

# WELCOME

## to the

# Timmath

# Land Use Code

| <b>DISPOSITION OF ORDINANCES</b> |   |                |                    |
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Tabs on the right side are linked to their respective Articles. Clicking on the tab takes you to the first page of that Article.

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**ARTICLE 1. AUTHORITY, PURPOSE AND APPLICABILITY**

**1.1 Purpose**

1.1.1 The purpose of this Code is to create a vital, cohesive, well-designed community in order to enhance the Town’s character and further the citizens’ goals as identified in the Town of Timnath Comprehensive Plan. This Code is designed to:

- Encourage the most appropriate use of land in the Town;
- Encourage innovative, quality site design, architecture and landscaping;
- Promote compact, well-defined, sustainable neighborhoods that enhance the Town’s character;
- Create livable neighborhoods that foster a sense of community and reduce dependency on vehicles;
- Encourage the proper arrangement of streets in relation to existing and planned streets and ensure that streets facilitate safe, efficient and pleasant walking, biking and driving;
- Provide a variety of lot sizes and housing types in every neighborhood;
- Protect sensitive natural and historic areas and the Town of Timnath’s environmental quality;
- Integrate a high quality natural environment into the developed portions of the community;
- Facilitate adequate and efficient provision of transportation, water, sewerage, schools, parks and other public requirements;
- Provide protection from geologic, flood and fire hazards and other dangers; and
- Promote the health, safety, morals and general welfare of Town of Timnath and its residents.

1.1.2 This ordinance establishes the regulations and standards governing the use and development of land within the Town of Timnath. Included are provisions for the annexation, subdivision and zoning of land, as well as the administrative procedures governing the submission of applications, administrative and public reviews, and appeals. Also included are Town of Timnath standards for site design, landscaping, parking and public [infrastructure](#).

**1.2 Title**

This ordinance shall be known and may be cited as the Town of Timnath Land Use Code.

**1.3 Authority**

1.3.1 This Code is adopted pursuant to the authority contained in the Colorado Revised Statutes (C.R.S.), and the Colorado Constitution, Article XX, Section 6. 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

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the C.R.S., as amended. Additional statutory authority may also exist for specific types of land use regulation.

- 1.3.2 Whenever a section of the Colorado Revised Statutes cited in this Code is later amended or superseded, this Code shall be deemed amended to refer to the amended section or section that most nearly corresponds to the superseded section.

## 1.4 Jurisdiction

- 1.4.1 This Code shall be effective throughout the Town of Timnath’s corporate boundaries for purposes of zoning and subdivision regulation. The Town of Timnath’s planning jurisdiction also includes all land within the Town of Timnath and, where applicable, the lands within three miles of the Town of Timnath’s boundaries with reference to a major street plan if one exists.
- 1.4.2 A copy of a map showing the boundaries of the Town of Timnath and the area within the three-mile planning jurisdiction shall be available for public inspection in the Town of Timnath offices.

## 1.5 Interpretation

In their interpretation and application, the provisions of this Code shall be held to be minimum requirements for the promotion of the public health, safety and welfare. Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the higher standard, shall govern.

## 1.6 Applicability

- 1.6.1 The provisions of the Town of Timnath Land Use Code shall apply to any and all development of land within the municipal boundaries of the Town unless expressly and specifically exempted or provided otherwise in this Code. No development shall be undertaken without prior and proper approval or authorization pursuant to the terms of this Code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Code.
- 1.6.2 Except as herein provided, no building, structure or land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with the regulations herein specified for the zone district in which it is located, nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.
- 1.6.3 Whenever both the provisions of this Code and provisions of any other law cover the same subject matter, the more restrictive provision shall govern.
- 1.6.4 This Code establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the Town of Timnath Comprehensive Plan and with adopted regulations, policies and other guidelines.

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## 1.7 Relationship To Existing Ordinances

All ordinances, resolutions or motions of the Town of Timnath Town Council or parts thereof in conflict with this Code are to the extent of such conflict hereby superseded and repealed, provided that no such repeal shall repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution or motion thereby. The adoption of this Code shall not adversely affect the Town of Timnath's right to seek remedies for any violation of previous ordinances that occurred while those ordinances were in effect.

## 1.8 Relationship To The Comprehensive Plan

1.8.1 It is the intention of the Town of Timnath that this Code implements the planning policies adopted in the Town of Timnath Comprehensive Plan ("Comprehensive Plan") for the Town and its extraterritorial planning area. While this relationship is reaffirmed, it is the intent of the Town of Timnath that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan.

- A. Requirement for Comprehensive Plan Amendment. Where a development proposal would be in substantial conflict with the Comprehensive Plan, an amendment to the Comprehensive Plan will be required prior to or concurrent with any zoning or subdivision approvals. A substantial conflict will exist when a development proposal would result in significant changes from the designations of the Future Land Use Plan in the Comprehensive Plan or the Transportation Master Plan.
- B. Criteria for Evaluating Amendment Proposals. Amendments to the Comprehensive Plan resulting from development proposals under this Code shall be evaluated according to [Section 2.9.7](#) of this Code.

## 1.9 Effective Date

The provisions of this Code became effective January 1st, 2016 and were originally adopted on October 9, 2002. Development plans approved under previous regulations that received [vested property rights](#) through a [site specific development plan](#) shall be valid for the duration of that vested property right provided that all terms and conditions of the site specific development plan are followed. Existing legal uses that may become nonconforming by adoption of this Code shall become legal nonconforming uses subject to the provisions of [Section 2.11](#).

## 1.10 Applicant To Pay Costs

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters shall be charged to applicants for permits, plat approvals, zoning amendments, variances and other administrative relief. The fee schedule will be adopted in Chapter 4 of the Timnath Municipal Code and is available from the Town Office. In addition, the applicant shall pay the actual costs of mailing and publishing all notices required herein.



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### 1.11 Applicant Review Costs And Deposit

In addition to the standard fees referred to in Section 1.10 above, the applicant and the owner of the property which is the subject of the application shall be required to pay any actual costs incurred by the Town for review of the application based on a fee ordinance passed by the Town Council.

### 1.12 Severability

If any part, section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Code. The Town of Timnath Town Council hereby declares that it would have passed the Code including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

### 1.13 Computation Of Time

- 1.13.1 In computing a period of days, the first day is excluded and the last day is included.
- 1.13.2 All days shall be considered standard work calendar days. Legal holidays, Saturdays or Sundays shall be excluded.
- 1.13.3 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 unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

## ARTICLE 2. ADMINISTRATION

### 2.1 Timnath Town Council.

- 2.1.1 Short Title. The Timnath Town Council may also be referred to as the Council.
- 2.1.2 Duties and Responsibilities. Under state statute and this Land Use Code, the Council has the following authority:
- 2.1.2.1 Comprehensive Plan. The Council shall approve, approve with alterations or deny the Planning Commission's recommendation of a comprehensive plan, or master plan or their amendments.
  - 2.1.2.2 Land Use Code. The Council shall be responsible for adoption of this Land Use Code and map, and any amendments to them.
  - 2.1.2.3 Annexations. The Council shall be responsible for reviewing annexation petitions or applications and taking action to approve, approve with conditions, or deny such petitions or applications.
  - 2.1.2.4 Subdivision [plats](#). The Council shall be responsible for reviewing sketch plans, preliminary and final major subdivision plats and taking action to approve, approve with conditions, or deny such applications.
  - 2.1.2.5 Vacation of right-of-way and other public [easements](#). The Council shall be responsible for reviewing vacation of right-of-way or other public easement requests and taking action to approve, approve with conditions, or deny such applications.
  - 2.1.2.6 Planned Development Districts. The Council shall be responsible for reviewing site plans, and associated subdivision [plats](#) and taking action to approve, approve with conditions, or deny such applications.
  - 2.1.2.7 Rezoning. The Council shall be responsible for reviewing the application, and any associated site plans and taking action to approve, approve with conditions, or deny such applications.

### 2.2 Planning Commission.

- 2.2.1 Short Title. The Planning Commission may also be referred to as the Commission.
- 2.2.2 Duties and Responsibilities. The duties and responsibilities of the Planning Commission shall be as set forth in the Town of Timnath Charter, the Municipal Code, this Land Use Code, and the Planning Commission Rules and Regulations and bylaws.

### 2.3 Board of Adjustment.

- 2.3.1 Short Title. The Board of Adjustment may also be referred to as the "Board."
- 2.3.2 Duties and Responsibilities. The duties and responsibilities of the Board of Adjustment shall be as set forth in the Town of Timnath Charter, the Municipal Code, this Land Use Code, and the Board of Adjustment Rules and Regulations. The Board of Adjustment shall have jurisdiction to hear and decide [variances](#) as set forth in [Section 2.9.13](#) of this Land

Use Code, and to hear and decide appeals from decisions and interpretations made by the Town Manager or Community Development Director pursuant to [Section 2.9.16](#) of this Land Use Code.

**2.4 Historic Preservation Commission.**

2.4.1 Duties and Responsibilities. The duties and responsibilities of the Historic Preservation Commission shall be as set forth in this Land Use Code, the Municipal Code, and the Historic Preservation Commission Rules and Regulations.

**2.5 Town Manager.**

2.5.1 Short Title. The Town Manager may also be referred to as the Manager. The Town Manager may also serve as the Community Development Director.

2.5.2 Duties and Responsibilities. It shall be the duty of the Manager to enforce the provisions of this Land Use Code and the regulations contained herein. No oversight or error on the part of the Manager or any employee of the Town shall legalize, authorize, or excuse the violation of any of the provisions in this Land Use Code.

2.5.3 Authority. The Manager shall have the authority to:

- 2.5.3.1 Interpret and apply the provisions set forth in this Land Use Code. When this Land Use Code does not specify what criteria are to be used in making a decision, the Manager shall approve an application, or approve it with conditions, if the Manager determines that:
  - A. The application complies with all applicable provisions of this Land Use Code, or if it does not comply with one or more provisions, that the body authorized by this Land Use Code to allow variations from those provisions has given its approval to the variations; and
  - B. The application is consistent with the Comprehensive Plan and all other plans approved by the Town Council, and is applicable to the property.
- 2.5.3.2 Make district boundary interpretations when uncertainty as to the district boundaries exists.
- 2.5.3.3 Delegate to any employee of the Town any responsibilities assigned to the Manager by this Land Use Code. The designee shall be subject to the same restrictions and standards as are applicable to the Manager.
- 2.5.3.4 Make land use interpretations when a specific land use is not defined or articulated in the Land Use Code. Such land use interpretations shall be based on like or comparable land uses defined in the code.

**2.6 Community Development Director.**

2.6.1 Short Title. The Community Development Director may also be referred to as the Town Planner and shall serve as the Zoning Administrator.

2.6.2 Duties and Responsibilities.

2.6.2.1 Duties and responsibilities as assigned by the Town Manager. The Town Planner

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may act on behalf of the Town Manager in all matters related to this Land Use Code.

2.6.2.2 Designee. The term Community Development Director may also include his/her designee.

**2.7 Enforcement.**

2.7.1 It is unlawful to erect, construct, alter, maintain, move or use any building or land area in violation of any provision of this Land Use Code. No permit, certificate, license or other approval, the use of which is subject to the provisions of these regulations, shall be issued by any department, agency or board until it has been determined that all substantive requirements have been met and all procedures have been followed.

2.7.1.1 Complaints regarding violations. Whenever the Zoning Administrator becomes aware of an alleged violation of this Code, Town staff shall investigate the complaint, take whatever action is warranted and inform the complainant in writing of what actions have been or will be taken.

2.7.1.2 Persons liable. The owner, tenant or occupant of any building, land or part thereof, as well as any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is in violation of this Code, may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

2.7.2 Violations and Enforcement Procedures. It shall be unlawful to undertake any of the following activities:

2.7.2.1 Activities inconsistent with this Code. Erecting, constructing, reconstructing, remodeling, altering, maintaining, expanding, demolishing, moving, or using any building, structure, or sign, or to engage in development or subdivision of any land in contravention of any zoning, subdivision, sign, or other regulation of this Code, including terms and conditions of all required approvals;

2.7.2.2 Land disturbing activities inconsistent with this Code. Excavating, grading, cutting, clearing, or undertaking any other land disturbance activity contrary to the provisions of this Code or without first obtaining all requisite land use approvals required by this Code or other applicable regulations;

2.7.2.3 Nonconforming uses or structures inconsistent with this Code. Creating, expanding, replacing; or changing a nonconforming use, structure, lot, or sign except in compliance with this Code;

2.7.2.4 Making lots or setbacks nonconforming. Reducing or diminishing the [lot area](#), setbacks, or open space below the minimum required by this Code;

2.7.2.5 Increasing intensity of use. Increasing the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this Code;

2.7.2.6 Activities inconsistent with permit. Engaging in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, or other form of authorization required to engage in such activity; or

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- 2.7.2.7 Activities inconsistent with conditions of approval. Failure to comply with any terms, conditions, or limitations placed by the Town upon any final development plan, subdivision plat, permit, or other form of approval by the Town.
- 2.7.2.8 Conveyance. Any agreement to convey, or conveyance of any lot or unsubdivided parcel of land contrary to the provisions of this Code or prior to approval of a final plat by the Council. It shall be a separate violation for each lot or parcel of land sold. .
- 2.7.2.9 Activities inconsistent with an order of the Town. Failure to comply with any stop work order, abatement order, or any other order issued by the Town pursuant to this Code.
- 2.7.3 Separate Violations. Any person who violates or causes the violation of any of the provisions of this Code, shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, permitted, or continues.
- 2.7.4 Remedies and Enforcement Powers. Violations of this Code may be enforced in the Timnath Municipal Court or any other court with jurisdiction, by any appropriate equitable action, by abatement, by issuance of stop work orders, by injunction and restraining order, by revoking any permits or approvals issued, and by assessing any amounts due or delinquent fines as taxes. Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this Code. In addition, the Town shall have the following civil remedies and powers to enforce this Code:
  - 2.7.4.1 Notice of violation and corrective action order.
    - A. Non-emergency violations. In the case of violations of this Code that do not constitute an emergency or require immediate attention, written notice of the nature of the violation and required corrective action to be taken shall be given by the Town to the owner, occupant, applicant for any relevant permit, person in charge of construction or other work on the property, or any other person in possession of or involved in the illegal activity on the property. Notice shall be given in person, by certified U.S. Mail (return receipt requested) or by posting notice on the premises. The notice shall specify the Code provisions allegedly in violation, and shall state that the individual has a period of 30 days from the date of the receipt of the notice in which to correct the alleged violations before further enforcement action shall be taken.
    - B. Emergency violations. In the case of violations of this Code that constitute an emergency as a result of public safety concerns, or violations that will create increased problems or public costs to the Town if not remedied immediately, the Town may use the enforcement powers available under this Code without prior notice, but shall attempt to give notice simultaneously with beginning enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, occupant, or to the applicant for any relevant permit. In addition, the Town may proceed to abate the danger and assess the costs therefor as a lien on the property and certified to the County Treasurer to be collected with the taxes on the property.
    - C. Extension of time for correction. The Council may grant an extension of the

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time to cure an alleged violation, up to a total of 90 days, if the Council finds that due to the nature of the alleged violation, it reasonably appears that it cannot be corrected within 30 days.

- 2.7.4.2 Deny/withhold approvals or permits. The Town Planner may deny and withhold all approvals, permits, certificates, or other authorization to use or develop any land, structure, or improvements thereon until the alleged violation related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or [applicant](#) for the permit is responsible for the violation.

Where a property owner, agent, or other person has a record of an outstanding violation of this Code, the Town Planner shall be authorized to deny or withhold all permits, certificates of occupancy, or other forms of authorization for any use or development activity undertaken by such person until all outstanding violations are corrected. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.

The denial, withholding or revocation of a permit by the Town may be appealed to the Board of Adjustment as provided in [Section 2.9.16](#) of this Code.

- 2.7.4.3 Revocation of permits.
  - A. Revocation by the Town Planner. The Town may revoke any development permit, certificate or other authorization, for violation of this Code.
  - B. Notice of revocation. Written notice of the findings shall be served upon the owner, the owner’s agent, [applicant](#), or other person to whom the permit was issued by certified mail, return receipt requested, or such notice may be posted in a prominent location at the place of the violation. No work or construction or use of the property shall proceed if the permit, certificate or other authorization was revoked.

- 2.7.4.4 Stop work order.
  - A. Issuance of stop work order. The Town Planner may issue a written order to stop work on any property on which there is an uncorrected violation of either a provision of this Code or a provision of a land use approval or development permit, building permit or other form of authorization. The stop work order shall specify the Code provisions allegedly in violation. Service of the order shall be given in person, by certified U.S. Mail (return receipt requested) or by posting notice on the premises. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order. The notice shall also state any appeal and/or [variance](#) procedures available pursuant to this Code.
  - B. Timing/notice. The stop work order may be issued in conjunction with a notice of violation or subsequent to such notice. The stop work order may also specify a shorter time for correction of the violation if the Town determines a shorter time is necessary to protect the health, welfare or safety of people or property in Timnath. It shall be unlawful to violate the terms of a stop work order.

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- 2.7.4.5 Abatement or injunctive relief. In addition to any other remedy, the Council may initiate injunction or abatement proceedings or other appropriate legal action in the Timnath Municipal Court or other court of competent jurisdiction to abate, remove, or enjoin such violation and to recover damages, costs, and reasonable attorney’s fees incurred in the abatement and removal of such violation.
- 2.7.5 Remedies Cumulative. The remedies provided for violations of this Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law or equity, and may be exercised in any order. Each 24 hour period or portion thereof is considered a separate violation under this Code.
- 2.7.6 Continuation of Prior Enforcement Actions. Nothing in this Code shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.
- 2.7.7 Appeals of Enforcement Actions. Appeals of any order, requirement, decision, or determination made by an administrative official in the enforcement of this Code shall be made to the Board of Adjustment in accordance with this Code.
- 2.7.8 Liability of Town of Timnath. This Code shall not be construed to hold the Town responsible for any damages to persons or property by reason of the inspection or re-inspection, or failure to inspect or reinspect, or by reason of issuing a building permit, or by reason of pursuing or failing to pursue an action for injunctive relief.
- 2.7.9 Violations. Violations of this Code may be enforced in the Timnath Municipal Court or any other court with jurisdiction, by any appropriate equitable action, by abatement, by issuance of stop work orders, by injunction and restraining order, by revoking any permits or approvals issued, and by assessing any amounts due or delinquent fines as fees. Any one or any combination of the foregoing penalties and remedies may be used to enforce this Code.
- 2.7.10 Costs of Enforcement for Abatement to be Paid to the Town. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred and any other person responsible for the violation as defined in this Code. The cost of abating a violation of this Code shall include all direct and indirect costs of such abatement, plus the costs of collection and interest at the rate of one percent per month. Notice of the bill for abatement of the violation shall be mailed to the last known address of said property owner by certified mail, and shall be payable within 30 calendar days from the receipt thereof. If all of such costs are not paid within 30 days of the notice, such costs may be made a lien on the property and certified to the County Treasurer and collected with the taxes on the property.

**2.8 Approval Required.**

- 2.8.1 No building or structure shall be erected, constructed, reconstructed, altered, moved or structurally altered unless a building permit has been issued by the Building Official in conformance with the provisions of the Building Code.
- 2.8.2 No building permit shall be issued and no use shall commence on any land until the land has been the subject of a subdivision [plat](#) approved by the Council and the building and/or use has been approved by the Town Planner or Town Council, whichever is indicated, as part of a site plan application. A site plan is to be reviewed and approved by the Town

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Planner, provided that the plan conforms to the Town development standards and criteria, zoning requirements and design guidelines, and Comprehensive Plan.

## 2.9 Procedures.

This section establishes the process and procedures for land development within the Town of Timnath. The Section is divided into general requirements commonly required and specific procedures for certain types of applications.

Table 2.1 Hearing Process and Notice Requirements

| ✓                      | Applicable  | Pre-Application Conference | Completeness | Neighborhood Meeting | Public Hearing | Recommendation | Decision | Notice |        |           | Additional Requirements   |
|------------------------|---|----------------------------|--------------|----------------------|----------------|----------------|----------|--------|--------|-----------|---|
|                        |   |                            |              |                      |                |                |          | Posted | Mailed | Published |   |
| BOA                    | Board of Adjustment                                 |                            |              |                      |                |                |          |        |        |           |   |
| PC                     | Planning Commission                                 |                            |              |                      |                |                |          |        |        |           |   |
| TC                     | Town Council  |                            |              |                      |                |                |          |        |        |           |   |
| TP                     | Town Planner  |                            |              |                      |                |                |          |        |        |           |   |
| <a href="#">2.9.6</a>  | Comprehensive Plan Amendments                       | ✓                          | ✓            | ✓                    | PC/TC          | PC             | TC       |        |        | ✓         |   |
| <a href="#">2.9.7</a>  | Land Use Code and Zoning Map Amendments             | ✓                          | ✓            | ✓                    | PC/TC          | PC             | TC       | ✓*     | ✓*     | ✓         | *Map and individual property rezonings require posted and mailed notices. Comprehensive rezonings do not. |
| <a href="#">2.9.8</a>  | Conditional Use Review                              | ✓                          | ✓            |                      | PC/TC          | PC             | TC       | ✓      | ✓      | ✓         |   |
| <a href="#">2.9.9</a>  | Development Site Review                             | ✓                          | ✓            | ✓*                   |                |                | PC/TC*   |        |        |           | *Properties of two buildings or more requires a neighborhood meeting and approval by Town Council.        |
| <a href="#">2.9.10</a> | Subdivisions  | ✓                          | ✓            | ✓*                   | PC/TC          | PC             | TC       | ✓      | ✓      | ✓         | *Only required for Sketch Plan, Preliminary Plat & Residential Minor Subdivisions.                        |
| <a href="#">2.9.11</a> | Administrative Plat                                 | ✓                          | ✓            |                      |                |                | TP       |        |        |           |   |
| <a href="#">2.9.12</a> | Vacation of Right-of-Way and Other Public Easements | ✓                          | ✓            |                      | PC/TC          | PC             | TC       | ✓      | ✓      | ✓         |   |
| <a href="#">2.9.13</a> | Variances   | ✓                          | ✓            |                      | BOA            |                | BOA      | ✓      | ✓      | ✓         |   |
| <a href="#">2.9.14</a> | Planned Development District                        | ✓                          | ✓            |                      | PC/TC          | PC             | TC       | ✓      | ✓      | ✓         |   |
| <a href="#">2.9.15</a> | Town Council Waiver                                 | ✓                          | ✓            |                      |                |                | TC       |        |        |           |   |
| <a href="#">2.9.16</a> | Appeals of Administrative Decisions                 | ✓                          | ✓            |                      | BOA            |                | BOA      | ✓      | ✓      | ✓         |   |

2.9.1 General. No development or development activity is permitted unless all development approvals applicable to the proposed development are issued in accordance with this Code. Development approvals are required for all development, unless otherwise

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exempted, to ensure compliance with the various adopted codes, standards, and laws, and to ensure consistency with the comprehensive plan and policies of the Town. Generally, the procedures for all applications have common elements:

- 2.9.1.1 Pre-application conference.
  - 2.9.1.2 Submittal of a complete application, including required fee agreement, fee payments and appropriate information and studies;
  - 2.9.1.3 Review of the submittal by appropriate staff, agencies, and boards; and subsequent review of re-submittals;
  - 2.9.1.4 A decision to approve, approve with conditions, or deny together with the description of the actions authorized and the time period for exercising rights;
  - 2.9.1.5 If necessary, amending the decision; and
  - 2.9.1.6 Recording the decision.
- 2.9.2 Categories of Approvals. There are three basic categories of development approvals pursuant to this code: 1) legislative development approvals, 2) quasi-judicial development approvals, and 3) administrative development approvals.
- 2.9.2.1 Legislative development approvals involve a change in land-use policy. A public hearing is required but the procedural requirements of a quasi-judicial hearing do not apply. Legislative development approvals include any change in the Comprehensive Plan, any change to the text of the Land Use Code, and Town initiated comprehensive rezoning.
  - 2.9.2.2 Quasi-judicial development approvals involve the application of a discretionary standard required by the Land Use Code to an application. It requires a public hearing. Procedural due process requirements apply as established in [Section 2.9.5](#). Examples include individual parcel rezonings, special use permits, Planned Development Districts, subdivisions, vacations, variances, and administrative appeals.
  - 2.9.2.3 Administrative development approvals involve the application of the standards of the Land Use Code to an application by an administrative official or body. A public hearing is not required. Examples include development plan reviews, administrative waivers, administrative plats, building permits and certificates of occupancy.
- 2.9.3 Application Procedures. This section applies to any application, unless otherwise provided in the regulations, for the specific application.
- 2.9.3.1 Pre-application conference. A pre-application conference is required of all applicants.
    - A. The pre-application conference shall be held between the applicant and the appropriate Town staff. This meeting is intended to provide an understanding of the applicable review procedures, requirements, and standards, and provide information pertinent to the application and the geographical area affected by the application.
    - B. The Town Planner will explain the application procedures and the materials required for submittal.

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- C. The applicant shall bring a conceptual site plan to the conference.
- D. Any comments or commitments made by any member of the Town’s staff during this pre-application conference are only preliminary in nature and should not be relied upon by the applicant. All prospective applicants should be informed that formal comments cannot be made by staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to review and respond.

2.9.3.2 Application. No application is complete unless all of the information required by the Town is submitted, including the executed fee agreement, and application fees have been paid. Current application materials shall be made available in the Community Development Department. The specific requirements shall be provided in an administrative manual, or other publication approved by the Town Planner.

2.9.3.3 Authority to file applications. Unless otherwise specified in this Land Use Code, applications for review and approval may be initiated by:

- A. The owner of the property that is the subject of the application;
- B. The owner’s authorized agent; or
- C. The Town of Timnath.

When an authorized agent files an application under this Land Use Code on behalf of a property owner, the agent shall provide the Town with written documentation that the owner has authorized the filing.

2.9.3.4 Completeness Review. These procedures shall be used to review any development application for completeness unless a different procedure is established elsewhere in this Code or waived by the Town Planner.

- A. All applications shall be reviewed by the Town Planner for completeness.
- B. The final determination of the Town Planner on completeness of an application constitutes a final decision and is appealable.
- C. Whenever this code establishes a time period for processing an application, such time period does not commence until the Town Planner has determined the application is complete. The determination of completeness does not constitute a decision as to whether the application complies with the provisions of the Land Use Code.
- D. Review by Town Planner. No later than 15 working days after the Town Planner has received an application, the Town Planner shall determine whether the application is complete. Any amendment to the application shall restart the review time.
  - 1. If the application is determined not to be complete, the Town Planner shall specify in writing the information required and the applicant may resubmit the application.
  - 2. Nothing in this section precludes an applicant and the Town Planner from mutually agreeing to an extension of any time limit provided by this section.

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- 3. If the Town Planner fails to act within the time period required for completeness review, the application is deemed complete.
- 4. The Town Planner may waive certain submittal requirements where the Town Planner finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly support such a waiver.
- 5. After the Town Planner accepts a development application as complete, the Town Planner or a reviewing agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application, if needed to render a final determination or recommendation on the merits.
- E. If application deemed complete applicant must submit number of copies specified by staff for routing.

2.9.4 Notice Provisions. The notice requirements for each type of application are prescribed in the individual subsections of this Article. The notice requirements for certain types of public hearings are established in [Table 2-1](#) provided, however, to the extent of any inconsistency between the provisions of this section and any state statute, the state statute governs.

2.9.4.1 Notice for surrounding properties.

- A. Posted sign. Within 14 days of the determination of a complete application, the Town shall post a “development under review” sign on the property unless a different procedure is established elsewhere in this code. Such posting shall be in a location and in a manner that makes it clearly visible from the adjoining street. The sign shall be posted until the day after the final public hearing.
- B. The posted sign shall include: the address and telephone number of the Community Development Department where all application materials relating to the proposal may be reviewed prior to the hearing.

2.9.4.2 Public hearing notice.

- A. Public hearing notice. Public hearing notices shall be mailed to each owner of estates, rights, or interests in the subject property identified in the title information submitted with the application, and to each property owner within 500 feet of the subject property, per the Larimer County Assessor’s Office. Public hearing labels will be generated by Town Staff within 20 days of the initial public hearing, and the mailing notice will be mailed by Town Staff at least 10 days prior to the initial public hearing.
  - 1. The following shall not affect the validity of any hearing, meeting, or determination by the decision maker:
    - a. The fact that written notice was not mailed as required under the provisions herein.
    - b. The fact that written notice, mailed as required under the provisions herein, was not actually received by one (1) or more of the intended recipients.

- c. The fact that signage, posted in compliance with the provisions herein, was subsequently damaged, stolen or removed either by natural causes or by persons other than the person responsible for posting such signage on his or her agents.
- B. The referral notice shall state:
    1. Name of proposal;
    2. Name of owner of subject property;
    3. The street address or, if the street address is unavailable, the legal description by metes and bounds from the property deed;
    4. Size of property;
    5. The current zoning classification, if any;
    6. The category of development approval requested and a brief description of the proposed development, including [density](#) or building intensity, revised zoning classification (if any), and uses requested;
    7. The real property tax assessment roll parcel number;
    8. Application file number; and
    9. Other information deemed important by the Town Planner.
  - C. Newspaper notice. A notice published by the Town in a newspaper of general circulation serving the Town of Timnath at least 10 days prior to the hearing date. The notice shall include:
    1. The date, time, place and purpose of the public hearing;
    2. The address and telephone number of the Community Development Department where a complete legal description of the property and all application materials relating to the proposal may be reviewed prior to the hearing;
    3. The names of the [landowner](#) and [applicant](#);
    4. Application file number and a general description of the proposed development;
    5. The current zoning, if any; and
    6. Project location
- 2.9.4.3 Action to be consistent with notice. The reviewing body may take any action on the application that is consistent with the notice given, including approval of the application, conditional approval (if applicable) of the application, or denial of the application.
- 2.9.4.4 Neighborhood Meeting
- A. Neighborhood meetings are to engage the public in the development review process. These are required only for comprehensive plan amendment, sketch plan, rezoning, preliminary plat, or site plans of two buildings or more or multi-family applications as required below or as deemed necessary by the Community Development Director. The meeting

shall be conducted with citizens and organizations in the neighborhood or surrounding areas affected by the proposal.

- B. Neighborhood Meeting Notice. Neighborhood meeting notices shall be mailed at least 15 days prior to the meeting date to each owner of estates, rights, or interests in the subject property identified in the title information submitted with the application, and to each property owner within 500 feet of the subject property boundary, per the Larimer County Assessor's Office, and to appropriate referral agencies.

A copy of the notice shall be submitted to the Community Development Department for review and approval prior to mailing and the notice shall include the following items:

1. Name of proposal;
  2. Name of owner of the subject property with contact information;
  3. The street address or, if the street address is unavailable, the legal description by metes and bounds from the property deed;
  4. Vicinity map of the subject property;
  5. Size of property;
  6. The current zoning classification;
  7. The type of development approval requested and a brief description of the proposed development, including density or building intensity, revised zoning classification (if any), and uses requested;
  8. Any maps, illustrations, exhibits, depicting the proposal.
  9. If applicable, show previously approved plan for subject area.
- C. In addition to the mailing required above, the applicant shall provide at least one additional form of notice for the meeting. Examples include; Metropolitan District/Homeowners Association email distribution, posting to the Town's website, neighborhood sign posting. The second form of posting shall be reviewed and approved by the Community Development Director prior to distribution.
- D. The neighborhood meeting shall be held within 30 days of the initial submittal for Sketch Plan and Site applications. The applicant shall have the neighborhood meeting after the initial submittal, and not later than 30 days prior to the first public hearing for Comprehensive Plan Amendment, Preliminary Plat, and Rezoning applications. For applications that are submitted at the same time to be reviewed concurrently, one neighborhood meeting for all applications will be acceptable.
- E. The Community Development Director may require additional neighborhood meetings should it be determined that proposals have substantially changed during the review process, thereby necessitating additional public input, or where other circumstances unique to the proposal require additional neighborhood meetings.
- F. The applicant shall provide a sign in sheet so that attendees may enter their name and address. Copies of the sign in sheets shall be submitted to the Community Development Department at least 10 days prior any public



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hearing.

- G. The applicant is responsible for conducting the neighborhood meeting. A representative from the Town shall attend the neighborhood meeting and the applicant shall document comments from the public in a meeting observation report. The meeting observation report shall be submitted to the Community Development Department at least 10 days prior to any public hearing.

2.9.5 Public Hearing.

- 2.9.5.1 Legislative hearings. The Town Council and Planning Commission shall hold public hearings to receive and review public input on changes to legislative processes required by this Code.
- 2.9.5.2 Quasi-Judicial public hearings. In making quasi-judicial decisions, decision makers on the Town Council, the Planning Commission, or the Board of Adjustment must investigate facts or ascertain the existence of facts, hold public hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and exercise discretion of a judicial nature. These decisions involve two key elements:
  - A. The finding of facts regarding the specific proposal; and
  - B. The exercise of discretion in applying the standards of the ordinance.
- 2.9.5.3 Records. The Town Planner shall record the public hearing by any appropriate means. A copy of the public hearing record may be acquired by any person upon application to the Town Planner, and payment of a fee to cover the cost of duplication of the record.
- 2.9.5.4 Conduct of hearing. Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative. The hearing shall be conducted in accordance with the procedures set forth in this subsection. At any point, members of the body conducting the hearing may ask questions of the applicant, staff, or public.
- 2.9.5.5 Variance findings. All variance decisions by the Board of Adjustment shall include at the least the following element:
  - A. A clear written statement of approval, approval with conditions, or denial, whichever is appropriate. Said statement shall also include a clear statement of the basis upon which the decision was made, including specific written findings of fact with reference to the relevant standards of this Land Use Code. Statement shall be signed by the appropriate body's chair.
- 2.9.5.6 Subsequent applications. Following denial of an application, the decision-making authority shall not decide on the same or substantially the same application within one year of the date of denial. The waiting period may be waived in an individual case, for good cause shown, by the decision-making authority upon a written request by the applicant. When the decision making authority is the Town Planner, an administrative decision may be made on the request. When the decision-making authority is the Town Council, Planning Commission, Board of Adjustment, an affirmative vote of the majority of the

members to waive the waiting period is required.

## 2.9.6 Comprehensive Plan Amendments.

2.9.6.1 Purpose. The purpose is to establish standards for amending the Comprehensive Plan, both text and maps.

2.9.6.2 Initiation. The Town Council, Planning Commission, property owner or his/her designated representative may initiate a comprehensive or area plan amendment. The Plan amendment process must be completed before any rezone request or development application that is consistent with the Plan is approved. A plan amendment and rezoning request may, however, be processed so that the plan amendment is acted on prior to the rezoning at the same meeting.

