contractor mobilizes later in 2022 as well as providing improved security for the existing site. Additionally, fencing the entire site including the unfenced 5 acres provides cost saving to the Town by eliminating the need for portable fencing being brought in by the contractor with markups and rental fees passed on to the Town. The replacement project was included in the Town's 2022 budget under G/L 211-80-4090 (2022 Budget \$165,000).

The fencing at the current Water Treatment Plant meets current security standards, consisting of a 6-foot chain link fence with 3 strand barbed wire. However, with the expansion project including an additional area to the west of the existing plant the fencing needs to be expanded to encompass this new area. The new security fencing will consist of installation of a 6-foot chain link fence with 3 strand barbed wire around the entire expansion area. The bids included a cost deduct to reuse a portion of the existing west fence line that needs to be removed under this contract. To allow for grading and other site work during the plant expansion project, a portion of the northern fence line was left out of this contract and will need to be installed during the expansion project. The replacement project was included in the Town's 2022 budget under G/L 211-80-4080 (2022 Budget \$50,000).

The Town received five bids for this project. Four out of the five bids came in under budget. Staff reviewed bids for completeness, conformance with the requirements of the bid including specifications and schedule, as well as checked references.

STAFF RECOMMENDATION

Staff is recommending award of the contract for security fencing at the water and wastewater treatment plants to Back Eagle Fencing Inc. under GL 211-80-4090 and 211-80-4080 in the amount of \$175,327.05. With a not



to exceed amount of \$50,000 for GL 211-80-4080 and \$165,000 for GL 211-80-4090 which are the approved amounts in the 2022 budget.

ATTACHMENTS

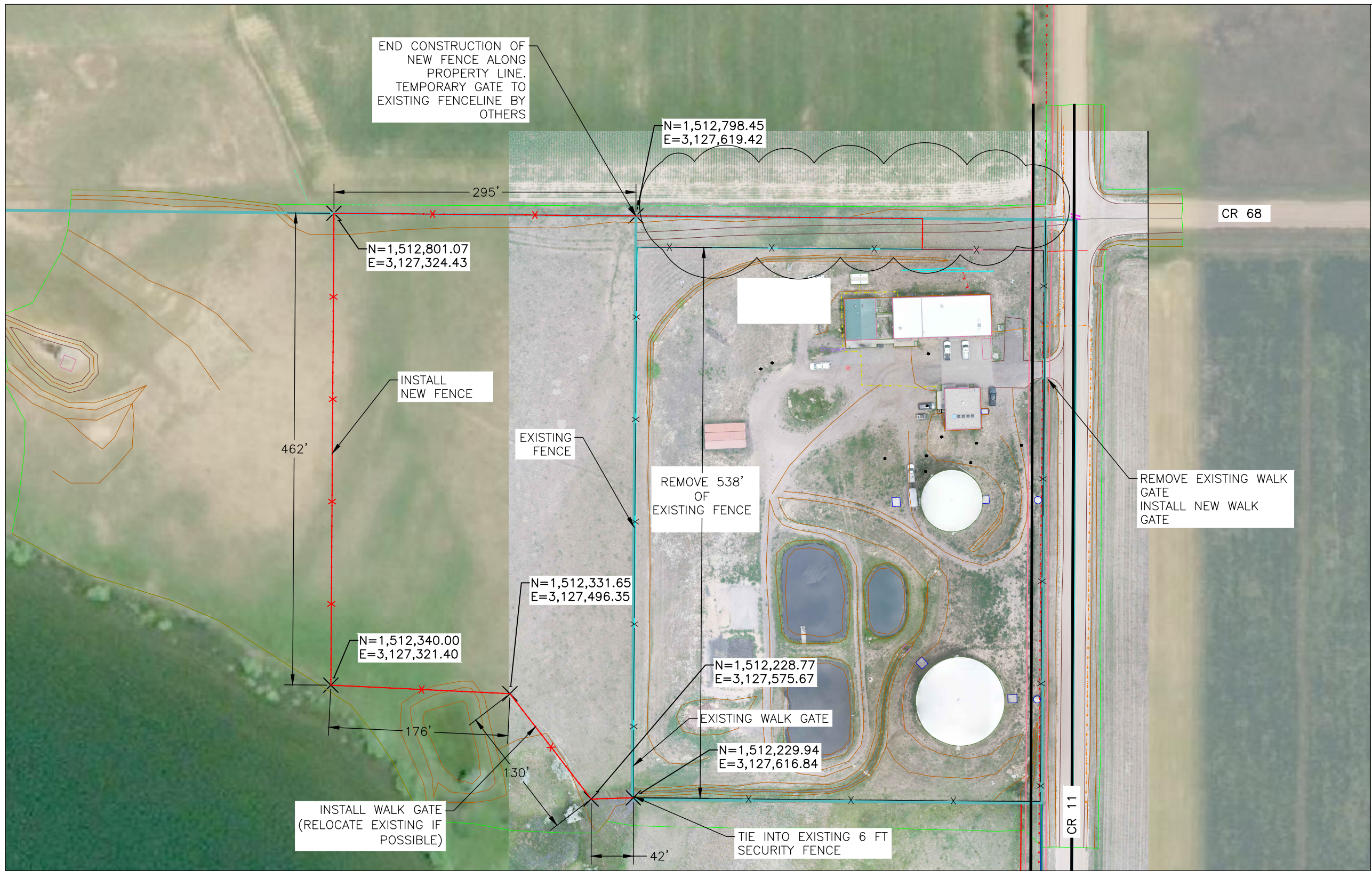
1. Bid Evaluation
2. WTP Site Fencing Figure
3. WWTP Site Fencing Figure
4. Wellington Contract Security Fencing Contract

Bid Item	Unit	Quantity	Black Eagle		Ideal Fencing Inc.		Town and Country		Jones Commercial Fencing		Evans West	
WTP			Unit Price	Subtotal	Unit Price	Sub Total	Unit Price	Sub Total	Unit Price	Sub Total	Unit Price	Sub Total
Remove and Dispose Fence	LF	538			\$4.86	\$2,614.68	\$5.00	\$2,690.00			\$5.00	\$2,690.00
Install New Fence	LF	1,105			\$44.00	\$48,620.00	\$26.03	\$28,763.15			\$32.00	\$35,360.00
Install New 4ft Walk Gate	EA	1			\$492.00	\$492.00	\$750.00	\$750.00			\$700.00	\$700.00
Reuse Existin 4ft Walk Gate	EA	1			\$260.00	\$260.00	\$750.00	\$750.00			\$700.00	\$700.00
			subtotal	\$38,890.36	subtotal	\$51,986.68	subtotal	\$32,953.15	subtotal	\$46,456.00	subtotal	\$39,450.00
WWTP												
Remove and Dsipose Existing Fence	LF	2,874			\$1.42	\$4,081.08	\$3.00	\$8,622.00			\$5.00	\$14,370.00
Install New Fence	LF	3,736	fencing lump sum	\$116,569.69	\$40.00	\$149,440.00	\$24.25	\$90,598.00			\$32.00	\$119,552.00
Install New 12' Manual Gate	EA	1			\$1,512.00	\$1,512.00	\$1,750.00	\$1,750.00			\$3,000.00	\$3,000.00
Install New 4ft Walk Gate	EA	2			\$492.00	\$984.00	\$750.00	\$1,500.00			\$700.00	\$1,400.00
Install New 30' Cantilever Gate	EA	1		\$19,867.00	\$25,112.00	\$25,112.00	\$20,336.00	\$20,336.00			\$20,000.00	\$20,000.00
			subtotal	\$136,436.69	subtotal	\$181,129.08	subtotal	\$122,806.00	subtotal	\$159,747.00	subtotal	\$158,322.00
TOTAL				\$175,327.05		\$233,115.76		\$155,759.15		\$206,203.00		\$197,772.00

Notes:

1. yellow highlight indicates math error in bid - adjusted based on unit prices provided
2. Unit prices not presented were either not provided or not in a format readily convertible for this analysis

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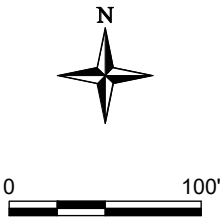


- NOTES:
1. REMOVED FENCING AND GATE SHOULD BE REUSED IN NEW LOCATION(S) IF POSSIBLE.

EXPLANATION

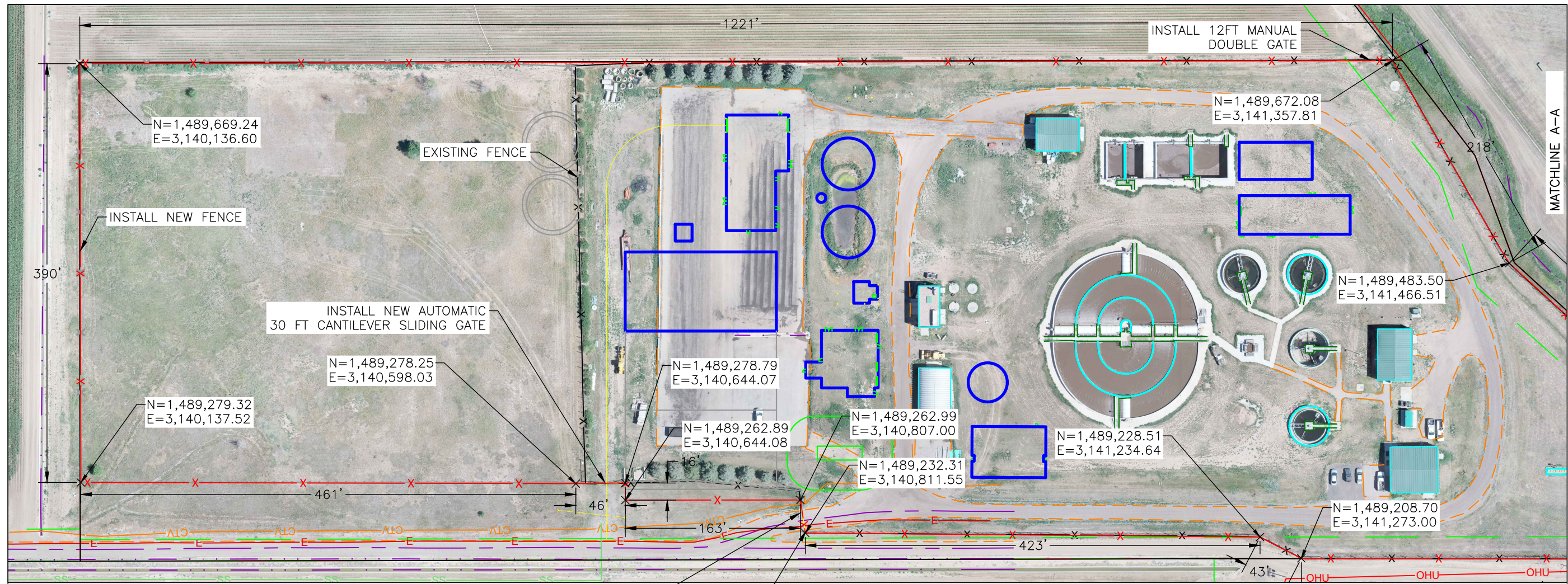
—X— NEW FENCE
—X— EXISTING FENCE

ITEM NO.	DESCRIPTION	UNITS	QUANTITY
1	REMOVE/DISPOSE EXISTING FENCE	LF	538
2	INSTALL NEW FENCE	LF	1105
3	INSTALL NEW 4 FT WALK GATES	EA	2



DRAWN BY: NRE		CHECKED BY: DJ		DATE: 02/04/2022		SCALE: AS SHOWN		FILE: TOW_WTP_FENCING	
WATER TREATMENT PLANT FENCE LAYOUT		WATER TREATMENT PLANT EXPANSION TOWN OF WELLINGTON		REV: A		1 OF 1		SHEET 1	
REV: A		DESCRIPTION		DATE		BY		CHK'D	

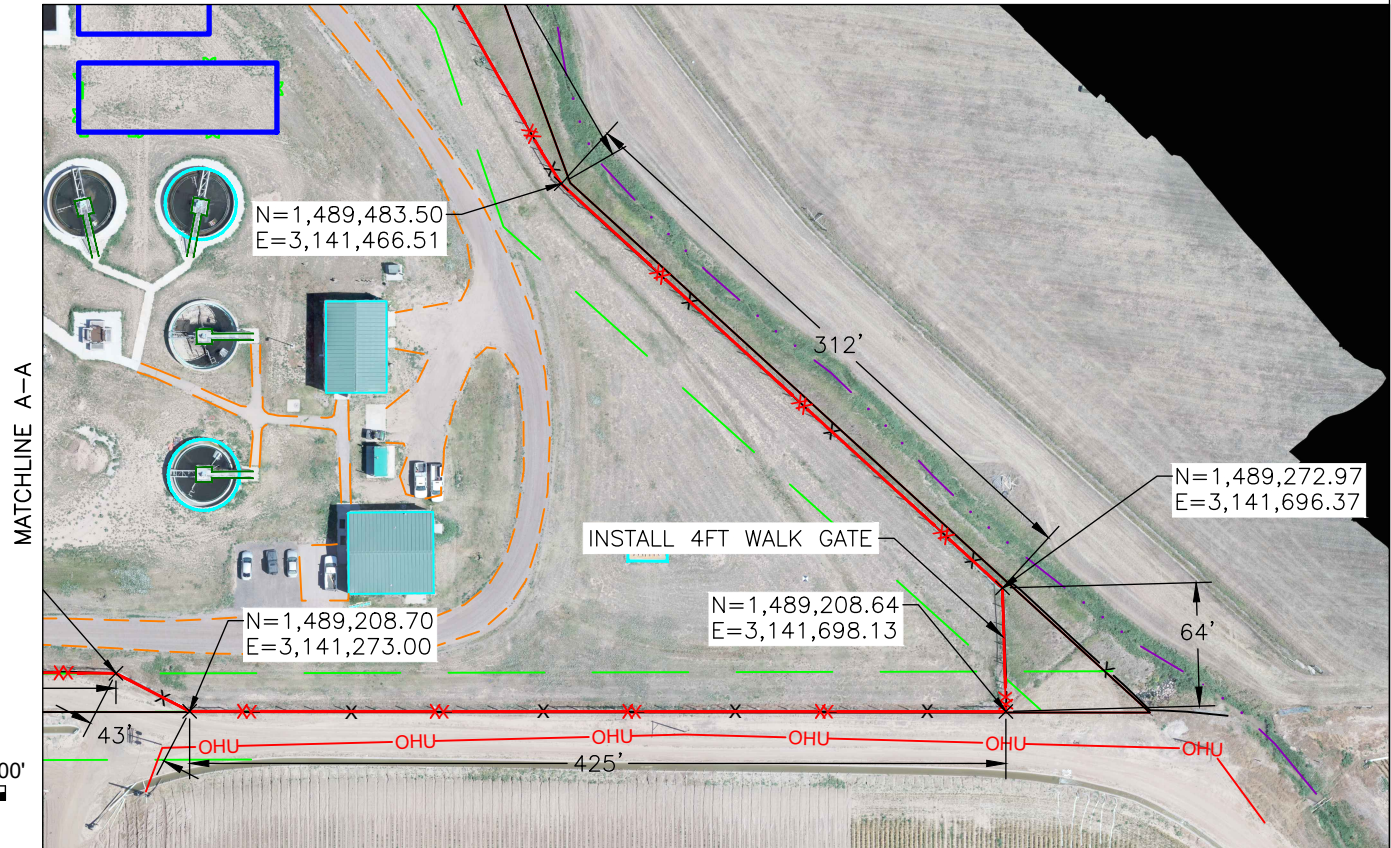
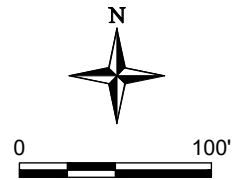
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ITEM NO.	DESCRIPTION	UNITS	QUANTITY
1	REMOVE/DISPOSE EXISTING FENCE	LF	2874
2	INSTALL NEW FENCE	LF	3736
3	INSTALL NEW 12 FT MANUAL DOUBLE SWING GATE	EA	1
4	INSTALL NEW 4 FT WALK GATES	EA	2
5	INSTALL NEW AUTOMATIC 30 FT CANTILEVER SLIDING GATE	EA	1

EXPLANATION

—X— NEW FENCE
—X— EXISTING FENCE



SHEET 1 1 OF 1	WASTE WATER TREATMENT PLANT FENCE LAYOUT			DRAWN BY: NRE						
	WASTE WATER TREATMENT PLANT EXPANSION									
REV: A	TOWN OF WELLINGTON			FILE: TOW_WWTP_FENCING	REV.	DATE	DESCRIPTION		BY	CHK'D
			REVISIONS							



Town of Wellington
3735 Cleveland Avenue
P.O. Box 127
Wellington, CO 80549
PUBLIC WORKS (970) 568-0447
TOWN HALL (970) 568-3381

SECURITY FENCING AT WATER AND WASTEWATER TREATMENT PLANTS

CONTRACTOR CONTRACT FOR SERVICES, GL No. 211-80-4080, 211-80-4090

Parties: The parties to this Contract are the Town of Wellington, 3735 Cleveland Avenue, Wellington, Colorado 80549 (Town) and Black Eagle Fence Inc., 5441 Boeing Dr. Suite 1B, Loveland, CO, 80538 (Contractor).

Purpose of Contract: The purpose of this Contract is for the Town of Wellington to retain the services of the Contractor to render certain technical or professional services hereinafter described.

Term of Contract and Required Approvals: This Contract is effective when all parties have executed it (Effective Date). The term of the Contract is from the Effective Date through December 31, 2022. All services shall be completed during this term.

If the Contractor has been delayed and as a result will be unable to complete performance fully and satisfactorily within this Contract period, the Contractor may be granted an extension of time upon submission of evidence of the causes of delay satisfactory to the Town.

Responsibilities of the Contractor:

Scope of Services: The Contractor shall perform the specific services required under this Contract in a satisfactory and proper manner as outlined in Attachment A.

The Contractor shall perform the specific services required under this Contract in a satisfactory and proper manner as outlined in Attachment A. The standard of care for the Contractor under this Contract will be the care and skill ordinarily used by members of the Contractor's profession providing similar services for projects of similar size, location, scope, and complexity to this project.

Personnel: All services required hereunder will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized, licensed, or permitted under state law to perform such services if state law requires such authorization, license, or permit.

Records Administration: The Contractor shall maintain or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this Contract. The Contractor shall be responsible and responsive to the Town in its requests and requirements related to the scope of this Contract. The Contractor shall select and analyze all data in a systematic and meaningful manner to contribute directly in meeting the objectives of the project and shall present this information clearly and concisely in a professional and workmanlike manner.

Reports, Maps, Plans, Models and Documents: A minimum of one (1) copy of maps, plans, worksheets, logs, field notes or other documents prepared under this Contract as relevant to this project shall be submitted to the Town. The Contractor also submit any computer program or spreadsheet developed as a part of this project. Digital media shall be labeled to provide sufficient detail to access the information on the media. Any user manuals shall be submitted to the Town with complete documentation of computer programs developed under this Contract. The user manual shall also specify the source code language and the type of computer equipment necessary to operate the program(s).

Subcontracts:

(i) Approval Required for Subcontracts: Any subcontractors required by the Contractor in connection with the services, work performed or rendered under this Contract will be limited to such individuals or firms as were specifically identified in the proposal and agreed to during negotiations or are specifically authorized by the Town during the performance of this Contract. During the performance of the Contract, substitutions in or additions to such subcontracts will be subject to the prior approval by the Town. The Contractor shall be responsible for the actions of the subcontractors.

(ii) Billing for Subcontracts: Billings for subcontractor services shall not include any mark up. The subcontract costs will be billed to the Town at the actual costs as billed to the Contractor. Subcontract costs shall be documented by attaching subcontractor billings to the Contractor's billing submittals.

Responsibilities of the Town:

Data to be Furnished: All existing information, data, drawings, manuals, reports, maps, etc. as are available to the Town and necessary for the carrying out of the scope of services shall be furnished to the Contractor without charge, and the Town shall cooperate with the Contractor in the carrying out of the project.

Report Reviews and Criteria: The Town shall examine all submittals, sketches, drawings, opinions of costs, studies, reports, and other documents presented by the Contractor and shall promptly render the Town's decisions pertaining thereto. The Town shall provide all criteria and full information regarding its requirements for the project.

General Provisions:

Amendments: Any changes, modifications, revisions, or amendments to this Contract which are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument executed by all parties to this Contract.

Assignment Prohibited and Contract Shall Not Be Used as Collateral: Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Contract without the prior written consent of the other party. The Contractor shall not use this Contract, or any portion thereof, for collateral for any financial obligation.

Audit and Access to Records: The Town shall have access to any books, documents, papers, electronic data, and records of the Contractor which are pertinent to this Contract. The Contractor shall immediately, upon receiving written instruction from the Town, provide to any independent auditor or accountant all books, documents, papers, electronic data, and records of the Contractor which are pertinent to this Contract. This paragraph shall only extend to work performed on a unit price, fee adjustment, cost plus, or time and material basis, and then only to verify costs.

Authority: Provisions of this Contract are pursuant to the authority set forth in the Town of Wellington Municipal Code. Mandatory applicable state and federal regulations also apply.

Compliance with Laws: The Contractor shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of this Contract.

Confidentiality: Each party shall retain as confidential all information and data furnished to it by the other party which are designated in writing by such other party as confidential at the time of transmission and are obtained or acquired by the receiving party in connection with this Contract, and said parties shall not reveal such information to any third party. However, nothing herein is meant to preclude either disclosing and/or otherwise using confidential information (i) when the confidential information is actually known to the receiving party before being obtained or derived from the transmitting party; or (ii) when confidential information is generally available to the public without the receiving party's fault at any time before or after it is acquired from the transmitting party; or (iii) where the confidential information is obtained or acquired in good faith at any time by the receiving party from a third party who has the same in good faith and who is not under any obligation to the transmitting party in respect thereof; or (iv) is required by law or court order to be disclosed.

Conflicts of Interest: The Contractor stipulates that none of its officers or employees are officers or employees of the Town of Wellington unless disclosure has been made in accordance with Town ordinances and policies. Furthermore, the Contractor certifies that it has not offered or given any gift or compensation prohibited by local, state, or federal law, to any officer or employee of the Town of Wellington to secure favorable treatment with respect to being awarded this contract. The Contractor shall not engage in providing consultation or representation of clients, agencies or firms which may constitute a conflict of interest which results in a disadvantage to the Town or a disclosure which would adversely affect the interests of the Town. The Contractor shall notify the Town of any potential or actual conflicts of interest arising during this Contract. This Contract may be terminated in the event a conflict of interest arises. Termination of the Contract will be subject to a mutual settlement of accounts. In the event the contract is terminated under this provision, the Contractor shall take steps to ensure that the file, evidence, evaluation and data are provided to the Town or its designee. This does not prohibit or affect the Contractor's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists. A conflict

of interest warranting termination of this Contract may include, but is not necessarily limited to, acting on behalf of a client in an adversarial proceeding against the Town or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition, or quo warranto.

Contract Jurisdiction, Choice of Law, and Venue: The provisions of the contract shall be governed by the laws of the State of Colorado. The parties will submit to the jurisdiction of the courts of the State of Colorado. Venue shall be Larimer County, Colorado.

Contract Renegotiation, Modifications and Award of Related Contracts: This Contract may be amended, modified, or supplemented only by written amendment to the Contract, executed by the parties hereto, and attached to the original signed copy of the Contract. The Town may undertake or award supplemental or successor contracts for work related to this Contract or may award contracts to other contractors for work related to this Contract. The Contractor shall cooperate fully with other contractors and the Town in all such cases. The Town, at its sole discretion and through duly authorized contract amendments, may request the Contractor to complete additional phases beyond the scope of services included in this Contract.

Disbarment: The Contractor certifies that neither it nor its principals are presently disbarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction (Contract) by any governmental department or agency. If the Contractor cannot certify this statement, a written explanation for review by the Town shall be provided.

Entirety of Contract: This Contract, consisting of seventeen (17) pages inclusive of Attachment A, represents the entire and integrated Contract between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral. In the event of a conflict or inconsistency between the language of this Contract and the language of any attachment or document incorporated by reference, the language of this Contract shall control.

Equal Opportunity Clause: The Contractor agrees to abide by the provisions under Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on a basis of race, religion, color, or national origin. This includes abiding to Executive Order 11246 which prohibits discrimination on the basis of sex, and 45 CFR which prohibits discrimination on the basis of age, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of a disability.

Force Majeure: Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays.

Indemnification: The Contractor agrees to indemnify, save harmless, and release the Town of Wellington and all of its officers, agents, volunteers, and employees from and against any and all loss, damage, injury, liability, suits, and

proceedings arising out of the performance of this contract to the extent caused by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims from the Town's negligence.

Independent Contractor: The Contractor shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Town for any purpose and as such, have no authorization, express or implied to by the Town of Wellington, to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as an agent for the Town except as expressly set forth herein. The Contractor shall be responsible for the payment of all income tax and social security amounts due because of payments received from the Town. Persons employed by the Town and acting under the direction of the Town shall not be deemed to be employees or agents of the Contractor. Nothing in this Contract shall be interpreted as authorizing the Contractor or its agents or employees to act as an agent or representative or to incur any obligation of any kind for or on behalf of the Town. The Contractor agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance, or similar benefits available to Town employees will inure to the benefit of the Contractor or the Contractor's agents or employees because of this Contract.

Insurance Coverage: The Contractor shall not commence work under this Contract until it has obtained all the insurance required by the Town. The Contractor shall obtain and maintain the following insurance in accordance with the Insurance Requirements set forth below as shall provide the Town with proofs of these insurance upon request:

(i) Automobile Liability Insurance: The Contractor shall maintain automobile liability insurance covering any auto (including owned, hired, and non-owned) with minimum limits of \$1,000,000 each accident combined single limit.

(ii) Commercial, General Liability Insurance: The Contractor shall maintain commercial general liability insurance (CGL) coverage, occurrence form, covering liability claims for bodily injury and property damage arising out of premises, operations, products and completed operations, and personal and advertising injury, with minimum limits as stated below. The CGL policy shall include coverage for Explosion, Collapse and Underground property damage. This coverage may not be excluded by endorsement.

- (a) \$1,000,000 each occurrence;
- (b) \$1,000,000 personal injury and advertising injury;
- (c) \$2,000,000 general aggregate; and
- (d) \$2,000,000 products and completed operations.

(iii) Professional Liability or Errors and Omissions Liability Insurance: The Contractor shall maintain professional liability insurance or errors and omissions liability insurance protecting against any and all claims arising from the Contractor's alleged or real professional errors, omissions, or mistakes in the performance of professional duties under this Contract, with minimum limits as stated below.

- (a) \$1,000,000 each claim; and
- (b) \$2,000,000 general aggregate.

(iv) Unemployment Insurance: The Contractor shall be duly registered with the Colorado Department of Labor and Employment and obtain such unemployment insurance coverage as required.

(v) Workers' Compensation and Employer's Liability Insurance: Employees hired in Colorado to perform work under this Contract shall be covered by workers' compensation coverage per the Colorado Department of Labor and Employment's Workers' Compensation program as statutorily required. Employees brought into Colorado from Contractor's home state to perform work under this Contract shall be covered by workers' compensation coverage obtained through the same or other state or private workers' compensation insurance approved by the Colorado Department of Labor and Employment as statutorily required.

Insurance Requirements:

(i) During the term of this Contract, the Contractor shall obtain and maintain, and ensure that each subcontractor obtains and maintains, each type of insurance coverage specified in Insurance Coverage above.

(ii) All policies shall be primary over any insurance or self-insurance program carried by the Contractor or the Town. All policies shall include clauses stating that each insurance carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or the Town, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

(iii) The Contractor shall provide Certificates of Insurance to the Town, verifying each type of coverage required herein.

(iv) All policies shall be endorsed to provide at least thirty (30) days advance written notice of cancellation to the Town. A copy of the policy endorsement shall be provided with the Certificate of Insurance.

(v) In case of a breach of any provision relating to Insurance Requirements or Insurance Coverage, the Town may, at the Town's option, obtain and maintain, at the expense of the Contractor, such insurance in the name of the Contractor, or subcontractor, as the Town may deem proper and may deduct the cost of obtaining and maintaining such insurance from any sums which may be due or become due to the Contractor under this Contract.

(vi) All policies required by this Contract shall be issued by an insurance company with an A.M. Best rating of A- VIII or better.

(vii) The Town reserves the right to reject any policy issued by an insurance company that does not meet these requirements.

Limitation of Liability: Excluding the Contractor's liability for bodily injury or damage to the property of third parties, the total aggregate liability of the Contractor arising out of the performance or breach of this Contract shall not exceed the compensation paid to the Contractor under this Contract. Notwithstanding any other provision of this Contract, the Contractor shall have no liability to the Town for contingent, consequential, or other indirect damages including, without limitation, damages for loss of use, revenue or profit; operating costs and facility downtime, however the same may be caused. The limitations and exclusions of liability set forth in this Article shall apply regardless of the fault, breach of contract, tort (including negligence), strict liability or otherwise of the Contractor, its employees, or subcontractors.

Notice of Sale or Transfer: The Contractor shall provide the Town with notice of any sale, transfer, merger, or consolidation of the assets of the Contractor. Such notice

shall be provided in accordance with the notices provision of this Contract and, when possible and lawful, in advance of the transaction. If the Town determines that the sale, transfer, merger, or consolidation is not consistent with the continued satisfactory performance of the Contractor's obligations under this Contract, then the Town may, at its discretion, terminate or renegotiate the Contract.

Ownership of Documents and Information: The Town owns all equipment, instruments, documents, data compilations, reports, computer programs, photographs, drawings, data, and other work provided, produced, procured or installed ("Work Product") by the Contractor in the performance of this Contract. Upon termination of services for any reason and payment to Contractor, the Contractor agrees to return all such original and derivative information and documents to the Town in a useable format. Any use or reuse other than for the purposes set forth herein shall be at the Town's sole risk and liability. The Town agrees to hold harmless, indemnify, and defend the Contractor against all damages, claims, and losses of any kind (including all defense costs and reasonable attorney fees), arising out of any use of the Work Product on any other project, for additions to this project, or for completion of this project without the Contractor's involvement.

Patent or Copyright Protection: The Contractor recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and warrants that no work performed by the Contractor or its subcontractors will violate any such restriction. The Contractor shall defend and indemnify the Town for any infringement or alleged infringement of such patent, trademark, copyright, license, or other restrictions.

Severability: A declaration by any court or any other binding legal source that any provision of this contract is illegal and void shall not affect the legality and enforceability of any provision of this contract unless the provisions are mutually dependent.

Taxes: The Contractor shall pay all taxes and other such amounts required by federal, state and local law, including, but not limited to, federal and social security taxes, workers' compensation, unemployment insurance, and sales taxes.

Termination of Contract: This contract may be terminated with cause by either party in advance of the specified termination date upon written notice being provided by the other party. The party in violation will be given thirty (30) working days after notification to correct and cease the violations after which the contract may be terminated for cause. This contract may be terminated without cause in advance of a specified expiration date by either party upon thirty (30) days prior written notice being given the other party.

Prohibition Against Employing Illegal Aliens: This paragraph shall apply to all Contractors whose performance of work under this Contract does not involve the delivery of a specific end product other than reports that are merely incidental to the performance of said work. Pursuant to Section 8-17.5-101, C.R.S., et. seq., Contractor represents and agrees that:

(i) As of the date of this Contract:

- (a) Contractor does not knowingly employ or contract with an illegal alien; and
- (b) Contractor has participated or attempted to participate in the basic pilot employment verification

program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security (the "Basic Pilot Program") in order to confirm the employment eligibility of all newly hired employees.

(ii) Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or knowingly enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this Contract.

(iii) Contractor shall continue to apply to participate in the Basic Pilot Program and shall in writing verify same every three (3) calendar months thereafter, until Contractor is accepted or the public contract for services has been completed, whichever is earlier. The requirements of this section shall not be required or effective if the Basic Pilot Program is discontinued.

(iv) Contractor is prohibited from using Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.

(v) If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, Contractor shall:

(a) Notify such subcontractor and the Town within three days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(b) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

(vi) Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

(vii) If Contractor violates a provision of this Contract pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the Town may terminate this Contract. If this Contract is so terminated, Contractor shall be liable for actual and consequential damages to the Town arising out of Contractor's violation of Subsection 8-17.5-102, C.R.S.

(viii) The Town will notify the Office of the Secretary of State if Contractor violates this provision of this Contract and the Town terminates the Contract for such breach.

Project Requirements:

Project Access: The Contractor shall be responsible for obtaining access as required for project tasks.

Stand-By Time: The Town will not reimburse the Contractor for stand-by time charges for the Contractor's supervisory personnel.

Waiver of Damages: Neither Party shall be liable to the other for any indirect, special, punitive, exemplary or consequential damages including, but not limited to, damages for lost production, lost revenue, lost product, lost profits, or lost business or business interruptions, from any cause whatsoever.

Standard of Performance: The quality of Contractor's services shall be judged solely as to whether Contractor performed its services consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances.

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BLANK.**

Payment and Billing:

Reimbursement of Expenses: The Town agrees to pay the Contractor an amount equal to the price shown in Attachment A for the services described in Attachment A and incorporated by reference as part of this Contract. Payment shall be made directly to the Contractor. Total payment under this Contract shall not exceed one hundred seventy five thousand three hundred twenty seven dollars and five cents (\$175,327.05).

Pay Applications: Pay applications shall be submitted no more often than monthly, on or before the 10th calendar day of each billing month, for activities and costs accrued since the last pay application and shall be made on forms approved by the Town. Each pay application must include justification of the cost items contained in the application. Pay applications shall be transmitted electronically to the Town's project manager: Nathan Ewert, ewertna@wellingtoncolorado.gov.

Payment Procedures: The Town shall pay the Contractor upon receipt of billing statements as the services are performed for the task(s) outlined in Attachment A. The Town will initiate the payment process upon the receipt of a verified statement of services, and payment shall be made within thirty (30) days following receipt of billing.

Money Withheld: If the Town has reasonable grounds to believe that the Contractor will be unable to perform this Contract fully and satisfactorily within the time fixed for performance, then the Town may withhold payment of such portion of any amount otherwise due and payable to the Contractor reasonably deemed appropriate. These amounts may be withheld until the cause for the withholding is cured to the Town's satisfaction or this Contract is terminated per the General Provisions above. No interest shall be payable by the Town on any amounts withheld under this provision.

Withholding of Payment: If a work element has not been received by the Town by the dates established in Attachment A, the Town may withhold all payments beginning with the month following that date until such deficiency has been corrected.

Final Payment: The final payment shall be made upon acceptance of the final work product and receipt of the final billing.

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Signatures:

The parties to this Contract, either personally or through their duly authorized representatives, have executed this Contract on the dates set out below and certify that they have read, understood, and agreed to the terms and conditions of this Contract. The Effective Date of this Contract is the date of the signature last affixed to this page.

TOWN OF WELLINGTON

Signature

Date

Printed Name

Title

BLACK EAGLE FENCE INC.

Signature

Date

Printed Name

Title

Scope of Services:

The scope of work includes installation of fencing, automatic cantilever sliding gates, and walk gates at both treatment plants in accordance with the drawings and specifications provided in the RFP. The selected contractor will be responsible for removing the existing fence and either preserving for re-use on site (WTP only) or disposal off-site.

The Town will provide fence staking at all corners and at least 500ft increments in between. If additional staking is necessary, the selected contractor will be responsible for providing. The Town can provide Northing and Eastings to the contractor of all fence corners for use in staking if necessary.

Estimated WWTP Quantities:

- 3,736ft of 6ft chain link fence with three strand barbed wire (see attached details)
- Removal of 2,874ft of existing fencing (sheep pen style fencing w/wood posts)
- Gates:
 - o One (1) automatic 30ft cantilever sliding gate
 - o Two (2) pedestrian (walk) gates (4 feet wide)
 - o One (1) 12ft wide manual double gate.
- Tie into and preserve the existing cantilever sliding access gate at main entrance.

Estimated WTP Quantities:

- 1,105 ft of 6ft chain link fence with three strand barbed wire
- Removal of 538ft of existing 6ft security fencing with 3 strand barbed wire, preserve and re-use in project if possible.
- Gates:
 - o Two (2) pedestrian (walk) gates (4 feet wide)

Gate requirements are as follows:

- Solar powered electric gate operation
- Entrance shall be keypad controlled
- Keypad shall have cellular call out ability
- Preferred Model is the Ascent X1, cellular telephone entry system with Keypad.

The Town already has an account through Summit Controls.

- Exit will be controlled through vehicle loop sensor



PROPOSAL/CONTRACT

Black Eagle Fence Inc.
5441 Boeing Dr., Suite 1B
Loveland, CO 80538
970-667-1228
blackeaglefence.com

JOB NUMBER:

DATE: 02/22/2022

CUSTOMER:

JOB LOCATION:

TOWN OF WELLINGTON

WASTE WATER PLANT FENCE

NOTES:

BLACK EAGLE FENCE AGREES TO PROVIDE MATERIALS AND LABOR FOR THE FOLLOWING:

INSTALL APPROX 3806' OF 6+1 GALV COMMERCIAL CHAIN LINK FENCE WITH (1) 12' AND (2) 4' GATES.

-INCLUDES REMOVAL AND DISPOSAL OF 2874' EXISTING WIRE FENCE.

** THIS QUOTE DOES NOT INCLUDE THE 30' AUTOMATED GATE SYSTEM. SEE ATTACHED GATE SYSTEM PROPOSAL **

ADDENDA RECEIVED:#1

PRICES DO NOT INCLUDE SALES TAX

IF BOND IS REQUIRED ADD 3%

IF YOU HAVE ANY QUESTIONS PLEASE CALL

SETH WOOLDRIDGE, CFC
OFFICE:970-667-1228

TERMS & CONDITIONS

Workmanship is guaranteed for a period of 1 year from the time of final acceptance. Any defect judged to be covered by this guarantee will be replaced, repaired or adjusted by Black Eagle Fence, Inc. without charge during the term and conditions of this guarantee. This excludes any defects as result of owner negligence, vandalism, or causes beyond our control. This guarantee is non- transferable, in all cases, withholding of funds or non-payment of balance when due will void this guarantee.

Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. There can be additional charge for tools and materials necessary should adverse digging conditions arise. Black Eagle Fence will not be responsible for settling of any foundations, sewer, water, gas, telephone, electrical dug by others or finalized landscape grades, or damage to plants, trees or shrubs. All fence lines are to be cleared by owners prior to install to provide at least 18 of space for safe construction. Black Eagle Fence is not responsible for damaged to columns, underground sprinkler systems, drains or other private or secondary utilities. The customer assumes full financial and legal responsibility for property pins, boundaries, easements, right of ways, and subdivision covenants.

Subtotal\$ 116569.69

Tax\$ 0.00

Grand Total\$ 116569.69

Down Payment\$

BALANCE DUE \$ 116569.69

Approved & Accepted for Customer:

Customer

Date

Customer

Date

Salesperson

Date

Black Eagle Fence may require a material deposit, prior to ordering materials. Balance of the contract is due upon completion. A 4% processing fee will be added to any payments made by credit card. The above said owner agrees to pay reasonable attorney fees, court costs, or collection fees incurred by Black Eagle Fence in the collection of all or partial non-payment of invoices. Black Eagle Fence reserves the right to bill for mobilization and/or down time when it results from customers actions. Black Eagle Fence shall utilize all legal means of collections, at customers expense, if balance is not paid when agreed upon and herein stated. Completion time allowance must be made for weather issues, availability of materials and conditions beyond our control.

CUSTOMER INITIAL _____
CUSTOMER INITIAL _____
SALESPERSON INITIAL _____



PROPOSAL/CONTRACT

Black Eagle Fence Inc.
5441 Boeing Dr., Suite 1B
Loveland, CO 80538
970-667-1228
blackeaglefence.com

JOB NUMBER:

DATE: 02/25/2022

CUSTOMER:

JOB LOCATION:

TOWN OF WELLINGTON

WATER TREATMENT PLANT

NOTES:

BLACK EAGLE FENCE AGREES TO PROVIDE MATERIALS AND LABOR FOR THE FOLLOWING:
INSTALL APPROX. 1105' OF 6+1 GALV COMMERCIAL CHAIN LINK FENCE WITH (2) WALK GATES

-INCLUDES REMOVAL OF 538' EXISTING FENCE AND DISPOSAL OF WHAT IS NOT RE-USED.
-ANY EXISTING CHAIN LINK FABRIC THAT CAN BE RE-USED WILL BE CREDITED BACK AT \$5.96/LF

ADDENDA RECEIVED: #1 & #2

PRICES DO NOT INCLUDE SALES TAX

IF BOND IS REQUIRED ADD 3%

IF YOU HAVE ANY QUESTIONS PLEASE CALL

SETH WOOLDRIDGE, CFC
OFFICE:970-667-1228

TERMS & CONDITIONS

Workmanship is guaranteed for a period of 1 year from the time of final acceptance. Any defect judged to be covered by this guarantee will be replaced, repaired or adjusted by Black Eagle Fence, Inc. without charge during the term and conditions of this guarantee. This excludes any defects as result of owner negligence, vandalism, or causes beyond our control. This guarantee is non- transferable, in all cases, withholding of funds or non-payment of balance when due will void this guarantee.

Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. There can be additional charge for tools and materials necessary should adverse digging conditions arise. Black Eagle Fence will not be responsible for settling of any foundations, sewer, water, gas, telephone, electrical dug by others or finalized landscape grades, or damage to plants, trees or shrubs. All fence lines are to be cleared by owners prior to install to provide at least 18 of space for safe construction. Black Eagle Fence is not responsible for damaged to columns, underground sprinkler systems, drains or other private or secondary utilities. The customer assumes full financial and legal responsibility for property pins, boundaries, easements, right of ways, and subdivision covenants.

Subtotal	\$ 38890.36
Tax	\$ 0.00
Grand Total	\$ 38890.36
Down Payment	\$
BALANCE DUE	\$ 38890.36

Approved & Accepted for Customer:

_____	_____
Customer	Date
_____	_____
Customer	Date

Accepted for Black Eagle Fence Inc.:

Black Eagle Fence may require a material deposit, prior to ordering materials. Balance of the contract is due upon completion. A 4% processing fee will be added to any payments made by credit card. The above said owner agrees to pay reasonable attorney fees, court costs, or collection fees incurred by Black Eagle Fence in the collection of all or partial non-payment of invoices. Black Eagle Fence reserves the right to bill for mobilization and/or down time when it results from customers actions. Black Eagle Fence shall utilize all legal means of collections, at customers expense, if balance is not paid when agreed upon and herein stated. Completion time allowance must be made for weather issues, availability of materials and conditions beyond our control.

CUSTOMER INITIAL _____

CUSTOMER INITIAL _____

SALESPERSON INITIAL _____



PROPOSAL/CONTRACT

Black Eagle Fence Inc.
5441 Boeing Dr., Suite 1B
Loveland, CO 80538
970-667-1228
blackeaglefence.com

QUOTATION:

DATE: 02/23/2022

CUSTOMER:

JOB LOCATION:

Town of Wellington
Wellington CO

WWTP & WTP 30' auto gate

NOTES:

Install Pro Access Systems 30 x 6+1 aluminum internal track cantilever gate on 4" sch 40 galvanized steel posts set in 18" x 48" concrete footings. Install Solar powered LiftMaster CSL24ULWK gate operator with a solar powered Ascent 16-X1* gooseneck mounted keypad for entry and a buried exit probe for automated exit. Photo eyes and contact edges will be installed for safety. Gate system installation will comply with ASTM F 2200 and UL 325 standards for automated gate system safety.

* Town is responsible for Summit Controls phone access through the Town's account.

TERMS & CONDITIONS

Black Eagle Fence Inc. agrees to guarantee above fence to be free from defects in materials and workmanship for one year. Black Eagle Fence Inc. shall advise the customer as to local zoning regulations but responsibility for complying with said regulations and obtaining any required permits shall rest with the customer. Black Eagle Fence Inc. will assist the customer, upon request, in determining where the fence is to be erected, but under no circumstance does Black Eagle Fence Inc. assume any responsibility concerning property lines or in any way guarantee their accuracy. If property pins cannot be located it is recommended that the customer have the property surveyed. Black Eagle Fence Inc. will assume the responsibility for having underground public utilities located and marked. However, Black Eagle Fence Inc. assumes no responsibility for unmarked sprinkler lines, or any other unmarked buried lines or objects. The customer will assume all liability for any damage caused by directing Black Eagle Fence Inc. to dig in the immediate vicinity of known utilities. The final billing will be based on the actual footage of fencing built and the work performed. Partial billing for materials delivered to the job site and work completed may be sent at weekly intervals. Adjustments for material used on this job and adjustments for labor will be charged or credited at the currently established rates. Additional charges for any extra work not covered in this contract that was requested by the customer will also be added. The full amount of this contract along with any additional charges will become payable upon completion of all work whether or not it has been invoiced.

Subtotal	\$	19867.10
Tax	\$	0.00
Grand Total	\$	19867.10
Down Payment	\$	
BALANCE DUE	\$	19867.10

Approved & Accepted for Customer:

_____	_____
Customer	Date
_____	_____
Customer	Date

Accepted for Black Eagle Fence Inc.:

_____	_____
Salesperson	Date

A finance charge of 1 1/2% per month (or a minimum of \$1.00), which is an annual percentage rate of 18%, shall be applied to accounts that are not paid within 10 days after completion of any work invoiced. All materials will remain the property of Black Eagle Fence Inc. until all invoices pertaining to this job are paid in full. The customer agrees to pay all interest and any costs incurred in the collection of this debt.

CUSTOMER INITIAL _____
CUSTOMER INITIAL _____
SALESPERSON INITIAL _____



Black Eagle Fence Inc. 5441 Boeing Dr., Suite 1B
 Loveland, CO 80538 970-667-1228
 blackeaglefence.com

ITEMIZED ESTIMATE

BILL TO:

SHIP TO:

TOWN OF WELLINGTON

WASTE WATER PLANT FENCE

3806' - 6' - 1 7/8"L / 2 7/8"T / 9GA KT Fencing

QTY.	RECORD #	ITEM	AMOUNT
3800	NONE	72" 9 GA. G.A.W. 1.2 oz. CLASS 1 (2" Mesh) KT (100' Roll) CHAIN LINK FABRIC @ 5.96 =	22648.00
4074	NONE	1 5/8" DQ-40 GALV. FLO-COAT PIPE TOP RAIL & BRACING @ 4.01 =	16336.74
20	NONE	2 7/8" X 10' DQ-40 GALV. FLO-COAT PIPE POST @ 106.59 =	2131.80
365	NONE	2 3/8" X 8'6" DQ-40 GALV. FLO-COAT PIPE POST @ 56.88 =	20761.20
2	NONE	4" X 10' DQ-40 GALV. FLO-COAT PIPE POST @ 152.03 =	304.06
209	NONE	2 7/8" REGULAR BRACE BAND @ 1.16 =	242.44
26	NONE	1 7/8" REGULAR BRACE BAND @ .53 =	13.78
18	NONE	4" REGULAR BRACE BAND @ 1.28 =	23.04
155	NONE	2 7/8" REGULAR TENSION BAND @ .80 =	124.00
5	NONE	4" REGULAR TENSION BAND @ 1.14 =	5.70
72	NONE	1 5/8" PRESSED STEEL RAIL-END @ 2.40 =	172.80
22	NONE	1 5/8" PRESSED STEEL COMBO RAIL-END @ 2.55 =	56.10
32	NONE	70" 3/16" X 3/4" TENSION BAR @ 5.04 =	161.28
365	NONE	2 3/8" X 1 5/8" 45 Deg. PRESSED STEEL BARB WIRE ARM @ 5.49 =	2003.85
20	NONE	2 7/8" PRESSED STEEL CAP @ 2.69 =	53.80
2	NONE	4" PRESSED STEEL CAP @ 3.47 =	6.94
171	NONE	1 5/8" SLEEVE @ 2.34 =	400.14
2000	NONE	1 7/8" 11 GA. EASY TWIST TIE WIRE @ .18 =	360.00
2000	NONE	1 5/8" 11 GA. EASY TWIST TIE WIRE @ .15 =	300.00
500	NONE	5/16" X 1 1/4" CARRIAGE BOLT @ .18 =	90.00
9	NONE	4 PT. DOM. CLASS III BARB WIRE @ 175.80 =	1582.20
4000	NONE	7 GA. COIL SPRING .80 ZINC (COIL) TENSION WIRE @ .18 =	720.00
9	NONE	12 1/2 GA. STEEL HOG RING @ 10.53 =	94.77
22	NONE	10'6" 3/8" TRUSS ROD @ 8.30 =	182.60
22	NONE	IND. TRUSS ROD TIGHTENER @ 1.79 =	39.38
28	NONE	DELIVERED YDS OF CONCRETE @ 225.00 =	6300.00
1	NONE	72" X 12' 1 5/8" DQ-40 GALV. PIPE DOUBLE SWING GATE W/BARBED WIRE (Gate Only) @ 745.07 =	745.07
2	NONE	72" X 4' 1 5/8" DQ-40 GALV. PIPE SINGLE SWING GATE W/BARBED WIRE (Gate Only) @ 306.24 =	612.48
2	NONE	1 5/8" X 2 7/8" MALLEABLE IRON GATE FORK LATCH @ 13.50 =	27.00
1	NONE	1 5/8" INDUSTRIAL DROP ROD ASSEMBLY @ 91.50 =	91.50
1	NONE	MALLEABLE MUSHROOM GATE CENTER STOP @ 21.54 =	21.54
8	NONE	2 7/8" X 1 5/8" or 1 7/8" PRESSED STEEL BULL DOG HINGE @ 17.03 =	136.24

WELLINGTON WASTE WATER PLANT QUOTE centennial prices 03032022.JS0

02/22/2022



Black Eagle Fence Inc. 5441 Boeing Dr., Suite 1B
Loveland, CO 80538 970-667-1228
blackeaglefence.com

ITEMIZED ESTIMATE

BILL TO:

TOWN OF WELLINGTON

SHIP TO:

WASTE WATER PLANT FENCE

,

3806' - 6' - 1 7/8"L / 2 7/8"T / 9GA KT Fencing

QTY.	RECORD #	ITEM	AMOUNT
8	MH-010718	5/16" X 2 1/2" CARRIAGE BOLT @ .33 /Ea. =	2.64
4	NONE	1 5/8" MALLEABLE IRON GATE KEEPER @ 28.40 =	113.60

		MATERIALS TOTAL:	\$ 76864.69
		LABOR TOTAL:	39705.00

		TOTAL:	\$ 116569.69



Black Eagle Fence Inc. 5441 Boeing Dr., Suite 1B
 Loveland, CO 80538 970-667-1228
 blackeaglefence.com

ITEMIZED ESTIMATE

BILL TO:

SHIP TO:

TOWN OF WELLINGTON

WATER TREATMENT PLANT

1109' - 6' - 1 7/8"L / 2 7/8"T / 9GA KT Fencing

QTY.	RECORD #	ITEM	AMOUNT
1150	NONE	72" 9 GA. G.A.W. 1.2 oz. CLASS 1 (2" Mesh) KT (50' Roll) CHAIN LINK FABRIC @ 5.96 =	6854.00
1239	NONE	1 5/8" DQ-40 GALV. FLO-COAT PIPE TOP RAIL & BRACING @ 4.01 =	4968.39
10	NONE	2 7/8" X 10' DQ-40 GALV. FLO-COAT PIPE POST @ 106.59 =	1065.90
108	NONE	2 3/8" X 8'6" DQ-40 GALV. FLO-COAT PIPE POST @ 57.89 =	6252.12
84	NONE	2 7/8" REGULAR BRACE BAND @ 1.16 =	97.44
12	NONE	1 7/8" REGULAR BRACE BAND @ .53 =	6.36
60	NONE	2 7/8" REGULAR TENSION BAND @ .80 =	48.00
24	NONE	1 5/8" PRESSED STEEL RAIL-END @ 2.40 =	57.60
12	NONE	1 5/8" PRESSED STEEL COMBO RAIL-END @ 2.55 =	30.60
12	NONE	70" 3/16" X 3/4" TENSION BAR @ 5.04 =	60.48
108	NONE	2 3/8" X 1 5/8" 45 Deg. PRESSED STEEL BARB WIRE ARM @ 5.49 =	592.92
10	NONE	2 7/8" PRESSED STEEL CAP @ 2.69 =	26.90
49	NONE	1 5/8" SLEEVE @ 2.34 =	114.66
540	NONE	1 7/8" 11 GA. EASY TWIST TIE WIRE @ .18 =	97.20
610	NONE	1 5/8" 11 GA. EASY TWIST TIE WIRE @ .15 =	91.50
200	NONE	5/16" X 1 1/4" CARRIAGE BOLT @ .18 =	36.00
3	NONE	4 PT. CLASS III BARB WIRE @ 175.80 =	527.40
1	NONE	7 GA. COIL SPRING .80 ZINC (COIL) TENSION WIRE @ .18 =	.18
3	NONE	12 1/2 GA. STEEL HOG RING @ 10.53 =	31.59
12	NONE	10'6" 3/8" TRUSS ROD @ 8.30 =	99.60
12	NONE	IND. TRUSS ROD TIGHTENER @ 1.79 =	21.48
11	NONE	TRUCK POURED CONCRETE @ 225.00 =	2475.00
2	NONE	6+1 X 4' 1 5/8" DQ-40 PIPE & CL WIRE SINGLE SWING GATE (w/Barbwir @ 306.24 =	612.48
2	NONE	1 5/8" X 2 7/8" MALLEABLE IRON GATE FORK LATCH @ 13.50 =	27.00
4	NONE	2 7/8" X 1 5/8" or 1 7/8" PRESSED STEEL BULL DOG HINGE @ 15.74 =	62.96
4	MH-010718	5/16" X 2 1/2" CARRIAGE BOLT @ .33 /Ea. =	1.32
2	NONE	MALLABLE DUCKBILL GATE HOLDBACK @ 16.64 =	33.28
MATERIALS TOTAL:			\$ 24292.36
LABOR TOTAL:			14598.00
TOTAL:			\$ 38890.36

WELLINGTON WATER TREATMENT PLANT QUOTE centennial prices ADDENDUM 2 02252022 0225/2022



Board of Trustees Meeting

Date: March 8, 2022

Submitted By:

Subject: Ordinance No. 06-2022 - An Ordinance of the Town of Wellington, Colorado, Acting by and through the Town Wastewater Enterprise, Approving a Green Project Reserve Loan from the Colorado Water Resource and Power Development Authority to Finance Wastewater Related Improvements; Authorizing the Execution of a Loan Agreement and a Bond to Document the Loan; and Providing for Payment of the Bond from Net Revenue of the Wastewater System

- **Presentation: Vik Runkel, Interim Finance Director**

EXECUTIVE SUMMARY

In addition to the Colorado Water Resources and Power Development Authority State Revolving Fund Loan discussed at the February 22, 2022 Board of Trustees Regular Meeting (referred to as the SRF loan), the State of Colorado has an additional program called the Green Project Reserve Fund (GPR) Loan Program. The state reviews projects such as the Town's Wastewater Treatment Expansion Project to determine if the Town qualifies for this program, which provides low interest loans for work meeting specific environmental conditions.

The Program will pay a maximum of 15 percent of a project. In the Town of Wellington's case, the state has reviewed the WWTP project and will provide a total of \$3 million for the project from this source of financial support.

The interest rate the state will charge the Town for the GPR Loan is 1.5 percent. At the end of the project, the Colorado Department of Public Health and Environment reviews the work to ensure it meets specified environmental conditions. If it does not, the loan is still provided, but the interest rate increases to 2.25 percent. Staff is confident that the conditions will be met.

Both the Colorado SRF loan and the GPR loan will close simultaneously, obligating the money for the Town Wastewater Treatment Plant project. This also helps with identifying the exact amount the Town will borrow in the SRF program. The amount borrowed will total approximately \$48 million. Of this amount, \$45 million will come from the SRF funding and the remaining \$3 million will be from the GPR loan program. As the Town asks for construction costs reimbursement, the State will first draw from the SRF money, the GPR monies will be the "last dollars" into the project.