### 2.9.6.3 Procedure.

- A. The project shall follow the process outlined in Application Procedures. (See [Section 2.9.3](#)).
- B. Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable, in conformance with Colorado State Statutes.
- C. Staff report. The Town Planner shall produce a staff report analyzing the proposed amendment.
- D. Notice of public hearing pursuant to [Section 2.9.4](#). No individual property owner notice is required for comprehensive, town-wide amendments to the Comprehensive Plan.
- E. Planning Commission hearing and recommendations.
- F. After review of the staff report, and conducting the public hearing, the Planning Commission shall forward a recommendation to the Town Council.
- G. Town Council hearing and decision.
- H. After receiving a recommendation from the Planning Commission the Town Council may approve, approve with changes or deny the request.

2.9.6.4 Criteria for amending the Comprehensive Plan. Prior to approving any amendment to the Comprehensive Plan text or map, the Town Council must determine any or all of the following:

- A. Development factors have substantially changed in ways that support the amendment (e.g., new transportation improvements, utility expansions, substantial changes in land use character in the area or physical changes in the environment that render previous uses or restrictions out of date);
- B. The proposed amendment will promote the public good and is in compliance with the overall purpose, intent, goals and objectives of the Comprehensive Plan;
- C. The proposed amendment will be compatible with the planned surrounding land uses;
- D. The proposed amendment will not overburden existing or planned

[infrastructure](#) systems or will provide measures to mitigate such impacts; and,

- E. If applicable, the proposed amendment will satisfy any specific criteria related to the proposed change in land use, as set forth in the Comprehensive Plan.

2.9.7 Land Use Code and Zoning Map Amendments.

2.9.7.1 Purpose. The purpose is to establish standards for amending the Land Use Code, both text and map.

2.9.7.2 Initiation. The Council may from time to time, amend, supplement, change or repeal the regulations and provisions of this Article. Any person with standing may request a text amendment; however, the initiation of the process is limited to the Planning Commission or the Town Council. Map amendments require initiation of the Town Council.

2.9.7.3 Procedure.

- A. The project shall follow the process outlined in Application Procedures. See [Section 2.9.3](#).
- B. Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable.
- C. Staff report. The Town Planner shall produce a staff report analyzing the proposed amendment.
- D. Notice of public hearing pursuant to [Section 2.9.4](#). No individual notice is required for text amendments to the Land Use Code. Map amendments, or rezonings require the full notice in Section 2.9.4.
- E. Planning Commission public hearing and recommendations.
  - 1. After review of the staff report, and conducting the public hearing, the Planning Commission shall forward a recommendation to the Town Council.
  - 2. Map amendments are legislative if comprehensive, and quasi-judicial if applied for by an individual to benefit their property.
- F. Town Council public hearing and decision. After receiving a recommendation from the Planning Commission Town Council may approve the amendment, or approve with changes after making specific findings, or deny. Text amendment hearings are legislative. Map amendments are legislative if comprehensive, and quasi-judicial if applied for by an individual to benefit their property.

2.9.7.4 Criteria for text amendments to the Land Use Code. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the text of this Chapter shall not be amended except:

- A. To correct a manifest error in the text of this Article; or
- B. To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town staff; or
- C. To accommodate innovations in land use and development practices that

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were not contemplated at the adoption of this Chapter; or

- D. To further the implementation of the goals and objectives of the Town Comprehensive Plan.

2.9.7.5 Criteria for amendments to the Zoning Map. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:

- A. To correct a manifest error in an ordinance establishing the zoning for a specific property;
- B. To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally; or
- C. To correct an error in that the land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Town Comprehensive Plan; or
- D. Upon finding that a rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Town Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan; or
- E. That the area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or
- F. To encourage innovative and creative design and to promote a mix of land uses in the development; or
- G. To bring zoning of land into conformance with the future land use designation of the Comprehensive Plan.

This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map.

2.9.8 Conditional Use Review. This is a discretionary approval process for uses which have unique or specific characteristics that could create greater than expected impacts. The process results in approvals with conditions to ensure they will not have a significant [adverse impact](#) on surrounding properties, or denials if the impacts can't be mitigated. Specific conditional uses permitted are found in [Table 4-1](#).

2.9.8.1 The project shall follow the process outlined in Application Procedures See [Section 2.9.3](#).

2.9.8.2 Conditional use application submittal. The [applicant](#) shall submit a complete conditional use application package to the Town Planner. Conditional use requests shall include the following unless waived by the Town Planner:

- A. Land use application form and application fee.
- B. Conditional Use – Technical Criteria Form (from Workbook).
- C. [Proof of ownership](#), or owner’s agent authorization acceptable to the Town Planner.
- D. Written statement and any graphics necessary to describe the precise

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nature of the proposed use and its operating characteristics and to illustrate how all the conditional use review criteria have been satisfied.

- E. A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.
  - F. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.
  - G. Such additional material as the Town Planner may prescribe or the applicant may submit pertinent to the application.
  - H. Surrounding and interested property ownership report.
  - I. Executed fee agreement.
- 2.9.8.3 Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable.
- 2.9.8.4 Notice of public hearing pursuant to [Section 2.9.4](#)
- 2.9.8.5 Staff review and reporting. Staff shall review the application and coordinate changes or necessary resubmittals with the applicant. Staff shall then submit a report to the Planning Commission explaining how the application is or is not consistent with the conditional use application review criteria. The staff will also make a recommendation for approval, approval with conditions, or denial.
- 2.9.8.6 Planning Commission review of the conditional use application. The Planning Commission shall hold a meeting to review the application and determine if the application complies with the conditional use review criteria. The Planning Commission will then recommend to the Town Council approval, approval with conditions, or denial.
- 2.9.8.7 Town Council hearing and action on the conditional use. The Council shall hold a public hearing on the conditional use application. Following the public hearing, the Council may, by resolution, approve, conditionally approve or deny the conditional use application based on the conditional use review criteria and the intent of this Code. A conditional use permit may be granted for a limited time period, may be granted subject to conditions as the Council may prescribe to satisfy the review criteria, and may be revoked for cause.
- 2.9.8.8 Conditional use review criteria.
- A. The proposed conditional use shall comply with all regulations of the applicable zoning district unless accompanied by a variance approval in a separate action;
  - B. The proposed conditional use shall conform to the character of the area within the same zoning district in which it is located. The use shall have no more [adverse effects](#) on health, safety, or welfare of the surrounding properties, or shall be no more injurious to property or improvements in the area than would any other use generally permitted in the same district. In making such a determination, consideration shall be given to:
    - 1. The location, type, and height of buildings or structures;
    - 2. The type and extent of landscaping and screening on the site; and

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- 3. Whether the proposed use is consistent with any policy of the comprehensive plan that encourages mixed uses and/or densities.
- C. Adequate utilities shall be provided.
- D. The proposed conditional use will not substantially impair the appropriate use or development of adjacent property.
- E. No significant traffic issues are created.

2.9.9 Development Site Plan Review. Development site plan review is a review procedure for certain proposed developments where standards apply, and providing for the modification of regulations in response to specific site conditions.

Development site plans that consist of one building are reviewed and approved by the Planning Commission. Development site plans that contain two or more buildings shall require Town Council Approval in addition to the Planning Commission review.

This development site plan review process for proposed new development will allow any significant [adverse impacts](#) on the surrounding land uses, neighborhoods, and [infrastructure](#) to be identified, evaluated, and avoided or acceptably mitigated through the imposition of reasonable conditions. No use permitted by right shall be denied by the Town Planner unless the site plan does not meet the code or mitigate adverse impacts identified by the Town Planner. The Town Planner may place conditions on the approval.

2.9.9.1 Applicability. A development site plan is required where:

- A. The application is a prerequisite to a building permit for all multiple family, commercial or industrial developments and principal uses;
- B. The enlargement of any existing structure which requires further development of the site;
- C. The change within a structure from one permitted use to another which will result in further development of the site beyond the original approval, or increased impacts such as traffic.

2.9.9.2 Pre-application conference. See [Section 2.9.3](#).

2.9.9.3 Development site plan review application submittal. The [applicant](#) shall submit a complete development site plan application package to the Town Planner. Development site plan application package shall include the following unless waived by the Town Planner:

- A. Land use application form and application fee.
- B. Development site plan review – technical criteria form (from Workbook).
- C. Proof of ownership, or proof of owner’s agent authorization acceptable to the Town Planner.
- D. Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all the development site plan review criteria and applicable Community Design Principles in Article V have been satisfied.
- E. Documents showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open

- space, landscaped area and utilities and drainage features.
- F. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.
- G. Such additional material as the Town Planner may prescribe or the applicant may submit pertinent to the application.
- H. Executed fee agreement.
- 2.9.9.4 Town Planner shall review for completeness. See [Section 2.9.3](#).
- 2.9.9.5 Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable.
- 2.9.9.6 Posting a sign. See [Section 2.9.4](#)
- 2.9.9.7 Decision. After certification that the application is complete, and meets all of the Town Criteria, the Town Planner or Approving Body shall render a determination approving, conditionally approving or denying the site plan.
- 2.9.9.8 Appeal of conditions/denial.
  - A. The Planning Commission may consider an appeal by an [applicant](#), and uphold the Town Planner’s determination, approve the site plan with conditions, or deny the application.
  - B. Notice per [Section 2.9.4](#) shall occur for the appeal hearing.
  - C. A notice of appeal shall be submitted within 30 working days following the receipt of the written determination by the Town Planner.
  - D. The Planning Commission shall hold a public hearing to review the application and determine if the application complies with the conditional use review criteria.
- 2.9.9.9 Approval criteria.
  - A. The proposed site plan shall comply with all regulations of the applicable zoning district, unless a separate variance request has been approved.
  - B. The proposed site plan shall conform to the character of the area within the same zoning district in which it is located. The use shall have no more [adverse effects](#) on health, safety, or welfare of the surrounding properties, or shall be no more injurious to property or improvements in the area than would any other use generally permitted in the same district. In making such a determination, consideration shall be given to:
    1. The location, type, and height of buildings or structures;
    2. The type and extent of landscaping and screening on the site; and
    3. Whether the proposed use is consistent with any policy of the comprehensive plan that encourages mixed uses and/or densities.
  - C. Adequate utilities shall be provided.
  - D. Consistency with the Timnath Design Criteria Manual.
  - E. The proposed site plan will not substantially impair the appropriate use or development of adjacent property.

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- F. Site is compliant with development traffic study or has submitted an updated traffic study.
- G. Pedestrian safety and welfare are protected.
- H. The architectural style and design of the project shall:
  - 1. Enhance and compliment the neighborhood;
  - 2. Make use of materials and forms that are complimentary and harmonious with existing improvements;
  - 3. Avoid a box-like appearance through a variation in elevations or treatments;
  - 4. Continue on all elevations the architectural character established for the street facing elevations to the extent feasible;
  - 5. Ensure that the physical proportions of the project and the manner in which the project is designed is appropriate in relation to the size, shape, and topography of the site;
  - 6. Provide sufficient area available for use of extensive landscaping and minimize the amount of paving to the degree practicable; and
- I. Consistency with the Comprehensive Plan and other adopted area plans.

2.9.9.10 Height Exception

- A. An applicant can apply for a height exception to increase the maximum allowed height of a building up to 15% from the height maximum in Table 5.2 and must be approved by Town Council.

2.9.10 Subdivisions. The provisions of this Article shall apply to any and all development of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in this Code. No development shall be undertaken without prior and proper approval or authorization pursuant to the terms of this Code. All development shall comply with the applicable terms, conditions, requirements, standards, and procedures established in this Section and this Code.

This Section establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the Town Comprehensive Plan and this Code and applicable regulations, policies and other guidelines.

2.9.10.1 Applicability. The procedures of this Section, and the standards in Article 6, Land Subdivision, shall apply to all subdivisions of land dividing, combining, or altering of any lot, parcel, or tract of land.

The owner of any parcel of land who desires to subdivide land shall submit a [plat](#) of such subdivision to the Town Planner. No person shall subdivide land without making and recording a plat and complying fully with this Land Use Code.

- A. The minor subdivision procedure is allowed for the following:
  - 1. There is no public right-of-way [dedication](#);
  - 2. The resulting subdivision consists of six or fewer lots.

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- B. The major subdivision procedure is required for the following:
    1. Dedication of public right-of-way or other public tracts; or
    2. The subdivision consists of seven lots or more.
- 2.9.10.2 Pre-application conference. See [Section 2.9.3.1](#).
- 2.9.10.3 Major / Minor subdivision application submittal. The [applicant](#) shall submit one copy of the complete subdivision application package to the Town Planner. All subdivision application packages shall include:
- A. Land use application form and application fee.
  - B. Sketch plan, preliminary plat, or final plat – pertinent Technical Criteria Form (from Workbook).
  - C. [Title commitment](#) or proof of ownership or proof of authorized agent.
  - D. Written statement to describe the precise nature of the proposed subdivision and its characteristics and to illustrate how all the review criteria have been satisfied.
  - E. Vicinity map.
  - F. Such additional material as the Town Planner may prescribe or the applicant may submit pertinent to the application.
- 2.9.10.4 Town Planner shall review for completeness. See [Section 2.9.3](#).
- 2.9.10.5 Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable.
- 2.9.10.6 Staff / referral review and resubmittal
- 2.9.10.7 Staff report. After a complete application is received, staff shall submit a report to the Planning Commission explaining how the application is or is not consistent with the review criteria. The staff will also make a recommendation for approval, approval with conditions, or denial.
- 2.9.10.8 Notice of public hearing pursuant to [Section 2.9.4](#)
- 2.9.10.9 Planning Commission review of the subdivision application. The Planning Commission shall hold a Public Hearing to review the application and determine if the application complies with the Subdivision review criteria. The Planning Commission will then recommend to the Town Council approval, approval with conditions, or denial.
- 2.9.10.10 Town Council hearing and action on the subdivision. The Council shall hold a public hearing on the subdivision application. Following the public hearing, the Council may approve, conditionally approve or deny the subdivision application based on the subdivision review criteria and the intent of this Code.
- 2.9.10.11 Subdivision review criteria.
- A. Minor subdivision plat review criteria. In addition to all provisions of this Code, the Town shall use the following criteria to evaluate the applicant’s minor plat application:
    1. Minor Subdivisions for Residential Developments

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- a. The development will substantially comply this Code and the Comprehensive Plan.
  - b. The utility and transportation design is adequate, given existing and planned capacities of those systems.
  - c. Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
  - d. All applicable technical standards have been met.
  - e. There have not been other Minor Subdivision Plats within the same subdivision such that in combination with the proposed Minor Subdivision they would circumvent the intent of this Section.
2. Minor Subdivisions for Commercial & Mixed Use Developments
- a. The development will substantially comply with this Code, the Comprehensive Plan, and any Major Subdivision Plat for the property.
  - b. The utility and transportation design is adequate, given existing and planned capacities of those systems.
  - c. Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
  - d. All applicable technical standards have been met.
  - e. Properties of .01-10 acres may submit a maximum of three Minor Subdivision Applications.
  - f. Properties of 10.01-20 acres may submit a maximum of six Minor Subdivision Applications.
  - g. Properties of 20.01 acres or more may submit a maximum of ten Minor Subdivision Applications.
- B. Sketch plan review criteria. The Town shall use the following criteria in addition to other applicable provisions of this Code to evaluate the applicant’s sketch plan application:
- 1. The land use mix within the project conforms to Town’s Zoning District Map and Land Use Map and furthers the goals and policies of the Comprehensive Plan.
  - 2. The sketch plan represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code and the Town Comprehensive Plan.
  - 3. The utility and transportation design is adequate, given existing and planned capacities of those systems.
  - 4. Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
- C. Preliminary plat review criteria. In addition to all provisions of this Code, the Town shall use the following criteria to evaluate the applicant’s request:

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1. 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.
  2. The application is consistent with the approved sketch plan and incorporates the Planning Commission’s recommendations and conditions of approval.
  3. The land use mix within the project conforms to Timnath’s Zoning District Map and Land Use Map and furthers the goals and policies of the Comprehensive Plan.
  4. The utility and transportation design is adequate, given existing and planned capacities of those systems.
  5. Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
  6. 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 Timnath.
- D. Final plat review criteria. In addition to all provisions of this Code, the Town shall use the following criteria to evaluate the applicant’s final plat application:
1. The final plat conforms to the approved preliminary plat and incorporates required changes, modifications and conditions attached to the approval of the preliminary plat unless otherwise approved by the Town Council.
  2. The development will substantially comply with this Code.
  3. All applicable technical standards have been met.

2.9.10.12 Post approval. The final plat may be filed for recording once the applicant has submitted and the Council has approved a [Development Agreement](#). A development agreement for [public improvements](#) stating the [developer](#) agrees to construct all public improvements, setting forth the plan, method and parties responsible for the construction of improvements. A development agreement shall run with and be a burden upon the land described in the agreement and shall include financial guarantees, and deeds for any land provided to the public.

2.9.10.13 Block Diversity Plan Matric review criteria. In addition to all provisions of this Code, the Town shall use the following criteria to evaluate the applicant’s Block Diversity Plan Matrix.

1. All lots have been approved through the Final Plat Process.
2. All applicable technical standards have been met.

2.9.11 Administrative Plat. The purpose of the administrative subdivision plat is to provide a simple administrative subdivision process.

2.9.11.1 Applicability. Administrative subdivision plat approval is applied to:

- A. Correcting a drafting or other technical error on a recorded subdivision plat; or



- B. Adjusting one or more lot lines on a recorded subdivision plat where:
1. The boundaries of ten or fewer lots are changed;
  2. There is no increase in the number of lots;
  3. No existing OR dedicated [easements](#) or rights-of-way are changed;
  4. All resulting lots will comply with the requirements of this Code. No lots are created that will result in the need for a zoning variance or an exception to the Subdivision Design Standards;
  5. All required [public improvements](#) are installed and approved;
  6. There have not been other Administrative Plats within the same subdivision such that in combination with the proposed Administrative Plat they would circumvent the intent of this Section;
  7. The approval of the Administrative Plat will not violate any provisions of this Chapter.

2.9.11.2 Pre-application conference. See [Section 2.9.3.1](#).

2.9.11.3 Administrative subdivision plat application submittal. The [applicant](#) shall submit one copy of the complete subdivision application package to the Town Planner.

All subdivision application packages shall include:

1. Land use application form and application fee.
2. Final plat – pertinent Technical Criteria Form (from Workbook).
3. [Title commitment](#) or proof of ownership or proof of authorized agent.
4. Written statement to describe the precise nature of the proposed change in the recorded subdivision plat and its characteristics and to illustrate how all the review criteria have been satisfied.
5. Vicinity map.
6. Such additional material as the Town Planner may prescribe or the applicant may submit pertinent to the application.

2.9.11.4 Town Planner shall review for completeness. See [Section 2.9.3](#).

2.9.11.5 Staff review. Staff will complete a review of the administrative plat based on the Town's minor subdivision plat review criteria. Staff will then prepare a report identifying any issues of concern that the applicant shall address and forward it to the applicant.

2.9.11.6 Record minor subdivision plat. Upon approval of the fully-executed Administrative Plat by the Town Planner, the Town Clerk shall record one the original Mylar drawing of the administrative subdivision plat in the office of the Larimer County Clerk and Recorder.

2.9.12 Vacation of Right-of-Way and Other Public [Easements](#).

2.9.12.1 Applicability. Public roads, [alleys](#), and easement with rights, interests, or title of the Town may be vacated after consideration at a public hearing by the Planning Commission and then the Town Council.

- 2.9.12.2 Vacation application submittal. The applicant shall submit one copy of the complete vacation application package to the Town Planner. Vacation requests shall include:
  - A. Land use application form and application fee and fee agreement.
  - B. Vacation – Technical Criteria Form (from Workbook).
  - C. Legal description.
  - D. Written statement and any graphics necessary to describe the vacation.
  - E. A survey showing the vacation and map showing how the vacated property will be apportioned.
  - F. Such additional material as the Town Planner may prescribe or the applicant may submit pertinent to the application.
  - G. Surrounding and interested property ownership report.
  - H. Public hearing notification envelopes.
- 2.9.12.3 The project shall follow the process outlined in Application Procedures. See [Section 2.9.3](#).
- 2.9.12.4 Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable.
- 2.9.12.5 Staff report. After a complete application is received, staff shall generate a report explaining how the application is or is not consistent with the vacation review criteria. The staff will also make a recommendation for approval, approval with conditions, or denial.
- 2.9.12.6 Notice of public hearing pursuant to [Section 2.9.4](#).
- 2.9.12.7 Planning Commission review of the vacation application. The Planning Commission shall hold a public meeting to review the application and determine if the application complies with the vacation review criteria. The Planning Commission will then recommend to the Town Council approval, approval with conditions, or denial.
- 2.9.12.8 Town Council hearing and action on the vacation of right-of-way or other public easement requests. The Council shall hold a public hearing on the vacation of right-of-way or other public easement application. Following the public hearing, the Council may approve, conditionally approve or deny the vacation application based on the vacation of right-of-way and other public easements review criteria and the intent of this Code.
- 2.9.12.9 Vacation of right-of-way and other public easements review criteria.
  - A. The vacation is consistent with the Comprehensive Plan and other adopted Town policies and plans, including any adopted transportation plan or streets/roadway plan;
  - B. The land to be vacated is no longer necessary for the public use and convenience;
  - C. Resolves long-standing structural encroachment into the right-of-way;
  - D. The vacation will not leave any land-locked parcels; and

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- E. Facilitates road and rights-of-way exchange if the applicant is requesting vacation of mapped rights-of-way, and the actual constructed road is located elsewhere on the applicant's property;
- F. Creates an opportunity to provide for development that is more consistent with the Comprehensive Plan and Land Use Code.

2.9.13 **Variations.** The Board of Adjustment shall hear and decide all requests for a variance from the requirements of this Code. Such variance shall not be granted if it would be detrimental to the public good, create a conflict with the Town of Timnath Comprehensive Plan or impair the intent and purpose of this Code.

2.9.13.1 **Applicability.** A variance may be initiated by any individual with an ownership interest in the subject property, or their agent; however, the appellant, or the applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the BOA.

2.9.13.2 **Pre-Application Conference.** See [Section 2.9.3.1](#).

2.9.13.3 **Variance application submittal.** The **applicant** shall submit a variance application package to the Town Clerk. Variance application packages shall include:

- A. Land use application form and application fee and fee agreement.
- B. Variance Request – Technical Criteria Form (from Workbook).
- C. **Title commitment** or proof of ownership or proof of owner's agent.
- D. Written statement and any graphics necessary to describe the precise nature of the proposed variance and a detailed description how it satisfies the review criteria.
- E. A map showing the proposed variance, including topography, building locations, parking, and utilities and drainage features.
- F. Preliminary building plans and elevations sufficient to indicate the dimensions of all buildings, if applicable.
- G. Such additional material as the Town Planner may prescribe or the applicant may submit pertinent to the application.
- H. Public hearing notification envelopes.

2.9.13.4 **Town Planner shall review for completeness.** See [Section 2.9.3](#).

2.9.13.5 **Referrals.** Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable.

2.9.13.6 **Staff Review and Comments,** Applicant resubmit based on comments as required.

2.9.13.7 **Staff report.** After a complete application is received, staff shall submit a report to the Board of Adjustment explaining how the application is or is not consistent with the variance review criteria. The staff will also make a recommendation for approval, approval with conditions, or denial.

2.9.13.8 **Notice of public hearing pursuant to** [Section 2.9.4](#).

2.9.13.9 **Board of Adjustment hearing and action on the variance.** The Board of

Adjustment may approve, approve with conditions, or deny the requested variance. The Board of Adjustment shall make the decision on appeals and variances at a regular meeting of the Board.

- A. The appellant, or the applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the Board of Adjustment.
- B. The Board of Adjustment shall have all the powers of the applicable Town administrative official on the action appealed. The Board may in whole or in part affirm, reverse or amend the decisions of the applicable Town administrative official.
- C. The Board of Adjustment may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of the Town Land Use Code.
- D. The Board of Adjustment may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested. A variance may be granted for indefinite duration or a specified period of time.
- E. No single decision of the Board of Adjustment sets a precedent. The decision of the Board shall be made on the particular facts of each case.
- F. Decisions of the Board of Adjustment shall be in writing.

2.9.13.10 Variance review criteria. The Board of Adjustment may approve a variance only upon finding that all of the criteria below have been met:

- A. There exist exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope;
- B. Because of these physical circumstances, the strict application of this Code would create an exceptional or undue hardship upon the property owner (financial impact is not a undue hardship);
- C. The hardship is not self-imposed;
- D. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code;
- E. That the variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of this Code and the Comprehensive Plan; and
- F. That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Timnath and is in accordance with the Comprehensive Plan.

2.9.13.11 Expiration. Unless otherwise stated in the motion made by the Board of Adjustment, all rights to permits authorized by the granting of any variance shall expire one year from the time approval for a variance is final. The Board of Adjustment may grant an extension of up to six months for good cause shown.

2.9.14 Planned Development District. This is a discretionary approval process for unified developments permitting greater flexibility in the application of standards and mix of uses within the development. The process results in the approval of a new zoning district with

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specific regulations.

2.9.14.1 Pre-application conference. See [Section 2.9.3.1](#).

2.9.14.2 Planned development application submittal. The [applicant](#) shall submit a complete application package to the Town Clerk. Planned development application packages shall include:

- A. Land use application form and application fee.
- B. Planned Development District – Technical Criteria Form (from Workbook).
- C. Fee agreement.
- D. [Title commitment](#) or proof of ownership.
- E. Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all the planned development review criteria have been satisfied.
- F. A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features, as applicable.
- G. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings, if required by Town Planner.
- H. Such additional material as the Town Planner may prescribe or the applicant may submit pertinent to the application.
- I. Surrounding and interested property ownership report.
- J. Public hearing notification envelopes.
- K. All the requirements for subdivisions if the development will be subdivided. See [Section 2.9.10](#).

2.9.14.3 Town Planner shall review for completeness. See [Section 2.9.3.4](#).

2.9.14.4 Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable. Staff will then prepare a report identifying any issues of concern that the applicant shall address and forward it to the applicant.

2.9.14.5 Staff report. Staff shall submit a report to the Planning Commission explaining how the application is or is not consistent with the Planned Development application review criteria. The staff will also make a recommendation for approval, approval with conditions, or denial.

2.9.14.6 Notice of public hearing pursuant to [Section 2.9.4](#).

2.9.14.7 Planning Commission review of the Planned Development District application. The Planning Commission shall hold a meeting to review the application and determine if the application complies with the Planned Development District review criteria. The Planning Commission will then recommend to the Town Council approval, approval with conditions, or denial.

2.9.14.8 The Town Council hearing and action on the Planned Development District.

The Council shall hold a public hearing on the Planned Development District application. Following the public hearing, the Council may approve, conditionally approve or deny the planned development District application based on the Planned Development District review criteria and the intent of this Code.

#### 2.9.14.9 Planned Development District review criteria.

- A. The proposed Planned Development District shall have a unified character throughout the district. The Planned Development District shall have no more [adverse effects](#) on health, safety, or welfare of the surrounding properties, or shall be no more injurious to property or improvements in the area than would any other use generally permitted in the same district. In making such a determination, consideration shall be given to:
  1. The location, type, and height of buildings or structures;
  2. The type and extent of landscaping and screening on the site; and
  3. Whether the proposed use is consistent with any policy of the comprehensive plan that encourages mixed uses and/or densities.
- B. Adequate utilities shall be provided
- C. The proposed Planned Development District will not substantially impair the appropriate use or development of adjacent property.
- D. No significant traffic issues are created.
- E. The Planned Development District results in a more efficient development which may contain innovative and creative development.

2.9.15 Town Council Waivers. The Town Council, in certain circumstances, may waive any of the dimensional and parking standards contained in this Code. A waiver permits specified minor deviations from the Code while staying consistent with the intent. A waiver cannot be granted if it would create conflicts with other Town requirements.

2.9.15.1 Town Council waiver submittal. The [applicant](#) shall submit one copy of the Waiver Request Form to the Town Planner. All waiver requests shall include:

- A. The specific standard for which a waiver is desired;
- B. Reason(s) for the request including a statement as to why the standard cannot be met, if that is the case;
- C. The consequences if the standard is not waived.

2.9.15.2 Any waiver must meet one or more of the following conditions:

- A. The alternative better achieves the stated intent;
- B. The intent cannot be achieved by application of the standard in this circumstance;
- C. The effect of other standards will be improved by not applying a particular standard;
- D. Strict application or unique site features make the standards impractical.



2.9.15.3 Departures may be permitted from the following standards:

- A. Structure widths and depth limits;
- B. Setback requirements;
- C. Design, location, and access to parking;
- D. Parking ratios;
- E. Open space requirements;
- F. Lot coverage limits;
- G. Screening and landscaping requirements;
- H. Standards for location and design of uses in mixed-se buildings.

2.9.15.4 Staff review. Staff will complete a review of the waiver request and make a recommendation to Town Council based on the intent of the Code requirements.

The Town Council may:

- A. Approve the waiver and/or reduction of development standard; or
- B. Deny the waiver and/or reduction in development standard; or
- C. Approve one or more waivers and/or reductions and deny one or more other waivers and/or reductions, if more than one waiver or reduction is described in the request.

2.9.15.5 Criteria

- A. The waiver or reduction in a development standard is required for construction of the development project at the density to which the project is entitled and with all concessions or other incentives approved for the project.
- B. The waiver or reduction in a development standard will not have a specific adverse impact on public health, public safety, or the physical environment.
- C. The waiver or reduction in a development standard is necessary because application of the development standards would physically preclude construction of a project otherwise meeting the requirements of the Code, or the intent of the Code.

2.9.16 Appeals of Administrative Decisions. This Section sets forth the process for appealing administrative decisions made by the Town Planner under this Land Use Code.

2.9.16.1 Applicability.

- A. Appeals to the Board of Adjustment may be taken by any person aggrieved by any decision of the Town Planner made in the course of the administration or enforcement of the Land Use Code.
- B. An application for an appeal must be made within 30 days after the Town Planner or Town Manager makes a written decision on the matter. If it is not appealed to the Board of Adjustment the decision shall be final.

2.9.16.2 Appeal Submittal. The applicant shall submit one copy of a written appeal to the Town Clerk. The appeal must include the specific interpretation being appealed.

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- 2.9.16.3 RESERVED
- 2.9.16.4 RESERVED
- 2.9.17 Concept Review. The purpose of a concept review is to provide initial comments on a development plan before it is submitted for the subdivision or site plan process.
  - 2.9.17.1 Pre application conference. See Section 2.9.3.1
  - 2.9.17.2 Concept Review submittal. The applicant shall submit one copy of the complete application package to the Town Planner. All concept review application packages shall include:
    - A. Land Use application and application fee.
    - B. Concept review – pertinent Technical Criteria Form.
    - C. Title commitment or proof of ownership or proof of authorized agent.
    - D. Written statement to describe the precise nature of the proposed design and its characteristics.
    - E. Vicinity map.
    - F. Conceptual drawing to scale.
  - 2.9.17.3 Town Planner shall review for completeness. See Section 2.9.3
  - 2.9.17.4 Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable.
  - 2.9.17.5 Staff/referral review. Staff will complete a review of the concept drawing based on the Town’s concept review criteria. Staff will then prepare a report identifying and issues of concern that the applicant shall address and forward it to the applicant.
  - 2.9.17.6 Concept review criteria. The Town shall use the following criteria in addition to other applicable provisions of this Code to evaluate the applicant’s concept plan.
    - A. The concept represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code and the Town Comprehensive Plan.
    - B. The transportation design is adequate, given existing and planned capacities of those systems.
    - C. Negative impacts on adjacent land uses have been identified and mitigated.
- 2.9.18 Modification to Prior Approval. A modification to prior approval is an administrative review procedure for minor changes of a previously approved development application. Concept review will be required to determine if the proposed changes fall within the modification to prior approval.
  - 2.9.18.1 Applicability. A modification to prior approval is permitted when:
    - A. The amended plan continues to comply with the standards of this code, per the original approval;

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- B. The amended plan does not change more than 10% of any measurable standard on the approved plan;
- C. The amended plan does not change the character of the development;
- D. The amended plan does not change the boundary of the approved plan or show improvements outside of the boundary of the approved plan;

2.9.18.2 Pre application conference. See section 2.9.3.1

2.9.18.3 Modification to prior approval application submittal. The applicant shall submit a complete Modification to prior approval application package to the Town Planner. Modification to prior approval application package shall include the following unless waived by the Town Planner:

- A. Land Use application and application fee.
- B. Modification to Prior Approval – pertinent Technical Criteria Form.
- C. Title commitment or proof of ownership or proof of authorized agent.
- D. Written statement to describe the precise nature of the proposed modification and its characteristics.
- E. Approved Drawings/Documents
- F. Proposed modification drawings/documents

2.9.18.4 Town Planner shall review for completeness. See section 2.9.3

2.9.18.5 Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners.

2.9.18.6 Posting a sign. See Section 2.9.4

2.9.18.7 Decision. After certification that the application is complete, and meets all of the Town Criteria, the Town Planner shall render a determination if the modification shall be an administrative approval approved with conditions or denied.

2.9.18.8 Review criteria.

- A. Same as originally approved process

2.9.19 Change in Use. Change in use review is an administrative review procedure in which there is a change within a structure from one permitted use to another which will result in no further development of the site beyond the original approval, or existing site conditions, or increased impacts such as traffic. Further, all changes in use will require building permit submission and approvals. If a change in use results in an increased impact then a development site plan review will be required per Section 2.9.9 per determination of the Community Development Director.

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## 2.10 Vested Rights.

- 2.10.1 Purpose. This Section specifies procedures necessary to implement [Article 68 of Title 24, C.R.S.](#), as amended, which establishes a [vested property right](#) to undertake and complete development of real property under the terms and conditions of an approved [site specific development plan](#). No vested rights shall be created within the Town except through a site specific development plan.
- 2.10.2 Definition. For purposes of Article 68 of Title 24, C.R.S., a site specific development plan means a document that complies with all requirements of this Section and consists of one of the following:
- 2.10.2.1 A conditional use permit approved pursuant to [Section 2.9.8](#).
- 2.10.2.2 A final subdivision plat approved pursuant to [Section 2.9.10](#).
- 2.10.2.3 A final plat replat approved pursuant to [Section 2.9.10](#).
- 2.10.2.4 A final planned development approved pursuant to [Section 2.9.14](#).
- 2.10.3 Notice and Hearing. Written notice and public hearing requirements for vested rights, under circumstances in which the final development plan constitutes the [site specific development plan](#), are satisfied by the notice and public hearing before Town Council. The notice shall indicate that such vested right shall be created upon approval of the [development agreement](#), or subdivision agreement by the Town Council.
- 2.10.4 Approval, Effective Date and Amendments.
- 2.10.4.1 Approval and effective date. [Site specific development plans](#), as identified in [Section 2.10.2](#), shall be deemed approved, and the associated vested property right shall be deemed established, on the date the Town Council adopts the ordinance approving or conditionally approving the subject conditional use, final plat, final plat replat, site plan or final planned unit development application.
- Once established, the vested right shall remain in effect for three years, unless the Town Council determines, as part of the site specific development plan approval, that a longer period is warranted in light of the relevant circumstances. Those circumstances may include but are not limited to: the size and phasing of the development, economic cycles, and market conditions. Any amendment to an approved site specific development plan shall not extend the three year vesting period unless the Town Council expressly authorizes an extension based on the foregoing criteria.
- 2.10.4.2 Amendments. No activity or use authorized by a site specific development plan approval granted under this Article shall be allowed to commence unless a vested right is first established as required in this Section, and until all other applicable post-approval requirements have been met.