As the Town began discussions with the State to identify ways to pay for this major project, the State was most helpful in identifying both programs for the Town. We can also report that the Town will receive its share of any investment earnings for the SRF loan. This revenue will be directed to the Town's bond payments.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

Recommended motion: Move to approve Ordinance No. 06-2022, An Ordinance of the Town of Wellington, Colorado, Acting by and through the Town Wastewater Enterprise, Approving a Green Project Reserve Loan



from the Colorado Water Resource and Power Development Authority to Finance Wastewater Related Improvements; Authorizing the Execution of a Loan Agreement and a Bond to Document the Loan; and Providing for Payment of the Bond from Net Revenue of the Wastewater System

ATTACHMENTS

1. Ordinance 06-2022 - CWRPDA 2022 GPR Loan
2. Wellington GPR WPCRF Draft Direct Loan Agreement
3. GPR Powerpoint

TOWN OF WELLINGTON

ORDINANCE NO. 06-2022

AN ORDINANCE OF THE TOWN OF WELLINGTON, COLORADO, ACTING BY AND THROUGH THE TOWN WASTEWATER ENTERPRISE, APPROVING A GREEN PROJECT RESERVE LOAN FROM THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY TO FINANCE WASTEWATER RELATED IMPROVEMENTS; AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT AND A BOND TO DOCUMENT THE LOAN; AND PROVIDING FOR PAYMENT OF THE BOND FROM NET REVENUE OF THE WASTEWATER SYSTEM.

WHEREAS, the Town of Wellington, Colorado, is a municipal corporation duly organized and operating as a statutory town under the Constitution and laws of the State of Colorado (unless otherwise indicated, capitalized terms used in this preamble shall have the meanings set forth in Section 1 of this Ordinance); and

WHEREAS, the Town is acting hereunder by and through the Town Wastewater Enterprise, which has been duly and regularly established pursuant to Enabling Laws and by a duly adopted ordinance of the Town, which enterprise has been and continues to be operated as a “water activity enterprise” within the meaning of Section 37-45.1-102(4), C.R.S., and constitutes a government owned business which is authorized to issue its own revenue bonds and which shall not receive 10% or more of annual revenue in grants from all Colorado state and local governments combined; and

WHEREAS, the Board previously authorized a Water Pollution Control Revolving Fund Loan Agreement with the Colorado Water Resources and Power Development Authority, a body corporate and political subdivision of the State, pursuant to which CWRPDA is to make a loan to the Town in a principal amount not to exceed \$50,000,000 for the purpose of financing the estimated costs of wastewater system capital improvements generally consisting of the expansion and improvement of the wastewater treatment facilities of the Town; and

WHEREAS, as part of its approval of the loan, CWRPDA determined that a portion of the Project qualifies for enhanced financing terms under its Green Project Reserve Loan program; and

WHEREAS, in order to finance a portion of the Project under the enhanced terms of the Green Project Reserve Loan program, the Board has determined to enter into a Loan Agreement with the CWRPDA, pursuant to which CWRPDA is to make a loan to the Town in the original principal amount of \$3,000,000, provided that the combined amount of such loan and the loan evidenced by the WPCRF Loan Agreement is not greater than \$50,000,000; and

WHEREAS, the Town’s repayment obligation under the Loan Agreement will be evidenced by a governmental agency bond to be issued by the Town to the CWRPDA, which Bond shall constitute a special revenue obligation of the Town which is to be paid from the income and revenues derived from the operation and use of the wastewater system (but not the water system) comprising the Town Wastewater Enterprise less reasonable and necessary current expenses of the Town of operating, maintaining and repairing the wastewater system (but not the water system)

comprising the Town Wastewater Enterprise and, after consideration, the Board of Trustees has determined that the execution of the Loan Agreement and the issuance of the Bond to the CWRPDA is to the best advantage of the Town; and

WHEREAS, voter approval in advance is not required under Article X, Section 20 of the Colorado Constitution for the execution of the Loan Agreement or the issuance of the Bond; and

WHEREAS, as of the date of adoption of this Ordinance, the Town has outstanding multi-year obligations which are payable from and secured by the Net Revenue, and which generally consist of a Loan Agreement dated May 1, 2002, in the original principal amount of \$4,826,280.60, which obligation is evidenced by a governmental agency bond and payable to CWRPDA, and the Wastewater Revenue Bonds, Series 2014, issued on September 15, 2014, in the original principal amount of \$2,500,000; and

WHEREAS, the form of the Loan Agreement and the Bond have been presented to the Town and made available to the Board; therefore,

BE IT HEREBY ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO:

Section 1. Definitions. The following terms shall have the following meanings as used in this Ordinance:

“*Board*” means the Board of Trustees of the Town, acting as the governing body of the Enterprise.

“*Bond*” means the governmental agency bond to be issued by the Town to the CWRPDA pursuant to the Loan Agreement, the form of which is set forth in Exhibit D to the Loan Agreement.

“*Capital Improvements*” means the acquisition of land, easements, facilities and equipment, other than ordinary repairs and replacements, and the construction or reconstruction of improvements, betterments and extensions for use by, or in connection with, the System.

“*C.R.S.*” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“*CWRPDA*” means the Colorado Water Resources and Power Development Authority, a body corporate and political subdivision of the State.

“*Enabling Law*” means Part 2, Article 57 of Title 11, Colorado Revised Statutes, as amended; Part 4, Article 35 of Title 31, Colorado Revised Statutes, as amended; Part 1, Article 45.1 of Title 37, Colorado Revised Statutes, as amended. and all other laws of the State establishing the power of the Town to complete the financing contemplated by this Ordinance.

“*Enterprise*” means the government owned business of the Town, as established pursuant to a duly adopted ordinance of the Town, which is authorized to issue its own revenue bonds and which receives under 10% of annual revenue in grants from all Colorado state and local governments combined.

“Financing Documents” means the Loan Agreement and the Bond.

“Future Parity Obligations” means one or more series of additional bonds, notes, interim securities or other obligations issued by the Town having a lien on the Net Revenue which is on a parity with the lien of the Bond.

“Gross Revenue” means all income and revenues directly or indirectly derived by the Town from the operation and use of the System, or any part thereof, including without limitation, any rates, fees (including without limitation plant investment fees and availability fees), and charges for the services furnished by, or the use of, the System, and all income attributable to any past or future dispositions of property or rights, or related contracts, settlements or judgments held or obtained in connection with the System or its operations, and including investment income accruing from such moneys; provided however, that there shall be excluded from Gross Revenue any moneys borrowed and used for providing Capital Improvements; any money and securities, and investment income therefrom, in any refunding fund, escrow account or similar account pledged to the payment of any bonds or other obligations; and any moneys received as grants or appropriations from the United States, the State of Colorado or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments for the use of the System, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom.

“WPCRF Loan Agreement” means that certain Loan Agreement between the Town and the CWRPDA pursuant to which the CWRPDA is to make a loan from its Water Pollution Control Revolving Fund to the Town.

“Net Revenue” means the Gross Revenue after deducting Operation and Maintenance Expenses.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the Town, paid or accrued, for operating, maintaining and repairing the System, including without limitation legal and overhead expenses of the Town directly related to the administration of the System, insurance premiums, audits, professional services, salaries and administrative expenses, labor and the cost of materials and supplies for current operation; provided however, that there shall be excluded from Operation and Maintenance Expenses any allowance for depreciation, payments in lieu of taxes or franchise fees, expenses incurred in connection with Capital Improvements, and payments due in connection with any bonds or other obligations issued to provide Capital Improvements.

“Outstanding Obligations” means, as of the execution date of the Loan Agreement and the WPCRF Loan Agreement, the Loan Agreement dated May 1, 2002, in the original principal amount of \$4,826,280.60, which obligation is evidenced by a governmental agency bond and payable to CWRPDA, and the Wastewater Revenue Bonds, Series 2014, issued on September 15, 2014, in the original principal amount of \$2,500,000, which obligations are payable from and secured by the Net Revenue.

"*Prime Rate*" means the prevailing commercial interest rate announced by the Wall Street Journal from time to time, or, if the Wall Street Journal ceases announcing a prime rate, the prevailing commercial interest rate announced by Citibank, N.A. as its prime lending rate.

"*Project*" means the expansion and improvement of the wastewater treatment facilities of the Town, and other System Capital Improvements as set forth in the Loan Agreement and as the Project may be later modified by determination of the Board.

"*Project Costs*" means the Town's costs properly attributable to the Project, or any parts thereof, and permitted by the provisions of the Enabling Law.

"*Pro Rata Portion*" means when used with respect to a required credit to the accounts or subaccounts established for the payment of the principal of and interest on the Bond, any Future Parity Obligations and the Outstanding Obligation, the dollar amount derived by dividing the amount of principal or interest to come due on the next principal or interest payment date by the number of monthly credits required to be made prior to such payment date.

"*Wastewater Fund*" means the Wastewater Fund, within with the financial operations of the System are currently accounted for, or such other fund as may be determined by Town to account for the financial operations of the System.

"*State*" means the State of Colorado.

"*System*" means the wastewater system of the Town, as more particularly described in the Loan Agreement.

"*Town*" means the Town of Wellington, Colorado, acting by and through the Town Wastewater Enterprise.

Section 2. Approval of Loan Agreement and Authorization of Bond. Pursuant to and in accordance with the State Constitution and the Enabling Law, the Bond shall be issued by the Town acting by and through the Town Wastewater Enterprise. The form of the Loan Agreement setting forth the terms, conditions and details of the Bond and the procedures relating thereto, is incorporated herein by reference and is hereby approved; all Town officials and employees are hereby directed to take such actions as are necessary and appropriate to fulfill the obligations of the Town under the Financing Documents. The Town shall enter into the Loan Agreement and deliver the Bond in substantially the form presented to the Town at or prior to this meeting of the Board with only such changes as are not inconsistent herewith; provided that such documents may be completed, corrected, or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance. The accomplishment of the Project and the payment of Project Costs are hereby authorized, approved, and ordered. It is hereby determined that the date of final maturity of the Bond does not exceed the estimated life of the Project.

Section 3. Bond Details. The Bond shall be in substantially the form set forth in Exhibit D to the Loan Agreement with such changes thereto, not inconsistent herewith, as may be necessary or desirable and approved by the officials of the Town executing the same (whose manual or facsimile signatures thereon shall constitute conclusive evidence of such approval). The Bond shall be in the aggregate principal amount of \$3,000,000, shall bear interest at a rate of one

and one-half percent (1.50%) per annum, and shall be payable semi-annually and mature not more than thirty-two years from the date of its issuance, all as more particularly set forth in the Loan Agreement. If any portion of the proceeds of the Bond are applied to costs of the Project that are not eligible project costs under the terms of the Green Project Reserve Loan program, then the corresponding principal amount of the Bond shall bear interest at a rate equal to the rate of interest accruing on that certain bond evidencing the WPCRF Loan Agreement. The Bond may provide for a late charge (penalty interest rate) in an amount equal to the greater of twelve percent (12%) per annum or the Prime Rate plus one half of one percent per annum on late payments; provided however, such late charge rate shall not exceed the maximum rate permitted by law. For a period not to exceed one year from the effective date of this Ordinance, the Board hereby delegates to the Town Administrator, or in her absence, the Town Finance Director, the right to determine, within the parameters established above, the final principal of, and loan term for, the Bond.

Section 4. Pledge for Payment of the Bond.

(a) ***Pledge of Net Revenue.*** Net Revenue is hereby pledged to the payment of the Bond and the amounts due under the Loan Agreement. The Bonds shall constitute a first lien upon the Net Revenue, but not necessarily an exclusive first lien. Pursuant to and in accordance with Section 11-57-208, C.R.S., Net Revenue, as received by or otherwise credited to the Town, shall immediately be subject to the lien of the pledge stated above without any physical delivery, filing, or further act. The lien of each such pledge, and the obligation to perform the contractual provisions made in this Ordinance and the Financing Documents, shall have priority over any or all other obligations and liabilities of the Town except as may be otherwise provided in this Ordinance or in the Financing Documents. The lien of the above pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Town irrespective of whether such persons have notice of such liens.

(b) ***Establishment of Accounts.*** There shall be established and maintained by the Town such accounts or subaccounts within the Wastewater Fund necessary or convenient to carry out the terms and provisions of this Ordinance and the Loan Agreement.

(c) ***Flow of Funds.*** The Town shall credit to the Wastewater Fund all Gross Revenue immediately upon receipt. The Town shall pay from the Wastewater Fund all Operation and Maintenance Expenses as they become due and payable. After such payment or the allocation of Gross Revenue to such payment, the Town shall apply the Net Revenue in the following order of priority:

FIRST, to the credit of or deposit in the accounts or subaccounts established for the payment of interest on the Bond, the Outstanding Obligation and any Future Parity Obligations, the Pro Rata Portion equal to the interest coming due on the next succeeding interest payment date for the respective obligations;

SECOND, to the credit of or deposit in the accounts or subaccounts established for the payment of principal of the Bond, the Outstanding Obligation and any Future Parity Obligations, the Pro Rata Portion equal to the principal coming due on the next succeeding principal payment date for the respective obligations;

THIRD, to the credit of any reserve accounts established for the payment of the Bond, the Outstanding Obligation and any Future Parity Obligations, the amounts required in the ordinances or related documents authorizing and controlling the establishment of such reserve accounts; and

FOURTH, to the credit of or deposit in the accounts or subaccounts established for the payment of principal of and interest on other obligations the payment of which is subordinate to the payment of the Bond, the Pro Rata Portion equal to the principal of or interest on such obligations coming due on the next succeeding payment date for the respective obligations; and

FIFTH, to the credit of any other fund or account as may be designated by the Town, to be used for any lawful purpose, any moneys remaining in the Wastewater Fund after the payments and accumulations set forth in FIRST through FOURTH hereof.

(d) ***The Bond Does Not Constitute a Debt.*** The CWRPDA may not look to any general or other fund of the Town for the payment of the principal of or interest on the Bond, except the funds and accounts pledged thereto pursuant to authority of this Ordinance, and the Bond shall not constitute a debt or an indebtedness of the Town within the meaning of any constitutional or statutory provision or limitation; nor shall they be considered or held to be a general obligation of the Town.

Section 5. Various Findings, Determinations, Declarations and Covenants. The Board, having been fully informed of and having considered all the pertinent facts and circumstances, hereby affirms the covenants set forth in Section 2.02 of the Loan Agreement and further finds, determines, declares and covenants that:

(a) ***Additional Obligations.*** No bonds, notes, interim securities or other obligations shall be issued payable from the Net Revenue and having a lien thereon which is superior to, on a parity with, or subordinate to the lien of the Bond unless the requirements set forth in EXHIBIT F of the Loan Agreement, under the caption titled “Additional Bonds”, have been met.

(b) ***Maintenance of Rates and Coverage.*** The Town hereby covenants that it will establish, maintain, enforce and collect rates, fees and charges for services furnished by or the use of the System as required in provision set forth in EXHIBIT F of the Loan Agreement under the caption titled “Rate Covenant”. In the event that the Gross Revenue at any time is not sufficient to make the payments required by said provision, the Town covenants to promptly increase such rates, fees and charges to an extent which will ensure compliance with said covenant.

(c) ***Enterprise Status.*** The Board hereby determines that the Enterprise is an “enterprise” within the meaning of Article X, Section 20 of the Colorado Constitution. The Town has and will continue to maintain the System as part of its “enterprise” within the meaning Article X, Section 20 of the Colorado Constitution, and the meaning of Title 37, Article 45.1, C.R.S.; provided, however, after the current calendar year the Town may disqualify the “enterprise” in any year in which said disqualification does not materially, adversely affect the enforceability of the covenants made in the Financing Documents. In the event that the “enterprise” is disqualified and the enforceability of the covenants made by the Town in the Financing Documents are materially,

adversely affected, the Town covenants to (i) immediately take all actions necessary to qualify System as an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution and (ii) permit the enforcement of the covenants made in the Financing Documents.

(d) ***Obligations Currently Secured by Net Revenue.*** Other than the Outstanding Obligation, the Town has no outstanding debt, bonds, loans or other multiple fiscal year obligation which is secured by Net Revenue.

(e) ***Findings of the Board.*** The Board having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants with the CWRPDA that:

(i) the Enterprise has been duly established and is operating during the current calendar year as an “enterprise” within the meaning of Article X, Section 20 of the Colorado Constitution;

(ii) the Board elects to apply all of the provisions of Title 11, Article 57, Part 2, C.R.S. to the execution of the Loan Agreement and to the issuance of the Bond;

(iii) the execution of the Loan Agreement and the issuance and delivery of the Bond, and all procedures undertaken incident thereto, are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Constitution and the Enabling Law, and all conditions and limitations of the Enabling Law and other applicable law relating to the execution of the Loan Agreement and the issuance and delivery of the Bond have been satisfied; and

(iv) it is in the best interests of the Town and its residents that the Bond be authorized, issued and delivered at the time, in the manner and for the purposes provided in this Ordinance.

Section 6. Approval of Miscellaneous Documents. The Mayor (or in the Mayor’s absence the Mayor Pro Tem) is hereby authorized and directed to execute the Loan Agreement and all documents and certificates necessary or desirable to effectuate the issuance of the Bond and the financing contemplated by this Ordinance. Additionally, authorized officers and representatives as identified in Exhibit B to the Loan Agreement shall be the Town Administrator and the Town Finance Director.

Section 7. Amendment of Ordinance. This Ordinance may be amended only with the prior written consent of the CWRPDA.

Section 8. Limitation of Actions. The Board elects to apply all of the provisions of Title 11, Article 57, Part 2, C.R.S. to the execution of the Loan Agreement and to the issuance of the Bond. Pursuant Section 11-57-212, Colorado Revised Statutes, no action or proceeding concerning the issuance of the Bonds shall be maintained against the Town unless commenced within 30 days after the date of passage of this Ordinance.

Section 9. Ratification of Prior Actions. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Board or by the officers and employees of the Town

directed toward the issuance of the Bond for the purposes herein set forth are hereby ratified, approved and confirmed.

Section 10. Headings. The headings to the various sections and paragraphs to this Ordinance have been inserted solely for the convenience of the reader, are not a part of this Ordinance, and shall not be used in any manner to interpret this Ordinance.

Section 11. Ordinance Irrepealable. After any Bond has been issued, this Ordinance shall constitute a contract between the CWRPDA and the Town, and shall be and remain irrepealable until the Bond and the interest accruing thereon shall have been fully paid, satisfied, and discharged, as herein provided.

Section 12. Severability. It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

Section 13. Repealer. All orders, bylaws, resolutions and ordinances of the Town, or parts thereof, inconsistent or in conflict with this Ordinance are hereby repealed to the extent only of such inconsistency or conflict.

Section 14. Effective Date. This Ordinance shall be in full force and effect 30 days from the date of passage and publication.

PASSED AND ADOPTED by the Board of Trustees of the Town of Wellington, Colorado and ordered published this 8th day of March, 2022 and ordered to become effective 30 days from the date of publication.

TOWN OF WELLINGTON, COLORADO

By _____
Troy Hamman, Mayor

ATTEST:

By _____
Krystal Eucker, Town Clerk

WATER POLLUTION CONTROL REVOLVING FUND

LOAN AGREEMENT

BETWEEN

**COLORADO WATER RESOURCES AND POWER
DEVELOPMENT AUTHORITY**

AND

**TOWN OF WELLINGTON, COLORADO, ACTING BY AND THROUGH
THE TOWN WASTEWATER ENTERPRISE**

DATED

LOAN AGREEMENT

THIS LOAN AGREEMENT is made and entered into as of this ____ day of ____ 2022, by and between **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority"), a body corporate and political subdivision of the State of Colorado, and the **TOWN OF WELLINGTON, COLORADO, ACTING BY AND THROUGH THE TOWN WASTEWATER ENTERPRISE** (the "Governmental Agency").

WITNESSETH THAT:

WHEREAS, the United States of America, pursuant to the federal Water Quality Act of 1987, requires increased state and local participation in the financing of the costs of wastewater treatment projects and said federal Water Quality Act requires each state to establish a water pollution control revolving fund to be administered by an instrumentality of the state.

WHEREAS, the Authority was created to initiate, acquire, construct, maintain, repair, and operate or cause to be operated water management projects which include wastewater treatment facilities;

WHEREAS, Section 37-95-107.6, Colorado Revised Statutes has created a Water Pollution Control Revolving Fund to be administered by the Authority that will enable the State of Colorado to comply with the provisions of said federal Water Quality Act of 1987;

WHEREAS, the Authority and the United States Environmental Protection Agency have entered into an Operating Agreement and 1989 Capitalization Grant Agreement for the Water Pollution Control Revolving Fund;

WHEREAS, pursuant to the Federal Capitalization Agreement, as defined below, the Authority has reserved certain funds to be loaned at a reduced interest rate for projects certified upon final construction by the Colorado Department of Public Health and the Environment, Water Quality Control Division ("WQCD") to be Green Projects, as defined below;

WHEREAS, the Governmental Agency has made timely application to the Authority for a loan to finance all or a portion of the cost of a wastewater treatment facility (the "Project", as further defined below);

WHEREAS, the Governmental Agency intends to seek certification by the WQCD of the Project, when finally constructed, as a Green Project;

WHEREAS, the Colorado Legislature has approved a project eligibility list that includes the Project proposed by the Governmental Agency to be financed hereunder;

WHEREAS, the Authority has approved the Governmental Agency's application for a loan from funds available in the Water Pollution Control Revolving Fund in an amount not to exceed

the amount of the Loan Commitment set forth in Paragraph (4) of Exhibit B hereto to finance all or a portion of the cost of the Project of the Governmental Agency;

WHEREAS, the Governmental Agency will issue its bond to the Authority to evidence said loan and its obligations hereunder to the Authority;

NOW THEREFORE, for and in consideration of the award of the loan by the Authority, the Governmental Agency agrees to perform its obligations under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and attached hereto as a part hereof, as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

"Act" means the "Colorado Water Resources and Power Development Authority Act," being Section 37-95-101 et seq. of the Colorado Revised Statutes, as the same may from time to time be amended and supplemented.

"Administrative Fee" means the semi-annual fee for administration of the Loan as set forth on Exhibit C hereto, payable as a part of the Loan Repayment under paragraph 3.03.

"Authority" means the Colorado Water Resources and Power Development Authority, a body corporate and political subdivision of the State of Colorado duly created and validly existing under and by virtue of the Act.

"Authorized Officer" means, in the case of the Governmental Agency, the person whose name is set forth in Paragraph (7) of Exhibit B hereto or such other person or persons authorized pursuant to a resolution or ordinance of the governing body of the Governmental Agency to act as an Authorized Officer of the Governmental Agency to perform any act or execute any document relating to the Loan, the Governmental Agency Bond, or this Loan Agreement, whose name is furnished in writing to the Authority.

"Commencement Date" means the date of commencement of the term of this Loan Agreement, as set forth in Paragraph (1) of Exhibit B attached hereto and made a part hereof.

"Cost" means those costs that are eligible to be funded are reasonable, necessary and allocable to the Project and are associated with the approved scope of work, the plans and specifications, and change orders and are permitted by generally accepted accounting principles to be costs of the Project.

"Event of Default" means any occurrence or event specified in Section 5.01 hereof.

"Federal Capitalization Agreement" means the instrument or agreement established or entered into by the United States of America Environmental Protection Agency and the Authority to make capitalization grant payments pursuant to the federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.)

"Green Project" means a Project that is certified as green (as defined in the Federal Capitalization Agreement) by the Colorado Department of Public Health and Environment, Water Quality Control Division ("WQCD"), upon final approval of the Project plans and specifications, and remains certified by the WQCD as green after final approval of the constructed Project WQCD.

"Governmental Agency" means the entity that is a party to and is described in the first paragraph of this Loan Agreement, and its successors and assigns.

"Governmental Agency Bond" means the bond executed and delivered by the Governmental Agency to the Authority to evidence the Loan and its obligations to the Authority pursuant to the Loan, the form of which is attached hereto as Exhibit D and made a part hereof.

"Loan" means the loan made by the Authority to the Governmental Agency to finance or refinance a portion of the Cost of the Project pursuant to this Loan Agreement. For all purposes of this Loan Agreement, the principal amount of the Loan at any time shall be the amount of the Loan Commitment set forth in Paragraph (4) of Exhibit B attached hereto and made a part of this Loan Agreement.

"Loan Agreement" means this Loan Agreement, including the Exhibits attached hereto, as it may be supplemented, modified, or amended from time to time in accordance with the terms hereof.

"Loan Closing" means the date upon which the Loan herein shall be closed as set forth in Paragraph 3.08.

"Loan Repayments" means the payments payable by the Governmental Agency pursuant to Section 3.03 of this Loan Agreement, including payments payable under the Governmental Agency Bond.

"Loan Term" means the term of this Loan Agreement provided in Paragraph (5) of Exhibit B attached hereto and made a part hereof. If the Loan is prepaid in its entirety pursuant to Section 3.06, the Loan Term shall automatically terminate.

"Pledged Property" means the source of repayment described in Paragraph (3) of Exhibit A to this Loan Agreement attached hereto and made a part hereof.

"Prime Rate" means the prevailing commercial interest rate announced by the Wall Street Journal from time to time, or, if the Wall Street Journal ceases announcing a prime rate, shall be the prevailing commercial interest rate announced by Citibank, N.A. as its prime lending rate.

"Project" means the project of the Governmental Agency described in Paragraph (1) of Exhibit A attached hereto and made a part hereof, all or a portion of the Cost of which is financed or refinanced by the Authority through the making of the Loan under this Loan Agreement.

"Project Loan Account" means the Project Loan Account established within the Water Pollution Control Revolving Fund.

"System" means the wastewater and water treatment system of the Governmental Agency, described in Paragraph (2) of Exhibit A, including the Project, described in Paragraph (1) of Exhibit A attached hereto and made a part hereof, for which the Governmental Agency is making the borrowing under this Loan Agreement, as such System may be modified, replaced, or expanded from time to time.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, agencies and districts. Words importing one gender shall include the other gender.

ARTICLE II

REPRESENTATIONS AND COVENANTS OF GOVERNMENTAL AGENCY

SECTION 2.01. Representations of Governmental Agency. The Governmental Agency represents for the benefit of the Authority:

(a) Organization and Authority.

(i) The Governmental Agency is a governmental agency as defined in the Act and as described in the first paragraph of this Loan Agreement.

(ii) The Governmental Agency has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate, and maintain the System, other than licenses and permits relating to the construction and acquisition of the Project, that the Governmental Agency expects to receive in the ordinary course of business; to carry on its activities relating thereto; and to undertake and complete the Project. The Governmental Agency has full legal right and authority to execute and deliver this Loan Agreement to execute, issue, and deliver the Governmental Agency Bond; and to carry out and consummate all transactions contemplated by this Loan Agreement and the Governmental Agency Bond. The Project is on the water pollution control project eligibility list approved by the General Assembly of the State of Colorado pursuant to the Act and is a project that the Governmental Agency may undertake pursuant to Colorado law, and for which the Governmental Agency is authorized by law to borrow money.

(iii) The proceedings of the Governmental Agency's governing members and voters, if a referendum is necessary, approving this Loan Agreement and the Governmental Agency Bond and authorizing their execution, issuance, and delivery on behalf of the Governmental Agency, and authorizing the Governmental Agency to undertake and

complete the Project, or to cause the same to be undertaken and completed, have been duly and lawfully adopted and approved in accordance with the laws of Colorado, and such proceedings were duly approved and published, if necessary, in accordance with applicable Colorado law, at a meeting or meetings that were duly called pursuant to necessary public notice and held in accordance with applicable Colorado law, and at which quorums were present and acting throughout.

(iv) This Loan Agreement has been, and the Governmental Agency Bond when delivered at the Loan Closing will have been, duly authorized, executed, and delivered by an Authorized Officer of the Governmental Agency; and, assuming that the Authority has all the requisite power and authority to authorize, execute, and deliver, and has duly authorized, executed, and delivered, this Loan Agreement, this Loan Agreement constitutes, and the Governmental Agency Bond when delivered to the Authority will constitute, the legal, valid, and binding obligations of the Governmental Agency in accordance with their respective terms; and the information contained under "Description of the Loan" on Exhibit B attached hereto and made a part hereof is true and accurate in all material respects.

(b) Full Disclosure.

To the knowledge of the Governmental Agency, there is no fact that the Governmental Agency has not disclosed to the Authority in writing on the Governmental Agency's application for the Loan or otherwise that materially adversely affects the properties, activities, prospects, or condition (financial or otherwise) of the Governmental Agency or the System, or the ability of the Governmental Agency to make all Loan Repayments, or the ability of the Governmental Agency otherwise to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(c) Pending Litigation.

Except as disclosed to the Authority in writing, there are no proceedings pending, or, to the knowledge of the Governmental Agency threatened, against or affecting the Governmental Agency, in any court, or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities, prospects, or condition (financial or otherwise) of the Governmental Agency or the System, or the ability of the Governmental Agency to make all Loan Repayments, or the ability of the Governmental Agency otherwise to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(d) Compliance with Existing Laws and Agreements.

The authorization, execution, and delivery of this Loan Agreement and the Governmental Agency Bond by the Governmental Agency, the observance and performance by the Governmental Agency of its duties, covenants, obligations, and agreements thereunder, and the consummation of the transactions provided for in this Loan Agreement and in the Governmental Agency Bond; the compliance by the Governmental Agency with the provisions of this Loan Agreement and the Governmental Agency Bond; and the undertaking and

completion of the Project; will not result in any breach of any of the terms, conditions, or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon, any property or assets of the Governmental Agency pursuant to any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement, or other instrument (other than the lien and charge of this Loan Agreement and the Governmental Agency Bond) to which the Governmental Agency is a party or by which the Governmental Agency, the System, or any of the property or assets of the Governmental Agency may be bound, and such action will not result in any violation of the provisions of the charter or other document pursuant to which the Governmental Agency was established, or of any laws, ordinances, resolutions, governmental rules, regulations, or court orders to which the Governmental Agency, the System, or the properties or operations of the Governmental Agency are subject.

(e) No Defaults.

No event has occurred and no condition exists that, upon authorization, execution, and delivery of this Loan Agreement and the Governmental Agency Bond, or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Governmental Agency is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party, or by which it, the System, or its property, may be bound, which violation would materially adversely affect the properties, activities, prospects, or condition (financial or otherwise) of the Governmental Agency or the System, or the ability of the Governmental Agency to make all Loan Repayments, or the ability of the Governmental Agency otherwise to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(f) Governmental Consent.

The Governmental Agency has obtained all permits and approvals required to date by any governmental body or officer for the making, observance, and performance by the Governmental Agency of its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond, or for the undertaking or completion of the Project and the financing or refinancing thereof; and the Governmental Agency has complied with all applicable provisions of law requiring any notification, declaration, filing, or registration with any governmental body or officer in connection with the making, observance, and performance by the Governmental Agency of its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond, or with the undertaking or completion of the Project and the financing or refinancing thereof. Other than those relating to the construction and acquisition of the Project, which the Governmental Agency expects to receive in the ordinary course of business, no consent, approval, or authorization of, or filing, registration, or qualification with, any governmental body or officer that has not been obtained is required on the part of the Governmental Agency as a condition to the authorization, execution, and delivery of this Loan Agreement and the Governmental Agency Bond, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

(g) Compliance with Law.

The Governmental Agency:

(i) is in compliance with all laws, ordinances, governmental rules, and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the Governmental Agency to conduct its activities or to undertake or complete the Project, or the condition (financial or otherwise) of the Governmental Agency or the System; and

(ii) has obtained all licenses, permits, franchises, or other governmental authorizations presently necessary for the ownership of its property, or for the conduct of its activities that, if not obtained, would materially adversely affect the ability of the Governmental Agency to conduct its activities or to undertake or complete the Project, or the condition (financial or otherwise) of the Governmental Agency or the System.

(h) Use of Proceeds.

The Governmental Agency will apply the proceeds of the Loan from the Authority as described in Exhibit B attached hereto and made a part hereof (i) to finance all or a portion of the Cost; and (ii) where applicable, to reimburse the Governmental Agency for a portion of the Cost, which portion was paid or incurred in anticipation of reimbursement by the Authority.

SECTION 2.02. Particular Covenants of the Governmental Agency.

(a) Pledge of Source of Repayment.

The Governmental Agency irrevocably pledges and grants a lien upon the source of repayment described in Paragraph (3) of Exhibit A for the punctual payment of the principal of and the interest on the Loan, and all other amounts due under this Loan Agreement and the Governmental Agency Bond according to their respective terms.

(b) Performance Under Loan Agreement; System Maintenance; Compliance with Covenants.

The Governmental Agency covenants and agrees to maintain the System in good repair and operating condition; to cooperate with the Authority in the observance and performance of the respective duties, covenants, obligations and agreements of the Governmental Agency and the Authority under this Loan Agreement; and, to comply with the covenants described in the Exhibits to this Loan Agreement.

(c) Completion of Project and Provision of Moneys Therefor.

The Governmental Agency covenants and agrees to exercise its best efforts in accordance with prudent wastewater utility practice to complete the Project and to provide from the Pledged Property or other sources available to it all moneys, in excess of the total amount of loan proceeds it receives under the Loan, required to complete the Project.

(d) Disposition of the System.

During the Loan Term, the Governmental Agency shall not sell, lease, abandon, or otherwise dispose of, all or substantially all, or any substantial portion, of the System or any other system that provides revenues to provide for the payment of this Loan Agreement or the Governmental Agency Bond, except on ninety (90) days' prior written notice to the Authority and, in any event, shall not so sell, lease, abandon, or otherwise dispose of the same unless the following conditions are met: (i) the Governmental Agency shall assign this Loan Agreement in accordance with Section 4.02 hereof and its rights and interests hereunder to the purchaser or lessee of the System, and such purchaser or lessee shall expressly assume all duties, covenants, obligations, and agreements of the Governmental Agency under this Loan Agreement in writing; and (ii) the Authority shall by appropriate action determine that such sale, lease, abandonment or other disposition will not adversely affect the Authority's ability to meet its duties, covenants, obligations, and agreements under the Act, the Federal Clean Water Act, the Safe Drinking Water Act, or any agreement between the Authority or the State of Colorado relating to any capitalization grant received by the Authority or the State of Colorado under the Federal Clean Water Act, the Safe Drinking Water Act, and in its sole discretion, approve such sale, lease, abandonment, or other disposition.

(e) Inspections; Information.

Except for the disposal of any portions of the System that the Governmental Agency determines are no longer necessary for the operation of the System, during the Loan Term, the Governmental Agency shall permit the Authority to examine, visit, and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of, any accounts, books, and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments, and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the Authority may reasonably require in connection therewith. In addition, the Governmental Agency shall provide the Authority with copies of any official statements or other forms of offering prospectus relating to any other bonds, notes, or other indebtedness of the Governmental Agency secured from the Pledged Property and issued after the date of this Loan Agreement. At the discretion of the Authority, the Governmental Agency may be required to provide unaudited quarterly financial reports to the Authority.

(f) Cost of Project.

The Governmental Agency certifies that the Estimated Cost of the Project, as listed in Paragraph (3) of Exhibit B hereto and made a part hereof, is a reasonable and accurate estimation, and that upon direction of the Authority it shall supply the Authority with a certificate from its engineer stating that such cost is a reasonable and accurate estimation, taking into account investment income to be realized during the course of the Project, and other money that would, absent the Loan, have been used to pay the Estimated Cost of the Project.

(g) Reimbursement for Ineligible Costs.

The Governmental Agency shall promptly reimburse the Authority for any portion of the Loan that is determined not to be a Cost of the Project and that would not be eligible for funding from draws under the Water Pollution Control Revolving Fund. Such reimbursement shall be

promptly repaid to the Authority upon written request of the Authority with interest on the amount to be reimbursed at the rate set forth for the Loan.

(h) Advertising.

The Governmental Agency agrees not to advertise the Project for bids until plans and specifications for the Project, if such plans and specifications require approval, have been approved by the State Department of Public Health and Environment.

(i) Commencement of Construction.

Within twelve (12) months after the Loan Closing, the Governmental Agency shall initiate construction of the Project.

(j) Interest in Project Site.

As a condition of the Loan, the Governmental Agency will demonstrate to the satisfaction of the Authority before advertising for bids for construction that the Governmental Agency has or will have a fee simple or such other estate or interest in the site of the Project, including necessary easements and rights-of-way, as the Authority finds sufficient to assure undisturbed use and possession for the purpose of construction and operation of the Project for the estimated life of the Project.

(k) No Lobbying.

No portion of the Loan shall be used for lobbying or propaganda as prohibited by 18 U.S.C. Section 1913 or Section 607(a) of Public Law 96-74.

(l) Operation and Maintenance of System.

The Governmental Agency covenants and agrees that it shall, in accordance with prudent water and wastewater utility practice: (i) at all times operate the properties of its System and any business in connection therewith in an efficient manner; (ii) maintain its System in good repair, working order and operating condition; (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments, and improvements with respect to its System so that at all times the business carried on in connection therewith shall be properly and advantageously conducted; provided, however, this covenant shall not be construed as requiring the Governmental Agency to expend any funds that are derived from sources other than the operation of its System or other receipts of such System that are not pledged under subsection (a) of this Section 2.02, and provided further that nothing herein shall be construed as preventing the Governmental Agency from doing so.

(m) Records; Accounts.

During the Loan Term, the Governmental Agency shall keep accurate records and accounts for its System (the "System Records"), separate and distinct from its other records and accounts (the "General Records"). Such System Records, including project accounts, shall be

maintained in accordance with generally accepted accounting principles, generally accepted government accounting standards, including standards related to the reporting of infrastructure assets and System Records and General Records shall be made available for inspection by the Authority at any reasonable time.

(n) Audits.

(i) If the Governmental Agency's System Records or General Records are audited annually by an independent accountant, then it must provide a copy of such annual audit(s) including all written comments and recommendations of the accountant preparing the audit to the Authority within 210 days of the close of the fiscal year audited, and the Governmental Agency shall cause its independent auditor to file with the Authority a report to the effect that the Governmental Agency is not in default of its Rate Covenant, Paragraph (1) of Exhibit F; Operations and Maintenance Reserve Fund Covenant, Paragraph (5) of Exhibit F; or Lien Representation, Paragraph (4) of Exhibit F under this Loan Agreement, which report may be a part of the annual audit or a separate document.

(ii) If the Governmental Agency's annual revenues are greater than \$100,000 but less than or equal to \$750,000, then, within 210 days of the close of the fiscal year, the Governmental Agency must provide the Authority with a completed CPA Review that includes findings to the effect that the Governmental Agency is not in default of its Rate Covenant, Paragraph (1) of Exhibit F; Operations and Maintenance Reserve Fund Covenant, Paragraph (5) of Exhibit F; or Lien Representation, Paragraph (4) of Exhibit F under this Loan Agreement.