## 2.11 Nonconformity.

- 2.11.1 Generally. Any parcel of land, use, easement, structure, sign or feature lawfully existing on the date of any text change in this ordinance, or on the date of a zoning map change that does not conform to the requirements of the district in which it is located may be

continued and maintained in accordance with the provisions of this Section and other applicable provisions of this ordinance. Nonconformities may continue as prescribed, but the provisions of this Section are designed to curtail substantial investment in nonconformities and to bring about their eventual conformity or elimination.

- 2.11.2 **Certificate of Zoning Compliance Required.** No nonconforming structure, use, lot, or feature shall be continued, renewed, changed, or extended until a permit has been issued by the Town Planner. The certificate of zoning compliance shall state specifically wherein the nonconformity differs from the provisions of this ordinance. The burden of proof, based on public records, as to the legality of the nonconforming use rests with the property owner and shall require a notarized affidavit submitted by the owner stating such as part of the application.
- 2.11.3 **Nonconforming Lots.** A legal nonconforming lot is a lot existing legally at the time of the passage of this ordinance, or the time of annexation into the Town's jurisdiction, which does not by reason of design or dimensions conform to the regulations of the district in which it is situated. A lot established after the passage of this ordinance which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming lot and is a violation of this ordinance. Legal nonconforming lots may continue only in accordance with the following provisions.
- 2.11.3.1 **Vacant Lots.** Vacant lots for which plats or deeds have been recorded in the office of the Larimer County Clerk and Recorder, which fail to comply with the minimum area or other dimensional requirements of the districts in which they are located may be used for any of the uses permitted in the district in which it is located, provided that:
- A. Where the [lot area](#) is not more than 20 percent below the minimum specified in this ordinance, and other dimensional requirements are otherwise complied with, the Town Planner is authorized to issue a certificate of zoning compliance.
  - B. Where the lot area is more than 20 percent below the minimum specified in this ordinance, or other dimensional requirements cannot be met, the Board of Adjustment may, in its discretion, approve as a variance such dimensions as shall conform as closely as possible to the required dimensions based on the lot's physical limitations.
- 2.11.3.2 **Recombination of Nonconforming Vacant Lots.** When the owner of a nonconforming vacant lot also owns land adjacent to the nonconforming lot, and the adjacent land or portion thereof can be combined with the nonconforming vacant lot to create a conforming lot or a more conforming lot (without creating other nonconformities), such owner shall, before selling or beginning any construction thereon, so combine the nonconforming lot and the adjacent land to create such lot.
- 2.11.4 **Nonconforming Uses.** A legal nonconforming use is a use existing legally at the time of the passage of this ordinance, or the time of annexation into the Town's jurisdiction, which does not by reason of use conform to the regulations of the district in which it is situated. A use established after the passage of this ordinance which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming use and is a violation of this ordinance. Legal nonconforming uses of land or structures may continue only in accordance with all of the following provisions.

- 2.11.4.1 Expansion Prohibited. A nonconforming use shall not be expanded. Expansion shall include an intensification of use, a physical expansion that results in increased capacity or activity associated with the use, an extension of the hours of operation or number of days of activity and any similar change in activity or location.
- 2.11.4.2 Relocation Restricted. A nonconforming use shall not be moved from one location on a site to another location on the same site unless the property owner can demonstrate to the satisfaction of the Town Planner that the relocation of the use will not increase the impacts of such use on the public, will not adversely affect adjacent properties, and will not have the effect of making the nonconformity more permanent.
- 2.11.4.3 Change of Use Must Conform. A nonconforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, a nonconforming use shall not be re-established.
- 2.11.4.4 Restablishment Restricted. A legal nonconforming use, when discontinued or abandoned, shall not be resumed. Discontinuance or [abandonment](#) shall be defined as follows:
- A. When land used for a legal nonconforming use shall cease to be used in a bona fide manner for one calendar month.
  - B. When a building designed or arranged for a nonconforming use ceases to be used in a bona fide manner as a legal nonconforming use for a continuous period of six consecutive calendar months.
  - C. When a building designed or arranged for a conforming use shall cease to be used in a bona fide manner as a legal nonconforming use for a period of six consecutive calendar months.
- 2.11.4.5 Reversion Prohibited. A legal nonconforming use if changed to conforming use may not thereafter revert or be changed back to a nonconforming use.
- 2.11.4.6 Structural [Alterations](#) Restricted. No structural changes shall be made in any structure occupied by a nonconforming use except as follows:
- A. Structural changes ordered by an authorized official in order to insure the safety of the structure shall be permitted.
  - B. Maintenance and repairs to keep a structure in sound condition shall be permitted.
  - C. Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.
  - D. An existing nonconforming residential structure may be enlarged or altered provided that no additional dwelling units result therefrom. Any such enlargement or [alterations](#) shall be in compliance with all yard requirements and standards of the district and/or use.
  - E. The structure and its accompanying use may be moved to another location on the lot so long as the structure meets all applicable requirements of the



district and [Section 2.11.4.2](#), Relocation Restricted.

- F. Expansion of a nonconforming use of a building or structure into portions of the structure that, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.

2.11.5 Nonconforming Structures, Excluding Signs. A legal nonconforming structure is a structure, including a building, existing legally at the time of the passage of this ordinance, or the time of annexation into the Town’s jurisdiction, which does not by reason of design or dimensions conform to the regulations of the district in which it is situated. A structure established after the passage of this ordinance which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming structure and is a violation of this ordinance. Legal nonconforming structures may continue only in accordance with all of the following provisions.

- 2.11.5.1 Continuation Permitted. A nonconforming structure, devoted to a use permitted in the zoning district in which it is located, may continue only in accordance with the provisions of this Section.
- 2.11.5.2 Repair and Maintenance Permitted. Normal repair and maintenance may be performed to allow the continuation of a nonconforming structure.
- 2.11.5.3 Certain Enlargements Permitted. Any nonconforming structure may be enlarged if the expansion does not increase the nonconformity.
- 2.11.5.4 Changes for Conversion Permitted. Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted in compliance with this Code.
- 2.11.5.5 Movement Restricted. A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.
- 2.11.5.6 Repair and Restoration Restricted. A nonconforming structure, destroyed or damaged so that more than 40 percent of the value of such structure remains, may be repaired or restored if:
  - A. A building permit for the repair or restoration is issued within six months of the date of the damage and remains valid until the repairs or restoration are complete.
  - B. The structure conforms to the standards of the regulations for the zoning district in which it is located; however, if the structure is used for the same purpose as before the destruction, the new structure may be rebuilt using the same materials.
  - C. The total amount of space devoted to a nonconforming use is not increased and the degree of nonconformity in the structure is not increased.
- 2.11.5.7 Conformation Required. If the Town Planner determines the building or structure has been damaged to such an extent that the repair costs will exceed 60 percent of the fair market value of the damaged building or structure immediately before the damage was incurred, future use of the building and site shall conform to the regulations of the district in which it is located. However, any building or structure listed on the National Register of Historic Places or any building certified as a state historic building may be rebuilt or restored to

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its original dimensions or the dimensions of the building or structure before such damage occurred, provided such restoration conforms to the Secretary of Interior Standards for Rehabilitation. For the purposes of this Section, the extent of damage or destruction shall be determined by comparing the estimated cost of repair or restoration with the current estimated market value based on the assessed tax value.

- 2.11.5.8 Replacement Restricted. A nonconforming structure shall not be replaced with another nonconforming structure regardless of the degree of nonconformity
- 2.11.6 Nonconforming Signs. A legal nonconforming sign is a sign existing legally at the time of the passage of this ordinance, or the time of annexation into the Town's jurisdiction, which does not by reason of design or dimensions or location conform to the regulations of the district in which it is situated. A sign erected or created after the passage of this ordinance which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming sign and is a violation of this ordinance. Legal nonconforming signs may continue only in accordance with all of the following provisions.
- 2.11.6.1 Continuation Permitted. Subject to the remaining restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this ordinance may be continued.
- 2.11.6.2 Increase in Nonconformity Prohibited. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged/reduced or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.
- 2.11.6.3 Movement and Replacement Restricted. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Section.
- 2.11.6.4 Reconstruction Limited. If a nonconforming sign structure is destroyed by natural causes or accident, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this chapter, and the remnants of the former sign structure shall be cleared from the land. For purposes of this Section, a nonconforming sign is "destroyed" if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.
- 2.11.6.5 Message Change Permitted. The message of a nonconforming sign may be changed so long as this does not create any new nonconformities.
- 2.11.6.6 Repair Limited. Subject to the other provisions of this Section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any 12-month period 50% of the value (tax value if listed for tax purposes) of such sign.
- 2.11.6.7 [Abandonment](#). If a nonconforming sign remains blank for a continuous period of 180 calendar days, that sign shall be deemed abandoned and shall, within 90 calendar days after such abandonment, be altered to comply with this Article or

be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this Section, a sign is “blank” if any of the following apply:

- A. It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted.
- B. The advertising message it displays becomes illegible in whole or substantial part.
- C. The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

2.11.6.8 Conformity Required. The following types of nonconforming signs or signs that are nonconforming in any of the following ways shall be altered to comply with the provisions of this article or removed within 90 days after the effective date of this Article:

- A. Enterprise or activity that is no longer operating or being offered or conducted.
- B. Portable signs and temporary signs.
- C. Signs that are in violation of Article 7.

2.11.6.9 Removal Required. Nonconforming signs, if present anywhere on the site, shall be removed prior to issuance of a change of use permit, issuance of a grading permit, or commencement of [new construction](#) on the site.

2.11.7 Nonconforming Features. A legal nonconforming feature is a physical characteristic existing legally at the time of the passage of this ordinance, or the time of annexation into the Town’s jurisdiction, which does not by reason of design or dimensions conform to the regulations of the district in which it is situated. Nonconforming features include, but are not limited to physical characteristics of development that exceed allowable maximum standards (e.g. [impervious surface](#) and height), and those that lack or fall short of required minimum standards (e.g. sight triangle, off-street parking and loading spaces, buffer width, lighting standards, building design). A feature added or changed after the passage of this ordinance which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming feature and is a violation of this ordinance. Legal nonconforming features may be continued subject to the following limitations.

2.11.7.1 Increase In Nonconformity Prohibited. No action shall be taken which increases the degree or extent of the nonconforming feature. Any enlargement, extension, structural [alteration](#), parking changes, and other changes to lot design and access shall conform to all current requirements of this Article.

2.11.7.2 Continuation Permitted. For development existing (or for which a vested right had been established) before the effective date of current regulations, nonconforming features created by a change in regulations may continue to exist, and structures with such nonconforming features may be reconstructed if demolished or destroyed.

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**ARTICLE 3. ZONING DISTRICTS ESTABLISHED; MAP**

**3.1 Purpose.**

All land and water areas within the jurisdiction of the Timnath are divided into zoning districts the purpose of which is to:

- Encourage the most appropriate use of land through the Town and ensure a logical growth of the various physical elements of the Town. Regulate and restrict the location and use of buildings, structures and land for residence, business, trade, industry or other purposes.
- Regulate and determine the size of building lots, yards and other open spaces.
- Promote good design and arrangement of buildings or clusters of buildings and land uses in residential, business and industrial development.
- Encourage innovative, quality site planning, architecture and landscaping.
- 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.
- Ensure that new land development is designed to be integrated into the community.
- Promote the health, safety, morals and general welfare of Town residents

**3.2 Types of Zoning Districts.**

There are two types of zoning districts in Timnath, base districts and overlay districts.

- 3.2.1 Districts. Each base district category serves a different purpose and imposes its own set of requirements and restrictions on the use of land in addition to the general requirements and restrictions imposed on all land or uses within the zoning jurisdiction. A base district may be layered with an overlay district.
- 3.2.2 Overlay Districts. Overlay districts are established to provide for certain additional requirements, to permit uses not otherwise permitted in the underlying base district, to prohibit uses allowed in the underlying base district where they may be inappropriate, or to establish special development requirements for uses permitted in the base district. Thus, where overlay districts exist and there is a conflict between the requirements or uses specified between the overlay and the underlying district, the standards of the overlay district shall prevail. Otherwise, the standards of the underlying district shall also be in effect for any area additionally zoned for an overlay district.

**3.3 Establishment of Districts.**

Timnath is divided into the following zoning and overlay districts:

1. Authority, Purpose, and Applicability

2. Administration

3. Zoning Districts Established

4. Use Regulations

5. Development Standards

6. Land Subdivision

7. Signs

8. Environmental Standards

9. Historic Preservation

10. Annexation Procedures

11. Definitions

12. Oil and Gas Drilling and Production

Table 3.1 List of Standard Zoning Districts

| District Abbreviation - Name   | District Category | Comprehensive Plan Designation |
|--------------------------------|-------------------|--------------------------------|
| A - Agriculture                | Agricultural      | CDR-AB                         |
| RE - Estate Residential        | Residential       | VLR/CDR-AB                     |
| R1 - Old Town Residential      | Residential       | LDR                            |
| R2 - Single-Family Residential | Residential       | LDR                            |
| R3 - Mixed Residential         | Residential       | MDR                            |
| R4 - Multi-Family Residential  | Residential       | HDR                            |
| RMU - Residential Mixed-Use    | Mixed-Use         | LDMU/RMU/MU                    |
| CMU - Commercial Mixed-Use     | Mixed-Use         | CMU                            |
| B - Business                   | Mixed-Use         | DC                             |
| NC - Neighborhood Commercial   | Commercial        | C                              |
| CC - Community Commercial      | Commercial/Office | C/E                            |
| RC - Regional Commercial       | Commercial        | RC                             |
| I - Industrial                 | Industrial        | E                              |

Table 3.2 List of Overlay Districts

| District Abbreviation, Name       | District Category | Comprehensive Plan Designation |
|-----------------------------------|-------------------|--------------------------------|
| PD - Planned Development District | N/A               |                                |
| FP - Floodplain District          | N/A               | N/A                            |
| HD - Historic District            | N/A               | N/A                            |

### 3.4 Official Zoning Map.

- 3.4.1 Zoning Map Is A Part Of This Code. The boundaries of zones established by this Land Use Code shall be shown on a map or series of maps entitled Timnath Official Zoning Map, as may from time to time be revised, updated or redrafted. Such map or maps together with all matters shown on such maps are adopted and approved and collectively constitute the official zoning map. The Official Zoning Map is incorporated by reference and made a part of this Code.
- 3.4.2 Map Filed. The Official Zoning Map is a digital map on file in the Timnath Administrative Office.
- 3.4.3 Map Amendments. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Official Zoning Map shall be considered amended to include the subject property with the proper zoning classification. A record of such amendments shall be maintained by the Planning Director/Town Planner.
- 3.4.4 Boundaries Shown. In the event uncertainty exists on the zoning map, district boundaries shall be on section lines, lot lines, the center lines of highways, streets, [alleys](#), railroad right-of-ways or such lines extended; municipal corporation lines; or other lines to be determined by the use of scales shown on the map.



3.4.5 Zoning Conversion. Existing property that is zoned C-2 will be processed under the Neighborhood Commercial (NC) criteria, except where the district is abutting Harmony Road, then it will be processed at Community Commercial (CC). Existing property that is zoned C-1 will be processed under the Neighborhood Commercial (NC) criteria. New applications on existing property that is zoned Mixed Use (MU) will need to be rezoned to Residential Mixed-Use (RMU) or Commercial Mixed-Use (CMU) prior to any development approvals.

**3.5 Zoning Districts Described; Purpose.**

Most areas within the zoning jurisdiction of the Town are divided into standard zoning districts, within which the use of land and water areas; the location, height, **bulk**, appearance and use of structures; the provision of parking and loading areas; and the provision of buffers, landscaping and screening are regulated as provided in this code. Collectively, these districts are intended to advance the purposes of the adopted Comprehensive Plan and the intent of this Code as stated in [Section 3.1](#). Individually, each district is designed and intended to accomplish the following more specific objectives.

Unless otherwise stated below, permitted uses and conditional uses are listed in Article 4, Use Regulations. Dimensional standards are listed in [Section 5.2](#) and design requirements are listed in [Section 5.7](#).

3.5.1 A- Agriculture District

The Agriculture District is primarily used for **agriculture** and ultra-low density residential uses. It serves as a transitional area for the Town and consists of lands identified by the Comprehensive Plan as potentially suitable for more urban development in the future when utilities and other urban services are available in sufficient capacities.

3.5.2 RE – Residential Estate District.

The Residential Estate District is intended to be a very low density residential district. It is characterized by rural, large lot development of single-family detached homes and frequently serves as a buffer between areas zoned for Agriculture and residential areas intended for higher density residential or commercial use.

3.5.3 R1 – Old Town Residential District.

The Old Town Residential District is characterized by small lot single-family residential uses, although it may contain a mix of lot sizes.

3.5.4 R2 – Single-Family Residential District.

The R2-Single-Family Residential District is intended to provide a moderate amount of flexibility in the creation of lots and the types of residential uses permitted.

3.5.5 R3 – Mixed Residential District.

The R3-Mixed Residential District is intended to allow greater flexibility in housing styles and lot sizes in projects that are integrated into the community to form a vibrant, active and cohesive neighborhood unit. Both detached single-family and attached housing is permitted. Attached housing in this district can include single-family attached, two-family, apartment or condominiums.

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- 3.5.6 R4 – Multi-Family Residential District.
- The R4-Multi-Family Residential District is intended primarily for apartments and condominiums. This higher density district is suitable near neighborhood or regional commercial uses. Multi-family residential developments shall be designed around or adjacent to open space.
- 3.5.7 RMU – Residential [Mixed-Use](#) District.
- The RMU-Residential Mixed-Use District is intended to provide a place where a mix of compatible business, commercial, civic and residential uses is permitted within a common development at intensities that blend well with adjacent low and medium density single-family residential areas. Such developments may mix uses within individual buildings and within a small scale master planned development. It is also intended to be a district with primarily residential uses that are supported by secondary retail, personal service and office uses.
- 3.5.8 CMU – Commercial Mixed-Use District.
- The CMU-Commercial Mixed-Use District is intended for predominately retail-oriented commercial and office development with high density residential either in the same building or on the same property as the non-residential development.
- 3.5.9 B – Business District.
- The B-Business District is intended to protect and enhance the historic town center by: 1) encouraging redevelopment and expansion, 2) allowing a mix of uses including civic, office, retail, services, housing and cultural uses; and 3) promoting walking and cycling as well as shared parking.
- 3.5.10 NC – Neighborhood Commercial District.
- The NC-Neighborhood Commercial District is intended to provide immediate residential neighborhoods access to commercial centers that contain smaller scale service, retail and [community facility](#) uses. This district is heavily dependent on pedestrian and cycling traffic with a secondary emphasis on the automobile; complete and convenient access to nearby residential areas and between uses within this district is essential.
- 3.5.11 CC – Community Commercial District.
- The CC-Community Commercial District is designed to permit a wide range of commercial, service, [community facility](#) and institutional uses for the entire town. Uses in this district may also serve the traveling public, and auto-oriented businesses are permitted, but emphasis on pedestrian and cycling access to other parts of town as well as within the district is a high priority.
- 3.5.12 RC – Regional Commercial District.
- Located solely at, or near the interchanges of Interstate 25 and arterials, the RC-Regional Commercial District is designed to facilitate an appropriate mix of regional commercial uses such as large retail establishments, business and light industrial uses, medical facilities and offices, higher density multi-family residential, a continuum of life-care housing options and open space.

3.5.13 I – Industrial District.

The I-Industrial District is intended to provide locations for a variety of workplaces including industrial uses with minimal offsite impacts, research and development, offices and institutions. This district also accommodates secondary uses that are clearly incidental and subordinate in number and scale to the primary use of the district for industrial facilities and uses. Secondary uses shall complement and support primary workplace uses. Examples include hotels, restaurants, retail and day care for children and adults.

3.5.14 PD – Planned Development Overlay District.

The PD-Planned Development Overlay District is intended to provide a place where larger scale high quality master-planned developments are permitted. The Town encourages innovative land use and building design that integrates well within the community and promotes a positive community image. In exchange for greater freedom of design and intensity of development, the Town expects a PD development to protect and conserve critical environmental resources, provide a significant amount of open space and recreational amenities, and integrate uses that are compatible both internally to the site as well as to adjacent developed areas.

3.5.15 FP – Floodplain Overlay District.

The purpose of the Floodplain Overlay District is to fully integrate [FEMA floodplain](#) requirements into the zoning ordinance and to enhance those requirements with town land use and environmental priorities.

3.5.16 HD – Historic Overlay District.

The intent of the Historic Overlay District is to provide land development controls that protect the integrity of historic areas within the Town.

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## ARTICLE 4. USE REGULATIONS AND CONDITIONS

### 4.1 Establishment of a Table of Uses.

The uses permitted in the zoning districts established by Article 3 are set forth in the Table of Uses, Table 4.1.

### 4.2 Determination of Use Category.

The Planning Director shall make a determination as to whether or not any proposed use is permitted within Timnath's zoning jurisdiction based on the uses listed in the Table of Uses. Whenever it is not clear whether a proposed use is or is not permitted, the Planning Director shall consult the purpose statement for each district and the latest version of the North American Industrial Classification System (NAICS) to help make a determination. Any use not specifically listed in the Permitted Uses Table and any proposed use not substantially similar to a listed use as determined by the Planning Director after consultation shall be deemed to be prohibited.

### 4.3 Table of Uses.

- 4.3.1 In General. The following table lists uses permitted in each zoning district by a) issuance of a permit by the Planning Director without conditions; and, b) issuance of a permit by the Planning Director with conditions. Conditions for specific uses are listed in [Section 4.4](#). The table also denotes in which districts certain uses are not permitted.
- 4.3.2 Districts. The Table of Uses lists uses for each district within the Town's zoning jurisdiction. Overlay districts are not listed in the table since uses allowed are governed by the underlying district. Furthermore, the Planned Mixed-Use District is also not shown. Uses within that district are established on a case-by-case basis consistent with an adopted plan for the area, if one exists, and the intent of the Comprehensive Plan. In no case shall any use be permitted in a PD District that is not allowed in any residential or mixed-use district as designated in Article 3.
- 4.3.3 Symbols.
- 4.3.3.1 Where the symbol "P" is shown, the use to which it refers is permitted as a use by right in the indicated district, provided it complies fully with all applicable development standards of this chapter.
- 4.3.3.2 Where the symbol "PC" is shown, the use to which it refers is a permitted use with conditions requiring development site plan review.
- 4.3.3.3 Where the symbol "C" is shown, the use to which it refers is conditional and must be approved by the Town Council.
- 4.3.3.4 Where an "\*" is shown on the table, the use to which it refers is not permitted.

Table 4.1 Standard District Table of Permitted Uses

| P= Permitted without conditions<br>PC= Permitted with conditions<br>C= Conditional use<br>*= Not allowed  | AGRICULTURAL | RESIDENTIAL |    |    |    |    | MIXED-USE |     |     | BUSINESS / COMMERCIAL |    |    | INDUSTRIAL | HARMONY CORRIDOR |
|---|--------------|-------------|----|----|----|----|-----------|-----|-----|-----------------------|----|----|------------|------------------|
|   |              | A           | RE | R1 | R2 | R3 | R4        | RMU | CMU | B                     | NC | CC | RC         | I                |
| <b>Residential Uses and Structures</b>  |              |             |    |    |    |    |           |     |     |                       |    |    |            |                  |
| Accessory buildings and <a href="#">accessory uses</a>  | PC           | PC          | PC | PC | PC | PC | PC        | PC  | PC  | PC                    | PC | PC | PC         | PC               |
| Dwelling, accessory   | PC           | PC          | PC | PC | PC | *  | PC        | PC  | *   | *                     | *  | *  | *          | *                |
| Dwelling, attached single-family  | *            | *           | P  | P  | P  | P  | P         | P   | PC  | *                     | *  | *  | *          | *                |
| Dwelling, <a href="#">group home</a>  | *            | PC          | PC | PC | PC | PC | PC        | PC  | *   | *                     | *  | *  | *          | *                |
| Dwelling, <a href="#">manufactured home</a>   | *            | PC          | PC | PC | PC | *  | *         | *   | *   | *                     | *  | *  | *          | *                |
| Dwelling, <a href="#">mixed-use</a>   | *            | *           | *  | *  | *  | *  | P         | P   | P   | P                     | P  | P  | *          | P                |
| Dwelling, mobile home   | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | *          | *                |
| Dwelling, multi-family  | *            | *           | *  | *  | PC | PC | C         | C   | C   | *                     | C  | PC | *          | C                |
| Dwelling, <a href="#">senior housing</a> and life care communities  | *            | C           | *  | *  | *  | C  | C         | C   | C   | *                     | *  | C  | *          | C                |
| Dwelling, single-family detached  | P            | P           | P  | P  | P  | *  | P         | *   | PC  | *                     | *  | *  | *          | *                |
| Dwelling, two-family  | *            | *           | *  | *  | P  | P  | P         | *   | P   | *                     | *  | *  | *          | *                |
| <b>Institutional/Civic/Public Uses</b>  |              |             |    |    |    |    |           |     |     |                       |    |    |            |                  |
| Cemeteries  | C            | C           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | *          | *                |
| Community facilities  | *            | C           | C  | C  | C  | C  | C         | C   | C   | PC                    | C  | PC | *          | PC               |
| Golf courses  | P            | C           | *  | C  | *  | *  | C         | *   | C   | C                     | C  | *  | C          | *                |
| Museums   | P            | P           | P  | P  | P  | P  | P         | P   | P   | P                     | P  | P  | P          | PC               |
| Parks and open space  | P            | P           | P  | P  | P  | P  | P         | P   | P   | P                     | P  | P  | P          | P                |
| Places of worship and assembly including community centers  | *            | C           | C  | C  | C  | C  | C         | C   | C   | PC                    | C  | PC | *          | PC               |
| Public and private colleges, vocational training and technical training                                   | *            | *           | *  | *  | *  | *  | C         | C   | C   | PC                    | C  | PC | P          | C                |
| Private schools for elementary, intermediate and high school education                                    | *            | C           | C  | C  | C  | C  | C         | C   | C   | PC                    | C  | PC | *          | C                |
| <a href="#">Public facilities</a>   | PC           | PC          | PC | PC | PC | PC | PC        | PC  | PC  | PC                    | PC | PC | PC         | PC               |
| Rehabilitation Centers, Nursing Care, Assisted Living, Congregate Care, Palliative Care, and Hospice Care | *            | *           | *  | *  | PC | PC | PC        | PC  | PC  | *                     | *  | *  | *          | C                |
| <a href="#">Acute Care</a>  | *            | *           | *  | *  | *  | *  | C         | C   | *   | C                     | C  | C  | *          | *                |
| Sports and/or entertainment arena or stadium  | *            | *           | *  | *  | *  | *  | *         | C   | C   | C                     | C  | P  | P          | *                |
| Transit facilities without repair or storage  | *            | *           | *  | *  | *  | *  | C         | C   | C   | *                     | C  | C  | C          | *                |
| <a href="#">Urgent Care</a>   | *            | *           | *  | *  | *  | *  | C         | C   | *   | C                     | C  | C  | *          | C                |
| <b>Business/Commercial/Retail Uses</b>  |              |             |    |    |    |    |           |     |     |                       |    |    |            |                  |
| <a href="#">Adult establishments</a>  | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | C          | *                |
| Artisan and photography studios and galleries   | *            | *           | *  | *  | *  | *  | P         | P   | P   | P                     | P  | P  | P          | P                |
| <a href="#">Bars, taverns</a> and <a href="#">nightclubs</a>  | *            | *           | *  | *  | *  | *  | *         | C   | C   | C                     | C  | PC | C          | C                |
| <a href="#">Bed and breakfast</a> inns  | *            | *           | *  | *  | C  | C  | PC        | PC  | PC  | C                     | PC | *  | C          | *                |

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| P= Permitted without conditions<br>PC= Permitted with conditions<br>C= Conditional use<br>*= Not allowed | AGRICULTURAL | RESIDENTIAL |    |    |    |    | MIXED-USE |     |    | BUSINESS / COMMERCIAL |    |    | INDUSTRIAL | HARMONY CORRIDOR |
|--|--------------|-------------|----|----|----|----|-----------|-----|----|-----------------------|----|----|------------|------------------|
|  | A            | RE          | R1 | R2 | R3 | R4 | RMU       | CMU | B  | NC                    | CC | RC | I          | HC               |
| Boarding and rooming houses  | *            | *           | *  | *  | *  | PC | PC        | PC  | PC | PC                    | *  | *  | *          | *                |
| Car wash   | *            | *           | *  | *  | *  | *  | *         | *   | *  | PC                    | PC | C  | P          | PC               |
| <a href="#">Care centers</a>   | *            | *           | *  | *  | *  | C  | C         | C   | C  | PC                    | PC | PC | PC         | PC               |
| <a href="#">Care homes</a>   | *            | PC          | PC | PC | PC | PC | PC        | PC  | PC | PC                    | *  | *  | *          | *                |
| <a href="#">Cider, distillery, or winery</a>   | *            | *           | *  | *  | *  | *  | *         | C   | C  | *                     | C  | PC | P          | C                |
| <a href="#">Clubs and lodges</a>   | *            | *           | *  | *  | *  | *  | *         | *   | C  | C                     | PC | PC | PC         | PC               |
| <a href="#">Convenience shopping and retail establishments</a>   | *            | *           | *  | *  | *  | *  | P         | P   | P  | P                     | P  | P  | P          | PC               |
| <a href="#">Entertainment facilities and theaters</a>  | *            | *           | *  | *  | *  | *  | *         | P   | C  | C                     | P  | P  | C          | C                |
| Equipment rental establishments without <a href="#">outdoor storage</a>                                  | *            | *           | *  | *  | *  | *  | *         | P   | *  | P                     | P  | P  | P          | *                |
| Equipment, truck and trailer rental establishments with <a href="#">outdoor storage</a>                  | *            | *           | *  | *  | *  | *  | *         | *   | *  | *                     | *  | *  | P          | *                |
| Event Facility: Wedding or group type events, with or without lodging                                    | C            | C           | C  | C  | C  | C  | C         | C   | C  | C                     | C  | C  | C          | C                |
| <a href="#">Fairgrounds and stadiums</a> , public or private   | C            | *           | *  | *  | *  | *  | *         | *   | *  | *                     | *  | C  | C          | *                |
| Food catering  | *            | *           | *  | *  | *  | *  | *         | P   | P  | P                     | P  | P  | *          | PC               |
| Food Truck   | *            | *           | *  | *  | *  | *  | PC        | PC  | PC | PC                    | PC | PC | PC         | PC               |
| Funeral homes  | *            | *           | *  | *  | *  | *  | *         | *   | C  | *                     | P  | P  | *          | *                |
| Grocery stores and supermarkets  | *            | *           | *  | *  | *  | *  | P         | P   | P  | *                     | P  | P  | *          | PC               |
| Health clubs   | *            | *           | *  | *  | *  | *  | P         | P   | P  | P                     | P  | P  | P          | PC               |
| <a href="#">Home occupations</a>   | PC           | PC          | PC | PC | PC | PC | PC        | PC  | PC | *                     | *  | *  | *          | *                |
| <a href="#">Hospitals</a>  | *            | *           | *  | *  | *  | *  | *         | *   | *  | *                     | P  | P  | P          | P                |
| <a href="#">Kennels</a> (small <a href="#">animal boarding</a> )   | C            | *           | *  | *  | *  | *  | *         | *   | *  | *                     | C  | *  | C          | C                |
| Liquor sales with drive-thru   | *            | *           | *  | *  | *  | *  | *         | *   | *  | *                     | *  | *  | *          | *                |
| Liquor Store without drive-thru  | *            | *           | *  | *  | *  | *  | *         | C   | C  | *                     | PC | PC | P          | PC               |
| Lodging establishments   | *            | *           | *  | *  | *  | *  | *         | C   | P  | P                     | P  | P  | P          | PC               |
| Medical and dental offices and clinics   | *            | *           | *  | *  | *  | *  | P         | P   | P  | P                     | P  | P  | *          | PC               |
| Micro-breweries  | *            | *           | *  | *  | *  | *  | *         | C   | C  | *                     | C  | PC | P          | C                |
| Motor <a href="#">vehicle repair</a> , major   | *            | *           | *  | *  | *  | *  | *         | *   | *  | C                     | C  | C  | P          | *                |
| Motor <a href="#">vehicle repair</a> , minor   | *            | *           | *  | *  | *  | *  | C         | *   | *  | C                     | C  | C  | P          | *                |
| <a href="#">Motor vehicle, recreational vehicle, boat and truck sales and leasing</a>                    | *            | *           | *  | *  | *  | *  | *         | *   | *  | *                     | C  | C  | C          | *                |
| Motor vehicle, recreational vehicle, boat and truck storage  | *            | *           | *  | *  | *  | *  | *         | *   | *  | *                     | *  | *  | PC         | *                |
| Open-air farmers' markets  | P            | *           | *  | *  | *  | *  | *         | P   | P  | P                     | P  | P  | P          | P                |
| Parking lots and parking garages (as a <a href="#">principal use</a> )                                   | *            | *           | *  | *  | *  | *  | *         | C   | C  | C                     | C  | C  | P          | C                |
| <a href="#">Personal and business service shops</a>  | *            | *           | *  | *  | *  | *  | P         | P   | P  | P                     | P  | P  | *          | P                |
| Pharmacy with drive-through  |              |             |    |    |    |    | *         | *   | *  | *                     | *  | C  | C          | PC               |