(iii) If the Governmental Agency's annual revenues are less than or equal to \$100,000, then, within 210 days of the close of the fiscal year, the Governmental Agency must provide the Authority with a completed CPA Compilation that includes findings to the effect that the Governmental Agency is not in default of its Rate Covenant, Paragraph (1) of Exhibit F; Operations and Maintenance Reserve Fund Covenant, Paragraph (5) of Exhibit F; or Lien Representation, Paragraph (4) of Exhibit F under this Loan Agreement.

(o) Insurance.

During the Loan Term, the Governmental Agency shall maintain or cause to be maintained in force, insurance policies with responsible insurers or self-insurance programs providing against risk of direct physical loss, damage, or destruction of its System, at least to the extent that similar insurance is usually carried by utilities constructing, operating, and maintaining utility system facilities of the nature of the Governmental Agency's System, including liability coverage. The Governmental Agency shall pay all insurance premiums for coverage required hereby from revenues derived from the operation of the System. Nothing herein shall be deemed to preclude the Governmental Agency from asserting against any party, other than the Authority, a defense that may be available to the Governmental Agency, including, without limitation, a defense of governmental immunity.

(p) Notice of Material Adverse Change.

During the Loan Term, (i) the Governmental Agency shall promptly notify the Authority of any material adverse change in the activities, prospects, or condition (financial or otherwise) of the Governmental Agency relating to its System, or its ability to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement; (ii) the Governmental Agency shall promptly notify the Authority of any material adverse change in the activities, prospects, or condition (financial or otherwise) of the Governmental Agency relating to its ability to make all Loan Repayments from the Pledged Property, or its ability to otherwise observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(q) Hiring Requirements.

The Governmental Agency agrees to comply with the requirements found at Title 8, Article 17, and Title 8, Article 17.5, Colorado Revised Statutes.

(r) Continuing Representations.

The representations of the Governmental Agency contained herein shall be true at the time of the execution of this Loan Agreement and the Governmental Agency covenants not to take any action that would cause them not to be true at all times during the Loan Term.

(s) Archeological Artifacts.

In the event that archeological artifacts or historical resources are unearthed during construction excavation, the Governmental Agency shall stop or cause to be stopped, construction activities and will notify the State Historic Preservation Office and the Authority of such unearthing.

(t) Federal Clean Water Act.

The Governmental Agency covenants to meet the requirements of or otherwise be treated under Section 204(d)(2) of the Clean Water Act, which requires that, one year after the date of completion of construction and initiation of operation the owner/operator of the treatment works must certify that the facility meets design specifications and effluent limitations included in its permit (40 CFR 35.2218(c), (d) and (e)(2): Project Performance).

(u) Additional Covenants and Requirements.

Additional covenants and requirements are included on Exhibit F attached hereto and made a part hereof. The Governmental Agency agrees to observe and comply with each such additional covenant and requirement included on Exhibit F.

ARTICLE III

LOAN TO GOVERNMENTAL AGENCY; AMOUNTS PAYABLE;

GENERAL AGREEMENTS

SECTION 3.01. The Loan. The Authority hereby agrees to loan and disburse to the Governmental Agency in accordance with Section 3.02 hereof, and the Governmental Agency agrees to borrow and accept from the Authority, the Loan in the principal amount equal to the Loan Commitment set forth in Paragraph (4) of Exhibit B attached hereto and made a part hereof as such Loan Commitment may be revised to reflect a reduction in the Cost of the Project prior to the initial Loan Repayment; provided, however, that the Authority shall be under no obligation to make the Loan if (i) the Governmental Agency does not deliver its Governmental Agency Bond to the Authority on the Loan Closing, or (ii) an Event of Default has occurred and is continuing under this Loan Agreement. The Governmental Agency shall use the proceeds of the Loan strictly in accordance with Section 2.01(h) hereof.

SECTION 3.02. Disbursement of the Loan. The Authority has created in the Water Pollution Control Revolving Fund a Project Loan Account for this Project from which the Costs of the Project shall be paid. Amounts shall be transferred into the Project Loan Account and disbursed to the Governmental Agency upon receipt of a requisition executed by an Authorized Officer, and approved by the Authority and the State Department of Public Health and Environment, in the form set forth in Exhibit G; provided that the Disbursement of the Loan may be withheld if the Governmental Agency is not complying with any of the covenants and conditions in the Loan Agreement.

SECTION 3.03. Amounts Payable.

(a) The Governmental Agency shall repay the principal of, interest on, and Administrative Fee on the Loan, by making Loan Repayments **semi-annually on May 1st and November 1st** in accordance with the schedule set forth on Exhibit C attached hereto and made a part hereof, as the same may be amended or modified, commencing on the Loan Repayment Commencement Date set forth in Paragraph (8) of Exhibit B.

The Governmental Agency shall execute the Governmental Agency Bond to evidence its obligations to make Loan Repayments and the obligations of the Governmental Agency under the Governmental Agency Bond shall be deemed to be amounts payable under this Section 3.03. Each Loan Repayment shall be deemed to be a credit against the corresponding obligation of the Governmental Agency under this Section 3.03 and shall fulfill the Governmental Agency's obligation to pay such amount hereunder and under the Governmental Agency Bond. Each payment made pursuant to this Section 3.03 shall be applied first to interest, then due and payable, as set forth in Exhibit C, then to the Administrative Fee, then due and payable, as set forth in Exhibit C, and then to principal as set forth in Exhibit C.

(b) In addition to the payments required by subsection (a) of this Section 3.03, the Governmental Agency shall pay a late charge for any payment that is received by the Authority later than the tenth (10th) day following its due date, in an amount equal to the greater of twelve percent (12%) per annum or the Prime Rate plus one half of one percent per annum on such late payment from its due date to the date it is actually paid; provided, however, that the interest rate payable on the Loan including such late charge shall not be in excess of the maximum rate permitted by law as of the date hereof.

(c) Loan Repayments pursuant to this Section 3.03 shall be made by electronic means (either by bank wire transfer or by Automated Clearing House “ACH” transfer).

(d) The Project, as finally constructed, may be eligible for Green Project certification by the WQCD and for a reduced interest rate applicable to Green Projects under the provisions of the Federal Capitalization Agreement and as provided by resolution of the Authority. If the Project is not certified by the WQCD as a Green Project upon final construction, Exhibit C will be revised by the Authority on or before the scheduled initial payment to incorporate a 2% interest rate.

SECTION 3.04. Unconditional Obligations. The Loan Repayments and all other payments required hereunder are payable solely from the Pledged Property. The obligation of the Governmental Agency to make the Loan Repayments and all other payments required hereunder shall be absolute and unconditional and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any payments due under the Loan Agreement remain unpaid regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of the purpose, any change in the laws of the United States of America or of the State of Colorado or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project or this Loan Agreement or any rights of set-off, recoupment, abatement or counterclaim that the Governmental Agency might otherwise have against the Authority or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights.

SECTION 3.05. Disclaimer of Warranties and Indemnification. The Governmental Agency acknowledges and agrees that (i) the Authority makes no warranty or representation, either express or implied as to the value, design, condition, merchantability, or fitness for particular purpose, or fitness for any use, of the Project or any portions thereof, or any other warranty or representation with respect thereto; (ii) in no event shall the Authority or its agents be liable or responsible for any direct, incidental, indirect, special, or consequential damages in connection with or arising out of this Loan Agreement, or the Project, or the existence, furnishing, functioning, or use of the Project, or any item or products or services provided for in this Loan Agreement; and (iii) to the extent authorized by law, the Governmental Agency shall indemnify, save, and hold harmless the Authority against any and all claims, damages, liability, and court awards, including costs, expenses, and attorney fees incurred as a result of any act or omission by the Governmental Agency, or its employees, agents, or subcontractors pursuant to the terms of this Loan Agreement, provided, however, that the provisions of this clause (iii) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to the Colorado Governmental Immunity Act (Section 24-10-101, et seq. C.R.S.), or under the laws of the United States or the State of Colorado.

SECTION 3.06. Option to Prepay Loan Repayments. The Governmental Agency may prepay the Loan Repayments, in whole or in part without penalty upon prior written notice (unless otherwise waived by the Authority) of not less than thirty (30) days. Prepayments shall be applied

first to accrued interest and then to principal on the Loan. The Authority will amend Exhibit C to reflect any prepayment of the principal amount of the Loan.

SECTION 3.07. Source of Payment of Governmental Agency's Obligations. The Authority and the Governmental Agency agree that the amounts payable by the Governmental Agency under this Loan Agreement, including, without limitation, the amounts payable by the Governmental Agency pursuant to Section 3.03, Section 3.05, Section 3.06, and Section 5.04 of this Loan Agreement are payable solely from the Pledged Property, and are not payable from any other source whatsoever; provided, however, that the Governmental Agency at its option, may elect to make payment from any source available to it.

SECTION 3.08. Loan Closing. The Loan shall be closed and become effective as follows:

- (a) The Governmental Agency will deliver each of the following items to the Authority:
 - (i) executed counterparts of this Loan Agreement;
 - (ii) the executed Governmental Agency Bond in the form attached hereto as Exhibit D.
 - (iii) copies of the resolutions or ordinances of the governing body of the Governmental Agency authorizing the execution and delivery of this Loan Agreement and the Governmental Agency Bond, certified by an Authorized Officer of the Governmental Agency;
 - (iv) an opinion of the Governmental Agency's counsel substantially in the form set forth in Exhibit E-1 hereto (such opinion or portions of such opinion may be given by one or more counsel); provided, however, that the Authority may in its discretion permit variances in such opinion from the form or substance of such Exhibit E-1 if such variances are not to the material detriment of the interests of the Authority;
 - (v) an opinion of the Governmental Agency's Bond Counsel substantially in the form set forth in Exhibit E-2 hereto. Such opinion must be rendered by Bond Counsel listed in the Directory of Bond Counsel published by the Bond Buyer (the "Red Book"); and
 - (vi) such other certificates, documents, opinions and information as the Authority may require.
- (b) Upon receipt of the foregoing documents, the Authority shall obligate the amount of the Loan Commitment set forth in Paragraph (4) of Exhibit B, and make the amount of the Loan available for the Project in accordance with the terms of this Loan Agreement.

SECTION 3.10. Limited Recourse. No recourse shall be had for the payment of the principal of or interest on the Governmental Agency Bond or for any claim based thereon or upon any obligation, covenant or agreement contained in this Loan Agreement against any past, present or future officer, employee or agent of the Governmental Agency, or of any successor public corporation, as such either directly or through the Governmental Agency or any successor public corporation, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, employees or agents

as such is hereby expressly waived and released as a condition of and consideration for the Governmental Agency's execution of this Loan Agreement and the issuance of the Governmental Agency Bond.

ARTICLE IV

ASSIGNMENT

SECTION 4.01. Assignment and Transfer by Authority. The Governmental Agency expressly acknowledges that other than the right, title, and interest of the Authority under Section 3.05, Section 5.04, and Section 5.07, all right, title, and interest of the Authority in, to, and under this Loan Agreement and the Governmental Agency Bond, including, without limitation, the right to receive payments required to be made by the Governmental Agency hereunder, and to compel or otherwise enforce observance and performance by the Governmental Agency of its other duties, covenants, obligations, and agreements hereunder, may be transferred, assigned, and reassigned in whole or in part by the Authority at its sole discretion to one or more assignees or subassignees at any time subsequent to their execution without the necessity of obtaining the consent of, but after giving prior written notice to, the Governmental Agency.

The Authority shall retain the right to compel or otherwise enforce observance and performance by the Governmental Agency of its duties, covenants, obligations, and agreements under Section 3.05 and Section 5.04.

SECTION 4.02. Assignment by Governmental Agency. Neither this Loan Agreement nor the Governmental Agency Bond may be assigned or delegated by the Governmental Agency for any reason, unless the following conditions shall be satisfied: (i) the Authority shall have approved said assignment in writing; (ii) the assignee shall be a governmental agency as defined by the Act, and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Governmental Agency's duties, covenants, agreements, and obligations under the Loan Agreement; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations, or agreements of the Governmental Agency under the Loan Agreement; and (iv) the Authority shall receive an opinion of counsel to the effect that such assignment will not violate the provisions of any agreement entered into by the Authority with, or condition of any grant received by the Authority from, the United States of America relating to the Federal Capitalization Agreement or any capitalization grant received by the Authority or the State under the Federal Clean Water Act.

No assignment or delegation shall relieve the Governmental Agency from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Governmental Agency shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

ARTICLE V

DEFAULTS AND REMEDIES

SECTION 5.01. Event of Default. If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) failure by the Governmental Agency to pay, or cause to be paid, any Loan Repayment required to be paid hereunder when due, which failure shall continue for a period of thirty (30) days;

(b) failure by the Governmental Agency to make, or cause to be made, any required payments of interest and principal, redemption premium, if any, and interest on any bonds, notes, or other obligations of the Governmental Agency for borrowed money (other than the Loan and the Governmental Agency Bond), after giving effect to the applicable grace period, the payments of which are secured by the Pledged Property;

(c) failure by the Governmental Agency to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement other than as referred to in Paragraph (a) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Governmental Agency; provided, however, that if the failure stated in such notice is correctable, but cannot be corrected within the applicable period, the Authority may consent to an extension of such time if corrective action is instituted by the Governmental Agency within the applicable period and diligently pursued until the Event of Default is corrected;

(d) any representation made by or on behalf of the Governmental Agency contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan, is false or misleading in any material respect; or

(e) (i) a petition is filed by or against the Governmental Agency under any federal or state bankruptcy or insolvency law, or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Governmental Agency such petition shall be dismissed within thirty (30) days after such filing, and such dismissal shall be final and not subject to appeal; or (ii) the Governmental Agency shall become insolvent, or bankrupt or make an assignment for the benefit of its creditors; or (iii) custodian (including, without limitation, a receiver, liquidator, or trustee of the Governmental Agency or any of its property) shall be appointed by court order, or take possession of the Governmental Agency, or its property or assets, if such order remains in effect, or such possession continues, for more than thirty (30) days.

SECTION 5.02. Notice of Default. The Governmental Agency shall give the Authority prompt telephonic notice of the occurrence of any Event of Default referred to in Section 5.01 at such time as any senior administrative or financial officer of the Governmental Agency becomes aware of the existence thereof. Any telephonic notice pursuant to this Section 5.02 shall be confirmed by the Governmental Agency in writing as soon as practicable.

SECTION 5.03. Remedies on Default. Whenever an Event of Default referred to in Section 5.01 hereof shall have occurred and be continuing, the Authority shall have the right to withhold disbursement of Loan funds remaining, and take such other action at law or in equity as may appear necessary to enforce the performance and observance of any duty, covenant, obligation, or

agreement of the Governmental Agency hereunder, including, without limitation, appointment ex parte of a receiver of the System.

SECTION 5.04. Attorney's Fees and Other Expenses. In the Event of Default, the Governmental Agency shall on demand pay to the Authority the reasonable fees and expenses of attorneys, and other reasonable expenses (including, without limitation, the reasonably allocated costs of in-house counsel and legal staff) incurred by the Authority in the collection of Loan Repayments or any other sum due hereunder, or in the enforcement of the performance or observation of any other duties, covenants, obligations, or agreements of the Governmental Agency.

SECTION 5.05. Application of Moneys. Any moneys collected by the Authority pursuant to Section 5.03 hereof shall be applied (a) first, to pay any attorney's fees, or other fees and expenses owed by the Governmental Agency pursuant to Section 5.04 hereof, (b) second, to pay interest due and payable on the Loan, and (c) third, to pay principal due and payable on the Loan, and (d) fourth, to pay any other amounts due and payable under this Loan Agreement.

SECTION 5.06. No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement, or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy, or power accruing upon any Event of Default shall impair any such right, remedy, or power, or shall be construed to be a waiver thereof, but any such right, remedy, or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article V.

SECTION 5.07. Retention of Authority's Rights. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the Authority shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Governmental Agency at law or in equity, as the Authority may, in its discretion, deem necessary to enforce the obligations of the Governmental Agency to the Authority pursuant to Section 5.04, Section 3.03, and Section 3.05 hereof.

SECTION 5.08. Default by the Authority. In the event of any default by the Authority under any covenant, agreement, or obligation of this Loan Agreement, the Governmental Agency's remedy for such default shall be limited to injunction, special action, action for specific performance, or any other available equitable remedy, designed to enforce the performance or observance of any duty, covenant, obligation, or agreement of the Authority hereunder, as may be necessary or appropriate. The Authority shall on demand pay to the Governmental Agency the reasonable fees and expenses of attorneys, and other reasonable expenses, in the enforcement of such performance or observation.

ARTICLE VI

MISCELLANEOUS

SECTION 6.01. Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when hand-delivered or mailed by registered or certified mail, postage prepaid, to the Governmental Agency at the address specified on Exhibit B attached hereto and made a part hereof, and to the Authority, at the following address:

Colorado Water Resources and Power
Development Authority
1580 Logan Street, Suite 620
Denver, Colorado 80203
Attention: Executive Director

Such address may be changed by notice in writing.

SECTION 6.02. Binding Effect. This Loan Agreement shall inure to the benefit of, and shall be binding upon, the Authority and the Governmental Agency, and their respective successors and assigns.

SECTION 6.03. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable, or otherwise affect, any other provision hereof.

SECTION 6.04. Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented, or modified without the prior written consent of the Authority and the Governmental Agency.

SECTION 6.05. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

SECTION 6.06. Applicable Law and Venue. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, including the Act. Venue for any action seeking to interpret or enforce the provisions of this Loan Agreement shall be in the Denver District Court.

SECTION 6.07. Consents and Approvals. Whenever the written consent or approval of the Authority shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the Authority unless otherwise provided by law, or by rules, regulations or resolutions of the Authority.

SECTION 6.08. Captions. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit, or describe, the scope or intent of any provisions or sections of this Loan Agreement.

SECTION 6.09. Further Assurances. The Governmental Agency shall, at the request of the Authority, authorize, execute, acknowledge, and deliver, such further resolutions, conveyances, transfers, assurances, financing statements, and other instruments, as may be necessary or desirable for better assuring, conveying, granting, assigning, and confirming, the rights and agreements, granted or intended to be granted, by this Loan Agreement and the Governmental Agency Bond.

SECTION 6.10. Recitals. This Loan Agreement is authorized pursuant to and in accordance with the Constitution of the State of Colorado and all other laws of the State of Colorado thereunto enabling. Specifically, but not by way of limitation, this Loan Agreement is authorized by the Governmental Agency pursuant to Title 37, Article 45.1 C.R.S., Title 32, Article 1, C.R.S. and Title 11, Article 57, Part 2, C.R.S and shall so recite in the Governmental Agency Bond. Such recitals shall conclusively impart full compliance with all provisions and limitations of such laws and shall be conclusive evidence of the validity and regularity of the issuance of the Governmental Agency Bond, and the Governmental Agency Bond delivered by the Governmental Agency to the Authority containing such recital shall be incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Authority and the Governmental Agency have caused this Loan Agreement to be executed, sealed and delivered, as of the Commencement Date set forth on Exhibit B hereto.

**COLORADO WATER RESOURCES AND
POWER DEVELOPMENT AUTHORITY**

(SEAL)

By: _____
Executive Director

ATTEST:

By: _____
Assistant Secretary

**TOWN OF WELLINGTON, COLORADO,
ACTING BY AND THROUGH THE TOWN
WASTEWATER ENTERPRISE**

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
Town Clerk

IN WITNESS WHEREOF, the Authority and the Governmental Agency have caused this Loan Agreement to be executed, sealed and delivered, as of the Commencement Date set forth on Exhibit B hereto.

**COLORADO WATER RESOURCES AND
POWER DEVELOPMENT AUTHORITY**

(SEAL)

By: _____
Executive Director

ATTEST:

By: _____
Assistant Secretary

**TOWN OF WELLINGTON, COLORADO,
ACTING BY AND THROUGH THE TOWN
WASTEWATER ENTERPRISE**

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
Town Clerk

EXHIBIT A

DESCRIPTION OF THE PROJECT, SYSTEM, AND PLEDGED PROPERTY

(1) **Description of the Project**

This project consists of expansion of the existing wastewater treatment plant. Facilities to be expanded include the headworks, ultraviolet disinfection, sludge pumping, aerobic digester, elimination of the drying beds, and addition of screw compactors. A new administration building and additional secondary clarifiers will also be included.

(2) **Description of the System**

"System" shall mean, (i) any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property, relating to the collection, treatment, storage and distribution of water or the collection, treatment, transmission and disposal of wastewater that is owned, operated or controlled by the Governmental Agency, including, without limitation, the Project (ii) any renewal, replacement, addition, modification or improvement to (i) above, and (iii) all real or personal property and rights therein and appurtenances thereto necessary or useful or convenient for the effectiveness of the purposes of the Governmental Agency in the transmission, treatment, storage and distribution of water or the collection, treatment, transmission and disposal of wastewater.

(3) **Pledged Property**

The Pledged Property shall consist of Net Revenue, as defined below:

"*Net Revenue*" means the Gross Revenue after deducting the Operation and Maintenance Expenses.

"*Gross Revenue*" means all income and revenues directly or indirectly derived by the Governmental Agency from the operation and use of the System, or any part thereof, including without limitation, any rates, fees (including without limitation plant investment fees and availability fees), and charges for the services furnished by, or the use of, the System, and all income attributable to any past or future dispositions of property or rights, or related contracts, settlements, or judgments held or obtained in connection with the System or its operations, and including investment income accruing from such moneys; provided however, that there shall be excluded from Gross Revenue: ad valorem property taxes; any moneys borrowed and used for providing Capital Improvements; any money and securities, and investment income therefrom, in any refunding fund, escrow account, or similar account, pledged to the payment of any bonds or other obligations; and any moneys received as grants or appropriations from the United States, the State of Colorado or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments

for the use of the System, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom.

“*Capital Improvements*” means the acquisition of land, easements, facilities and equipment (other than ordinary repairs and replacements), and the construction or reconstruction of improvements, betterments, and extensions, for use by, or in connection with, the System.

“*Operation and Maintenance Expenses*” means all reasonable and necessary current expenses of the Governmental Agency, paid or accrued, for operating, maintaining and repairing the System, including without limitation legal and overhead expenses of the Governmental Agency directly related to the administration of the System, insurance premiums, audits, professional services, salaries and administrative expenses, labor and the cost of materials and supplies for current operation; provided however, that there shall be excluded from Operation and Maintenance Expenses any allowance for depreciation, payments in lieu of taxes or franchise fees, expenses incurred in connection with Capital Improvements, payments due in connection with any bonds or other obligations, and expenses that are otherwise paid from ad valorem property taxes.

EXHIBIT B

DESCRIPTION OF THE LOAN

- (1) Commencement Date: _____
- (2) Name and Address of Governmental Agency:

Town of Wellington, Colorado, Acting By and Through The Town Wastewater
Enterprise
3735 Cleveland Avenue, P.O. Box 127
Wellington, CO 80549
- (3) Estimated Cost of the Project: \$56,213,985
- (4) Maximum Principal Amount of Loan Commitment: \$3,000,000
- (5) Loan Term: 30 years
- (6) Interest Rate: 1.5% annually, if the finally constructed Project is certified by the WQCD
as a Green Project; 2.25% if the finally constructed Project is not certified by the
WQCD as a Green Project.
- (7) Authorized Officers:

- (8) Loan Repayment Commencement Date: November 1, 2022
- (9) Execution Date: _____

EXHIBIT C
LOAN REPAYMENT SCHEDULE

EXHIBIT D

GOVERNMENTAL AGENCY BOND

FOR VALUE RECEIVED, the undersigned **TOWN OF WELLINGTON, COLORADO, ACTING BY AND THROUGH THE TOWN WASTEWATER ENTERPRISE** (the "Governmental Agency"), evidences the issuance of a loan from the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority") in the principal amount of Three Million and 00/100 Dollars (\$3,000,000), or such lesser amount as shall be loaned to the Governmental Agency pursuant to the Loan Agreement dated as of _____, 2022, by and between the Authority and the Governmental Agency (the "Loan Agreement"), at the times and in the amounts determined as provided in the Loan Agreement, at One and One-Half percent interest (1.5%) (if the final, constructed Project is certified as a Green Project by the WQCD), or at Two and One-Quarter Percent (2.25%) interest (if the final, constructed Project is not certified as a Green Project by the WQCD), subject to late charges on late payments as provided in Section 3.03 (b) of the Loan Agreement, and payable on the dates and in the amounts determined as provided in the Loan Agreement.

This Governmental Agency Bond is issued pursuant to the Loan Agreement and is issued in consideration of the loan made thereunder (the "Loan") and to evidence the obligations of the Governmental Agency set forth in Section 3.03 thereof. This Governmental Agency Bond is subject to assignment or endorsement in accordance with the terms of the Loan Agreement. All of the definitions, terms, conditions, and provisions of the Loan Agreement are, by this reference thereto, incorporated herein as a part of this Governmental Agency Bond.

Pursuant to the Loan Agreement, disbursements to the Governmental Agency shall be made in accordance with written instructions upon the receipt by the Authority of requisitions from the Governmental Agency executed and delivered in accordance with the requirements set forth in Section 3.02 of the Loan Agreement.

This Governmental Agency Bond is entitled to the benefits, and is subject to the conditions, of the Loan Agreement. The obligations of the Governmental Agency to make the payments required hereunder ("Loan Repayments") shall be absolute and unconditional without any defense or right of set-off, counterclaim, or recoupment by reason of any default by the Authority under the Loan Agreement, or under any other agreement between the Governmental Agency and the Authority, or out of any indebtedness or liability at any time owing to the Governmental Agency by the Authority, or for any other reason.

This Governmental Agency Bond is subject to optional prepayment under the terms and conditions, and in the amounts, provided in Section 3.06 of the Loan Agreement. The obligation of the Governmental Agency to make payments under the Loan Agreement and this Governmental Agency Bond is payable solely from the Pledged Property, except for reserves created in connection with the Loan.

This Governmental Agency Bond does not constitute a debt or an indebtedness of the Governmental Agency within the meaning of any constitutional or statutory limitation or provision, and shall not be considered or held to be a general obligation of the Governmental Agency. The payment of this Governmental Agency Bond and the interest thereon is not secured by an encumbrance, mortgage or other pledge of property except for such property and moneys pledged for the payment of the Governmental Agency Bond.

For the payment of this Governmental Agency Bond and the interest thereon, the Governmental Agency shall enforce the Rate Covenant set forth in Paragraph (1) of Exhibit F to the Loan Agreement, shall promptly collect all revenues of the System, and shall take all necessary action to collect any revenues that are in default.

If an “Event of Default” as defined in Section 5.01 of the Loan Agreement occurs, the remedies on default set forth in Section 5.03 of the Loan Agreement shall be available to enforce the obligations of the Governmental Agency that are evidenced by this Governmental Agency Bond.

This Governmental Agency Bond is issued under the authority of and in full conformity with the Constitution and laws of the State of Colorado, including without limitation, Article X, Section 20 of the Constitution, Title 31, Article 35, Part 4, C.R.S.; Title 37, Article 45.1; certain provisions of Title 11, Article 57, Part 2, C.R.S. (the “Supplemental Public Securities Act”), and pursuant to the Loan Agreement. Pursuant to §11-57-210, of the Supplemental Public Securities Act, this recital is conclusive evidence of the validity and regularity of the issuance of the Governmental Agency Bond after its delivery for value. Pursuant to §31-35-413, C.R.S., this recital conclusively imparts full compliance with all the provisions of said statutes, and this Governmental Agency Bond issued containing such recital is incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Governmental Agency has caused this Governmental Agency Bond to be duly executed, sealed and delivered, as of this _____ day of _____, 2022.

(SEAL)

**TOWN OF WELLINGTON, COLORADO,
ACTING BY AND THROUGH THE TOWN
WASTEWATER ENTERPRISE**

ATTEST:

By: _____
Mayor

By: _____
Town Clerk

EXHIBIT E-1

OPINION OF GOVERNMENTAL AGENCY COUNSEL

[LETTERHEAD OF COUNSEL TO GOVERNMENTAL AGENCY]

[DATED : Closing Date]

Colorado Water Resources and
Power Development Authority

Ladies and Gentlemen:

[insert "I am an attorney" or "We are attorneys"] admitted to practice in the State of Colorado and [insert "I" or "we"] have acted as counsel to **TOWN OF WELLINGTON, COLORADO, ACTING BY AND THROUGH THE TOWN WASTEWATER ENTERPRISE** (the "Governmental Agency"), of the State of Colorado, which has entered into a Loan Agreement (as hereinafter defined) with the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority"), and have acted as such in connection with the authorization, execution and delivery by the Governmental Agency of its Loan Agreement and Governmental Agency Bond (as hereinafter defined).

In so acting [insert "I" or "we"] have examined the Constitution and laws of the State of Colorado and the [charter/by-laws/proceedings relating to organization] of the Governmental Agency. [insert "I" or "We"] have also examined originals, or copies certified or otherwise identified to [insert "my" or "our"] satisfaction, of the following:

- (a) the Loan Agreement, dated as of _____ (the "Loan Agreement") by and between the Authority and the Governmental Agency;
- (b) the proceedings of the governing body of the Governmental Agency relating to the approval of the Loan Agreement and the execution, issuance and delivery thereof on behalf of the Governmental Agency, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);
- (c) the Governmental Agency Bond, dated as of _____ (the "Governmental Agency Bond") issued by the Governmental Agency to the Authority to evidence the Loan(as defined in the Loan Agreement;
- (d) the proceedings of the governing body of the Governmental Agency relating to the issuance of the Governmental Agency Bond and the execution, issuance and delivery thereof to the Authority (the Loan Agreement and the Governmental Agency Bond are referred to herein collectively as the "Loan Documents");

(e) all outstanding instruments relating to the bonds, notes or other indebtedness of or relating to the Governmental Agency.

[insert "I" or "We"] have also examined and relied upon originals, or copies certified or otherwise authenticated to [insert "my" or "our"] satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in [insert "my" or "our"] judgment [insert "I" or "we"] have deemed necessary or appropriate to enable [insert "me" or "us"] to render the opinions expressed below.

Based upon the foregoing, [insert "I am" or "we are"] of the opinion that:

(1) The Governmental Agency is a "governmental agency" within the meaning of the Authority's enabling legislation and is a (_____) of the State of Colorado with the full legal right and authority to execute the Loan Documents.

(2) The Governmental Agency has the full legal right and authority to carry on the business of the System (as defined in the Loan Agreement) as currently being conducted and as proposed to be conducted, and to undertake and complete the Project.

(3) The proceedings of the Governmental Agency's governing body authorizing the Governmental Agency to undertake and complete the Project were duly and lawfully adopted and approved in accordance with [applicable resolution] and applicable Colorado law at meetings duly called pursuant to necessary public notice and held in accordance with applicable Colorado law at which quorums were present and acting throughout and were published in accordance with applicable Colorado law.

(4) The proceedings of the Governmental Agency's governing body approving the Loan Documents and authorizing their execution, issuance and delivery on behalf of the Governmental Agency have been duly and lawfully adopted and approved in accordance with [the applicable resolution] applicable Colorado law, at meetings duly called pursuant to necessary public notice and held in accordance with applicable Colorado law, and at which quorums were present and acting throughout and were published in accordance with applicable Colorado law.

(5) To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, the authorization, execution and delivery of the Loan Documents by the Governmental Agency, the observation and performance by the Governmental Agency of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of the Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Governmental Agency or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond resolution, trust agreement, indenture, mortgage, deed of trust, ordinance, order, or other agreement to which the Governmental Agency is a party or by which it, the System, or its property or assets is bound.

(6) To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Governmental Agency in connection with the authorization, execution, delivery and performance of the Loan Documents and the undertaking and completion of the Project, other than licenses and permits relating to the construction and acquisition of the Project which [insert "I" or "we"] expect the Governmental Agency to receive in the ordinary course of business, have been obtained or made.

(7) To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, there is no litigation or other proceeding pending or threatened in any court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the Governmental Agency or of the validity, legality or enforceability of the Loan Documents or the undertaking or completion of the Project, except as disclosed in writing to the Authority, which if adversely determined, could (i) materially adversely affect (a) the financial position of the Governmental Agency, (b) the ability of the Governmental Agency to perform its obligations under the Loan Documents, (c) the security for the Loan Documents, or (d) the transactions contemplated by the Loan Documents or (ii) impair the ability of the Governmental Agency to maintain and operate the System.

This opinion is rendered on the basis of Federal law and the laws of the State of Colorado as enacted and construed on the date hereof. [insert "I" or "We"] express no opinion as to any matter not set forth in the numbered paragraphs herein.

[insert "I" or "We"] hereby authorize Carlson, Hammond, & Paddock, L.L.C., General Counsel to the Authority, to rely on this opinion as if [insert "I" or "we"] had addressed this opinion to them in addition to you.

Very truly yours,

EXHIBIT E-2

OPINION OF GOVERNMENTAL AGENCY BOND COUNSEL

[LETTERHEAD OF BOND COUNSEL TO GOVERNMENTAL AGENCY]

[DATED: Closing Date]

Colorado Water Resources and
Power Development Authority

Ladies and Gentlemen:

[insert "I am an attorney" or "We are attorneys"] admitted to practice in the State of Colorado and [insert "I" or "we"] have acted as bond counsel for **TOWN OF WELLINGTON, COLORADO, ACTING BY AND THROUGH THE TOWN WASTEWATER ENTERPRISE** (the "Governmental Agency"), of the State of Colorado, which has entered into a Loan Agreement (as hereinafter defined) with the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority"), and have acted as such in connection with the authorization, execution, and delivery by the Governmental Agency of the Loan Agreement and Governmental Agency Bond (as hereinafter defined).

In so acting [insert "I" or "we"] have examined the Constitution and laws of the State of Colorado and [charter/by-laws/proceedings relating to organization] of the Governmental Agency. [insert "I" or "We"] have also examined originals, or copies certified or otherwise identified to [insert "my" or "our"] satisfaction, of the following:

- (a) the Loan Agreement, dated as of _____ (the "Loan Agreement"), by and between the Authority and the Governmental Agency;
- (b) the proceedings of the governing body of the Governmental Agency relating to the approval of the Loan Agreement, and the execution, issuance, and delivery thereof on behalf of the Governmental Agency, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);
- (c) the Governmental Agency Bond, dated as of _____ (the "Governmental Agency Bond"), issued by the Governmental Agency to the Authority to evidence the Loan (as defined in the Loan Agreement);
- (d) the proceedings of the governing body of the Governmental Agency relating to the issuance, of the Governmental Agency Bond, and the execution, issuance, and delivery thereof to the Authority (the Loan Agreement and the Governmental Agency Bond are referred to herein collectively as the "Loan Documents"); and
- (e) all outstanding instruments relating to the bonds, notes, or other indebtedness of, or relating to the Governmental Agency.

[insert "I" or "We"] have also examined and relied upon originals, or copies certified or otherwise authenticated to [insert "my" or "our"] satisfaction, of such other records, documents, certificates, and other instruments, and made such investigation of law as in [insert "my" or "our"] judgment [insert "I" or "we"] have deemed necessary or appropriate to enable [insert "me" or "us"] to render the opinions expressed below.

Based upon the foregoing, [insert "I am" or "we are"] of the opinion that:

(1) The Governmental Agency is a "governmental agency" within the meaning of the Authority's enabling legislation.

(2) The Governmental Agency has full legal right and authority to execute the Loan Documents and the Governmental Agency has full legal right and authority to observe and perform its respective duties, covenants, obligations, and agreements thereunder; subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment, or other similar laws affecting creditors' rights generally (Creditor's Rights Limitations), heretofore or hereafter enacted.

(3) The Governmental Agency has pledged the Pledged Property described in Paragraph (3) of Exhibit A to the Loan Agreement for the punctual payment of the principal on the Loan and all other amounts due under the Loan Documents according to their respective terms, and the Authority has a first lien on such Pledged Property, but not an exclusive first lien. *****Only include "but not an exclusive first lien" if there is parity debt***** No filings or recordings are required under the Colorado Uniform Commercial Code in order to provide a first lien on such Pledged Property, and all actions have been taken as required under Colorado law to insure the priority, validity, and enforceability of such lien.

(4) The Loan Documents have been duly authorized, executed, and delivered by the authorized officers of the Governmental Agency; and, assuming in the case of the Loan Agreement, that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed, and delivered the Loan Agreement, the Loan Documents constitute the legal, valid, and binding obligations of the Governmental Agency enforceable in accordance with their respective terms; subject, however, to the effect of, and to restrictions and limitations imposed by, or resulting from, Creditor's Rights Limitations or other laws, judicial decisions, and principles of equity relating to the enforcement of contractual obligations generally, provided that no opinion is expressed herein regarding the validity or enforceability of Section 3.05 of the Loan Agreement or any other provision thereof that purports to require the Governmental Agency to indemnify or hold any party harmless.

(5) To the best of our knowledge, after such investigation as we have deemed appropriate, the authorization, execution, and delivery of the Loan Documents by the Governmental Agency, the observance and performance by the Governmental Agency of its duties, covenants, obligations, and agreements thereunder, and the consummation of the transactions contemplated therein, do not and will not contravene any existing law, or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any outstanding

instruments relating to the bonds, notes, or other indebtedness of, or relating to, the Governmental Agency.

(6) To the best of our knowledge, after such investigation as we deemed appropriate, all approvals, consents, or authorizations of, or registrations of or filings with, any governmental or public agency, authority, or person required to date on the part of the Governmental Agency in connection with the authorization, execution, delivery, and performance of the Loan Documents have been obtained or made.