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| P= Permitted without conditions<br>PC= Permitted with conditions<br>C= Conditional use<br>*= Not allowed  | AGRICULTURAL | RESIDENTIAL |    |    |    |    | MIXED-USE |     |     | BUSINESS / COMMERCIAL |    |    | INDUSTRIAL | HARMONY CORRIDOR |
|---|--------------|-------------|----|----|----|----|-----------|-----|-----|-----------------------|----|----|------------|------------------|
|   |              | A           | RE | R1 | R2 | R3 | R4        | RMU | CMU | B                     | NC | CC | RC         | I                |
| Plant nurseries & greenhouses   | P            | *           | *  | *  | *  | *  | *         | *   | P   | *                     | P  | P  | *          | *                |
| Print shops   | *            | *           | *  | *  | *  | *  | *         | P   | P   | *                     | P  | P  | *          | P                |
| Professional offices, financial services  | *            | *           | *  | *  | *  | *  | P         | P   | P   | P                     | P  | P  | P          | P                |
| <a href="#">Recreation facility, indoor</a>   | *            | *           | *  | *  | *  | *  | *         | PC  | PC  | PC                    | PC | PC | C          | C                |
| <a href="#">Recreation facility, outdoor</a>  | C            | C           | C  | C  | C  | C  | *         | C   | C   | C                     | PC | PC | *          | *                |
| Restaurants with drive-through Service  | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | PC | PC | PC         | *                |
| Restaurants/standard & fast food without drive-through Service  | *            | *           | *  | *  | *  | *  | P         | P   | P   | P                     | P  | P  | P          | PC               |
| <a href="#">Retail and supply yard</a> establishments with <a href="#">outdoor storage</a>                | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | C  | *  | C          | *                |
| Retail establishment not otherwise listed   | *            | *           | *  | *  | *  | *  | P         | P   | P   | P                     | P  | P  | *          | PC               |
| <a href="#">Retail fuel stations</a>  | *            | *           | *  | *  | *  | *  | *         | PC  | *   | PC                    | PC | PC | P          | C                |
| Retail marijuana, commercial cultivation, or manufacturing of marijuana products                          | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | *          | *                |
| Riding stables; boarding  | P            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | *          | *                |
| Safe house for battered or abused adults or children of up to eight (8) families                          | *            | P           | P  | P  | P  | P  | P         | P   | P   | *                     | *  | *  | *          | *                |
| Sales and leasing of farm implements, heavy equipment sales, and heavy excavation equipment               | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | C          | *                |
| Seasonal and Holiday Sales  | PC           | *           | *  | *  | *  | *  | *         | PC  | PC  | PC                    | PC | PC | PC         | PC               |
| Short Term Rental   | *            | PC          | PC | PC | PC | PC | PC        | *   | PC  | *                     | *  | *  | *          | *                |
| Tattoo parlors  | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | C          | *                |
| Temporary Building  | PC           | PC          | PC | PC | PC | PC | PC        | PC  | PC  | PC                    | PC | PC | PC         | PC               |
| <a href="#">Temporary uses</a>  | PC           | *           | *  | *  | *  | *  | PC        | PC  | PC  | PC                    | PC | PC | *          | PC               |
| Tourist facilities  | *            | *           | *  | *  | *  | *  | *         | *   | P   | P                     | P  | P  | *          | C                |
| Veterinary facilities, <a href="#">large animal</a> clinics   | P            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | *          | *                |
| Veterinary facilities, <a href="#">small animal</a> clinics   | P            | *           | *  | *  | *  | *  | *         | PC  | PC  | PC                    | PC | PC | PC         | PC               |
| <b>Industrial Uses</b>  |              |             |    |    |    |    |           |     |     |                       |    |    |            |                  |
| Gas, oil and other hydrocarbon well drilling and production (as permitted by state and local regulations) | C            | C           | *  | *  | *  | *  | *         | *   | C   | C                     | C  | C  | C          | *                |
| <a href="#">Manufacturing</a> and preparation of food products  | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | P          | *                |
| <a href="#">Manufacturing</a> of electric or electronic instruments and devices                           | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | C  | P  | P          | C                |
| <a href="#">Manufacturing</a> , assembly or packaging of products from previously prepared materials      | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | C          | *                |
| Mini-warehouses and self-storage facilities   | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | C  | C  | PC         | *                |
| Outside storage   | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | C          | *                |
| Plumbing, electrical and carpenter shops  | *            | *           | *  | *  | *  | *  | *         | *   | *   | *                     | *  | *  | P          | *                |

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|---|--------------|-------------|----|----|----|----|-----------|-----|---|-----------------------|----|----|------------|------------------|
| P= Permitted without conditions<br>PC= Permitted with conditions<br>C= Conditional use<br>*= Not allowed        | AGRICULTURAL | RESIDENTIAL |    |    |    |    | MIXED-USE |     |   | BUSINESS / COMMERCIAL |    |    | INDUSTRIAL | HARMONY CORRIDOR |
| A   |              | RE          | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          | HC               |
| Recycling facilities  | *            | *           | *  | *  | *  | *  | *         | *   | * | *                     | *  | *  | C          | *                |
| Research, experimental or testing laboratories  | *            | *           | *  | *  | *  | *  | *         | *   | * | *                     | *  | *  | C          | *                |
| Resource extraction, processes and sales establishment  | C            | *           | *  | *  | *  | *  | *         | *   | * | *                     | *  | C  | C          | *                |
| Sales and leasing of farm implements, heavy equipment sales, manufactured homes, and heavy excavation equipment | *            | *           | *  | *  | *  | *  | *         | *   | * | *                     | *  | *  | C          | *                |
| Warehouse, distribution and wholesale uses  | *            | *           | *  | *  | *  | *  | *         | *   | * | *                     | *  | *  | P          | *                |
| Wireless telecommunications facilities  | *            | *           | *  | *  | *  | *  | *         | *   | * | *                     | *  | *  | PC         | *                |
| <u>Workshops and custom small industry</u> uses   | *            | *           | *  | *  | *  | *  | *         | C   | C | *                     | C  | C  | P          | C                |
| <b>Agricultural Uses</b>  |              |             |    |    |    |    |           |     |   |                       |    |    |            |                  |
| <u>Common equestrian stabling</u> and grazing with restrictions   | PC           | C           | *  | *  | *  | *  | *         | *   | * | *                     | *  | *  | *          | *                |

|  |    |   |   |   |   |   |   |   |   |   |   |   |   |   |
|--|----|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Farming, including but not limited to, gardening, horticulture, fruit growing, growing of vegetables, trees, shrubs, plans, turf and sod | PC | * | * | * | * | * | * | * | * | * | * | * | * | * |
| Animal operations including <u>livestock</u>   | PC | * | * | * | * | * | * | * | * | * | * | * | * | * |
| Structures for storage of agricultural products produced on the premises   | P  | * | * | * | * | * | * | * | * | * | * | * | * | * |

**4.4 Conditions for Uses Permitted with Conditions.**

Uses noted in the Table of Uses as uses permitted with conditions must meet certain conditions in addition to any other requirements imposed by this Code in order to be permitted within the Town of Timnath. These uses along with their applicable conditions are listed below. The Town Council may also use these criteria in granting a conditional use request.

4.4.1 Accessory Buildings and Accessory Uses Including Accessory Dwellings.

- 4.4.1.1 In no event shall “accessory use” or “accessory structure” be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located.
- 4.4.1.2 Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot are permitted in all districts. Accessory dwellings shall also meet the requirements of Section 4.4.1.6.
- 4.4.1.3 All accessory uses and structures shall require the issuance of a zoning permit except for uses and structures accessory to agricultural uses.

- 4.4.1.4 The gross [floor area](#) used by all accessory uses, except a private garage, shall not exceed 10% of the total floor area of the [principal use](#) which is active and operational. The maximum square footage of the portion of a lot used for an accessory use shall be determined based on the above criteria; however, in no event shall the square footage of the portion of the lot used for the accessory use exceed 25% of the square footage of the principal use which is active and operated at the same time as the accessory use. Uses accessory to agricultural are excluded from these requirements.
- 4.4.1.5 Accessory buildings may not house medical marijuana centers, medical marijuana optional premises cultivation operations, or medical marijuana-infused products manufacturers.
- 4.4.1.6 [Accessory dwellings](#).
  - A. Accessory dwellings shall be limited to 850 square feet in total [floor area](#).
  - B. An accessory dwelling may be attached, within, or separate from the principal dwelling.
  - C. The [principal use](#) of the lot shall be residential and the principal structure on the lot shall be a single-family residential building.
  - D. No more than one accessory dwelling shall be permitted on a single lot of record in conjunction with the principal dwelling unit.
  - E. The accessory dwelling shall be owned by the same person as the principal dwelling.
  - F. The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.
  - G. A detached accessory dwelling may be a dwelling only or may combine a dwelling with garage, workshop, studio, or similar customary accessory structure/use.
  - H. A detached accessory dwelling shall be located in the rear yard.
  - I. The owner of the accessory dwelling shall live on the parcel containing the accessory dwelling.
- 4.4.1.7 Uses accessory to residential uses. It is the intent of the Town to allow in-home commercial activities in selected residential areas when the nature and operation of the in-home business is not evident or detrimental to the peace, enjoyment and quality of life in the neighborhood, and the use meets the following standards:
  - A. Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a [home occupation](#) which are regulated separately in this Code, and provided that such use does not generate additional traffic to the location.
  - B. Hobbies or recreational activities of a noncommercial nature, limited to the

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premises.

- C. Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90 day period.
- D. [Home occupations](#). It is the intent of the Town to allow in-home commercial activities in selected residential areas when the nature and operation of the in-home business is not evident or detrimental to the peace, enjoyment and quality of life in the neighborhood, and the use meets the following standards
1. Medical, dental and real estate offices are not permitted as home occupations.
  2. The home occupation shall not exceed 1,000 square feet or 30% of the total [floor area](#) of the dwelling, whichever is less, or can be located in an accessory building not to exceed 500 square feet. The home occupation shall be conducted entirely within the dwelling or designated accessory buildings.
  3. In addition to the family occupying the dwelling containing the home occupation, there shall not be more than one outside [employee](#) working at the site of the home occupation.
  4. The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.
  5. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation, including advertising signs or displays or advertising that solicits or directs persons to the address that exceed one square foot in size. All exterior aspects of the home occupation operation shall not disrupt the residential character of the area
  6. There must be no exterior storage on the premises of material or equipment used as a part of the home occupation.
  7. No equipment or process shall be used in such home occupation which creates any glare, fumes, odors or other objectionable conditions detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling or in an accessory building to a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling.
  8. Proprietors of home occupations shall register annually with the Town Clerk, which registration shall include a review of compliance with the home occupation standards contained in this Code and an application for a business license or license renewal if required by the Town.
  9. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area, shall not be permitted as home occupations: motor [vehicle repair](#) or motorized implement repair; dance, music or other types of instruction (if more than four students being instructed

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at one time); dental offices; medical offices; medical marijuana centers, medical marijuana optional premises cultivation operations, or medical marijuana-infused products manufacturers; the painting of vehicles, trailers or boats; private schools with organized classes; radio and television repair; barber and/or beauty shop; machine or welding shops; nursing homes; or [adult establishments](#).

10. There shall be no use of utilities or community facilities beyond that reasonable to the use of the property for residential purposes.
  11. The maximum number of [vehicle trips](#) per day for clients which may visit the home occupation per day is 10.
  12. Delivery of materials to and from the premises shall not involve the use of vehicles over two ton capacity, except parcel post service trucks.
  13. Primary sale of goods in connection with such home occupation shall be that which is prepared, produced or grown on the premises.
  14. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a dwelling.
  15. Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.
- E. Without limiting the generality of the definition of an [accessory use](#), the following activities shall not be regarded as accessory to a residential [principal use](#) and are prohibited in residential districts
1. Storage, outside of a substantially enclosed structure, of any motor vehicle that is not licensed or not operational.
  2. Parking, living in, or storing a motor home or travel trailer exceeding 30 feet in length for more than 30 days within a calendar year.
  3. Parking, outside a substantially enclosed structure, of more than four (4) motor vehicles between the front building line of the [principal building](#) and the street on any lot.
- F. Cultivation of marijuana for recreational or medical use is permitted as an accessory use, subject to the limitations contained in this Code. Cultivation must be in full compliance with all constitutional and state law provisions.
- The cultivation of marijuana as an accessory use in a residential structure must comply fully with the following conditions, including general limitations on accessory use except for those described in Section 4.4.1.3:
1. No more than six (6) marijuana plants with three (3) or fewer being mature, flowering plants, may be grown for each adult who is twenty one (21) years of age or older who makes his or her legal and permanent residence at the Dwelling Unit, as evidenced by voter registration, vehicle registration, or similar means, not to exceed an aggregate total of 12 plants per Dwelling Unit. Plants must be owned by the residents of the dwelling unit and not property of anyone other than residents of the dwelling unit
  2. Growing and/or storage of marijuana shall occur within a Completely

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Enclosed Structure. A Completely Enclosed Structure means a structure enclosed by a permanent roof and by solid exterior walls pierced only by windows and customary entrance and exit doors.

3. If the party responsible for cultivating marijuana in the Dwelling Unit is not the owner of the Dwelling Unit, then written permission from the Dwelling Unit’s owner is required, and a copy of such written documentation must be maintained and available at the Dwelling Unit for inspection by code and law enforcement representatives of the Town.
4. Growing and/or storage of marijuana shall not occur in a common area associated with the Dwelling Unit.
5. The cultivation, production, or possession of any marijuana plants must not be perceptible from the exterior of the Dwelling Unit, including but not limited to:
  - a. Common visual observation, which would prohibit any form of signage;
  - b. Unusual odors, smells, fragrances, or other olfactory stimulus;
  - c. Light pollution, glare, or brightness that disturbs the repose of another; and
  - d. Undue vehicular or foot traffic, including excess parking within the residential zone.
6. Any structures built, improved, or altered for the cultivation of marijuana shall meet any and all applicable regulations and requirements contained within this Code, and any other Town rules, regulations or ordinances.
7. A violation of the provisions of this section shall constitute a misdemeanor violation pursuant to Town Municipal Code Section 1.4.2, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for a period not exceeding one (1) year, or both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years shall be subjected to imprisonment for violation of any provision of this Code. Provisions of this code enforceable by Town peace officer’s issuance, or other service of summons, complaints, or penalty assessments pursuant to Town Municipal Code Section 1.4.7.

4.4.1.8 Accessory buildings and structures.

An accessory building or structure shall include, but not be limited to, storage sheds and detached garages in residential zoning districts.

- A. Accessory buildings with a floor area of 120sf and greater require a building permit.
- B. Accessory buildings with a floor area under 120sf per the 2012 IBC 105.2 (1.) do not require a building permit, but do require administrative approval through a plot plan submittal review with the building

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department.

- C. Accessory buildings and structures must meet setback and other design standard requirements in each zone district.
- D. Greenhouses and gardens which are incidental to a residential use and conducted on a non-commercial basis only shall be permitted provided that no greenhouse heating plant shall be located within 60 feet from any front [property line](#) or within 30 feet of any other property line.
- E. Structures built for the sole purpose of capturing wind energy as a source of electrical power shall be permitted with the following conditions:
  1. The fall zone distance must equal the turbine's total height from all structures, overhead utility lines, public roads, and Right-Of-Way with at least an additional 5 feet clearance from all property boundary lines.
  2. Must be white or neutral color (beige, taupe, grey, cream).
  3. Must not emanate noise more than 10 decibels above ambient noise levels.

#### 4.4.2 [Adult Establishments.](#)

- 4.4.2.1 No adult establishment shall be located within 1,000 feet (determined by a straight line and not street distance) of the closest boundary line of any residential zoning district, or of any point on the closest property line of any church, school, day care, public park, residence or playground as measured by a horizontal straight line distance from the closest point on the closest boundary line of the property occupied by the adult establishment.
- 4.4.2.2 No adult establishment shall be located within 1,000 feet (determined by a straight line and not street distance) of any other adult establishment as measured by a horizontal, straight line distance from the closest point on the closest boundary line of the property occupied by each.
- 4.4.2.3 No more than one adult establishment may be located within the same structure.
- 4.4.2.4 No printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible to the public or an adjacent property or use, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.
- 4.4.2.5 Any retail establishment having a preponderance of materials or sexually oriented devices shall be classified an adult establishment and shall meet all of the requirements of this Code for such.

#### 4.4.3 Animal Operations Including [Livestock.](#)

- 4.4.3.1 No pens, enclosures, buildings, or other structures intended or used for the



containment of animals as part of a combined animal feeding operation and no waste collection or storage shall be permitted within 250 feet of the [property line](#). This expressly excludes pastures, riding rings, small non-commercial enclosures for female chickens or similar areas intended or used for the containment of animals in such small numbers that they do not present any significant offsite impacts related to noise, odor, or stormwater runoff. All uses deemed exempt from this standard shall meet all other minimum setbacks for [principal uses](#) of the lot.

- 4.4.3.2 Two or more [principal buildings](#) used as part of the bona fide farm operation may be placed on a single lot of record when such buildings meet the siting requirements of this Code.
- 4.4.3.3 Large livestock is limited to a maximum of two per two and one-half acres.
- 4.4.3.4 A minimum of two and one-half acres is required to have large livestock within the Town.
- 4.4.3.5 There must be the equivalent of at least one acre of fenced pasture for each large livestock animal.
- 4.4.3.6 Any fenced land area containing large livestock must be at least 25 feet from any lot line that is also a boundary of a different zone district other than A or R-E.
- 4.4.4 [Bars, Taverns](#) and [Nightclubs](#).
- 4.4.4.1 Music, loud speakers, and similar noise devices shall not be permitted outdoors. Noise emanating from the bar or tavern shall not exceed ambient noise levels in the surrounding area at a distance of more than 100 feet from any point of the property containing the use.
- 4.4.5 [Bed and Breakfast Inn](#).
- 4.4.5.1 Meals and Alcohol.
- A. The Inn shall serve breakfast only to registered guests of the establishment. The price of breakfast shall be included in the room rate.
- B. Serving alcohol to overnight guests is allowed with a liquor license.
- 4.4.5.2 Residency required. A Bed and Breakfast Inn shall be the permanent residence of the owner of the establishment.
- 4.4.5.3 Guest Book. All Bed and Breakfast Inns shall maintain a guest book for overnight guests. It should include dates of stay and origin of visitors. The guest book may serve as evidence in the event that the Bed and Breakfast Inn privilege is in question or under review as part of a complaint.
- 4.4.5.4 [Compatibility](#). Each application for a Bed and Breakfast Inn shall be accompanied by clear and convincing evidence that there will be no substantial interference with the health, safety and welfare of the general public, as well as, the character and integrity of the surrounding residential area.
- 4.4.5.5 Parking. No more than two off-street parking spaces shall be provided in a designated [parking area](#) located in a front yard.

- 4.4.5.6 Rooms. Overnight guest accommodations shall be in the principal structure only.
- 4.4.5.7 Signs. One non-illuminated [freestanding sign](#) shall be permitted at facilities in residential zoning districts. Signs must meet the guidelines set forth under Article 7 of this code. All other banners or flags used for advertisement or Bed and Breakfast identification purposes are prohibited. Signs identifying facilities in non-residential zoning districts shall be erected according to the requirements of the individual district, as provided under Table 7.10.10 of this Code.
- 4.4.7 Car Wash
- 4.4.7.1 Non-automated car washes shall only be required to have two stacking spaces per bay, one of which is located for use as a dry down area.
- 4.4.7.2 Automated car washes shall be required to have an additional two stacking spaces per bay, along with the required five stacking spaces determined in section 5.8.16.
- 4.4.7.3 No required or intended stacking spaces shall block the safe flow of motoring and pedestrian traffic within the parking lot.
- 4.4.7.4 In the Harmony Corridor, a car wash may not front Harmony Road.
- 4.4.8 [Care Center](#); [Care Home](#).
- 4.4.8.1 Outdoor play and recreation areas shall be located behind the front building line in the rear yard or side yard only.
- 4.4.8.2 All outdoor play and recreation areas shall be surrounded by a fence or wall at least four feet in height.
- 4.4.8.3 Outdoor activities are limited to the fenced area between 8:00 a.m. and 9:00 p.m.
- 4.4.8.4 Care of a person shall not exceed 24 hours.
- 4.4.8.5 A care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
- 4.4.8.6 A care home shall be staffed by persons residing in the dwelling in which the care is located except that up to one non-resident may report to work at the home.
- 4.4.8.7 A care home shall be located in a structure originally constructed as and designed for a single-family dwelling which shall remain the principal use on the lot. The structure shall not be altered in any manner which diminishes its value as a single-family dwelling or which changes its exterior residential character.
- 4.4.8.8 The owner of the care home shall reside on premises.
- 4.4.8.9 Childcare centers, as defined in § 26-6-102(1.5), C.R.S., are classified as care centers under this code.

- 4.4.8.10 A care home is considered a home occupation and must abide by the requirements therein with the following exceptions:
  - A. The maximum square footage dedicated to the care home is not applicable.
  - B. An inspection of the home is required to ensure the home is in compliance with the Town’s adopted International Residential Code (IRC).
- 4.4.8.11 A Child Care Home provider must also comply with their homeowners association or metropolitan district requirements. In the case where the homeowners association or metropolitan district requirements are more stringent than those imposed by the Town, the care provider must demonstrate to the Town, with appropriate documentation (including the covenant language), how those requirements are being satisfied. However, the homeowners association or metropolitan district shall not restrict the number or location of child care homes.
- 4.4.8.12 In the Harmony Corridor Overlay District, a care center may not front Harmony Road.
- 4.4.9 Cemeteries.
  - 4.4.9.1 Tombstones, crypts, monuments and mausoleums must be located at least 50 feet from any street right-of-way line or [abutting](#) property. Greater setbacks shall be observed if otherwise required by the zoning district in which it is located. Gravesites shall also be set back at least 20 feet from any side or rear lot lines in cemeteries (or cemetery expansions).
  - 4.4.9.2 Sales of crypts shall be allowed as an [accessory use](#) on premises (for cemeteries as a [principal use](#) only). No building in conjunction with such sales shall be located closer than 20 feet from any [side lot line abutting](#) a residential district and 40 feet from any such rear lot line. Greater setbacks shall be observed if otherwise required by the zoning district in which it is located.
  - 4.4.9.3 Notwithstanding any other provisions of this ordinance, a minimum of three acres shall be needed for any cemetery being developed as a [principal use](#).
- 4.4.10 Clubs and Lodges
  - 4.4.10.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than 10:00 p.m. when this use abuts a lot containing a legal, conforming residential use or a residentially zoned lot.
  - 4.4.10.2 Clubs or lodges may not house recreational or medical marijuana centers, recreational or medical marijuana optional premises cultivation operations, or recreational or medical marijuana-infused products or manufacturers.
  - 4.4.10.3 Music, loud speakers, and similar noise devices shall not be permitted outdoors when this use abuts a lot containing a legal, conforming residential use or residentially zoned lot.
  - 4.4.10.4 Serving alcohol to patrons is allowed with a liquor license.
- 4.4.11 Community Facility
  - 4.4.11.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than 10 p.m. when this use abusts a lot containing a legal, cfroming residential use or

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residentially zoned lot.

4.4.12 Convenience shopping and retail establishments.

4.4.12.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than 10:00 p.m. when this use abuts a lot containing a legal, conforming residential use or a residentially zoned lot.

4.4.13 Cidery, Distillery, or Winery

4.4.13.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than 8:00 p.m. Sunday through Thursday and 9:00 p.m. on Friday and Saturday when this use abuts a lot containing a legal, conforming residential use or residentially zoned lot.

4.4.14 Dwelling, Single-Family

4.4.14.1 In the Business (B) Zoning District, a property owner may rebuild or expand an existing residence but shall not be permitted to construct a new structure for residential use.

4.4.15 Dwelling, Multi-Family.

4.4.15.1 In the R3 District, no more than eight units shall be permitted per building. In the RC District, multi-family projects individually and as a whole must be subordinate in acreage and scale to commercial uses.

4.4.15.2 When adjacent to residential districts, multi-family buildings shall be designed to blend in with surrounding single-family residential buildings to the maximum extent practicable with regards to building design, setbacks, driveway and garage design and location, porches, and sidewalks.

4.4.15.3 Site designs shall create a sense of “neighborhood” and shall meet the following requirements:

- A. Buildings shall be sited with front entrances and porches oriented toward streets, drives, and plazas, rather than clustered around parking lots.
- B. An internal vehicular circulation system for private streets, when included, shall be reflective of a single-family residential street system.
- C. Parking lots shall be located behind buildings, except where it is deemed appropriate to use a parking lot as a buffer from an arterial street, or where such parking area will directly [abut](#) a [property line](#) exterior to the development site when located in or adjacent to a residential district.
- D. [Walkways](#) shall connect all buildings with parking areas, play areas, clubhouses, and existing public sidewalks adjacent to the development site.
- E. Plazas, clubhouses, pools, and recreational facilities shall be centrally located, when provided.

4.4.15.4 Building designs that create variety and do not look monotonous if replicated throughout the development shall be required. Such designs shall include the following:

- A. Side and rear [building elevations](#), garages, carports, and all accessory structures shall have the same level of design, aesthetic quality, and

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architectural detailing.

- B. Porches, varied rooflines, and varied façade depths shall be provided to create variety and individuality of each building.
- C. Windows and projecting wall surfaces shall be used to break up larger wall surfaces, establish visual interest and provide visibility of the street and other public spaces encouraging social interaction.
- D. Protective entry courts, common vestibules, covered breeze ways, or enclosed stair halls shall be used to reduce the number of visible doors, unless designed in a row house or single-family attached dwelling manner oriented toward the street.
- E. Garages shall be designed to be integrated with the building design or sited so as to avoid long monotonous rows of garage doors and building walls. Garages shall be oriented so that they do not visually dominate the building façade or the [streetscape](#).

4.4.15.5 All multi-family site development plans will require Town Council Approval

4.4.16 Food Truck Vendor.

- 4.4.16.1 Requires a food truck vendor permit application.
- 4.4.16.2 May vend only on lots in non-neighborhood zone districts or on streets in locations in non-residential zone districts where parallel parking is allowed.
- 4.4.16.3 Vending may occur in a residentially zoned lot if it is a part of a Special Events permit or if the vendor is exclusively selling novelty items such as ice cream, snow cones, or frozen treats, or if there is a site with an active building permit.
- 4.4.16.4 May not vend within 200 feet from the property line of a public or private school for students from pre-school through 12th grade.
- 4.4.16.5 May vend only food and non-alcoholic beverages.
- 4.4.16.6 Logos or signage must be permanently attached to the mobile food truck with no banners or signs put up on adjacent trees buildings, or light poles.
- 4.4.16.7 Hours of operation when on a lot or street that abuts an existing residentially zoned lot shall be limited from 10 a.m. to 8 p.m.
- 4.4.16.8 The food truck shall utilize power from an adjacent building as best as possible, if power is not available a generator can be used given it does not exceed 80 decibels.

4.4.17 Food Catering

- 4.4.17.1 Service areas will be separated by an opaque screen from the view of any street and from abutting properties.

4.4.18 Grocery Stores and Convenience

- 4.4.18.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than midnight when this use abuts a lot containing a legal, conforming residential use or a

residentially zoned lot.

4.4.18.2 A secondary use of a coffee shop or bank shall be permitted given the operation is confined to within the principal use of the grocery store or supermarket.

4.4.19 [Group Home](#).

4.4.19.1 A group home shall be located in a structure originally constructed as and designed for a single-family dwelling which shall be the principal structure on the lot. The structure shall not be altered nor the site used in any manner which diminishes its value as a residential dwelling or which changes its exterior residential character.

4.4.20 Health Clubs

4.4.20.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than 10:00 p.m. when this use abuts a lot containing a legal, conforming residential use or a residentially zoned lot.

4.4.21 [Kennels](#); Veterinary Facilities (Large and [Small Animal Clinics](#)).

4.4.21.1 A maximum of 20 outside runs shall be permitted.

4.4.21.2 Facilities shall at all times be maintained in a neat and sanitary condition.

4.4.21.3 Facilities with outside runs, pens or other enclosures shall have a 300 foot buffer between the enclosure and the [property line](#) if [abutting](#) a residential district.

4.4.22 Liquor Store without Drive-thru

4.4.22.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than 9:00 p.m. Sunday through Thursday, and no later than 10:00 p.m. Friday and Saturday when this use abuts a lot containing a legal, conforming residential use or residentially zoned lot.

4.4.22.2 No Liquor Store shall be permitted within 500 feet of any lot zoned RE, R1, or R2 as measured from property lines.

4.4.22.3 No Liquor Store shall be permitted within 300 feet of any lot zoned R3, as measured from property lines.

4.4.23 Lodging Establishments

4.4.23.1 Overnight parking shall be contained to an onsite lot designated for the lodging establishment only.

4.4.23.2 The lodging establishment shall serve breakfast only to registered guests of the establishment.

4.4.23.3 If containint a restaurant, the restaurant hours of operation shall be no earlier than 6:00 a.m. and no later than midnight when this use abuts a lot containing a legal, conforming residential use or residentially zoned lot.

4.4.24 Medical and Dental Offices and Clinics.

4.4.24.1 Hours of operation shall be no earlier than 5:00 a.m. and no later than 10:00



p.m. when this use abuts a lot containing a legal, conforming residential use or residentially zoned lot.

#### 4.4.25 Micro-Breweries

4.4.25.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than 8:00 p.m. Sunday through Thursday and 9:00 p.m. on Friday and Saturday when this use abuts a lot containing a legal, conforming residential use or a residentially zoned lot.

#### 4.4.26 Mini-Warehouses and Self-Storage Facilities.

4.4.26.1 Self-storage warehouse spaces shall be used for storage only. No space shall be leased or used for any other purpose except a leasing office or caretaker residence.

4.4.26.2 No outside storage shall be permitted.

4.4.26.3 All driveways and parking areas between and around buildings shall be paved with asphalt or concrete including parking areas for the storage of boats, [recreational vehicles](#) and similar vehicles.

4.4.26.4 Parking areas for the storage of boats, recreational vehicles, or similar vehicles shall be designated on the site plan and be approved by Planning Commission.

#### 4.4.27 [Motor Vehicle Repair](#), Rental and [Sales](#) Including [Recreational Vehicles](#).

##### 4.4.27.1 Location.

- A. A lot containing such use shall be located at least 200 feet from any lot containing a legal, conforming residential use or residentially zoned lot.
- B. Motor vehicle sales, lease, and rental lots shall front on a major or minor arterial.

##### 4.4.27.2 Display of Vehicles for Sale or Lease.

- A. Vehicles for sale or lease may not be displayed in the established [front yard setback](#).
- B. All display areas shall be paved.

##### 4.4.27.3 [Outdoor Storage](#).

- A. A [vehicle repair](#) service, body or paint shop which has wrecked, partially dismantled, or inoperative vehicles located on-site shall store these vehicles in an enclosed building or in a separate motor vehicle storage yard which meets the requirements of this Code for such yards.
- B. Storage areas are exempt from the interior landscaping requirements for parking lots. However, the perimeter landscaping requirements of parking lots shall apply to such storage areas
- C. Storage areas may only be located behind the [principal building](#) and its accessory buildings, and shall not be placed within 100 feet of any [property line](#) that [abuts](#) a thoroughfare or local public street

4.4.27.4 Speakers. Businesses are prohibited from using amplified outdoor speaker/public address systems.

## 4.4.28 Museums

4.4.28.1 Museums shall not front Harmony Road.

## 4.4.29 Pharmacy with Drive-Thru

4.4.29.1 Hours of operation shall be no earlier than 5:00 a.m. and no later than 10:00 p.m. when this use abuts a lot containing a legal, conforming residential use or residentially zoned lot.

4.4.29.2 Drive-thru headlights shall not face a residential use or residentially zoned lot.

## 4.4.30 Places of Worship and Assembly Including Community Centers.

4.4.30.1 Convents, rectories, parsonages or similar uses may be placed on the site as [accessory uses](#).

4.4.30.2 Accessory uses such as offices, bookstores, parking lots, family life centers, gymnasiums, performance centers, [stadiums](#), multi-purpose facilities, outdoor recreational facilities, and [care centers](#) on the same site or sites contiguous to the [principal use](#) shall be permitted. Similar uses on non-[contiguous](#) sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such.

4.4.30.3 Accessory uses which are not permitted as principal uses in a district shall adhere to the following restrictions:

- A. No merchandise or merchandise display shall be visible from outside the building; and
- B. No business or identification sign pertaining to the accessory uses shall be visible from outside the building.

4.4.30.4 Except as noted above, accessory uses not permitted as principal uses (including television stations, radio stations, printing presses, or sports complexes) are prohibited.

4.4.30.5 A structure in which the seating capacity in the main activity area is 600 persons or more shall have direct access to the site provided by a major or minor thoroughfare.

4.4.31 [Public Facilities](#).

4.4.31.1 Utility distribution lines, which deliver service to the end user from a substation fed by a transmission line providing service to an area larger than the individual parcel or project area, shall be installed underground, unless subsurface conditions make underground installation not possible or practical.

4.4.31.2 All distribution and transmission equipment and structures associated with a utility shall be designed and installed to be as inconspicuous as possible; shall not interfere with the installation or enjoyment of public facilities or facilities that serve the public such as sidewalks, bike paths, and driveways; and shall be installed away from public streets and residences to the maximum extent practicable.

4.4.31.3 Business offices, repair and storage shall only be permitted in the CC, RC and I districts.

- 4.4.31.4 Water and wastewater treatment facilities shall only be permitted in the I District.
- 4.4.31.5 Landfills shall be prohibited.
- 4.4.32 Recreation Facilities, Indoor and Outdoor.
  - 4.4.32.1 Hours of operation. All outdoor recreational facilities including golf courses and driving ranges shall be open no earlier than 7:00 a.m. and no later than 10:00 p.m. for uses located in or abutting a residential district.
  - 4.4.32.2 All outdoor swimming facilities shall be located at least 100 feet from any adjoining residential use.
  - 4.4.32.3 Service areas will be separated by an opaque screen from the view from any street and from abutting properties.
  - 4.4.32.4 No permanently established outdoor miniature golf courses, skateboard courses, or mechanical rides shall be located within 500 of the closest point of any abutting property located in a residential district.
- 4.4.33 Rehabilitation Centers, Nursing Care, Assisted Living, Congregate Care, Palliative Care, and Hospice Care.
  - 4.4.33.1 Driveway access to accessory structures shall be through the main entrance to the facility.
  - 4.4.33.2 No single building shall be greater than 40,000 square feet if located within 500 feet, as measured in any direction from the closest point, from an adjacent residentially zoned lot.
- 4.4.34 Restaurants with Drive-Thru Service.
  - 4.4.34.1 All restaurants shall provide a minimum of five stacking spaces associated with each drive through window unless the Director determines more are required.
  - 4.4.34.2 No required or intended stacking spaces shall block the safe flow of motoring and pedestrian traffic within the parking lot.
  - 4.4.34.3 Drive-through facilities located closer than 300 feet to a residential use shall operate no earlier than 6:00 a.m. nor later than 12:00 a.m.
  - 4.4.34.4 No part of the active use area of a drive-thru restaurant shall be located closer than 300 feet to a lot containing a legal, conforming residential use.
- 4.4.35 Restaurants without Drive-Thru
  - 4.4.35.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than midnight when this use abuts a lot containing a legal, conforming residential use or residentially zoned lot.
  - 4.4.35.2 Music, loud speakers, and similar noise devices shall not be permitted outdoors when this use abuts a lot containing a legal, conforming residential use or residentially zoned lot.
- 4.4.36 Retail Establishments.
  - 4.4.36.1 No outside storage shall be permitted unless approved by the Town as part of

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the approved site plan.