****If the Governmental Agency constitutes an Enterprise under TABOR, the following paragraph should be included in the Bond Counsel opinion:**

(7) The execution and delivery of the Loan Documents are not subject to the limitations of Article X, Section 20 of the Colorado Constitution, since the Governmental Agency as defined in the Loan Agreement constitutes an enterprise under said Article X, Section 20 on the date of such execution and delivery. The performance of the Loan Documents is not subject to the limitations of said Article X, Section 20, as long as the Governmental Agency continues to qualify as an enterprise under said Article X, Section 20. If the Governmental Agency ceases to be an enterprise under said Article X, Section 20, during the Loan Term, the Loan Documents will continue to constitute legal, valid and binding obligations of the Governmental Agency enforceable in accordance with their respective terms; subject, however, to (a) Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual rights generally and (b) subject to the next sentence, the revenue and spending limitations of said Article X, Section 20. If the Governmental Agency at any time ceases to be an enterprise under said Article X, Section 20, (i) the **District** may continue to impose and increase fees, rates and charges without voter approval; (ii) all revenues of the Governmental Agency used to pay Loan Repayments will be included in the Governmental Agency fiscal year spending limit under Section 7(d) of said Article X, Section 20 except that debt service changes and reductions are exceptions to, and not part of, the Governmental Agency revenue and spending bases and limits; and (iii) if the Governmental Agency is required to reduce spending in order to comply with its fiscal year spending limit under Section 7(b) of said Article X, Section 20, the Governmental Agency will first be required to reduce spending for purposes for which it does not have an obligation under law or by contract prior to reducing spending required to comply with the other covenants contained in the Loan Documents.

****If the Governmental Agency does not constitute an Enterprise under TABOR, the following paragraph should be included in the Bond Counsel opinion:**

(7) The Governmental Agency has complied with the requirements of Article x, Section 20 of the Colorado Constitution in connection with the execution and delivery of the loan documents.

This opinion is rendered on the basis of Federal law and the laws of the State of Colorado as enacted and construed on the date hereof. We express no opinion as to any matter not set forth in the numbered paragraphs herein.

[insert "I" or "We"] hereby authorize Carlson, Hammond & Paddock, L.L.C., General Counsel to the Authority, to rely on this opinion as if [insert "I" or "we"] had addressed this opinion to them in addition to you.

Very truly yours,

EXHIBIT F

ADDITIONAL COVENANTS AND REQUIREMENTS

(1) Rate Covenant

The Governmental Agency shall establish and collect such rates, fees, and charges for the use or the sale of the products and services of the System as, together with other moneys available therefor, are expected to produce Gross Revenue (as defined in Paragraph (3) of Exhibit A to this Loan Agreement) for each calendar year that will be at least sufficient for such calendar year to pay the sum of:

- (a) all amounts estimated to be required to pay Operation and Maintenance Expenses (as defined in Paragraph (3) of Exhibit A of this Loan Agreement) during such calendar year;
- (b) a sum equal to 110% of the debt service due on the Governmental Agency Bond for such calendar year and debt service coming due during such calendar year on any obligations secured by a lien on the Pledged Property which lien is on a parity with the lien of this Loan Agreement on the Pledged Property, in each case computed as of the beginning of such calendar year;
- (c) the amount, if any, to be paid during such calendar year into any debt service reserve account in connection with any obligations secured by a lien on the Pledged Property which lien is on a parity with the lien of this Loan Agreement on the Pledged Property;
- (d) a sum equal to the debt service on any obligations secured by a lien on the Pledged Property which lien is subordinate to the lien of this Loan Agreement on the Pledged Property for such calendar year computed as of the beginning of such calendar year; and
- (e) amounts necessary to pay and discharge all charges and liens or other indebtedness not described above payable out of the Gross Revenue during such calendar year.

(2) Rate Study.

In the event that Gross Revenue collected during a fiscal year is not sufficient to meet the requirements set forth in the Rate Covenant contained in Paragraph (1) of this Exhibit F to the Loan Agreement, the Governmental Agency shall, within 90 days of the end of such fiscal year, cause an independent firm of accountants or consulting engineers, to prepare a rate study for the purpose of recommending a schedule of rates, fees, and charges for the use of the System that, in the opinion of the firm conducting the study will be sufficient to provide Gross Revenue to be collected in the next succeeding fiscal year that will provide compliance with the Rate Covenant described in Paragraph (1) of this Exhibit F to this Loan Agreement. Such a study shall be delivered to the Governmental Agency and the Authority. The Governmental Agency shall within six months of receipt of such study, adopt rates, fees, and charges for the use of the System, based upon the recommendations contained in such study, that provide compliance with said Rate Covenant. Notwithstanding the foregoing, the Authority may, from time to time, in its sole and

absolute discretion and pursuant to such terms and restrictions it may specify, waive in writing the requirement that a rate study be performed by the Governmental Agency.

(3) Additional Bonds.

(a) Senior Lien Bonds. The Governmental Agency covenants that it will not issue any obligations payable out of, or secured by a lien or charge, on the Pledged Property that is superior to the lien or charge of this Loan Agreement on the Pledged Property.

(b) Parity Lien Bonds. The Governmental Agency covenants that it will not issue any obligations payable out of, or secured by a lien or charge, on the Pledged Property that is on a parity with the lien or charge of this Loan Agreement on the Pledged Property, unless the Governmental Agency certifies to the Authority that Net Revenue (as defined in Paragraph (3) of Exhibit A to this Loan Agreement) for any 12 consecutive months out of the 18 months preceding the month in which such obligations are to be issued was at least equal to the sum of (a) 110% of the maximum annual debt service due in any one year on (i) this Loan Agreement and (ii) all other outstanding obligations of the Governmental Agency payable out of, or secured by a lien or charge on, the Pledged Property that is on a parity with the lien or charge of this Loan Agreement on the Pledged Property, and (iii) such proposed obligations to be issued, and (b) the maximum annual debt service due in any one year on all obligations payable out of, or secured by a lien or charge on the Pledged Property that is subordinate to the lien or charge of this Loan Agreement on the Pledged Property.

(c) Subordinate Lien Bonds. The Governmental Agency covenants that it will not issue any obligations payable out of, or secured by a lien or charge on, the Pledged Property that is subordinate to the lien or charge of this Loan Agreement on the Pledged Property, unless the Governmental Agency certifies to the Authority that for any 12 consecutive months out of the 18 months preceding the month in which such obligations are to be issued Net Revenue (as defined in Paragraph (3) of Exhibit A to this Loan Agreement) was at least 100% of the maximum annual debt service due in any one year on (a) all obligations outstanding during such period that are payable out of, or secured by a lien or charge on, the Pledged Property and (b) such proposed obligations to be issued.

(d) Net Revenue Adjustment. In calculating revenue coverage for purposes of the issuance of additional parity or subordinate lien bonds, the Governmental Agency may adjust Net Revenue to reflect any rate increases adopted in connection with the issuance of additional obligations by adding to the actual Net Revenue for the period examined an estimated sum equal to 100% of the estimated increase in Net Revenue that would have been realized during such period had the adopted rate increase been in effect during all of such period.

(e) Refunding Bonds. Notwithstanding the foregoing, the Governmental Agency may issue refunding obligations payable out of, or secured by a lien or charge on, the Pledged Property, without compliance with the requirements stated above, provided that the debt service payments on such refunding obligations do not exceed the debt service payments on the refunded obligations during any calendar year.

(4) Lien Representation.

[insert if the Authority Loan will be on a parity with the existing debt] The Governmental Agency has disclosed the following bonds, notes or other evidence of indebtedness of the Governmental Agency issued, or contractual obligations incurred, having a lien on the Source of Repayment of equal rank with the lien and charge on the Source of Repayment of the Governmental Agency Bond: {insert description of the parity lien obligations} (the “Parity Lien Obligations”). The Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, other than that of the Parity Lien Obligations, that is of equal rank with the obligation of the Governmental Agency Bond. Further, the Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, that is prior to the obligation of the Governmental Agency Bond.

(5) Operation and Maintenance Reserve Fund. The Governmental Agency shall maintain an operation and maintenance reserve in an amount equal to three months of operation and maintenance expenses, excluding depreciation, of the System as set forth in the annual budget for the current fiscal year. Said reserve may be in the form of unobligated fund balances, or other unobligated cash or securities (i.e. capital reserves), or may be in a separate segregated fund and shall be maintained as a continuing reserve for payment of any lawful purpose relating to the System. If the operation and maintenance reserve falls below this requirement, the shortfall shall be made up in 24 substantially equal monthly installments beginning the second month after such shortfall.

(6) Davis Bacon & Related Acts. The Governmental Agency will comply with the requirements of the Davis Bacon & Related Acts, codified at 40 U.S.C. §§ 3140 through 3148.

(7) Cost Overruns. Any cost overruns associated with the Project will be the responsibility of the Governmental Agency and any additional costs to defend against contract claims will not be reimbursed through this or any future funding.

(8) Audit Requirements. For each year in which the Governmental Agency requests a disbursement from the Project Loan Subaccount, the Governmental Agency shall conduct its annual audit in accordance with the federal Single Audit Act, 31 U.S.C. 7501 et seq.

(9) American Iron and Steel Requirement. The Governmental Agency will comply with all federal requirements applicable to the Loan, including Section 436 of P.L. 113-76, Consolidated Appropriations Act, 2014, (the “Appropriations Act”) and related State Revolving Fund Policy Guidelines, which require that all of the iron and steel products (as defined in the Appropriations Act and Guidelines) used in the Project must be produced in the United States unless the Governmental Agency has requested and received a waiver from the requirement pursuant to the “waiver process” described in the Appropriations Act and Guidelines.

(10) Financial Sustainability Plan Requirement. The Governmental Agency will comply with all federal requirements applicable to the Loan, including Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) as amended by the Water Resources Reform and Development Act (WRRDA), 2014, which will require that treatment works proposed for repair, replacement, or expansion, and eligible for assistance to develop and implement a fiscal sustainability plan due by the end of the Project that includes:

1. An inventory of critical assets that are a part of the treatment works.

2. An evaluation of the condition and performance of inventoried assets or asset groupings.
3. A certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan.
4. A plan for maintaining, repairing, and as necessary, replacing the treatment works and a plan for funding such activities.

(11) Construction Schedule. The Governmental Agency has provided the following estimated dates regarding the project:

1. Advertisement for Bids Publication Date: _____
2. Construction Contract Award Date: _____
3. Construction Start Date: _____
4. Construction Substantial Completion Date: _____

EXHIBIT G
WPCRF Form of Requisition

THE TOWN OF WELLINGTON, COLORADO, ACTING BY AND THROUGH THE TOWN WASTEWATER ENTERPRISE (the “Governmental Agency”)

Please submit to the following addresses:

https://ceos.colorado.gov/CO/CEOS/Public/Client/CO_CIMPLE/Shared/Pages/Main/Login.aspx

If there are any questions or technical issues, please submit your backup document via one of the methods below.

Or Mail To: Colorado Department of Public Health and Environment
Grants and Loans Unit WQCD-OA-B2
Attn: Project Manager
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Or Fax To: 303-782-0390 (Call CDPHE Project Manager to confirm delivery)

Cc: CDPHE Project Manager

Cc: E-mail requisition form (Exhibit G) to the Colorado Water Resources and Power Development Authority at requisitions@cwrpda.com

This requisition is made in accordance with Section 3.02 of the Loan Agreement executed by the Colorado Water Resources and Power Development Authority on _____, 2022. Terms defined in the Loan Agreement and not otherwise defined herein shall have the same meanings when used herein.

The Governmental Agency hereby states as follows:

1. This is Requisition No _____.
2. The amount requisitioned hereunder is _____.
3. The person, firm or corporation to whom the amount requisitioned is due, or to whom a reimbursable and advance has been made, is _____.
4. The payee of the requisitioned amount is _____.
5. The manner of payment to the payee is to be wire transferred to:

Bank:
ABA No.:
Account No.:
Account Name:
Contact:
6. Attached hereto is the appropriate documentation demonstrating that the amount requisitioned hereunder is currently due or has been advanced by the Governmental Agency.
7. The amount hereby requisitioned is a proper Cost of the Project to be paid only from amounts deposited in the Project Account established for the Governmental Agency in the **Water Pollution Control Revolving Fund**.

8. On the date hereof, there does not exist any Event of Default under the Loan Agreement nor any condition which, with the passage of time or the giving of notice, or both, would constitute an Event of Default thereunder.
9. Estimate of total project completion percentage: _____ %
10. The undersigned is an Authorized Officer of the Governmental Agency duly authorized in the Loan Agreement to submit the Requisition.
11. The Governmental Agency reaffirms that all representations made by it in the Loan Agreement are true and accurate as of the date of this requisition, and that it shall continue to observe and perform all of its duties, covenants, obligations and agreements thereunder, at all times during the entire term of said Loan Agreement.

Dated: _____.

**TOWN OF WELLINGTON, COLORADO, ACTING BY AND THROUGH THE
TOWN WASTEWATER ENTERPRISE**

By: _____.

Title: _____ & Authorized Officer

Print Name: _____

You should receive all payments no later than 10 working days after receipt of requisition unless otherwise notified.

The undersigned approves the disbursement of the requisitioned amount from the Project Loan Account established in the **Water Pollution Control Revolving Fund** Project Account.

COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY

By: _____
Finance Director

Dated: _____

For Colorado Department of Public Health and Environment, Water Quality Control Division purposes only:

Payment approved by _____

Dated: _____

GREEN PROJECT RESERVE LOAN

March 8, 2022





Green Project Reserve Loan Program

- State has a separate loan program they offered to help lower the costs of our Waste Water Treatment Expansion Project.
- The Green Project Reserve Loan Program offers agencies a loan for a maximum of 15 percent of the project costs at 1.5 percent interest rate cost.
- The Town's project has been reviewed, and this project qualifies for \$3 million from this loan program.
- Qualifying for this loan requires the Board's adoption of the Ordinance.

Why use this Loan Program?

- It is a fixed amount of dollars (\$3 million) and low interest rate (1.5%)
- Helps lower the total cost of the project by using this lower cost money

Sources	Amount	Interest Rate
SRF Loan*	\$45,000,000	TBD
GPR Loan	\$3,000,000	1.5%
Total	\$48,000,000	

* SRF Loan = Colorado Water Resources and Power Development Authority;
Interest rate will be set upon sale of the State Bonds April.



CONCLUSION

- State will reimburse the Town for the costs as we submit requests
- They will use the proceeds of the SRF Loan first
- The proceeds of the Green Project Reserve will be used last
- State asked for two separate loan ordinances



QUESTIONS

- The Town's Bond Counsel, Mario Trimble, from Kutak Rock is available also for any questions
- This negotiation was a collaborative effort – and could not have been accomplished with Mr. Trimble, Dan Sapienza, Ian Loffert (state representative), Meagan Smith, Dave Myer, and Bob Gowing



RECOMMENDATION

- Adopt the ordinance so staff can continue working with the State on the total project financing
- Staff will continue to keep the Board informed of final numbers and debt service schedules

QUESTIONS

SPECIAL RECOGNITION

The Town's Bond Counsel, Mario Trimble from Kutak Rock is available also for any questions

This negotiation was a collaborative effort – and could not have been accomplished with Mr. Trimble, Ashley Dennis (Kutak Rock), Dan Sapienza, Ian Loffert (state representative), Meagan Smith, Dave Myer, and Bob Gowing



Board of Trustees Meeting

Date: March 8, 2022
Submitted By: Krystal Eucker, Town Clerk
Subject: Annual Renewal - Ridley's Family Market

- **Staff presentation: Krystal Eucker, Town Clerk**

EXECUTIVE SUMMARY

Ridley's Family Markets Inc, d/b/a Ridley's Family Markets has submitted their annual renewal for their Liquor Store liquor license. A review of the application found the establishment is in good standing with the Colorado Secretary of State, the establishment is current with sales tax, and the Larimer County Sheriff's Office reported no issues directly related to the establishment's liquor license. There were no issues or concerns during a visual inspection of the premise.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

Recommended motion: Move to approve the annual liquor license renewal for Ridley's Family Markets, Inc

ATTACHMENTS

1. Ridleys Renewal Application

FEB 15 2021

DR 8400 (01/19/22)
 COLORADO DEPARTMENT OF REVENUE
 Liquor Enforcement Division

Submit to Local Licensing Authority

Save this area for merge codes

Fees Due	
Annual Renewal Application Fee	\$ 50.00
Renewal Fee	
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$227.50

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

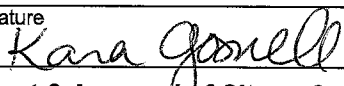
Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name Ridleys Family Markets Inc		Doing Business As Name (DBA) Ridleys Family Markets	
Liquor License # 03-05940	License Type Liquor Store City	Sales Tax License Number 30274099	Expiration Date 12/31/2021
Business Address 7670 5th Street, Wellington, CO 80549			Phone Number 970-568-3197
Mailing Address 621 Washington St S, Ste 500, Twin Falls, ID 83301		Email [REDACTED]	
Operating Manager Cameron Schneider	Date of Birth [REDACTED]	Home Address [REDACTED]	Phone Number [REDACTED]
1. Do you have legal possession of the premises at the street address above? ☒ Yes ☐ No Are the premises owned or rented? ☐ Owned ☒ Rented* *If rented, expiration date of lease 7/30/2029			
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. ☐ Yes ☒ No			
3a. Are you renewing a takeout and/or delivery permit? (Note: must hold a qualifying license type and be authorized for takeout and/or delivery license privileges) ☐ Yes ☒ No			
3b. If so, which are you renewing? ☐ Delivery ☐ Takeout ☐ Both Takeout and Delivery			
4a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? ☐ Yes ☒ No			
4b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? ☐ Yes ☒ No			
5. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. ☐ Yes ☒ No			
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. ☐ Yes ☒ No			

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. ☐ Yes ☒ No
8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. ☒ Yes ☐ No

Affirmation & Consent		
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.		
Type or Print Name of Applicant/Authorized Agent of Business Kara Gosnell	Title Controller	
Signature 	Date 2/10/22	
Report & Approval of City or County Licensing Authority		
The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.		
Therefore this application is approved.		
Local Licensing Authority For		Date
Signature	Title	Attest

Tax Check Authorization, Waiver, and Request to Release Information

I, Donald Mark Ridley am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of Ridley's Family Markets (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101, et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and its duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>Ridley's Family Markets Inc</u>		Social Security Number/Tax Identification Number [REDACTED]	
Address <u>621 Washington Street So</u>			
City <u>Twin Falls</u>		State <u>ID</u>	Zip <u>83301</u>
Home Phone Number [REDACTED]		Business/Work Phone Number <u>208-324-4633</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>Donald Mark Ridley</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) <u>[Signature]</u>			Date signed <u>2/5/22</u>

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that,
according to the records of this office,

Ridley's Family Markets, Inc.

is an entity formed or registered under the law of Wyoming, has complied with all
applicable requirements of this office, and is in good standing with this office. This entity has
been assigned entity identification number 20151687144.

This certificate reflects facts established or disclosed by documents delivered to this office on
paper through 03/02/2022 that have been posted, and by documents delivered to this office
electronically through 03/03/2022 @ 14:56:19.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this
official certificate at Denver, Colorado on 03/03/2022 @ 14:56:19 in accordance with applicable law.
This certificate is assigned Confirmation Number 13839985.



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."