- 4.4.36.2 All proposed areas for outside display and storage shall be clearly marked on the site plan, including but not limited to, open displays of garden supplies, equipment, and other materials and any [cargo containers](#), tractor trailers, storage buildings or similar structures used or intended to be used to contain materials for sale, maintenance, construction, etc. All outdoor storage of logs, lumber and building materials shall be kept at least 100 linear feet from any adjacent residential lot and shall be located in a side or rear yard only.
- 4.4.36.3 Any area intended for use by vendors, civic groups, and other parties either on a temporary or permanent basis for outdoor display, sales, fundraising, etc. shall be clearly marked on the approved site plan.
- 4.4.36.4 Should a structure and/or lot containing an approved retail establishment become vacant, the exterior of such structure and lot shall be maintained in the same manner as during occupancy including the condition of landscaping, paved surfaces, exterior lighting, façade, etc. The reuse of the structure or lot for any purpose shall be approved by the Town prior to such reuse.
- 4.4.37 [Retail Fuel Stations](#).
- 4.4.37.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than midnight when this use [abuts](#) a lot containing a legal, conforming residential use or a residentially zoned lot. This restriction shall not apply where the station is separated from such use or lot by a major arterial street.
- 4.4.37.2 Accessory [motor vehicle repair](#) service is restricted to commercial and industrial districts. Any wrecked, partially dismantled, or inoperative vehicles located on-site in an enclosed building or in a separate motor vehicle storage yard which meets the requirements of this ordinance for [outdoor storage](#).
- 4.4.37.3 All fuel pumps and canopies shall be located in the side or rear yard only at least 20 feet from any adjacent [property line](#). On [corner lots](#), fuel pumps and canopies located in side yards shall be on the side of the principal structure located away from the street intersection.
- 4.4.37.4 In the Harmony Corridor, the property line bounding a proposed retail fuel station parcel shall be located at least one thousand three hundred twenty (1,320) feet (one quarter [1/4] of a mile) from any other such use property line. In all other zoning districts there shall be no more than one (1) retail fuel station at any 4-way intersection.
- 4.4.38 [Riding Stables; Boarding](#).
- 4.4.38.1 Facilities shall occupy a zoning lot containing not less than five acres.
- 4.4.39 [Seasonal and Holiday Sales](#)
- 4.4.39.1 The term of the temporary use permit shall not exceed 60 days per calendar year.
- 4.4.39.2 Temporary seasonal sales and holiday sales shall not include the sale of bulk household goods, such as furniture, carpets, artwork/paintings, or similar items. In addition, they shall not include retail sales of prepared or processed food products.

- 4.4.39.3 Any trailer or structure utilized as a sales office must meet applicable setbacks per the zoning district and any building code requirements.
- 4.4.39.4 Lighting shall be limited to hours of operation.
- 4.4.39.5 Hours shall be limited to 8:00 a.m. to 8:00 p.m.
- 4.4.39.6 Upon completion of the temporary use, the site shall be cleaned, all evidence of the use(s) removed, and left in a condition that minimizes adverse impacts to the site itself and to surrounding properties.
- 4.4.39.7 In the Harmony Corridor, the sale of seasonal and holiday products shall not front Harmony Road.
- 4.4.40 Schools, Public and Private; Colleges, Vocational and Technical Training.
- 4.4.40.1 Schools shall meet the requirements for Places of Assembly as well as the following standards.
- 4.4.40.2 Schools shall be planned, sized and sited to serve as community assets and to integrate with and complement surrounding development. Whenever possible, large schools on greenfield sites away from Town should be avoided.
- 4.4.40.3 Truck driving schools with outdoor maneuvering areas shall not be permitted in any residential or mixed-use district or in the B District.
- 4.4.41 [Senior Housing](#) and Life Care Communities.
- 4.4.41.1 All structures shall be limited in occupancy to persons aged 55 years or older, the physically handicapped, and their spouses except for rooms or units occupied by resident staff personnel performing duties directly related to the operation of the facility.
- 4.4.41.2 Driveway access shall be through the main entrance to the community.
- 4.4.41.3 Paved [walkways](#) shall be provided between dwellings, the [principal building](#), and all common facilities such as dining halls and recreation centers.
- 4.4.41.4 Principal and accessory buildings shall be predominately designed and constructed with architectural features common to residential structures including, but not limited to, the following features: roof pitch, façade material, and size, type and placement of windows and doors.
- 4.4.41.5 No single building shall be greater than 40,000 square feet if located within 500 feet, as measured in any direction from the closest point, from an adjacent residentially zoned lot.
- 4.4.42 Short Term Rental. will be the conditions for a Short Term Rental. Those conditions are as follows:
- 4.4.42.1 A Short Term Rental Application must be submitted and approved by the Community Development Director.
- 4.4.42.2 Each Short-Term Rental must obtain a Short-Term Rental Business license with the Town and post the license number on every listed advertisement and on site.
- A. Initial Licensing Fee = \$150

- B. Annual Renewal = \$100
- 4.4.42.3 Short Term Rentals are subject to lodging, sales, or other applicable taxes.
- 4.4.42.4 Short Term Rentals utilizing an accessory dwelling must meet Town Regulations for accessory dwellings per section 4.4.1.6 of the Land Use Code.
- 4.4.42.5 Rooms being rented on an individual basis and not as an entire home shall not have separate individual entrances.
- 4.4.42.6 Rooms that are being rented must meet Town Building Code.
- 4.4.42.7 Short Term Rentals must be inspected at time of initial licensing and on an annual basis accompanying the annual renewal to ensure compliance with the Building Code.
- 4.4.42.8 The maximum number of people staying per night shall not exceed 6 persons.
- 4.4.42.9 The maximum number of nights per month shall not exceed 15 or the maximum number of unique reservations cannot exceed 3 per month.
- 4.4.42.10 All overnight parking must be in a garage or on the driveway. No on-street parking allowed.
- 4.4.42.11 There shall be no motor homes or travel trailers parked outside the residence.
- 4.4.42.12 There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such short-term rental and shall not disrupt the neighborhood character.
- 4.4.42.13 Any person applying for a short-term rental license must notify their neighbors within 100' of the property boundary.
- 4.4.42.14 Short Term Rentals may not be advertised as an event space.
- 4.4.42.15 Proof of liability insurance is to be provided at time of application.
- 4.4.42.16 No cultivation or processing of marijuana products.
- 4.4.42.17 Primary and secondary contact information of a person that is able to respond within 4 hours of any issues raised by a current renter of the Town.
- 4.4.42.18 Each subdivision will be allowed 1% of the total number of COs issued.
- 4.4.42.18.1 The number of permits available based on COs will be as follows:
- A. 1-100 COs = 1 permit
  - B. 101-200 COs = 2 permits
  - C. 201-300 COs = 3 permits
  - D. 301-400 COs = 4 permits
  - E. 401-500 COs = 5 permits
  - F. 501-600 COs = 6 permits
  - G. 601-700 COs = 7 permits



H. 701-800 COs = 8 permits

I. 801-900 COs = 9 permits

J. 901-1000 COs = 10 permits

4.4.42.18.2 The number of permits will increase as the total number of COs in crease and will be updated on an annual basis.

4.4.42.19 Rentable Multi-Family Residential units will not count towards permitting numbers.

4.4.42.20 Permits will be on a first come first serve basis.

4.4.42.21 Single Family, Attached Single Family, Ownership Multi-Family COs will be used to determine the number of available permits.

4.4.42.22 There will be no waiting list for people wanting a permit after all the current ly available permits are issued.

4.4.42.23 If a resident moves within Town to a new neighborhood their permit will not be transferrable and will have to apply for a new permit within that subdivision.

4.4.42.24 Any noncompliance of these regulations may result in revocation of the Short-Term Rental business license. The license may be reinstated one year from date of revocation with approval from the Community Develop- ment Director and satisfactory complying with these regulations.

4.4.43 Temporary Building. The following requirements shall govern the location and operation of temporary buildings permitted by the Town.

4.4.43.1 Temporary buildings require a permit from the Town.

4.4.43.2 The duration of the temporary building must be defined.

4.4.43.3 The temporary building must be completely removed and the site restored to its original condition at the end of the duration.

4.4.43.4 Temporary buildings must meet Town setbacks unless waived by Town Planner.

4.4.44 Temporary Uses. The following requirements shall govern the location and operation of temporary uses permitted by the Town. Temporary uses must have an approved permit from the Town.

4.4.44.1 The sales period for temporary Christmas tree sales lots shall start no sooner than November 15.

4.4.44.2 No more than one trailer shall be used to store goods for sale. All sales structures shall meet the setback of the district in which they are located.

4.4.44.3 The use may only be located on a vacant lot, on a lot occupied by a nonresidential use, or on the site of a bona fide farm operation.

4.4.44.4 Off-street parking may be provided behind or to the side of the established use, but not forward of the required front setback.

4.4.44.5 On-site parking may be provided on a low dust, pervious surface area and need not comply with additional paving requirements.

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- 4.4.44.6 Such uses shall not include flea markets or any sales of merchandise or products not related to the seasonal sale of agricultural produce.
- 4.4.44.7 Farm-type enterprises when considered as being part of bona fide farms such as plant nurseries, commercial greenhouses, fruit or vegetable packing sheds, retail sale of products grown on premises, hatcheries, tobacco storage for sales, and similar commercial and processing activities shall be permitted in the A district without zoning review unless new parking, driveways, or structures are required.
- 4.4.45 Veterinary Facilities Small Animals.
  - 4.4.45.1 There shall be no exterior dog run or kenneling
  - 4.4.45.2 Animals that stay overnight must be kept inside the building.
- 4.4.46 Wireless Telecommunication Facilities. The following requirements shall govern the location of telecommunication towers and associated accessories which, when installed, will exceed 21 feet in height above existing grade. The height limitations applicable to buildings and non-tower structures shall not apply to towers, antennas and associated accessories. Upon submittal of an application for a Wireless Telecommunication Facility it will be determined by the Town Planner if it will be an administrative approval based on the level of impact or if it will require Planning Commission and Town Council approval.
  - 4.4.46.1 Site Plans. The site plans for a wireless telecommunication service facility shall be submitted on one or more plats or maps, at a scale not less than 1" = 50', showing the following information:
    - A. The proposed size, location and boundaries of the wireless telecommunication service facility site, including existing and proposed topography at two foot intervals, referenced to USGS data, state plane coordinates and a legal description of the proposed site.
    - B. Elevations of all towers and equipment, indicating materials, overall exterior dimensions and colors.
    - C. True north arrow.
    - D. Locations and size of existing improvements, existing vegetation, if any; location and size of proposed improvements, including any landscaping.
    - E. Existing utility easements and other rights-of-way of record, if any.
    - F. Location of access roads.
    - G. The names of **abutting** subdivisions or the names of owners of abutting, unplatted property within four hundred feet of the site; zoning and uses of adjacent parcels.
    - H. [Title Commitment](#) or [Proof of Ownership](#).
    - I. The location of the GPS in both latitude/longitude and UTM meters
    - J. Other information as may be essential and any information requested by the Town which is necessary for determining whether the provisions of this Code are met.
  - 4.4.46.2 Vicinity Maps. The vicinity maps submitted with an application under this Article shall include one or more maps showing the location of existing and

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planned commercial mobile radio service facilities belonging to the applicant, within five miles of the proposed facility. Planned facilities may be identified in general terms and need not be address specific.

4.4.46.3 Written Narrative. The application shall include the following in narrative form:

- A. The applicant's and surface owner's names, addresses, signatures and designation of agent, if applicable.
- B. An explanation of the need for such a facility, operating plan and proposed coverage area.
- C. If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one-mile radius of the facility.
- D. A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC).
- E. Affirmation that the proposed facility, alone or in combination with other like facilities, will comply with current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.
- F. Affirmation that the facility will comply at all times with current FCC regulations prohibiting localized interference with reception of television and radio broadcasts.
- G. Affirmation that the facility will not interfere with any public safety frequencies servicing the Town and its residents.
- H. Affirmation that, if approved, the applicant and surface owner will make the facility available, on a reasonable basis, to other service providers.
- I. An explanation of [compatibility](#) with the Town Comprehensive Plan.

4.4.46.4 Review Criteria. The recommendation of the Planning Commission and the decision of the Town Council shall be based on whether the applicant has demonstrated that the proposed wireless telecommunications services facility meets the following standards:

- A. The site plan complies with the foregoing requirements.
- B. The vicinity map complies with the foregoing requirements.
- C. The narrative for the application complies with the foregoing requirements.
- D. When applicable, compliance with the setback and height requirements.
- E. When applicable, compliance with the accessory building requirements.
- F. When applicable, compliance with conditional mitigation co-location requirements as set forth.

The review criteria shall be included in the ordinance granting approval of the conditional use.

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

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

4.4.46.6 Accessory Building Requirements.

- A. Accessory buildings located on the ground shall be no larger than four hundred square feet and must be constructed of durable, low maintenance materials, and with a similar roof pitch and exterior materials common on adjacent existing buildings and structures. Sites with greater than 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.
- B. 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.

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

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

- A. Capable of serving, through original construction, expansion or replacement, a minimum of two users.
- B. 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.
- C. Of a neutral color, including fencing, buildings and cabinets, or to match existing buildings.
- D. Hold only lighting required by the Federal Aviation Administration; and no signage.
- E. No higher than fifty feet from the ground, with an additional twenty feet per co-locating user permitted, up to a maximum height of seventy feet. Exceptions may be granted by the Town Council upon request by the applicant where it is shown that a higher pole is necessary to promote service within Timnath and no alternative is available.
- F. Constructed in accordance with a registered engineer’s specifications and in compliance with all applicable U.B.C. provisions.

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**ARTICLE 5. DEVELOPMENT STANDARDS**

**5.1 General Provisions.**

5.1.1 **Applicability.** All development applications shall comply with the applicable principles and standards contained in this Article.

5.1.1.1 **Relationship to Construction Specifications.** This Article is intended to present the design principles for the Town of Timnath. For specific construction standards applicable within Timnath, see the Town of Timnath Design Criteria Manual and Construction Specifications for [Public Improvements](#) (Construction Manual).

5.1.2 **Vision and Intent.** The intention of the Town in enacting this Article is to clearly describe the Town’s vision for its physical development and to create a vital, cohesive, well-designed community in order to preserve and enhance its character and further the goals identified in the Comprehensive Plan. Application of this Article promotes the following qualities:

- [Walkable](#) and pedestrian oriented.
- Variety of housing types and architecture.
- Orderly, tree-lined streets in and around the historic core of Timnath and throughout the community where feasible and appropriate.
- Safe and secure.
- Houses face the streets with garages less prominent or in the back or side-loaded.
- One and two-story buildings.
- Unique natural setting with mountain views.
- No excessive traffic on local streets.
- Quiet, slower paced environment.
- Town-wide activities.
- Visual separation between Timnath and its neighboring communities.

5.1.3 **Application of Development Standards.** All applications shall follow the standards and principles of this article. The staff, Planning Commission and the Council will apply these principles to each project. The standards are established to protect the health, safety, welfare, and quality of life for the residents, property owners and businesses of Timnath. The standards are specific and required for all projects; however Administrative waivers ([See Section 2. 9.15](#)) may be granted provided the intent of the standards is met.

**5.2 Dimensional Standards.**

All principal and accessory structures shall conform to the following dimensional standards. These standards may be modified by other sections of the Land Use Code.

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Table 5.1 Dimensional Standards – Lot Area, Width and Coverage

| Zoning District                | Minimum <u>Lot Area</u> | Minimum <u>Lot Width</u>           | Minimum Lot Frontage               | Maximum <u>Impervious Surface Lot Coverage</u> | Maximum <u>Density</u> (per Gross Acre) |
|--------------------------------|-------------------------|------------------------------------|------------------------------------|--|---|
| A - Agriculture                | 2.5 acres               | NA                                 | NA                                 | NA   | 1 Unit per Acre                         |
| RE – Estate Residential        | 0.5 acre                | 140'                               | 50'                                | 25%  | 1 Unit per Acre                         |
| R1 – Old Town Residential      | 2,500 sf                | 25'                                | 25'                                | 70%  | N/A                                     |
| R2 – Single-Family Residential | 6,000 sf                | 54'                                | 35'                                | 60%  | 4 DU/AC                                 |
| R3 – Mixed Residential         | 1,800 sf                | Attached SF 20'<br>Multifamily 60' | Attached SF 18'<br>Multifamily 35' | 75%  | 8 DU/AC                                 |
| R4 – Multi-Family Residential  | Attached SF 1,800 sf    | Attached SF 20'<br>Multifamily 60' | Attached SF 18'<br>Multifamily 35' | 75%  | 24 DU/AC                                |
| RMU – Residential Mixed-Use    | 12,000 sf (4)           | 100' (4)                           | 80' (4)                            | 60% (4)  | FAR 1.5<br>16 DU/AC                     |
| CMU – Commercial Mixed-Use     | NA                      | NA                                 | NA                                 | 80%  | FAR 2<br>16 DU/AC                       |
| B – Business                   | NA                      | 25                                 | NA                                 | 100%   | FAR 2                                   |
| NC -Neighborhood Commercial    | NA                      | NA                                 | NA                                 | 75%  | FAR .5                                  |
| CC – Community Commercial      | NA                      | NA                                 | NA                                 | 80%  | FAR 1                                   |
| RC – Regional Commercial       | NA                      | NA                                 | NA                                 | 70%  | FAR .5                                  |
| I – Industrial                 | NA                      | NA                                 | NA                                 | 80%  | FAR .25                                 |

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Table 5.2 Dimensional Standards – Setbacks and Height

| Zoning District                  | <a href="#">Front Yard Setback</a> | Garage Front Yard Setback | Maximum Front Yard Set-back | <a href="#">Side Yard Setback</a> | <a href="#">Rear Yard Set-back Principal Building</a> | Rear Yard Setback Accessory Structure | Height   |
|----------------------------------|------------------------------------|---------------------------|-----------------------------|-----------------------------------|---|---------------------------------------|--|
| A - Agriculture                  | 35'                                | NA                        | NA                          | 20'                               | 20'   | 20'                                   | Residence<br>35'<br>Agricultural building<br>50' |
| RE – Estate Residential          | 30'                                | NA                        | NA                          | 20'                               | 20'   | 5'                                    | 35'  |
| R1 – Old Town Residential        | 15'                                | 22'                       | NA                          | 5'0' (2)                          | 20'   | 5'                                    | 35'  |
| R2 – Single - Family Residential | 15'                                | 22'                       | NA                          | 7'                                | 20'   | 5'                                    | 35'  |
| R3 – Mixed Residential           | 15'                                | 22'                       | NA                          | 5'0' (2)                          | 15'   | 5'                                    | 35' (3)  |
| R4 – Multi-Family Residential    | 15'                                | 22'                       | NA                          | 5'0' (2)                          | 15'   | 5'                                    | 35' (3)  |
| RMU – Residential Mixed-Use      | 15' (4)                            | NA(4)                     | NA(4)                       | 10'(5)                            | 5' (5)  | 5' (5)                                | 40' (4)  |
| CMU – Commercial Mixed-Use       | 0'                                 | NA                        | 10'                         | 10' (5)                           | 5' (5)  | 5' (5)                                | 50'  |
| B – Business                     | 0' *                               | NA                        | 10'                         | 0' (5)                            | 0' (5)  | 0' (5)                                | 40'  |
| NC - Neighborhood Commercial     | 20'                                | NA                        | NA                          | 20' (5)                           | 20' (5)   | 20' (5)                               | 30'  |
| CC – Community Commercial        | 20'                                | NA                        | NA                          | 7' (5)                            | 5' (5)  | 5' (5)                                | 35'(3)   |
| RC – Regional Commercial         | 20'                                | NA                        | NA                          | 20' (5)                           | 20' (5)   | 20' (5)                               | 40'(3)   |
| I – Industrial                   | 25'                                | NA                        | NA                          | 20' (5)                           | 20' (5)   | 20' (5)                               | 50'  |

(1) If setbacks are provided, these areas shall only be used for landscaping and active pedestrian areas (e.g., plazas, outdoor dining)

(2) Attached residential units and [zero lot line](#) development are permitted.

(3) A height exception can be applied for at site plan per section [2.9.9.10](#)

(4) In the RMU District, for Single Family Detached, refer to the R-2 Dimensional Standards. For Single-Family Attached, refer to the R-3 Dimensional Standards. For Multi-Family refer to the R-4 Dimensional Standards.

(5) See Table 5.5 Buffer Yard Requirements for additional setback requirements from adjacent uses.

- 5.2.1 Additional Dimensional Standards Requirements for Standard Districts.
- 5.2.1.1 [Cornices](#), canopies, [eaves](#) or similar architectural features may extend from the building into a required setback not more than 2 feet. Open, unenclosed, uncovered decks or patios 30 inches or less above ground level may extend into a required setback not more 30% into a side yard setback, or 50% into the rear yard setback.
- 5.2.1.2 At [grade appurtenances](#) or mechanical equipment shall meet [front, side and rear yard setbacks](#). At grade patios can extend up to 4 feet into the front yard easement for a minimum 10' front yard setback.
- 5.2.1.3 Covered decks or patios, or decks and patios over 30" above ground level, shall not encroach into sideyard setbacks, or more than 25% into rear yard setbacks. Stairs attached to the structure shall be considered a functional use of the feature; therefore, they must comply with the dimensional standards and setback requirements outlined in this section. Above grade patios and decks may extend to the front yard easement line but shall not encroach said easement.
- 5.2.1.4 Air Conditioning Units and Window Wells and areas open to basement windows that are not part of the foundation design shall be placed in the rear or side yard setback. Air Conditioning Units, Window Wells, or areas open to basement windows shall only encroach 3 feet into the setback requirement. Measured to the outside edge of the construction material.

### 5.3 Yard and [Setback](#) Modifications.

- 5.3.1 Contextual Setbacks. For a non-residential Lot line [abutting](#) R zoned lot. The required minimum building setbacks along a lot line abutting an R zoned lot are stated in Table 5.2. Minimum required building setbacks must include a 10-foot deep landscaped area.
- 5.3.2 Front Yards.
- 5.3.2.1 The front yard setback requirements for dwellings shall not apply on any lot where the average setback of existing buildings located wholly or in part within 100 feet on each side of such lot within the same [block](#) and zoning district and fronting on the same side of the street is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback, but not less than the average of the setbacks of the aforementioned existing buildings.
- 5.3.2.2 Double frontage lots are not allowed on single family lots, in other non single family lots where a lot fronts on two nonintersecting streets, front yards shall be provided on both streets.
- 5.3.3 Side Yards.
- 5.3.3.1 On [corner lots](#), one side of the lot with street frontage shall meet the applicable front yard setback. This will be the shortest side unless the Town Planner determines the front yard to be on the street front that is in line with the prevailing pattern of front yards on the street in order to be consistent with the established pattern of the street. The side yard is 15' adjacent to the street frontage.

#### 5.4 Yard Measurements; [Buildable Area](#).

The required front, side and rear yards for individual lots, as set forth for the particular zoning district within which a given lot is located, shall be measured inward toward the center of the lot from all points along the respective front, side and rear [property lines](#).

Once the required yard areas of a given lot have been established, the remaining area of the lot which is not included in any required front, side or rear yard shall be known as the buildable area within which the approved structure(s) shall be placed.

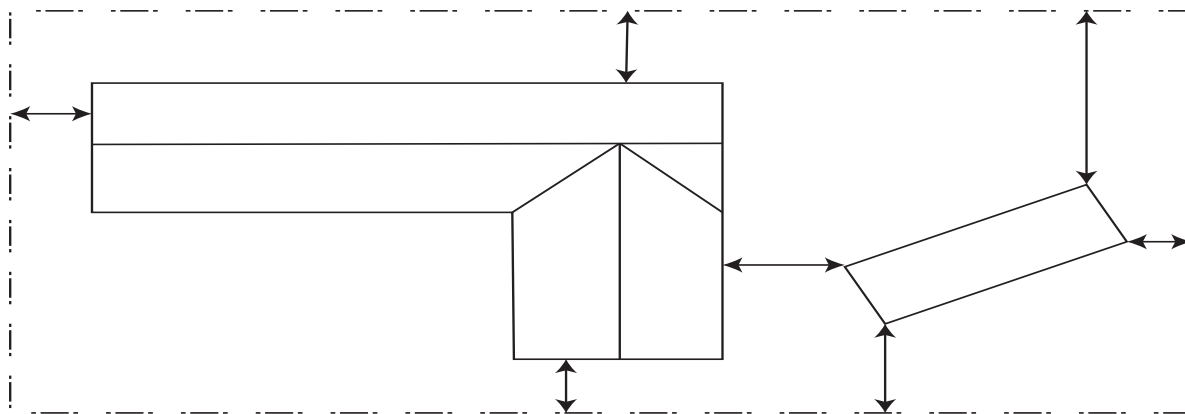
#### 5.5 Exception to Height Limitations for Certain Structures and [Appurtenances](#).

The [building height](#) limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks or towers, silos, monuments, utility poles, flag poles, masts, roof mounted mechanical equipment, or communication towers and antennas.

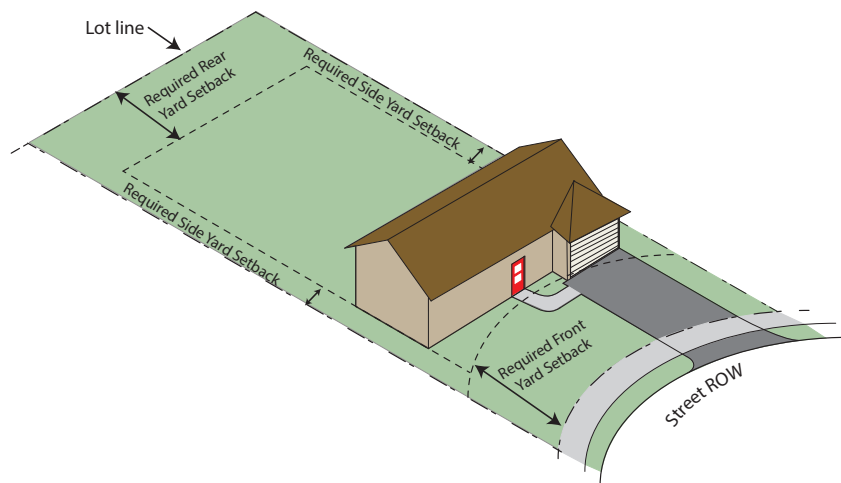
#### 5.6 How to Measure.

5.6.1 Distances. When determining distances for setbacks, uses and structure dimensions, all distances are measured along a horizontal plane from the appropriate [property line](#), edge of building, structure, storage area, parking area, or other object. These distances are not measured by following the topography of the land. Measurements are also taken along the shortest distance between two points.





Measurement is taken from the shortest distance between to points



5.6.2 Setback Measurement on [Cul-de-Sacs](#) and Curved Lots. The front setback for lots on cul-de-sacs and curved lots shall be measured parallel to the arc of the street right-of-way and inward toward the center of the lot, as illustrated in the following diagram.

[Front Setback](#) Measurement on Cul-de-Sacs Diagram

5.6.3 Measurement of Building Height. Building height shall be measured using the following procedures.

5.6.3.1 Building height is measured from the average of finished [grade](#) at the center of all walls of the building to the top of the [parapet](#) or highest roof beam (whichever is higher) on a flat or shed roof, to the top of the parapet or deck level (whichever is higher) of a mansard roof, or the average distance between the highest ridge and its [eave](#) of a [gable](#), hip, or gambrel roof.

5.6.4 Measuring Height of Signs and other Structures. The height of other structures such as signs, flagpoles and fences is the vertical distance from the ground level immediately under the structure to the top of a structure, excluding exempted portions. When chimneys and other objects are allowed to exceed the base height of the zone by a set amount, that set amount is measured to the top of these objects.

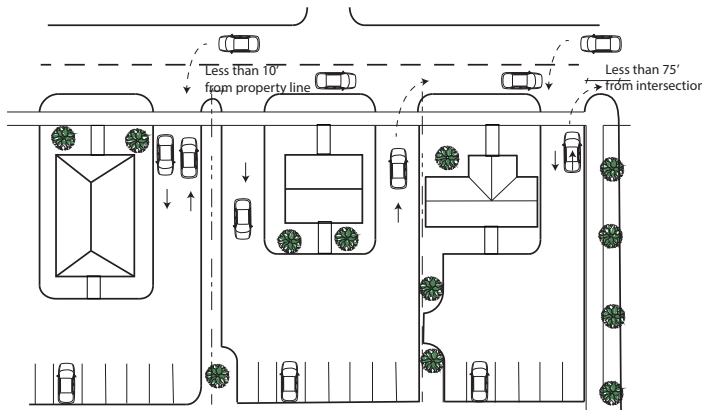
## 5.7 Standards of Design

- 5.7.1 Purpose. Supplementary development standards are required to insure that new development, renovation, and reconstruction are designed, sized, and sited to achieve functionally efficient, economically productive, and pedestrian friendly, aesthetically pleasing development which contributes to the stability, vitality and long term livability of the Town. The standards are also required to promote sound environmental stewardship, public safety, efficient delivery of public services, and transportation choice.
- 5.7.2 Applicability.
  - 5.7.2.1 The following development standards shall be applied by zoning district according to the development standards tables with the following exceptions:
    - A. Routine maintenance related to plumbing, mechanical, or electrical systems of buildings and sites.
    - B. Construction or alteration necessary for the compliance with a lawful order of the Police Department, Public Works Department, Building Code Official, or Fire District related to the immediate public health or safety.
    - C. Any interior [alterations](#), repairs, or renovation which does not change the principal use of the structure.
- 5.7.3 Relation to Planned Districts. These standards shall be the base standard for Planned Districts, unless an alternative standard is set forth in the approval of that district.
- 5.7.4 Organizational Principles and Design Standards Table. The development standards are organized in Table 5.3. The symbol “◆” means that the standard is required and compliance shall be determined by the Town Planner. If there is no symbol, the standard is not required.

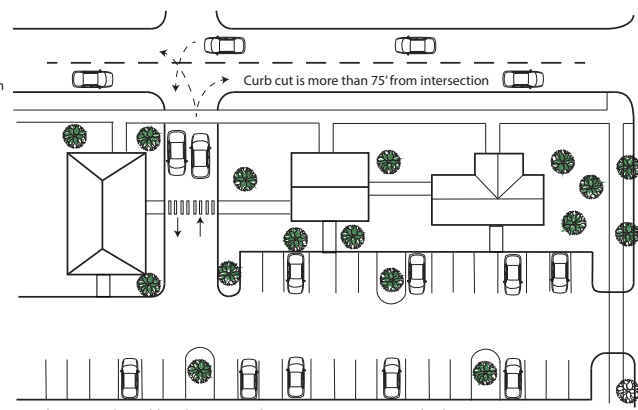
Table 5.3 Design Standards

|  | AGRICULTURAL | RESIDENTIAL |    |    |    |    | MIXED-USE |     |   | BUSINESS / COMMERCIAL |    |    | INDUSTRIAL |
|--|--------------|-------------|----|----|----|----|-----------|-----|---|-----------------------|----|----|------------|
| ◆= Required  | A            | RE          | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |
| 5.3.1 Parking and Traffic Circulation  |              |             |    |    |    |    |           |     |   |                       |    |    |            |
| 5.3.1.1 Curb Cuts  |              |             |    |    |    |    |           |     |   |                       |    |    |            |
| A. Curb cuts shall be located no closer than 75 feet from the intersection of two streets as measured from the end of the radius ( <a href="#">radius return</a> ) nearest the proposed cut. Where the width of the site is less than 75 feet, the curb cut shall be placed as far as possible from the street intersection. |              |             |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| B. Curb cuts, except where shared, shall be located a minimum of 10 feet from a parcel or lot line.  |              | ◆           |    |    | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |

|  | AGRICULTURAL | RESIDENTIAL |    |    |    |    | MIXED-USE |     |   | BUSINESS / COMMERCIAL |    |    | INDUSTRIAL |
|--|--------------|-------------|----|----|----|----|-----------|-----|---|-----------------------|----|----|------------|
| ◆ = Required   | A            | RE          | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |
| C. Curb cuts shall be located directly opposite one another or separated by a minimum of 150 fifty feet.   |              |             |    |    | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| D. Curb cuts shall be limited to one for every 300' of street frontage. Parcels with less than 300' of frontage shall be limited to one curb cut per street frontage |              |             |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |



Significant number of curb cuts creates too many vehicle turning movements. Curb cuts not aligned across street. Curb cuts are too close to the intersection, and property lines.



Curb cuts reduced by sharing parking, concentrating vehicle turning movements. Curb cuts aligned across street. Curb cuts are removed from the intersection.

5.3.1.2 Parking Lot and Driveway Entrances

|   |  |   |   |   |   |   |   |   |   |   |   |   |   |
|---|--|---|---|---|---|---|---|---|---|---|---|---|---|
| A. Entrances and exits to the site shall be so located such that parking spaces and traffic aisles do not conflict with entering and exiting traffic.   |  |   |   |   |   | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ |
| B. Residential drives for 2 car garages shall not be greater than 24 feet in width and have a minimum of 12 feet. Driveways serving 3 car garage faces shall have a maximum drive approach width of 34 feet. A circular drive which is constructed as an integral part of the overall design of the single family residence may be considered as a single driveway access if all accesses combined total no greater than 30 feet, and in no case shall one drive be less than 10 feet in width. No more than 40 percent of the street frontage of a lot shall be occupied with driveways. In cases of cul-de-sacs or pie shape lots, exceptions shall be allowed subject to staff approval. |  | ◆ | ◆ | ◆ | ◆ |   |   |   |   |   |   |   |   |
| C. One-way driveway entrances curb cuts shall be a minimum of 12 feet and a maximum 14 feet wide.   |  |   |   |   |   | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ |
| D. Two-way driveway entrances shall be a maximum of 24 feet wide.   |  |   |   |   |   |   | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ |
| E. Three-way driveway entrances shall be a maximum of 36 feet wide.   |  |   |   |   |   |   | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ |

5.3.1.3 Interior Design of Parking Lots

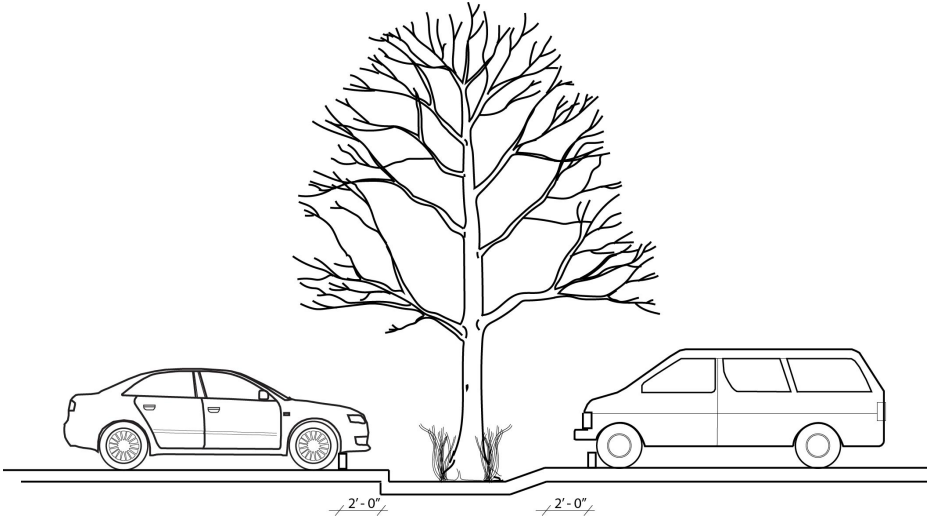
|   |  |   |   |   |   |   |   |   |   |   |   |   |   |
|---|--|---|---|---|---|---|---|---|---|---|---|---|---|
| A. Surface. All parking and driveway areas and primary access to parking facilities shall be surfaced with asphalt, concrete or similar materials Parks and Open Space Exempted |  | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ |
|---|--|---|---|---|---|---|---|---|---|---|---|---|---|



|   | AGRICULTURAL |    |    |    |    |    | MIXED-USE |     |   | BUSINESS / COMMERCIAL |    |    | INDUSTRIAL |
|---|--------------|----|----|----|----|----|-----------|-----|---|-----------------------|----|----|------------|
|   | A            | RE | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |
| ◆= Required   |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| B. Location. Parking lots in non-residential zone districts shall be located to the rear or side of buildings or in the interior of a block.  |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| C. Location. Parking areas may not be closer than 5 feet to the property line unless shared.  |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| D. Vehicular and pedestrian cross access <a href="#">walkways</a> shall be provided to all adjacent commercial properties.  |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| E. No off-street parking or loading areas may be designed to allow vehicles to back directly onto an adjacent public street. Off-street parking areas shall be 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.   |              |    |    |    | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| F. Parking spaces shall be delineated by white pavement striping unless otherwise required by ADA. Reflective striping is encouraged.   |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| G. Uses shall provide emergency vehicle access in accordance with the International Fire Code Reference fire code section.  |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| H. Fire lanes must meet the PFA requirement.  |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| I. Rear access to buildings shall comply with the adopted fire code.  |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| J. All parking areas and loading areas shall be provided with a permanent concrete curb designed to permit low impact stormwater treatment as approved by the Town Engineer. All landscaped areas that may be encroached upon by a motor vehicle shall be protected by a concrete wheel stop appropriately anchored to the pavement, and set a minimum of two feet back from the edge of pavement to restrict the destruction of landscape materials by vehicles. |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |

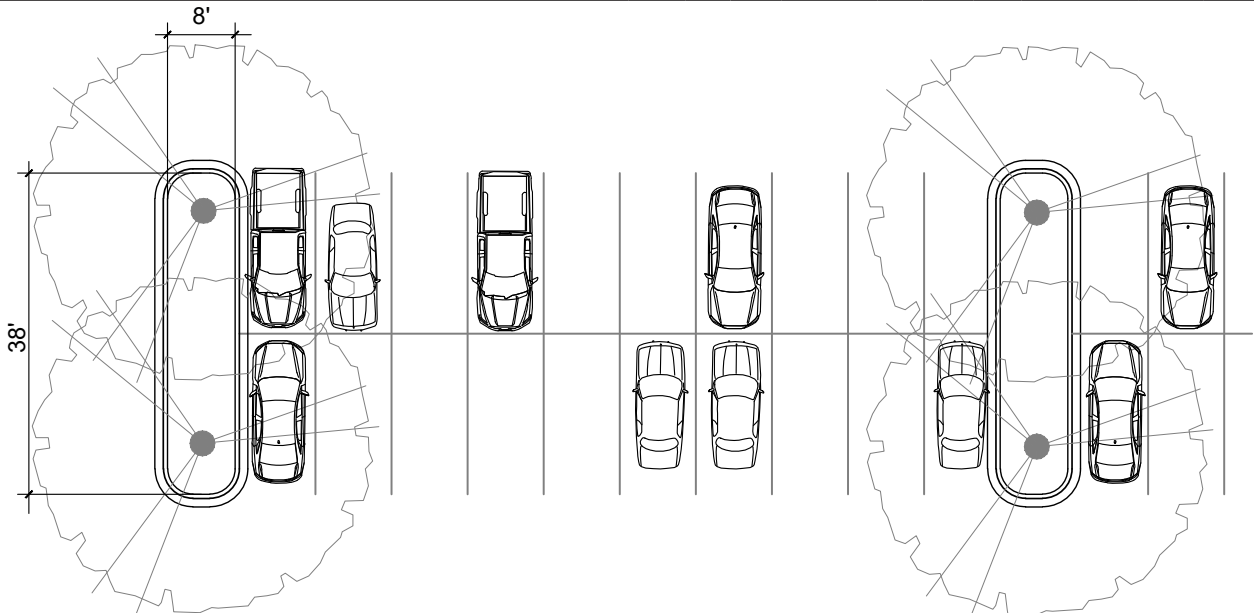
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|              | AGRICULTURAL | RESIDENTIAL |    |    |    |    | MIXED-USE |     |   | BUSINESS / COMMERCIAL |    |    | INDUSTRIAL |
| ◆ = Required | A            | RE          | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |



K. A landscaped island not less than eight feet wide and 20 feet in length, measured from back of curb, shall be installed for each 10 spaces of parking and shall cap ends of parking rows. Islands shall be landscaped in accordance with the landscape standards of this ordinance. 1 tree per every 144 sf of landscape area, no run of parking more than 10 spaces uninterrupted by an island, interior landscape area

|  |  |  |  |  |  |   |   |   |   |   |   |   |
|--|--|--|--|--|--|---|---|---|---|---|---|---|
|  |  |  |  |  |  | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ | ◆ |
|--|--|--|--|--|--|---|---|---|---|---|---|---|



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| ◆ = Required  | A            | RE | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |
| L. Loading docks, overhead doors, and truck parking shall be positioned, or completely screened in such a way as to not be visible from the public street.  |              |    |    |    |    |    | ◆         | ◆   |   | ◆                     | ◆  | ◆  | ◆          |
| 5.3.2 Pedestrian Circulation  |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| 5.3.2.1 CIRCULATION   |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| A. Sidewalks shall be provided along all public streets on the entire frontage of a development site and align with existing sidewalks on adjacent properties including both frontages on <a href="#">corner lots</a> . Minimum sidewalk width is five feet. Additional width may be required as determined on Site Development Review. |              |    | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| B. Sidewalks shall be ADA complaint. Handicapped access ramps shall be constructed at all street corners.   |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| C. Where sidewalks are not yet present on adjacent sites, sidewalks shall be constructed at least five feet behind the ultimate curb location to allow for landscaping and street trees.  |              |    | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| D. Sidewalks shall not be required to cross driveways as long as the driveway provides an ADA compliant connection between the sidewalk ends.   |              |    | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| E. Sidewalks shall be composed of broom finished, colored, or exposed aggregate concrete or brick. Asphalt sidewalks are prohibited.  |              |    | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| F. Crosswalks shall be provided to connect external pedestrian circulation systems to a site and safely convey pedestrians to the site destination.   |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| G. Crosswalks shall be striped in conformance with LCUASS Standards.  |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| H. Internal pedestrian circulation shall be provided to create interconnected <a href="#">walkways</a> safely conveying pedestrians from adjacent streets and parking areas to the site destination.  |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| I. Internal sidewalks' material may include brick, pavers, tile, stone, broom finished, washed aggregate concrete, or stamped concrete. Where the internal sidewalk crosses a like material it must be differentiated. The use of asphalt, cinderblock, and gravel is prohibited.   |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| J. Crosswalks shall be designated by white pavement striping, or other noticeable colors and patterns, or materials of a different color and texture from the surrounding surface.  |              |    | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |

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| ◆= Required   | A            | RE | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |
| <b>5.3.3 Site Lighting And Building Illumination</b>  |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| <b>5.3.3.1 Parking Lot And Exterior Lighting</b>  |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| A. Streets, driveways, parking lots, walks and service areas shall be adequately illuminated as evenly as possible, not exceeding an average of .3 foot-candles diminishing to 0.1 at a site’s boundary and to zero 10’ ten feet beyond the site’s boundary, unless immediately or directly adjacent to a residential lot then the foot-candles shall diminish to zero at the site’s boundary. Lighting intensity shall be demonstrated by means of a site lighting plan illustrating compliance. Lighting may be installed for projects utilizing shared private drives to illuminate the site and adjacent drives as a means to reduce the overall light fixture count and capitalize on shared lighting. |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| B. Site lighting shall not extend beyond site boundaries. Luminaries shall be shielded, shaded, or directed to prevent light from being cast on adjacent property.  |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| C. No exterior lighting fixture shall be placed or directed so as to interfere with the operation of vehicles.  |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| D.No exterior light shall have any blinking, flashing, or fluttering light, or other illuminating device which has a changing light intensity or brightness of color. Seasonal decorative lights of less than 5 watts are exempt.   |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| E. Lighting fixtures shall be compatible in style with the architecture of their associated buildings and shall otherwise comply with any officially adopted <a href="#">streetscape</a> plan.  |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| F. Hours of lighting operation. All parking lot lighting fixtures and exterior building lights, except those required for security purposes, shall be extinguished within 1 hour after the end of business hours and remain extinguished until 1 hour prior to the beginning of business hours. If a portion of a parking lot is used after dark, only that portion shall be lighted.   |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| <b>5.3.3.2 Luminaries</b>   |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| A. Pole mounted luminaries shall be full cut-off with shields, reflectors, or refractor panels to direct and cut-off emitted light at 90 degrees or less.   |              |    |    |    | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| B. Building mounted luminaries shall be full cut-off using shields, reflectors, or refractor panels to direct and cut-off the emitted light at a 45 degrees or less except for low intensity decorative lighting not exceeding 45 watts per bulb (incandescent equivalent).   |              |    |    |    | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |

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| ◆= Required  | A            | RE | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |
| <b>5.3.3.3 Mounting</b>  |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| A. Poles in multiple-family and commercial developments, whether mounted upon a building or independently upon a light standard, shall not exceed 20 feet in height.   |              |    |    |    | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  |    |            |
| B. Lighting fixtures within industrial developments shall not exceed 25 feet in height, except in those instances where the subject property adjoins any residentially zoned property, in which case, poles may not extend above the roof line of the industrial <a href="#">principal building</a> .                              |              |    |    |    |    |    |           |     |   |                       |    | ◆  | ◆          |
| <b>5.3.4 Building Form And Materials.</b>  |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| <b>5.3.4.1 Form</b>  |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| A. When adjoining a residential zone, structures shall be of compatible scale to adjacent single-family residential structures.<br><br>Compatibility shall be determined by comparing the consistency of existing and proposed design elements, scale, height, <a href="#">bulk</a> and landscaping. Unless separated by a buffer. |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  |    |            |
| B. Building facades shall be primarily oriented parallel to the streets they face. Main entrances shall be visible as a means of creating continuous <a href="#">streetscapes</a> .  |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| C. Multiple buildings on a site should be clustered to create plaza, green space, or pedestrian mall areas. Where this cannot be achieved buildings shall be connected by means of pedestrian <a href="#">walkways</a> accented by landscape areas.  |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| D. False or stage-set facades are prohibited. Materials and colors used on the street face shall continue to the sides and rear of the building where visible from a street right-of-way or adjacent residence.  |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| E. The maximum, unbroken facade plane shall be 50 feet. The facade plane shall be interrupted by projections, recesses, portals, courtyards, plazas, or other appropriate architectural design. Facade plane breaks shall have a minimum depth of 2'.  |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| F. No metal surfaces (except in industrial) or flat-faced cement block shall be visible upon the exterior of any building as a primary surface material.   |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| G. <a href="#">Parapet</a> facades may be used when of unified construction with the primary surface of the wall and of the same material and color. The parapet shall be designed such that the reverse side of all elements shall not be visible to public view. False mansards are prohibited.                                  |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| H. All roof top equipment must be screen from view at the property line, either by <a href="#">parapet</a> or other mechanism.   |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |

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|  | A            | RE | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |
| ◆ = Required   |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| 5.3.4.2 Materials.   |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| A. Building materials shall suit the architectural style of a building and be consistent or complementary throughout. Exterior surface materials shall be selected from among the following: brick, cementitious stucco, stone, vertical board and batten, wood or cementitious siding and approved architectural concrete masonry unit (metal siding is allowed in industrial district only). Dryvit, smooth face concrete block, or EFIS may only be used in banding, decorator strips, cornice lines and wall capping.  |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| B. Roof design shall be appropriate to the architectural style of a building. Where exposed to public view, roof material shall be selected from enameled standing seam metal, concrete or clay tiles, copper metal, or wood textured (architectural grade) or composition asphalt shingles. The use of plastic, fiberglass, other metal, or glass visible to public view is prohibited.   | ◆            | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| 5.3.4.3 Design Detail.   |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| A. Walls that can be seen from Public street shall be treated as a primary building façade.  |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| B. At least 50% of the horizontal distance of any building front shall be designed with <a href="#">arcades</a> , windows, entrances, <a href="#">awnings</a> , or similar features.   |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| C. Retail facades shall be glazed with clear glass no less than 30% of the first story. Other uses may provide the authentic appearance of such transparency.  |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| 5.3.4.4 Block Diversity.   |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| Each residential block face shall contain at least 4 residential models that have significant variation. The same residential model with the same architectural style shall not be placed adjacent to each other or directly across the street from one another (Across the street shall mean 50% or more overlap). Residential architecture along arterial streets shall be 4 sided. Corner lots shall be required to wrap architectural treatments as shown on the front elevation along the side elevation facing the street. Model and block diversity will be reviewed by the Town as part of a Block Diversity Plan Matrix and approved based upon variation in each of the following building elements:<br>A. Massing;<br>B. Porches and front entries;<br>C. Color palette;<br>D. Exterior materials (walls, trim, roof); and<br>E. Garage size, orientation and point of access |              | ◆  | ◆  | ◆  | ◆  | ◆  |           |     |   |                       |    |    |            |

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| ◆= Required   | A            | RE | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |
| 5.3.5 <u>Accessory Uses</u> And Equipment.  |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| 5.3.5.1 Fences Walls And Hedges   |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| A. Compatibility. Walls and fences shall be architecturally compatible with the style, materials, and colors of the <u>principal buildings</u> on the same lot. If used along collector or arterial streets, such features shall be 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. A fence or wall may not consist of a solid, unbroken expanse for more than 50 feet for every 75 feet of length, or portion thereof. |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| B. Fences and walls shall be constructed such that the “finished” part of the fence or wall is located toward and facing the exterior of the property.  | ◆            | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| C. Permitted Materials - Stone or brick walls with a stone or cast stone cap, treated wood fences, decorative metal, cast iron, stucco walls, and stone piers are permitted. Hedges may be used in the same manner and for the same purposes as a fence or wall, subject to fencing height requirements. Other materials may be incorporated in fences and walls as may be approved by the Town but chain link fencing is prohibited with the exception of enclosing sports courts.   |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| D. Fences and hedges used in front yard areas between the front building line and the front property line shall be at least 50 percent open. Allowable fences are split rail, wrought iron, picket, or other standard residential fences of a similar nature approved by the Town building official or designee except that chain link fencing is prohibited except where for existing fencing and its repair.  |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| E. Solid fences shall be constructed to meet the wind design criteria of the adopted Building Code using a basic wind speed of 80 miles per hour.   |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| F. Barbed wire, woven wire or electrical fencing may be used in agricultural applications only. Contemporary security fencing such as concertina or razor wire are prohibited.  | ◆            | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| G. Fences and walls within a development shall be of compatible design and materials.   |              | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |

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|  | A            | RE | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |
| ◆ = Required   |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| H. Height. <ul style="list-style-type: none"> <li>No more than 42 inches high in the front yard setback.</li> <li>No more than 6 feet high for the rear property line, or the side yard to the front building face of the building.</li> <li>No more than 24 inches high when located within the site distance triangle and fences or walls within any site distance triangle shall not be of solid materials</li> <li>Fences around a recreation court (e.g. tennis, squash racket, squash tennis or badminton) or around a publicly-owned recreation area may exceed 6 feet in height if the fence is at least 50% percent open including vinyl coated chain link fences.</li> </ul> |              |    | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| I. Maintenance. Dilapidated, unsightly or dangerous fences shall be removed or repaired when so ordered by the Town. Hedges shall be 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 so ordered by the Town. Hedges shall not encroach upon sidewalks or street rights-of-way.   | ◆            | ◆  | ◆  | ◆  | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| <b>5.3.5.2 Outside Storage And Waste.</b>  |              |    |    |    |    |    |           |     |   |                       |    |    |            |
| A. Berms, landscaping, walls and buildings, or a combination thereof, shall be used to screen outside storage areas. The use of wooden fences or chain-link fences with slats as a screening device for garbage collection areas is prohibited. Excepted for <a href="#">natural areas</a> and open spaces.  |              |    |    |    | ◆  | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| B. Trash containers, recycling containers, and waste oil and grease containers must be visually screened on all sides. Combinations of berming, landscaping, walls, fences and buildings shall be used to screen containers and enclosures.  |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| C. Wash down areas shall be tied into the sanitary sewer in accordance with Town specifications.   |              |    |    |    |    |    | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| D. Outside storage areas, when allowed, and waste containers shall be located to the side or rear of principal structures and be constructed with water wash down facilities.  |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| E. Outside storage areas, when allowed, and waste containers shall be sited to avoid conflict with vehicular and pedestrian movement.  |              |    |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| F. All activities related to non-residential material management, including deliveries and removal, and non-residential waste removal shall be conducted fully onsite and shall not involve the use of public streets for vehicle parking or maneuvering.  |              |    |    |    |    |    | ◆         | ◆   |   | ◆                     | ◆  | ◆  | ◆          |

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|   | AGRICULTURAL | RESIDENTIAL |    |    |    |    | MIXED-USE |     |   | BUSINESS / COMMERCIAL |    |    | INDUSTRIAL |
|---|--------------|-------------|----|----|----|----|-----------|-----|---|-----------------------|----|----|------------|
| ◆= Required   | A            | RE          | R1 | R2 | R3 | R4 | RMU       | CMU | B | NC                    | CC | RC | I          |
| 5.3.6 Landscaping   |              |             |    |    |    |    |           |     |   |                       |    |    |            |
| 5.3.6.1 Interior Site Landscaping   |              |             |    |    |    |    |           |     |   |                       |    |    |            |
| A. There shall be a minimum of 20 square feet of interior landscaped area provided within each parking lot for each parking space provided exclusive of landscape islands.                          |              |             |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| B. Parking lot islands shall contain a minimum of one large, deciduous shade tree per island. Parking islands directly <b>abutting</b> buildings shall substitute shrub plantings.                  |              |             |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| C. Landscaped areas shall be covered with grass or other types of live or organic ground cover. Planting and irrigation shall be established prior to issuance of <b>Certificate of Occupancy</b> . |              |             |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| 5.2.6.2 Perimeter Site Landscaping  |              |             |    |    |    |    |           |     |   |                       |    |    |            |
| A. A green space, or pedestrian area, at least six feet in width shall be provided parallel to the street.  |              |             |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |
| B. A green strip 10 feet in width shall be planted with at least one large, deciduous tree per 35 feet lineal frontage.   |              |             |    |    |    | ◆  | ◆         | ◆   | ◆ | ◆                     | ◆  | ◆  | ◆          |

5.7.5 Sidewalks, Multi-use Pathways, and Trails

5.7.5.1 Intent. The intent of the standards for sidewalks, multi-use pathways and trails is to assure a safe, convenient, and attractive pedestrian/bicycle system that minimizes conflicts between vehicles, bicycles, equestrians and pedestrians in conformance with the Parks, Recreation, and Open Space Plan.

5.7.5.2. General provisions.

- A. Interconnected network in all developments. A sidewalk network that interconnects all dwelling units with other dwelling units, non-residential uses, and common open space shall be provided throughout each development. Sidewalks shall be separate and distinct from motor vehicle circulation routes to the greatest extent possible. The pedestrian circulation system shall include gathering/sitting areas and provide benches, landscaping and other **street furniture** where appropriate.
- B. Sidewalks required. In all zone districts, except for the RE and A districts, sidewalks are required along both sides of a street. Or in the case of a commercial/**mixed-use**/multiple family complex adjacent to parking and drive aisles and connecting to building entrances and gathering spaces. Within the RE district, sidewalks are required along one side of the street unless the development is served by rural streets. Trails may be substituted for sidewalks as appropriate, at the discretion of the Town Planner.
- C. Sidewalk location. Sidewalks shall be located within the right-of-way or public access **easements**, unless otherwise authorized by the Town Planner.

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- D. Sidewalk materials. Sidewalks shall be constructed of concrete, brick, slate, colored/textured concrete pavers, concrete containing accents of brick, or some combination thereof that is compatible with the style, materials, colors, and details of the surrounding buildings. Asphalt shall not be used for sidewalks.
- E. Sidewalk installation. Sidewalks and related improvements shall be installed or constructed by the subdivider in accordance with plans and specifications approved by the Town Engineer and shall be subject to inspection and approval by the Town Engineer.
- F. Accessibility. Sidewalks and plazas shall be accessible to disabled individuals as required by this Code and the [Americans with Disabilities Act](#).
- G. [Walkways](#). Walkways through a subdivision [block](#) shall be not less than 8 feet in width, shall be within a dedicated Access Easement not less than 20 feet in width, and shall be flanked with appropriate landscaping. Walkways along buildings and within parking lots shall be raised and curbed, where suitable. A direct pedestrian connection to building entries, public space and parking areas shall be provided from public sidewalks. Walkways shall be constructed of the same materials as sidewalks; except that walkways internal to asphalt surfaced parking lots may be of asphalt construction. Walkways crossing driveways in parking lots shall be clearly delineated by change in pavement color or texture or paint striping. Walkways should be located to breakup long blocks and connect through cul de sacs.
- H. Lighting. All sidewalks and other pedestrian walkways shall have appropriate lighting, using poles and fixtures consistent with the overall design theme for the development.
- I. Multi-use pathways (Bikeways). Multi-use pathways shall be provided to link internal open space areas with peripheral open space areas and shall connect to multi-use pathway routes throughout the community. Multi-use pathway routes shall be designated between residential areas and commercial and employment centers and schools. Multi-use pathways on local streets may be delineated by painted “bicycle only” lanes. Sidewalks that may be used as a multi-use pathway are required on arterial and collector streets. All other multi-use pathways shall be a minimum of 8 feet wide and shall be of concrete construction or where approved by the Town, compressed gravel (crusher fines). Asphalt paving of multi-use pathways is only allowed through specific approval of the Town Engineer.
- J. Trails. Trails shall be provided within open space areas and be designed to connect to other open space areas and in locations as required by the Parks, Recreation, Open Space and Trails Plan. Neighborhood trails shall be a minimum of 8 feet in width and Regional/Community trails shall be a minimum of 10 feet in width. A trail may be flanked on one side, or both, by a soft surface path a minimum of 2 feet in width.

5.7.6 Parks and Open Space

- 5.7.6.1 Intent. To ensure that a comprehensive, integrated network of parks and open space is developed, preserved and maintained as the community grows in

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conformance with the Parks, Recreation, and Open Space Plan.

#### 5.7.6.2 Types of parks and open space.

- A. **Plazas.** A plaza is typically located in a commercial or industrial area to serve as a gathering place. A plaza is usually bordered by civic or private buildings. 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 and for their maintenance.
- B. **Pocket parks.** Every residential development of more than 6 dwelling units shall provide and develop one or more pocket parks in accordance with the requirements of this Chapter. A pocket park shall be at least one-half acre and include active play areas, shaded areas, and irrigated landscaping, and be maintained by a [homeowners association](#) or district. Pocket parks shall be centrally located to service all residents within the development that does not have a neighborhood park. Developments with a neighborhood park, pocket parks must generally be located at least one-quarter (1/4) mile away from a neighborhood park and be evenly distributed throughout the development to provide service to residents beyond the 1/4 mile distance from a neighborhood park.
- C. **Neighborhood parks.** Every residential development of over 300 dwelling units shall provide land for a neighborhood park and develop such park that will serve the neighborhood in accordance with the requirements set forth in this Code. Land dedicated for park purposes may be credited toward the open space land [dedication](#) required at the time of subdivision. A neighborhood park shall be centrally located as best as possible within the development to service all residents within a quarter-mile (1/4) radius and be at least six five acres, with an additional 1 acre per 100 dwelling units over 300. At least 70% of the parkland must consist of active play areas and irrigated landscaping, incorporating at least two of the following; playgrounds, multi-purpose courts, multi-purpose play fields, and shaded areas for picnics and sitting (artificial turf similar in appearance to live turf grass may be allowed in this percentage on a case-by-case basis with review and approval by the Community Development Director). The remaining 30% of the parkland can be made up of native landscaping but must incorporate active uses such as trails and seating areas. Detention areas can be included in this percentage. The amount and location of these parks shall be reviewed and determined at Sketch Plan. A neighborhood park shall be designed and provided per the approved Sketch Plan once the 300th lot has been platted to provide immediate service.
- D. **Community park.** Community parks 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 non-residential areas to minimize the impact of organized recreational activities such as lighted ball fields. The [developer](#) shall dedicate land for, or make a cash in lieu contribution for land and improvements in accordance with the



requirements of this Code. A community park shall be at least 20 acres and include an active play area, ballfields, and irrigated landscaping.

- E. The Town Council may approve a combination of neighborhood, community or pocket parks to best serve the community.
- F. Trails. A trail system shall link neighborhoods, parks, schools, open spaces, employment centers, community facilities and neighboring communities. [Developers](#) must provide trails in all areas designated on the Town Parks, Recreation, Open Space and Trails Plan Map as well as connections to any portion of the Town's trail system and other destinations within neighborhoods. [See Section 5.7.5.](#)
- G. Storm drainage facilities. Storm drainage facilities, including stormwater detention and stormwater retention ponds, may function as open space for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately. Credit toward the open space [dedication](#) requirements will be considered on a case by case basis by the Town Council at the time of platting.

#### 5.7.6.3 General provisions.

- A. Open space should serve as the neighborhood focus. Open space, such as the Town drainage ways and developed parks and plazas, shall be 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.
- B. Public access. Areas designated as public open space shall be both visibly and physically accessible to the entire community. Adequate public access shall be provided to all public open space, natural and developed, directly from the public street and trail system. Pocket parks and plazas shall be integrated into the neighborhood design and be accessible to pedestrians and bicyclists.
- C. Environmental buffering. Appropriate buffering and setbacks shall be used between environmental resources and proposed development to ensure that the proposed development does not degrade the existing habitat. [Developers](#) shall provide an open space buffer zone around all [natural areas](#) unless otherwise authorized by the Town Council. The size of the buffer zone shall be in accordance with studies prepared by the Colorado Division of Wildlife or a qualified wetland/wildlife ecologist contracted for by the Town and paid for by the developer. At a minimum the state standards..
- D. 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 as determined by the Town Planner.
- E. Ownership and maintenance of open space. Ownership and maintenance of public open space shall be determined by the Town Council on a case by case basis during the review process.
  1. Pocket parks, landscaped outlots and private recreational facilities shall be owned and maintained by a [homeowners association](#), district



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or the [landowner](#).

2. Environmentally sensitive, archaeological and historic resources may be dedicated to and maintained by the Town, if approved by the Council.
  3. Stormwater detention and retention areas that function as open space shall be owned and maintained by a homeowners’ association, district, or landowner, unless otherwise approved by the Town Council.
  4. Areas identified as environmentally sensitive open space shall be maintained according to the designated function of the area. Applicants shall work with the Natural Resources Conservation Service to develop a management plan which addresses: irrigation, revegetation, erosion control, and weed management. If the area is to remain in private ownership, a mechanism to ensure maintenance will be funded in perpetuity and must be in place at the time of final plat.
- F. Open space protection. Areas designated as open space shall be protected by conveyance to the Town as provided on the plat and by this Code, deed restriction or other appropriate methods to ensure that they remain open in perpetuity and cannot be subdivided or developed in the future without approval of the Town Council.

5.7.6.4 Open space requirements.

- A. Open space may include:
1. Areas within the community directly accessible and designated for the common use of the residents of an individual development and/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;
  4. Areas of archaeological and historic significance; and
  5. Areas of critical or important habitat as defined by the Colorado Division of Wildlife.
- B. Required 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 or preserve environmental resources, unless approved by the Council;
  3. Private yards;
  4. [Tree lawns](#); or
  5. Required parking lot landscaping associated with all uses, except parking specifically designated for access to open space areas and within commercial/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 (0.5 mile).

1. All Single-Family residential developments. For each Single-Family residential developments, the [developer](#) shall provide, construct, and install, per the subdivision improvement agreement, at the time of subdivision:
  - a. A minimum of 20% of the gross land being subdivided for use as functional open space including: pocket or neighborhood parks, plazas, trails, recreational amenities, [homeowners association](#) owned landscaped areas (excluding parking lots), natural areas and amenities for residents or other civic purposes;
  - b. For subdivisions over 300 dwelling units, Pocket parks of at least 0.5 acres for every 100 Dwelling Units or portion thereof shall be constructed in the subdivision and maintained by the Home Owners Association or special district. Pocket parks can be combined to equal no more than 1 acre as long as the level of service outlined in section 5.7.6.2.B is met;
  - c. For subdivisions with less than 300 dwelling units, pocket parks of at least 0.5 acres for every 50 dwelling units, or portion thereof, shall be constructed in the subdivision and maintained by the Home Owners Association or special district;
  - d. 6 acres or more for neighborhood parks for every 300 dwelling units or portion thereof with an additional 1 acre per 100 dwelling units over 300 shall be constructed in the subdivision within a one-quarter (1/4) mile radius of the proposed homes. Subdivisions with over 600 dwelling units may divide the required acreage of neighborhood parks evenly and shall be constructed in the subdivision to be within a 1/4 quarter mile of every home in the development.
  - e. For community parks, the fair-share, cash-in-lieu contribution for the cost of any community park for every dwelling unit which shall be constructed in the subdivision per the Town's approved fees; and
  - f. An internal trail system connecting throughout the development, and trails as designated in the Town Parks, Recreation, Open Space and Trails Plan.
2. All Single-Family Attached and Multi-Family residential developments in R-3 & R-4 zoning districts. For each Multi-Family residential development and attached Single-Family developments of 3 or more units, the developer shall provide, construct, and install, per the subdivision improvement agreement, at the time of subdivision or site planning:
  - a. A minimum of 25% of the gross land being subdivided for use as open space, with 50% of that being USABLE OPEN SPACE (see

- definition of [usable open space](#)).
  - b. Pocket parks of at least 0.5 acres for every 100 Dwelling Units or portion thereof which shall be constructed in the subdivision and maintained by the Home Owners Association or special district; see the definition of Usable Open Space for allowed uses.
  - c. An internal trail system connecting throughout the development, and trails as designed in the Town Parks, Recreation, Open Space and Trails Plan.
3. Commercial and industrial development plats. There are 3 levels of [dedication](#) required depending upon the size of the development. In association with a [site development plan](#) submittal, the [developer](#) shall provide:
- a. For regional commercial, office and industrial developments generally corresponding to the uses listed in the CC: Community Commercial and RC: Regional Commercial zoning districts:
    - 1. A minimum of 25% of the gross land being subdivided as functional open space which may include: plazas, trails, landscaped areas, [natural areas](#) and other public/civic areas; and
    - 2. Developments utilizing shared parking with adjacent users may be granted an open space requirement reduction from 25% to 20% of the gross land being subdivided as functional open space as defined in subsection a.1 above, at the Town Planner’s discretion.
  - b. For neighborhood commercial, office and industrial developments generally corresponding to the uses listed in the NC: Neighborhood Commercial, or the I: Industrial districts:
    - 1. A minimum of 20% of the gross land being subdivided as functional open space which may include: plazas, trails, landscaped areas, natural areas and other public/civic areas; and
    - 2. Developments utilizing shared parking with adjacent users may be granted an open space requirement reduction from 20% to 15% of the gross land being subdivided as functional open space as defined in subsection b.1 above, at the Town Planner’s discretion.
  - c. For downtown commercial developments generally corresponding to the uses listed in the RMU, CMU, and B districts:
    - 1. For developments where the primary use is residential, a minimum of 25% of the gross land being subdivided as open space with 50% of that being USABLE OPEN SPACE (see definition of usable open space).
    - 2. For developments where the primary use is commercial, a minimum of 20% of the gross land being subdivided as functional open space which may include: plazas, trails,

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landscaped areas, natural areas and other public/civic areas.

- i. Developments utilizing shared parking with adjacent users may be granted an open space requirement reduction from 20% to 15% of the gross land being subdivided as functional open space as defined in subsection c.2 above, at the Town Planner’s discretion.
- 3. Existing zero-lot-line developments or redevelopment proposals within the Business (B) zoning district are not required to provide dedicated open space.
- d. Open space in commercial, office and industrial developments should be used as a buffer from adjoining uses wherever possible.
- e. An internal trail system and any trails as designated on the Town Parks, Recreation, Open Space and Trails Plan.

5.7.7 Landscaping, Plant Standards and Buffers.

5.7.7.1 Landscape design

- A. General provisions. All land development applications shall be accompanied by an appropriate landscape plan. 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.
  - 1. Tree lawns. Landscape improvements in urban settings shall create an orderly, irrigated, and managed landscape. All urban neighborhoods shall have tree-lined streets. Trees in tree lawns shall include a mix of species, and shall be placed within the right-of-way tree lawn. Where right-of-way and expanded tree lawns allow, trees may be grouped into clustered plantings. Spacing of trees shall allow for their mature spread. Trees installed along streets that will be widened in the future shall be planted so that they will not be disturbed during future construction. Landscape improvements in environmentally sensitive areas and lower density rural developments shall be informal. Trees along rural streets shall be planted to create irregular clusters of trees to reinforce the design and character of each project and frame views.
  - 2. Site landscape design. Landscape improvements shall be an integral part of the overall site design for each property. Landscape improvements shall be designed to enhance the character of neighborhoods and shall follow these guidelines:
    - a. Configured to maximize connections within the site to natural areas and to landscaped areas in adjacent developments. Small, isolated islands of landscaping shall be avoided except as required in parking lots and for screening along roadways.
    - b. Consistent with the character of the proposed development and the surrounding area to reinforce neighborhood identity.
    - c. Enhance natural features, drainage ways and environmental

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- resources.
- d. Designed for mature landscapes that will provide appropriate visibility for cars and pedestrians.
  - e. Preserve and frame views both into and out of the neighborhood.
  - f. Incorporate the elements of gateway, path and destination into the design of landscapes. Gateways are entries that provide transitions from one space to another. Pathways are routes that lead to a destination. Destinations are focal points that can include anything from a garden bench at the end of a path to a civic building at the end of a street.
  - g. No more than 24 inches high when located within a [sight distance triangle](#).
  - h. No trees may be placed within 30 feet of a regulatory traffic sign.
3. Environmental considerations.
- a. Landscapes shall use the following industry best management practices Xeriscape™ design principles to facilitate water conservation:
    - 1) Plan and Design. A thoughtful design that plans how people use and interact with the landscape. Landscape materials should be organized and grouped by their water and light requirements.
    - 2) Appropriate Use of Turf. Limit high water-use turf or high-traffic areas where it is the most functional.
    - 3) Efficient Irrigation. Select, design, operate, and maintain an efficient irrigation system tailored to the watering requirements of selected plant materials. Water deeply with appropriate soak cycles to develop greater drought tolerance.
    - 4) Soil Improvements. Amend the soil appropriately to support the chosen plant material.
    - 5) Mulches. Maintain a minimum depth of three inches in planting beds to conserve soil moisture and control weeds.
    - 6) Appropriate Plant Selection. Selected plants must be well-adapted to the Northern Colorado climate and site conditions.
    - 7) Maintenance. Provide regular upkeep of planting beds, including but not limited to weeding, pruning, mowing, deadheading, replacing dead plant material, and maintaining mulch surfaces.
  - b. All landscapes shall strive to maximize the use of native species. Where native material is not appropriate for the intended use or appearance, plant species that are regionally adapted and noninvasive may be used.
  - c. Landscapes shall consist of a variety of species to enhance biodiversity. No one species may make up more than 35% of the total non-grass plant materials on the site.
  - d. Minimum Tree Species Diversity - To help prevent insect or disease, susceptibility and eventual uniform loss of trees on a development site or in the adjacent area, species diversity is required. Extensive tree monocultures are prohibited. No more

than twelve (12) trees shall be used consecutively, and frequent alternation of different species is necessary. Existing trees may be included when determining species diversity. The following minimum requirements shall apply to any development plan (the following table shall be included on final landscape plan):

| Number of Trees on Site | Maximum Percentage of any one Species |
|-------------------------|---------------------------------------|
| 10-19                   | 50%                                   |
| 20-39                   | 33%                                   |
| 40-59                   | 25%                                   |
| 60 or more              | 15%                                   |

- e. Lots, buildings and parking areas shall be located to preserve and promote the health of existing trees, environmental resources and natural drainage ways. This requirement is not intended to prevent the removal of unhealthy trees in conjunction with site development.
  - f. A combination of plantings, berms, walls and fences shall be used as appropriate to buffer sensitive habitat from developed areas.
  - g. Weed control shall be practiced on all areas disturbed by construction and those areas shall be reseeded to prevent erosion. Native, noninvasive grasses shall be used for re-vegetation where practical. Weed control is the responsibility of the [landowner](#) on all reseeded areas and all preservation areas. Weed control shall be a continual responsibility of the owner during all phases of land clearing and construction. Every effort shall be made to prevent the spread of [noxious weeds](#).
  - h. All automatic irrigation systems must be installed with moisture sensors
4. New buildings and paved areas.
- a. Anchor structures in the landscape through the use of trees, shrubs and ground cover. The size and intensity of plantings shall be appropriate to the size and context of the improvements.
  - b. Integrate adjacent land uses of different intensities through a combination of berming, plantings and fencing. Use opaque screening only when necessary to mitigate the impact of noise, light, unattractive aesthetics and traffic. A fence shall not be the only screening material used.
  - c. Use landscaping to provide a transition from developed, managed landscape to more natural vegetation.
  - d. Landscaping in the front yard setbacks of residential properties must be installed within one year of issuance of [certificate of occupancy](#).

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- e. Provide a tree canopy by installing shade trees within and adjacent to paved areas.
- f. Landscaped areas in commercial parking lots are limited to drip irrigation for trees and shrubs and no impact or spray heads shall be permitted. For grass areas, only drought tolerant grasses shall be permitted.

5.7.7.2 The standards listed in Table 5.4 shall apply to all planting required as a part of this Code.

Table 5.4 Plant Standards, Installation and Maintenance

|             |  |   |
|-------------|--|---|
| Plants      | General  | 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. A variety of plant species should be installed to help prevent the spread of disease.   |
|             | Trees  | At Initial Planting: "Large" deciduous trees shall be three to three and one-half inches in <u>caliper</u> . "Medium" and "small" deciduous trees shall be two to two and one-half inches in caliper at planting. "Small, or ornamental trees shall be 1 ½ inch caliper. All evergreen trees shall be a minimum of six feet in height at planting. Caliper shall be measured six inches above ground level at the time of planting. |
|             | Shrubs   | At Initial Planting: shrubs shall be in five-gallon pots.   |
|             | Ground Cover   | Ground covers used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within 12 months after planting.   |
|             | Grass  | Grass areas shall be planted and grown as permanent. Grass may be sodded, plugged, sprigged, or seeded. Native grasses are encouraged.  |
| Irrigation  | <p>All required landscaping shall be irrigated as required for plant establishment and maintenance. Irrigation shall be appropriate to the type and scope of the improvements.</p> <ul style="list-style-type: none"> <li>a. Use of non-treated water for irrigation is encouraged if a permanent, suitable supply is available.</li> <li>b. Required landscaping in all developments (except for single-family residential properties) shall be irrigated with a permanent irrigation system which contains moisture sensors.</li> <li>c. All irrigation systems shall be designed to minimize overspray and runoff onto paved or other non-landscaped areas.</li> </ul>  |   |
| Maintenance | <p>The trees, shrubs, and other landscaping materials located within required planting areas shall be considered binding elements of the project in the same manner as parking, building, materials, and other details. The applicant, his successors, assigns, and/or subsequent owners and their agents shall be responsible for the continued maintenance of all landscaping materials. All landscaping shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as originally approved. Plant material which exhibits evidence of insects, disease, and/or damage shall be appropriately treated. Dead plants shall be removed and replaced within 60 days following notification by the Town.</p> |   |

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|                                    |   |
|------------------------------------|---|
| Credit for Existing Plant Material | If the owner can demonstrate that healthy plant material exists on a site prior to its development for the purposes of buffer strips and green spaces, the application of the above landscape standards may be adjusted by the Town Planner to allow credit for such plant material if such an adjustment is in keeping with and will preserve the intent of this Code. |
| Quality                            | All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the current edition of the American Standard for Nursery Stock, American Association of Nurserymen, Inc., (AANASNS) and the Colorado Nursery Act of 1965 (CNA).   |
| Adjacent ROW                       | Property Owners are required to install, irrigate and maintain the Right Of Way adjacent to their property.   |

5.7.7.3 Table of buffer yard requirements.

- A. Intent. To integrate adjacent land uses and provide seamless transitions from one use to another through the use of building orientation and screening, access, landscaping, appropriate architectural elements, and open areas.
- B. General provisions.
  - 1. Special consideration shall be given to adjacent land uses of different intensities. It shall be the responsibility of the [developer](#) of the new use to insure that the transition from one use to another is attractive, functional and minimizes conflict between the current and planned uses.
  - 2. It is the responsibility of the developer of the higher intensity use to demonstrate that the uses will be compatible. This can be accomplished through the effective use of shared access and parking, appropriate building orientation and setbacks, landscaping, architectural treatment, buffer areas, and limited use of fencing and screening walls. Special consideration shall be given to the impact of aesthetics, noise, lighting and traffic.
  - 3. Buffering of up to 100 feet of non-buildable area may be required between any development and adjacent natural or [environmentally sensitive areas](#) or different uses. The actual amount of any buffer area will be determined on a case by case basis and approved by Town Council.
  - 4. Under no circumstances shall a fence be the only screening material used as a buffer between land uses.
  - 5. Buffer screening standards:
    - a. Screen walls shall vary in height from 32 to 72 inches and shall be offset or staggered by at least 24 inches at intervals of no more than 50 feet.
    - b. The screening device shall vary in height from 12 to 18 inches when display of automobiles, trucks, recreational vehicles, [manufactured homes](#), boats, motorcycles, and utility trailers for sale is adjacent to public streets.

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- c. Screen walls shall be composed of brick, stone, stucco, or other quality durable material that complements the theme of the project.
  - d. Berms shall be contoured and covered with a combination of vegetative and inert ground cover.
  - e. Screen wall and/or berm height shall be measured from the finished grade of the parking lot.
  - f. When using a screen wall there shall be a landscaped setback of at least 5 feet between the screen wall and the edge of the buffer.
- C. Location and screening of surface parking and driveways
- 1. In order to reduce potential visual glare of headlights and reduce the visual clutter of parking fields with screening that is integral to the site and landscaping theme.
  - 2. Parking areas and drive aisles shall be screened from any street with planting, masonry wall, berm or combination of walls/berms and densely planted.
  - 3. Parking lots adjacent to a residential use shall be continuously screened by a 6-foot high wall/fence.
- 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, buffering and landscaping shall be incorporated to prevent direct views of the loading areas and their driveways from adjacent properties or from the public right-of way. Screening and landscaping shall also prevent spill-over glare, noise, or exhaust fumes. Screening and buffering shall be achieved through walls, architectural features, and landscaping; and shall be opaque. Recesses in the building or depressed access ramps may be used.
- E. Dumpsters.
- 1. Every development using one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:
    - a. Located to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way; and
    - b. Constructed to allow for collection without damage to the development or the collection vehicle.
    - c. Provide an area for recycling as well as for the disposal of solid waste.
  - 2. All dumpsters shall be screened to minimize visibility from:
    - a. Persons located within any dwelling unit on residential property other than that where the dumpster is located

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- b. Occupants, customers, or other invitees located within any building on nonresidential property other than that where the dumpster is located; and
- c. Persons traveling on any public street, sidewalk or other public way.

F. Buffers

1. General Buffer Notes:

- a. All landscaped areas to be covered with live or organic ground cover.
- b. All evergreens, used in buffers, to be placed in planting beds and irrigated with drip irrigation only. No overhead irrigation may be used in conjunction with evergreen trees.
- c. Tree placements shall be appropriate to the landscape and buffer use and or function appropriate for the designed area.

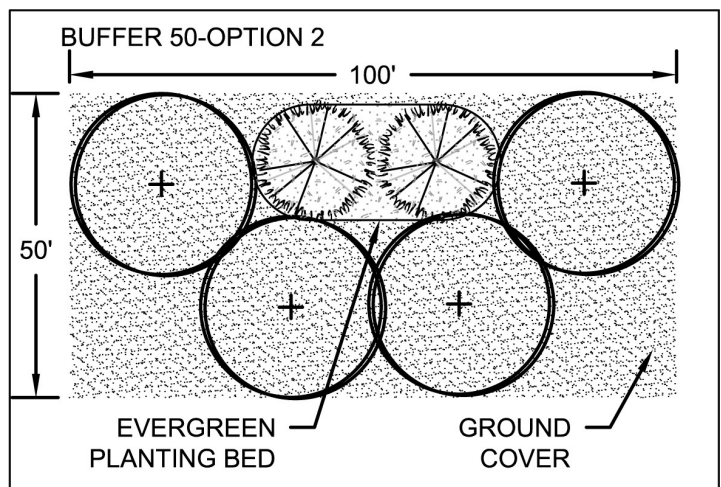
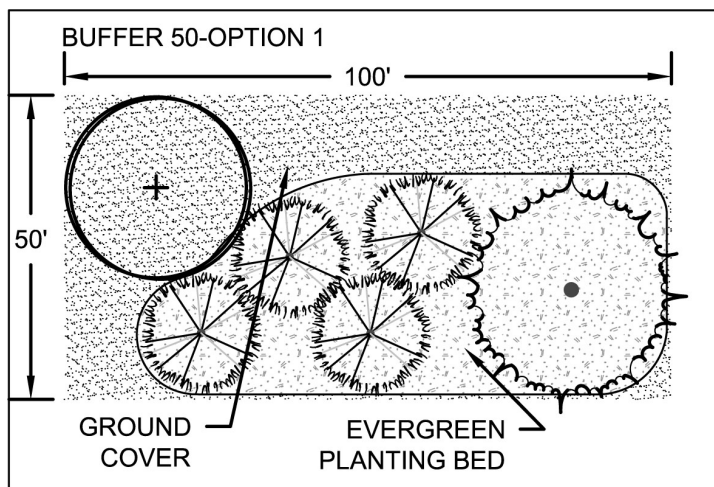
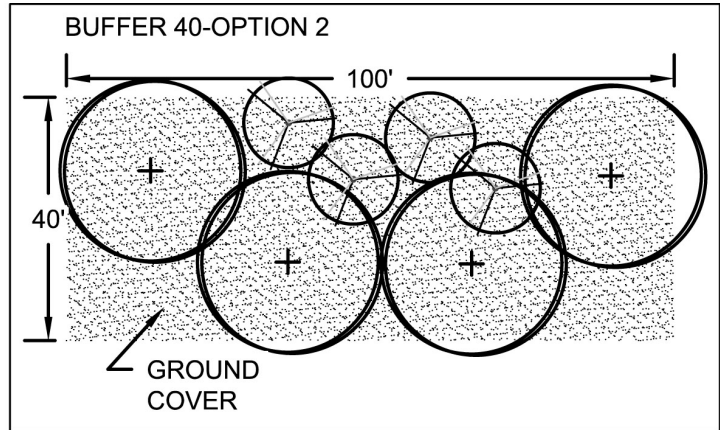
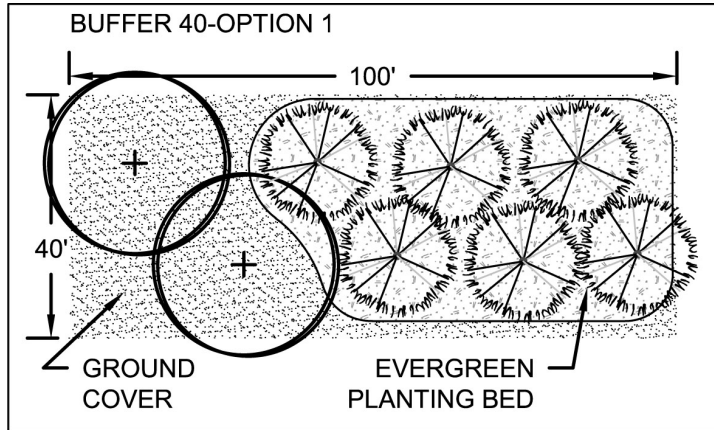
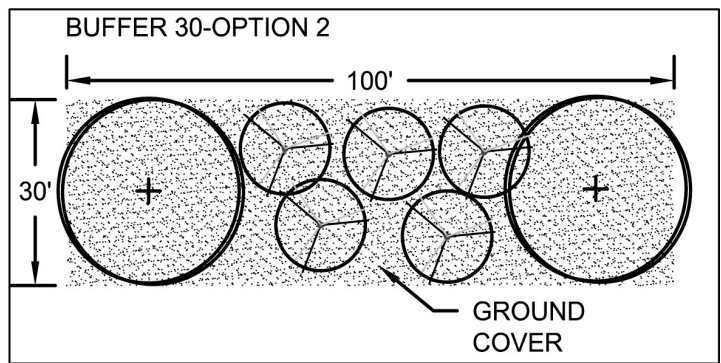
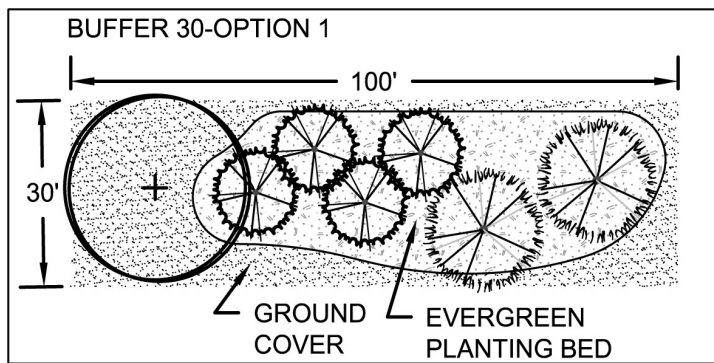
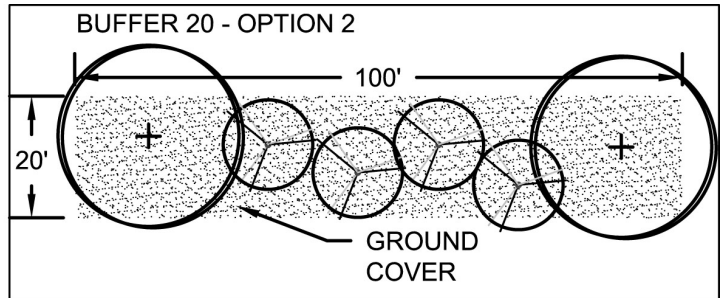
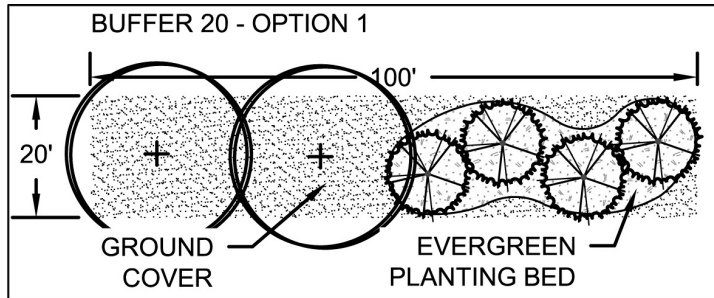
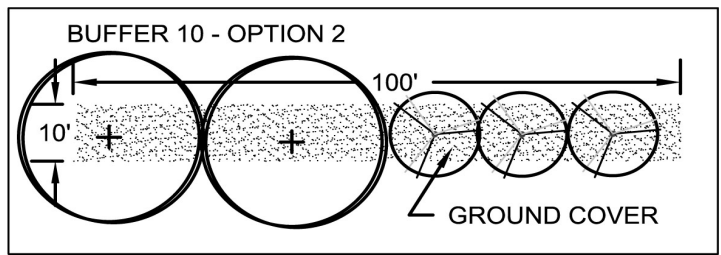
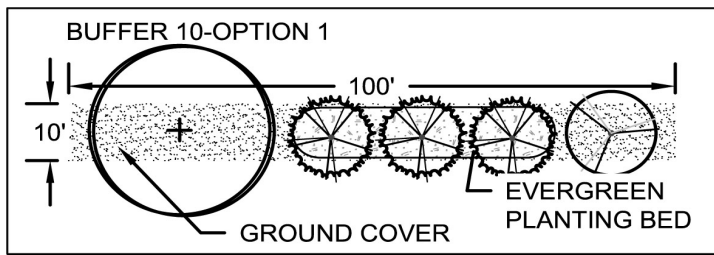
2. Buffer Descriptions:

- a. Buffer yard 10 shall consist of a landscaped area a minimum of 10 feet in width x 100 lineal feet of buffer yard as a landscape barrier with (2) possible tree schedules:
- b. Buffer yard 20 shall consist of a landscaped area a minimum of 20 feet in width x 100 lineal feet of buffer yard as a landscape barrier with (2) possible tree schedules:
- c. Buffer yard 30 shall consist of a landscaped area a minimum of 30 feet in width x 100 lineal feet of buffer yard as a landscape barrier with (2) possible tree schedules:
- d. Buffer yard 40 shall consist of a landscaped area a minimum of 40 feet in width x 100 lineal feet of buffer yard as a landscape barrier with (2) possible tree schedules:
- e. Buffer yard 50 shall consist of a landscaped area a minimum of 50 feet in width x 100 lineal feet of buffer yard as a landscape barrier with (2) possible tree schedules:
- f. Buffer yard 60 shall consist of a landscaped area a minimum of 60 feet in width x 100 lineal feet of buffer yard as a landscape barrier with (2) possible tree schedules:

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Buffer Yard Tree Schedules



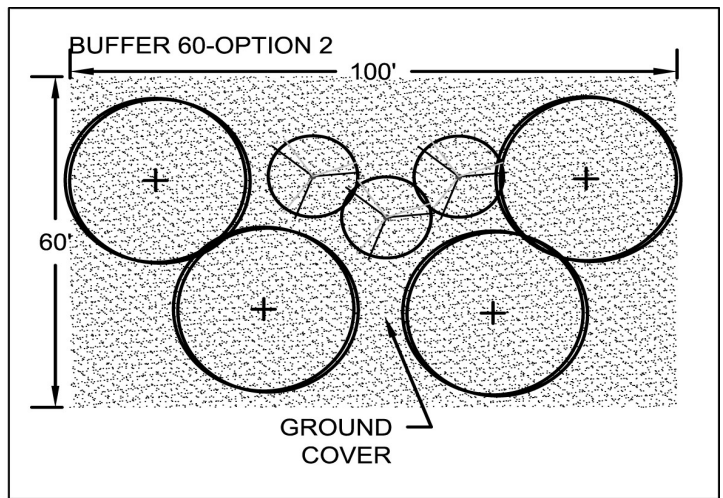
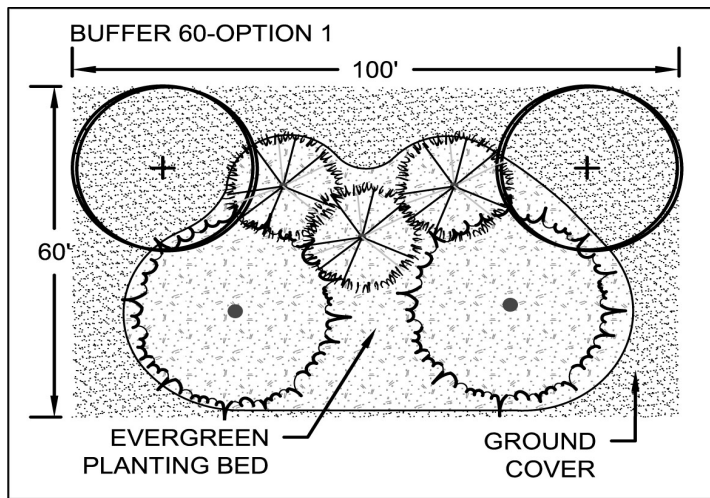


Table 5.5 Buffer Yard Requirements

|                 |        | Existing Zoning (1) |        |        |        |        |        |        |        |        |        |        |        |        |        |
|-----------------|--------|---------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Proposed Zoning | Zones  | A                   | RE     | R1     | R2     | R3     | R4     | RMU    | CMU    | B      | NC     | CC     | RC     | I      |        |
|                 | A      | NR                  | NR (2) | NR (2) | NR (2) | NR (2) | NR (2) | NR (2) | NR (2) | NR (2) | NR (2) | NR (2) | NR (2) | NR (2) | NR (2) |
|                 | RE     | 10 (3)              | NR     | NR     | NR     | NR     | 10 (3) | 10 (3) | 10 (3) | 10 (3) | 10 (3) | 10 (3) | 10 (3) | 10 (3) |        |
|                 | R1     | 10                  | NR     | NR     | NR     | NR     | 10     | 10     | 10     | 10 (4) | 10     | 10     | 10     | 10     |        |
|                 | R2     | 10                  | NR     | NR     | NR     | NR     | 10     | 10     | 10     | 10     | 10     | 10     | 10     | 10     |        |
|                 | R3     | 10                  | NR     | NR     | NR     | NR     | 10     | 10     | 10     | 10     | 10     | 10     | 10     | 10     |        |
|                 | R4     | 10                  | 20     | 20     | 20     | 10     | NR     | 10     | 10     | 10     | 10     | 10     | 10     | 10     |        |
|                 | RMU    | 20                  | 20     | 20     | 20     | 10     | 10     | NR     | 10     | 10     | 10     | 10     | 10     | 10     |        |
|                 | CMU    | 20                  | 20     | 20     | 20     | 10     | 10     | 10     | NR     | 10     | 10     | 10     | 10     | 10     |        |
|                 | B      | 20                  | NR     | NR     | 10     | NR     | NR     | NR     | NR     | NR     | NR     | NR     | NR     | NR     |        |
|                 | NC     | 20                  | 20     | 20     | 20     | 10     | 10     | 10     | 10     | NR     | NR     | NR     | NR     | 10     |        |
|                 | CC     | 40                  | 40     | 40     | 40     | 40     | 40     | 30     | 20     | 30     | 20     | NR     | NR     | 10     |        |
|                 | RC     | 50                  | 50     | 50     | 50     | 40     | 40     | 40     | 30     | 40     | 20     | 20     | NR     | 10     |        |
| I               | 60 (5) | 60 (5)              | 60 (5) | 60 (5) | 60 (5) | 60 (5) | 60 (5) | 60     | 60 (5) | 60     | 60     | 50     | NR     |        |        |

NR=Not Required

- (1) Development proposals adjacent to a property within Larimer or Weld County should provide a buffer yard based on the existing USE of the County property.
- (2) Buffering requirements for Agricultural uses that propose higher intensity than farming shall be subject to the discretion of the Town Planner and shall be relative to uses of similar types within the table above.
- (3) Buffer may be located within the rear yard of the lot.
- (4) Existing R1 zoning abutting B zoning does not require buffer yard. Proposed R1 zoning abutting B zoning requires buffer yard for new plats.
- (5) Buffer yard Option 1 is required to increase screening to uses of lower intensity.



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5.7.8 Landscape Design Standards

5.7.8.1 Landscaping within the Right of Way and required common open space.

- A. Tree lawns – an average of at least 1 deciduous or shade tree for every 40 linear feet of block frontage or portion thereof. Trees shall be planted within the tree lawn with adequate spacing to allow for the mature spread of the trees. Within zones R-E, and A, street trees shall be planted in irregular clusters within front yard setbacks. At Town discretion, groupings of trees may be allowed in other districts as appropriate (See section 5.7.8.1 F. below).
- B. Collector and local streets – shall have a minimum of 75% live groundcover including a combination of turf grass, trees, flowers, ornamental grasses, or shrubs. In commercial areas this area may be paved if it functions as pedestrian access to storefronts and is integrated into the overall design of the other improvements on the site. Artificial turf similar in appearance to live turf grass may be allowed on a case-by-case basis with review and approval by the Community Development Director (See section 5.7.8.1 F. below).
- C. Arterial streets – live groundcover as appropriate to the use and function of the area, including a combination of grass, trees, flowers, paving and 1 shrub for every 150 square feet of landscape area clustered into planting beds. Developer shall also install an automatic irrigation system for all landscaping within rights- of-way.
- D. Landscaping for required common open space –including pocket parks, neighborhood parks and trails. Landscaping shall be appropriate to the use and function of the area and include trees, shrubs, groundcover, irrigation (where necessary) and paving. Bluegrass may be used in active high traffic areas.
- E. A mechanism for long-term maintenance of common open space and arterial and collector street right-of-way landscaping must be created.
- F. Right-of-Way Landscaping Amendment. Amendments to Right-of-Way landscaping from any approved development plan must be submitted to the Town for review and thereby may be approved, approved with conditions, or denied administratively by the Community Development Director. A public hearing is not required for a Right-of-Way landscaping amendment. Such amendments may be authorized by the Director as long as the development plan continues to comply with the intent of this Code.

5.7.8.2 Business/commercial and industrial development landscaping standards

- A. Landscape improvements shall be designed to enhance the overall appearance of the development and to integrate the project with adjacent land uses and into the surrounding neighborhood. See Section 5.7.6.4.C.2 for the amount of landscaped areas required per type of development.
- B. Guarantee of installation. Required landscape improvements shall be installed prior to issuance of a Certificate of Occupancy (C.O.) for all structures. If weather conditions prevent installation, the developer shall

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post a financial guarantee for the improvements. This guarantee shall be released upon completion of the installation of the landscaping.

C. The developer or assigns shall provide:

1. Site trees – plant a minimum of 1 tree per 1,000 square feet of landscaped area along roadways, alleys and within parking areas. In open space areas, the tree canopy shall provide shade for 25% of the gross open space area at maturity.
2. Shrubs – plant a minimum of 1 shrub per 150 square feet of landscaped area. Group shrubs and distribute throughout the site. Trees may be substituted for up to ½ of the required shrubs at the rate of 1 tree for 6 shrubs.
3. Groundcover – establish irrigated grass turf maintained to appropriate standards for active recreation in areas that will function for active recreation. Where appropriate, use native grass for areas that will not function as active recreation areas. Native grass must be weed free and maintained at a maximum height of 8 inches except for ornamental grasses as appropriate. There shall be a minimum of 75% live material between the building and the street unless approved by the Town. For active recreation areas a turf type tall fescue or a brome/fescue mix will be used.
4. Landscape setback to parking lots – 30 feet from arterials or 25 feet from other streets. This setback may be reduced to 15 feet if used in combination with a three to four foot masonry or stone decorative wall. Signage may be included in this setback.
5. Screen loading areas – screen loading areas (including vehicle being loaded), service and storage areas visible from the public right-of-way or adjacent property with an opaque screen that is an integral part of the building architecture or by landscaping. Chain link fencing with slats, tires, or used building materials are unacceptable screening materials.

5.7.8.3 Downtown landscaping standards

Downtown landscaping is intended to provide an attractive environment for people to walk, relax and shop.

- A. The developer or assigns shall provide streetscape improvements – a combination of window boxes, planters, trees, benches, artwork and other public amenities as appropriate to enhance building entries and the overall downtown streetscape.

5.7.8.4 Parking lot landscaping standards

Parking lot landscaping is intended 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. All parking lots with 10 spaces or more shall be subject to these requirements. The developer or assigns shall provide:

- A. Site trees – a minimum of 1 tree per 10 parking spaces. Group trees

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together in islands which are a minimum of 8 feet wide. Use the landscaping to break up large expanses of pavement and to create a tree canopy for summer shade.

- B. Shrubs – a minimum of 1 shrub per 144 square feet of landscaped area. Group plantings in landscape islands.
- C. Groundcover – limit areas of irrigated turf. Grass is discouraged in areas less than 10 feet wide. Install a grass buffer (native grass where possible) around the perimeter to filter runoff and improve water quality.
- D. Landscape setback to parking lots – 30 feet from arterials or 25 feet from other streets. The purpose of the setback is to provide a buffer between the street and parking areas and to screen the parking from the street. This setback may be reduced to 15 feet if used in combination with a three to four foot articulated masonry or stone decorative wall with trees and shrubs on both the street and parking lot sides of the wall to soften its appearance. Signage may be included in this setback.
- E. Provide a mechanism for long-term maintenance of landscaping – all landscaping within and adjacent to parking lots shall be owned and maintained by the landowner or occupant.

5.7.8.5 Easements shall be designed so as to provide efficient installation of utilities. Public utility installations shall be located as to permit multiple installations within the easements. All existing and proposed overhead utilities within the property or in road ROW adjacent to property, including but not limited to electric or telecommunication lines and cables shall be relocated underground at the time of development or redevelopment at the expense of the developer/property owner. Transformers, switching boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities shall be placed underground or on the surface but not on utility poles. Screening or fencing of above ground utilities is required to the satisfaction of the Council. Electric transmission and distribution feeder lines and necessary appurtenances thereto may not be placed above ground unless they are carrying greater than 115 kV. It is at the discretion of the Town Engineer to determine if the undergrounding of said utilities is viable on the property or road ROW

**5.8 Parking Requirements.**

Off-street automobile parking or storage space shall be provided on every lot unless otherwise stated herein. All parking shall meet all of the requirements of this Section as well as design standards set forth in 5.3.1 and 5.3.2. Development plan review may permit the phased construction of required parking spaces or a higher or lesser number of required spaces according to the standards set forth below.

**5.8.1 General Requirements.**

5.8.1.1 Permanent off-street parking for all structures and uses of land, except parking for single-family residences, shall conform to the minimum requirements for parking as listed in the use table. These standards, to be used as a guide to the Town Planner, are based on parking standards for general land use categories.



- 5.8.8 Applicant Submitted Parking Data The Town Planner may accept up to 10% greater or fewer parking spaces than required in the Parking Space Table (or a specific number of spaces for a use not listed) based upon a [phased](#) development plan or applicant-submitted parking data such as a shared parking analysis using the Urban Land Institute’s “Shared Parking” publication or appropriate standards from The Institute of Transportation Engineers (ITE) or other credible sources.
  - 5.8.8.1 Parking Waiver. The Town Planner may authorize up to a 25% reduction in the total number of parking spaces required when parking requirements cause the potential [demolition](#) of a [historic structure](#) or damage of significant tree stands. The Town Planner may issue such waiver at the request of the applicant after determining that the reduction will not unreasonably increase parking congestion. The applicant shall not disturb the structure or trees for which the waiver is granted.
  - 5.8.8.2 Paving When Maximum Exceeded. Parking that exceeds maximums by five spaces or more must be paved with pervious pavers or pavement. Sites that require pervious spaces shall have a minimum run of 10 or more permeable parking stalls.
  - 5.8.8.3 Shared Parking. Any off-site parking to be used shall require the recording of a perpetual easement prior to occupancy with the Larimer County Clerk and Recorder, the form and substance of which must be approved by the Town Planner.
- 5.8.9 Number of Spaces Required. The following table lists the procedures for calculating parking requirements. Some uses and use groups are too variable to preset a parking standard calculation. Such are noted “by administrative review.” In these cases, the Town Planner shall determine the number of parking spaces required after consultation with the applicant, reviewing preliminary site designs, consulting publications such as ITE’s “Parking Generation” publication, and observing parking demand in Timnath for similar uses. GFA as used in the table means “gross [floor area](#)” as defined by ASHRAE and included in the definitions section of this ordinance.
- 5.8.10 For multi-tenant buildings, the overall parking count may be reduced by up to 20%. Reduction will only be allowed at Staff’s discretion with adequate information to justify the reduction in the form of a parking memo and/or other exhibits required by staff.

5.6 Table of Parking Requirements.

| Use  | Minimum Spaces Required  |
|--|--------------------------|
| Residential Uses:                                      |                          |
| Accessory buildings and <a href="#">accessory uses</a> | By Administrative Review |
| <a href="#">Accessory dwelling</a>                     | 1 per DU                 |
| Assisted Living Facilities                             | 1 per 1,000 sf           |
| <a href="#">Group home</a>                             | 1 per 8 beds             |
| Multiple-family dwellings:                             |                          |
| 1 Bedroom Units  | 1.5 per DU               |





| Use   | Minimum Spaces Required                                     |
|---|---|
| 2 Bedroom Units   | 1.7 per DU  |
| 3 Bedroom Units and above   | 2 per DU  |
| Rehabilitation Centers, Palliative Care and Hospice Care  | 1.5 per 1,000 sf  |
| <u>Senior housing</u>   | .6 per DU   |
| Single-family detached dwellings  | 2 per DU  |
| Two-family dwellings  | 2 per DU  |
| <u>Manufactured Homes</u>   | 2 per DU  |
| <u>Mixed-use</u> dwelling units - Residential per the above, non residential per the uses indicated below |   |
| Institutional/Civic/Public Uses:  |   |
| Cemeteries  | 1 per 400 sf of Office                                      |
| Community facilities  | 1 per 150sf   |
| Golf courses  | 4 per hole  |
| Parks and open space  | Per Development Plan  |
| Public and private schools for elementary, intermediate and high school education:                        |   |
| Elementary and intermediate schools   | 1 per employee  |
| High Schools  | 40 per 100 students   |
| Junior/Community College  | 4 per 1,000 sf  |
| Library   | 2.5 per 1,000 sf  |
| Middle School / Jr High School  | 15 per 100 students   |
| Places of worship and assembly  | 1 per 4 seats   |
| Public and private colleges, vocational training and technical training                                   | .23 spaces per total enrollment + Faculty                   |
| <u>Public facilities:</u>   |   |
| Rehabilitation Centers, Nursing Care, Assisted Living, Congregate Care, Palliative Care, and Hospice Care | 1.5 per 1000 and 1 per 8 beds                               |
| School District Office  | 2.5 per 1,000 sf  |
| Transit facilities without repair or storage  | Subject to Staff Approval                                   |
| Business/Commercial/Retail Uses:  |   |
| <u>Adult establishments</u>   | 1/200 sf  |
| <u>Fairgrounds and stadiums</u> , public or private   | 1/4 seats   |
| Artisan and photography studios and galleries   | 1/250 sf  |
| Automobile Parts Sales  | 2/1,000 sf  |
| Auto, recreational vehicle, boat and truck sales  | 1/600 sf for bld + 1/2000 sf of outdoor storage and display |
| Auto, recreational vehicle, boat and truck storage  | 1/600 sf for bld + 1/2000 sf of outdoor storage and display |
| <u>Bars, taverns</u> and nightclubs   | 1/100 sf  |
| Bed and breakfast inns  | 1 per room  |
| Boarding and rooming houses   | 1 per room  |
| Bowling Alley   | 4.5 per lane  |
| Car wash  | Per development plan  |

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| Use   | Minimum Spaces Required  |
|---|--|
| <a href="#">Care homes</a>  | 1 per 8 beds   |
| <a href="#">Care centers</a>  | 1 per 8 beds   |
| <a href="#">Clubs and lodges</a>  | 1 per 100 sf of office and 1/400 sf of remaining building              |
| <a href="#">Convenience shopping and retail establishments</a>                          | 1/300 sf   |
| Copy, Print, and Express Ship Store   | 1/400 sf   |
| Dental Office   | 4/1,000 sf   |
| <a href="#">Entertainment facilities and theaters</a>                                   | 1 per 4 seats  |
| Equipment rental establishments without <a href="#">outdoor storage</a>                 | 1/400 sf of Office plus adequate space for vehicle storage and display |
| Equipment, truck and trailer rental establishments with <a href="#">outdoor storage</a> | 1/400 sf of Office plus adequate space for vehicle storage and display |
| Free standing ER/Urgent Care  | 4/1,000 sf   |
| Food catering   | 1/1000 sf  |
| Funeral homes   | 1/400 sf   |
| Furniture Store   | 1/1,000 sf   |
| Grocery stores and supermarkets   | 1/300 sf   |
| Health/Fitness Club   | 5/1,000 sf   |
| Health and membership clubs   | 7/1000 sf  |
| Home Improvement Superstore   | 4/1,000 sf   |
| Home occupations  | per Home Occupation Req  |
| <a href="#">Hospitals</a>   | 4 per 1,000 sf   |
| <a href="#">Indoor recreation facility</a>  | 7/1000 sf  |
| <a href="#">Outdoor recreation facility</a>   | 7/1000 sf  |
| Liquor Store  | 2/1,000 sf   |
| Lodging establishments  | 1 per guest room + applicable other uses                               |
| Medical Offices and Clinics   | 4 per 1,000 sf   |
| Motor vehicle service and repair  | 1/400 sf of Office plus adequate space for vehicle storage and display |
| Open-air farmers' markets   | Subject to Staff Approval  |
| <a href="#">Personal and business service shops</a>                                     | 1/400 sf   |
| Pharmacy with or without drive-thru window  | 2/1,000 sf   |
| Plant nurseries & greenhouses   | 1/600 sf for bld + 1/2000 sf of outdoor storage and display            |
| Professional offices, financial services  | 1/400 sf   |
| Restaurants/standard & fast food without drive-thru                                     | 1/100 sf + 1/200 sf for outdoor seating                                |
| Restaurants with drive-thru   | 1/125 sf + 1/200 sf for outdoor seating                                |

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| Use  | Minimum Spaces Required  |
|--|--|
| <a href="#">Retail and supply yard</a> establishments with <a href="#">outdoor storage</a>                                       | 1/400 sf of Office plus adequate space for vehicle storage and display |
| Retail fuel stations   | 1/250 sf of retail space   |
| Riding stables; boarding   | 1 per 5 stalls   |
| Safe house for battered or abused adults or children of up to eight (8) families   | Subject to Staff Approval  |
| Sales and leasing of farm implements, heavy equipment sales, and heavy excavation equipment                                      | 1/400 sf of Office plus adequate space for vehicle storage and display |
| Small <a href="#">animal boarding</a> (kennels)  | 1/400 sf   |
| Sports Courts  | 3 per court  |
| Surgery Center   | 4/1,000 sf   |
| Tourist facilities   | 1/400 sf   |
| Veterinary facilities, small animal clinics  | 3/1,000 sf   |
| Veterinary facilities, <a href="#">large animal</a> clinics  | 1/750 sf   |
| Industrial Uses:   |  |
| Dry cleaning plants  | 1/750 sf   |
| Executive Self-Storage   | 0.5 per 100 sf of office space<br>*minimum of 3 spaces required        |
| Gas, oil and other hydrocarbon well drilling and production (as permitted by state and local regulations)                        | 1/400 sf of Office   |
| Manufacturing (conversion of raw materials or parts into finished products)  | 1.5 per 1,000 sf   |
| <a href="#">Manufacturing</a> and preparation of food products   | 1/750 sf   |
| <a href="#">Manufacturing</a> , assembly or packaging of products from previously prepared materials                             | 1/750 sf   |
| <a href="#">Manufacturing</a> of electric or electronic instruments and devices  | 1/750 sf   |
| Plumbing, electrical and carpenter shops   | 1/400 sf   |
| Recycling facilities   | 1/1000 sf  |
| Research, experimental or testing laboratories   | 1/400 sf   |
| Resource extraction, processes and sales establishment   | 1/400 sf of Office   |
| Sales and leasing of farm implements, heavy equipment sales, <a href="#">manufactured homes</a> , and heavy excavation equipment | 1/400 sf of Office plus adequate space for vehicle storage and display |
| Warehouse, distribution and wholesale uses   | 1/1000 sf  |
| Wireless telecommunications facilities   | 1/400 sf   |
| <a href="#">Workshops and custom small industry</a> uses   | 1/750 sf   |
| Agricultural Uses:   |  |
| <a href="#">Common equestrian stabling</a> and grazing with restrictions   | 1 per 5 stalls   |
| Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises                   | 1/600 sf for bld + 1/2000 sf of outdoor storage and display            |

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| Use  | Minimum Spaces Required                                     |
|--|---|
| Farming, including but not limited to, gardening, horticulture, fruit growing, growing of vegetables, trees, shrubs, plans, turf and sod | Subject to Staff Approval                                   |
| <a href="#">Livestock</a> (with limitations)   | Subject to Staff Approval                                   |
| Plant nurseries and greenhouses  | 1/600 sf for bld + 1/2000 sf of outdoor storage and display |
| Structures for storage of agricultural products produced on the premises   | 1/600 sf  |
| Acute Care   | 1.75 per 1,000 square feet                                  |
| Urgent Care  | 3 per 1,000 square feet                                     |

5.8.11 Overflow Parking for Special Events and Peak Parking.

5.8.11.1 Permitted. The Town Planner may permit sites that occasionally experience excessive parking demand, such as sites for festivals and fairs, to set aside unpaved overflow parking areas onsite. Such areas shall be clearly marked on the [site development plan](#) and shall be suitable for use as overflow parking in terms of slope, stability, and compaction.

5.8.11.2 Pavement. All overflow parking sites shall be maintained in healthy, living plant material. Any surface that cannot be maintained with healthy, living turf grass or similar live ground cover approved by the Town Planner shall be paved with approved permeable paving or surfaces

5.8.12 Parking or Storage in a Front or Side Yard. The following standards apply to all single family residential properties in all residential and mixed use districts.

5.8.12.1 No vehicle shall be parked or stored in a front or side yard of a residential property, except for:

- A. A driveway made of a usable and durable surface not to exceed the maximum curb cut width set forth by and subject to the Land Development Code and where the length of the driveway is sufficient to park permitted vehicles without encroaching on or blocking the sidewalk.
- B. An area adjacent to and accessed by a driveway that is composed of an all weather surface and is set back a minimum of five feet from all rights-of-way. When measured with the driveway this area may not be wider than 50% of the minimum [lot width](#) established by the zoning district.
- C. A front yard, side yard, or rear yard for the purpose of unloading a vehicle, washing a vehicle or some other similar, temporary purpose. The vehicle, however, must be removed from the front yard, side yard, or rear yard once the purpose for temporarily parking the vehicle is accomplished.

5.8.12.2 The addition of [impervious surfaces](#) including driveways, parking spaces and adjacent areas may not cause total impervious surface ratio to exceed the maximums allowed by this Code in the lot coverage table.

5.8.12.3 Parking, Storage, or Use of Campers, Boats, Trailers, or Recreational Vehicles in Residential Zones and other Major Recreational Equipment. Only one such vehicle or piece of equipment may be stored or parked on a residential lot provided that the vehicle is no longer than 17 feet. Longer vehicles are prohibited. No such vehicle or equipment shall be stored in a required front or side yard. No such equipment shall be used for living, sleeping, or

housekeeping purposes on any lot except in an approved location.

- 5.8.13 Parking, Storage, or/and Use of Non-Recreational or Commercial Vehicles and Equipment in Residential Zones.
- 5.8.13.1 All vehicles must maintain current license plates and inspection stickers. Unlicensed vehicles or vehicles with expired inspection stickers shall not be stored or parked on any lot zoned for residential use, unless in completely enclosed buildings.
- 5.8.13.2 In residential and mixed-use districts with residential uses:
- A. Only one vehicle with a capacity of two tons or greater is allowed on a residential lot and only if parked in the rear yard area or parked within an enclosed building.
  - B. Vehicles with a capacity greater than two tons and used for commercial, industrial, farm, or construction purposes are prohibited on residential lots and on street or highway rights-of-way, except when actively involved in pick up or delivery to the residence.
  - C. Cars or pick-up trucks (with or without signs) which are used for commercial purposes may be parked on a residential lot.
  - D. Moving trailers, vans, or POD type storage units may be placed no closer than five feet from adjoining residential property lines on a residential lot for a period not to exceed two weeks while owners are moving in or out of a residence.
  - E. Dumpsters used for debris during construction and renovation of a residence, and POD storage units may be placed no closer than 5 feet from adjoining residential property lines on a residential lot for a period not to exceed six months.
- 5.8.14 Parking Vehicles for Sale. In all residential zones, only one item (motor vehicle, recreational vehicle, boat, trailer or other large item of personal property) may be offered for sale and may only be parked in the front or side yard area on an approved parking space for a total accumulated period not exceeding 60 days per year. Such vehicles may be parked in the rear yard for an indefinite period of time.
- 5.8.15 Bicycle Parking.
- 5.8.15.1 Parking areas on R4 and nonresidential lots adjacent to a marked bicycle route, bike lane, or shared use facility shall include a conveniently and safely located bike rack or racks.
- 5.8.15.2 Bicycle parking should be provided for all uses except single family and two family dwellings and non-residential uses with less than 2,500 square feet of gross [floor area](#) at a rate of 5% of automobile parking requirements. The Town Planner may waive or reduce the number of bicycle parking spaces required based on the surrounding land uses of a particular development and the accessibility of a site by bicycle. (e.g. freeway interchanges with no connection to the surrounding neighborhoods.) The number of parking spaces required shall be calculated so that fractional portions of parking spaces are considered a full space.

5.8.15.3 Bicycle parking should be located along a major building approach line and clearly visible from the approach. The rack area shall be no more than 120 feet from the entrance it serves. The area of the bicycle racks should be clearly visible from the entrance they serve and should be provided near each actively used entrance. In general, multiple buildings shall not be served with a combined, distant rack area.

5.8.15.4 Bicycle parking design.

- A. Bike lockers and racks shall be securely anchored to the ground and on a hard surface.
- B. Each required bicycle parking space shall be accessible without moving another bicycle.

5.8.16 Stacking Space.

5.8.16.1 Number of spaces required. In addition to required parking spaces, drive-thru facilities shall provide a minimum of five stacking spaces per drive-thru facility, window, or bay, with the following exceptions. The space directly in front of the facility, window or bay shall not count towards meeting the stacking requirements.

- A. [Fast food restaurants](#) stacking spaces shall be located at or prior to the ordering station.
- B. Non-automated car washes shall only be required to have two stacking spaces per bay, one of which is located for use as a dry down area.
- C. Automated car washes shall be required to have an additional two stacking spaces per bay.
- D. Freestanding ATMs shall only be required to have two stacking spaces.

5.8.16.2 Location. Stacking spaces shall be located entirely outside of a required driveway or parking aisle needed to access required parking spaces in commercial developments.

5.8.16.3 Size. For the purposes of determining compliance, stacking spaces shall measure 9 x 18 and shall be illustrated on [site development plans](#).

5.8.17 Loading and Unloading Areas.

5.8.17.1 General requirements.

- A. All uses shall provide off-street loading space sufficient for their requirements. Such space shall be arranged so that no vehicle being loaded or unloaded in connection with normal operations shall stand in or project into a public street, walk, [alley](#), or private street. Truck unloading areas shall be located in the rear of the building.
- B. Off-street loading and unloading space shall in all cases be located on the same lot or parcel of land as the uses they are intended to serve.
- C. Loading and unloading areas shall be designed to avoid or minimize safety issues or traffic congestion.
- D. Loading areas shall be located so as not to be visible from residences, residentially zoned districts, streets or public rights-of-way unless



appropriately screened per the requirements of [Section 5.7.7.3](#).

- E. The number and size of required parking spaces shall be computed based on the following table. The number of loading spaces required shall be calculated so that fractional portions of spaces are considered a full space.

5.8.18 Electric Vehicle Parking & Charging Requirements

5.8.18.1 All new commercial, mixed-use, business, industrial, and multi-family developments shall provide designated parking spaces and wiring to provide for the charging of electric vehicles. There are three different levels of charging: Level 1 – 120V charging, provides 2-5 miles of range per hour of charging, Level 2 – 240V or 208V charging provides 10-20 miles of range per hour of charging, Level 3 – Also known as “DC Fast Charging” 208/480V AC three-phase input charging provides 50-70 miles of range per 20 minutes of charging.

- A. Level 1 charging stations shall only be permitted in the residential zoning districts (R-E, R-1, R-2, R-3, R-4).
- B. Level 2 & Level 3 charging stations shall be permitted in the R-E, R-1, R-2, R-3, R-4, B, NC, CC, RC, RMU, CMU, and I zoning districts.
- C. Any commercial, mixed-use, multi-family residential, and industrial development shall provide one Level 3 charging station for every 200 parking spaces in the R-4, CC, RC, CMU, and I zoning districts.
- D. Any commercial, mixed-use, and industrial development shall provide at least one electric charging space and one additional electric vehicle charging space per every 75 parking spaces.
- E. Multi-family developments shall provide one electric vehicle charging space for every 50 parking spaces required. The electric vehicle spaces shall be in addition to the parking requirement for multi-family; therefore, they are not to be included in the parking requirement calculations for the use. Each space shall be designated for electric vehicle parking only.
- F. Any existing commercial, mixed-use, business, and industrial developments wishing to convert parking spaces to electric vehicle charging stations can do so.
- G. A minimum of one accessible electric vehicle charging space is required in any parking facility that requires one electric vehicle charging station.
- H. Parking stalls shall be signed and striped as a designated parking space for the exclusive use of charging electric vehicles. No person shall park in that space any nonelectric vehicle, or electric vehicle that is not connected to the electric vehicle charging station, electric vehicle that is not charging, or electric vehicle that has been charging for more than four hours.

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Table 5.7 Loading and Unloading Requirements

| Use  | Gross <a href="#">Floor Area</a> (Square Feet) | Loading and Unloading Spaces Required |                   |
|--|--|---------------------------------------|-------------------|
|  |  | 10 feet x 25 feet                     | 10 feet x 50 feet |
| Office, restaurant, hotel or motel or similar use            | 10,000– 99,000                                 | 1                                     | 0                 |
|  | 100,000 – 149,000                              | 0                                     | 1                 |
|  | 150,000 +                                      | 0                                     | 2                 |
| Retail establishment, shopping center and any industrial use | 0– 9,999                                       | 0                                     | 0                 |
|  | 10,000–19,999                                  | 1                                     | 0                 |
|  | 20,000–49,999                                  | 0                                     | 1                 |
|  | 50,000–79,999                                  | 0                                     | 2                 |
|  | 80,000–99,999                                  | 0                                     | 3                 |
|  | 100,000–149,999                                | 0                                     | 4                 |
|  | 150,000 +                                      | 0                                     | 5                 |

### 5.9 Old Town Design Guidelines

#### 5.9.1 Purpose:

A. To guide the development of new construction in the Business District to realize the vision and goals of the Comprehensive Plan and Timnath Visioning;and

B. To assure that new construction is of appropriate scale and architectural design that is compatible with the goals and vision for Old Town.

#### 5.9.2 Applicability:

Applies to new construction and/or façade remodeling of commercial, mixed use or multi family buildings within the boundary shown in the attached figure. Single family homes are exempt from these standards.

#### 5.9.3 Building Form Standards

To maintain a street façade and consistent, pedestrian scale street edge.

5.9.3.1 Buildings shall have a well-defined front façade with primary entrances facing the street.

5.9.3.2 Buildings which sit on a corner or street intersection shall have windows facing both street sections

5.9.3.3 Buildings shall hug corners and the right of way line so that they are pulled toward the street section except where there is a need to create a courtyard or outdoor seating area.

5.9.3.4 Buildings shall be two stories or in the case of three stories, the third story shall have a fifteen foot setback from the building front façade.

5.9.3.5 Building tops shall be articulated with discernible cornice lines, parapets and/

or fascia.

- 5.9.3.6 The primary façade of all buildings shall have division into storefronts with separate display windows and entrances.
- 5.9.3.7 Buildings shall have variation in facades so there is not monotony in design.
- 5.9.3.8 If the building is greater than 40 feet wide, its façade shall be divided into smaller, pedestrian scale increments that reflect the building’s interior organization and ownership pattern.
- 5.9.3.9 Window and door opening for non residential buildings shall comprise at least 75 percent of the length and at least 50 percent of the area of the ground floor of the primary street façade.
- 5.9.3.10 Use of awnings or arches over doorways is encouraged.

5.9.4 Building Material Standards

To ensure that construction materials are consistent with the historic downtown image and are regionally appropriate.

- 5.9.4.1 Buildings and facades shall be constructed using local or regionally available materials such as:
  - a. Brick
  - b. Natural Stone
  - c. Manufactured Stone
  - d. Architectural metal; pre-finished decorative panels such as store front systems, structural elements such as columns and beams and decorative support or trim members such as brackets or cornices.
  - e. Finished wood treatments as approved by staff.
- 5.9.4.2 The use of stucco shall be limited to no more than 25% of the first floor façade.
- 5.9.4.3 Materials prohibited:
  - a. Concrete Block
  - b. Tilt-up concrete panels
  - c. Pre-fabricated metal building systems
  - d. Aluminum, fiberglass, asphalt or fiberboard siding
- 5.9.4.4 Other materials not listed will be considered on a case by case basis by staff.

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## 5.10 Harmony Corridor Design Standards

Description – Harmony Road is a primary commuter route between Fort Collins, Timnath and communities to the east. The Harmony Corridor planning area covers roughly 2.2 miles of Harmony Road from the west side of the Cache La Poudre River Bridge to the eastern Timnath boundary at Latham Parkway (LCR-1/WCR-13) and extends approximately 1000' north and south of Harmony Road. The properties subject to these standards include those located in Community Commercial or Mixed-Use zoning districts.

Any existing vested rights on a property through a Planned Development (PD) Overlay shall still govern that property's development. All Standards in the Harmony Corridor, that are not specified in a PD Overlay specifically or other preexisting agreement shall dictate the remaining aspects of the development.

5.10.1 Intent – There is always tension surrounding commercial land use. Developments are driven to maximize economic gains by focusing on store fronts and parking. However, as more population moves into urban areas, developments that balance commercial interests with useable public spaces, strong pedestrian and bike way connectivity typically outperform developments with less design intent. Timnath strives to create this blend of commercial viability and human centered development. The intent of the Harmony Corridor Design Standard is to guide developments in creating a distinct entry and commercial corridor, enhance visual continuity between different developments and highlight Timnath by encouraging an upscale agrarian / native prairie, design aesthetic. This will distinguish Timnath from surrounding municipalities. Developments must use architectural form, materials and massing to create pedestrian centered spaces, site layout and landscaping to create accessible connections and outdoor places that invoke community. Standards will be applied to developments through plan and narrative submittals and will be subjected to a Harmony Design Review Committee (DRC) process. Final approval lies with the Town Council.

### 5.10.2 Harmony Design Review Committee (DRC) Process

- 5.10.2.1 The Harmony Design Review Committee will be appointed at the leisure of the Town Council from time to time and made up of 3 to 5 individuals, the make-up of which is determined by Town Council and typically comprised of Town Staff, Elected Officials, and Independent Design Professionals.
- A. The Independent Design Professional(s) serving on the DRC are not permitted to review work that they (as an individual) or their firm has performed. Therefore at least three (3) Independent Design Professionals are to be appointed to the DRC, by the Town Council, and would review projects on a rotational basis. In the case where a conflict would exist, the next pre-determined Independent Design Professional would be selected to perform the necessary review.
- 5.10.2.2 The DRC will be routed as a part of the referral agency review process. The DRC will review proposals against the Harmony Corridor standards and provide comments to owner/applicant. The DRC will continue to issue comments until they have been satisfactorily addressed by the owner/applicant. The DRC will

then provide a recommendation to the Planning Commission and Council for consideration of approval by those entities.

#### 5.10.2.3 Development Structure Plan and Narrative.

- A. Submission of the Development Structure Plan (DSP) and Narrative for DRC review will be completed concurrently with the Preliminary Plat, if the Preliminary Plat has been approved prior to the enacting of this section, submission of the DSP and narrative and DRC review will be required as a part of the Development Site Plan review process.

#### 5.10.2.4 Development Site Plan.

- A. DRC review will be completed concurrently with the Development Site Plan review process.

#### 5.10.2.5 A favorable recommendation of approval by the Design Review Committee is required prior to the scheduling of hearings, with Town Council or Planning Commission and for the Preliminary Plat or Site Plan as applicable above.

### 5.10.3 Waiver Process

#### 5.10.3.1 Applicant may request a waiver, from any standard in this section, per Timnath Land Use Code, Section 2.9.15 and as approved by Town Council.

### 5.10.4 Development Structure Plan - DSP

#### 5.10.4.1 Intent - The Development Structure Plan shall provide a framework for each development to depict compliance with the standards set forth in this section. Each development will be evaluated on a case by case basis to better understand development strategy and fit into the overall Harmony Corridor Standards.

#### 5.10.4.2 DSP Narrative Requirements

- A. Development character and architectural style for the project.
- B. Preliminary density and land uses.
- C. Open space statement to answer:
  1. How will the required Usable Open Space percentage be achieved?
  2. How will the required Usable Open Space be allocated between parcels as development builds out?
  3. What is the character of the Usable Open Space?
- D. Landscape maintenance responsibility.
  1. Who will be responsible for maintaining the property?
  2. What is the business structure used to manage property maintenance (i.e. Metropolitan District, Business Association, or other)?
- E. Description of shared parking concepts.

#### 5.10.4.3 DSP Map Elements to Address. See **Figure 1**.

- A. Vehicular, bicycle, and pedestrian access to Harmony ROW, adjacent neighborhoods and between developments.

- B. Interior vehicular, bike and pedestrian circulation plan.
- C. Inclusion of public gathering spaces / nodes.
- D. Show Harmony Trail & 50' setback.
- E. Development Bubbles with total area

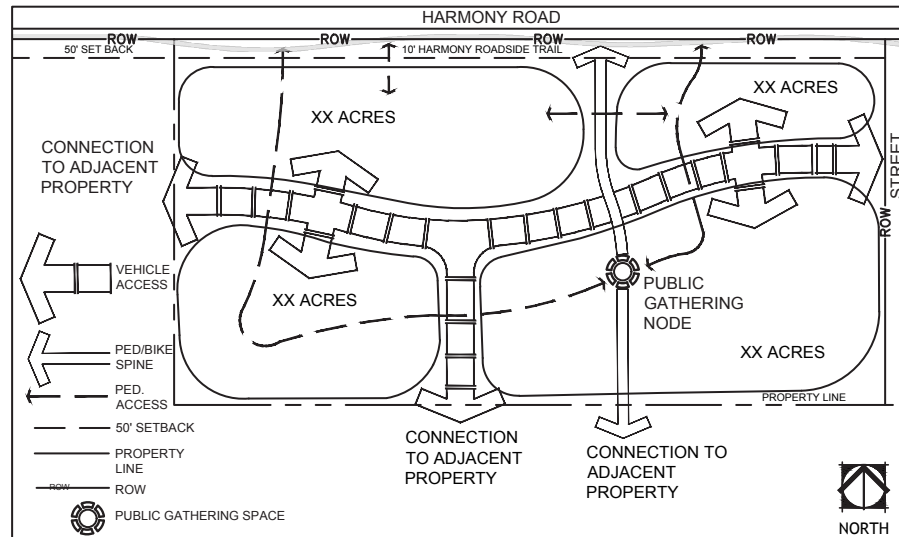


FIGURE 1 - DEVELOPMENT STRUCTURE PLAN

FOR GRAPHIC PURPOSES ONLY

### 5.10.5 Site Standards

5.10.5.1 Intent – Invoke site design to create a unified response to surrounding developments and neighborhoods along the Harmony Corridor. Layout should also present a cohesive internal design that includes gathering spaces, ease of circulation, environmental stewardship and compliments architectural standards.

#### 5.10.5.2 Building Placement

- A. Sites with frontage along Harmony Road, must have buildings addressing Harmony Road.
- B. Buildings shall not exceed 25,000sf single story footprint along and adjacent to Harmony Road.
- C. Larger buildings must be set back from the Harmony frontage.
- D. The location of a Hotel / big box retailer/ grocery store fronting Harmony Road may be excepted on a case by case basis. See Wavier process for approval.
- E. See Section 5.10.7 for additional building placement requirements.

#### 5.10.5.3 Setbacks

- A. There will be a 50' set back from the Harmony Road Right of Way.
- B. The following items are allowed to encroach into the 50' set back:
  - 1. Patios, porches and decks 30" or less above finished grade, can encroach no more than 15' into the setback.
  - 2. Trails.

- 3. Landscaping
  - 4. Mechanical / Utility screening can encroach no more than 5' into the setback.
  - 5. Berming with landscaping.
  - 6. Artwork.
  - 7. Signage per standards in Chapter 7 of this Code.
- C. At the intersection of any Right of Way with Harmony Road, buildings may encroach 10' into the 50' setback for the first 120' along the Harmony frontage. See **Figure 2**.

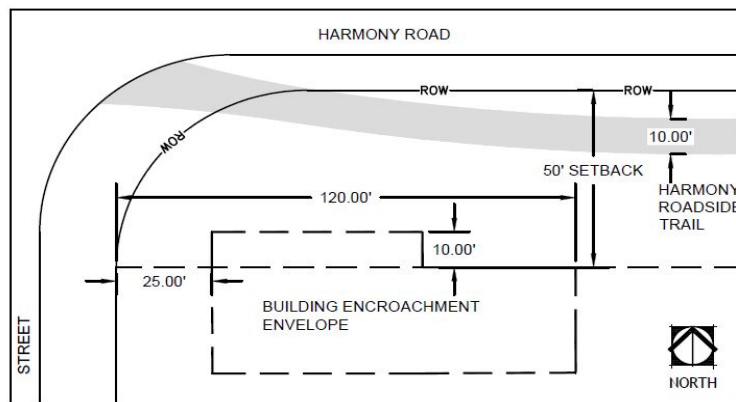


FIGURE 2 - BUILDING ENCROACHMENT INTO 50' SETBACK

- D. Building setback from arterial and collector roads are as per Table 5.2 Dimensional Standards – Setbacks and Heights of this code.
- E. All parking, fronting Harmony Road will be set back at least 60'.
- F. There shall be a minimum separation of 10' between all buildings and parking spaces or drive aisles.

5.10.5.4 Connections from Development to Exterior Circulation

- A. Intent – Developments shall interconnect along the corridor to provide opportunities for shared parking, encourage cross connection opportunities and create a more convenient alternative to using Harmony Road. At a minimum there shall be (1) pedestrian and (1) vehicular connection between each adjacent development. If a trail already exists at the time of development, reimbursement for installation will be required.
- B. Vehicle Connections:
  - 1. There shall be at least (1) non-right of way or off-street connection between each adjacent development.
  - 2. Parking lots may be shared between adjacent developments and are strongly encouraged.
- C. Pedestrian Connections. See Figure 1 in Section 5.10.4.3
  - 1. Each development is responsible for continuing the Harmony Roadside Trail fronting Harmony Road and within the Harmony



setback and Right of Way. This trail will be a meandering trail at a minimum of 10' wide.

2. Pedestrian connections, from the Harmony Roadside Trail, shall be spaced roughly every 660' apart and no more than 700' and at least 8' wide.
- D. Bike Connections:
1. There shall be a clear connection for bike access between existing public bike lanes and bike parking areas in each development.
- E. Multi Modal Spine:
1. 1 per development. Distinct bike and pedestrian path that is 10' minimum in width in a 20' corridor. Parking overhang and door swing areas prohibited.

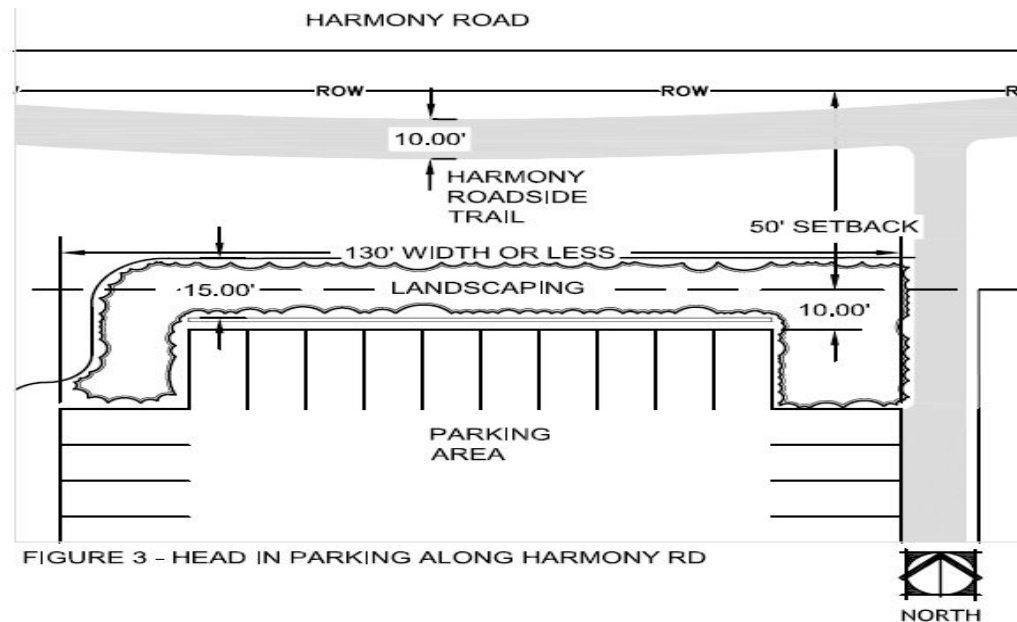
#### 5.10.5.5 Interior Development Circulation

- A. Vehicle:
1. All parking areas and associated drive lanes shall have clear signage controlling traffic flows and minimizing congestion, choke points or ambiguity as to driver right of way.
  2. Crossing points for pedestrian and bike traffic shall be clearly defined to maximize safety and promote pedestrian and bike use.
- B. Pedestrian
1. Parking lots with 3 or more parking drive aisles shall include at least one protected pedestrian access spine. Spines shall have landscaping and sidewalks as noted:
    - a. Landscaping shall be on at least one side and with minimum of a 5' wide landscape area.
    - b. Sidewalks shall be at least 8' wide if no bike use is intended. If access way is designated for bike use, sidewalk shall be at least 10' wide.
    - c. To the greatest extent feasible these spines should line up with the connections to the Harmony Roadside Trail.
- C. Bikes
1. Bike traffic patterns must be clearly identified and have direct routes to public Right of Ways.
  2. Bike parking areas must be located within 60' of the front entry and centrally located so that there is a clear pedestrian path to front entry from parking areas.
  3. Bike parking areas must have a clear and direct access to the public Right of Way or the Harmony Roadside Trail.
  4. 1 bike parking space shall be required for every 20 automobile parking spaces.
  5. For every 10 standard bicycle parking spaces, there shall be (1) 11' x

3' bike parking space to accommodate a bike and bike trailer.

#### 5.10.5.6 Parking

- A. Parking lots, including drive aisles, shall not extend more than 130' along the Harmony Road frontage. See **Figure 3**.
- B. Parking fronting Harmony Road must be:
  1. Set back a minimum of 60' from Harmony Road Right of Way.
  2. Head-in parking, abutting Harmony Road must be screened with a 36" tall masonry wall and 15' wide planting bed. See **Figure 3**.



- C. Each development shall provide the appropriate number of electric vehicle charging spaces, as specified in Section 5.8.18.

#### 5.10.5.7 Trash Enclosures

All developments shall provide adequately sized, conveniently located, accessible trash and recycling enclosures to accommodate the specific needs of the proposed use. Consideration for shared enclosures to satisfy multiple users.

- A. Enclosures shall be at least 5' tall and not more than 7' tall.
- B. Materials shall be masonry in nature and compliment or match adjacent building architecture.
- C. All trash enclosures shall have access gates to allow access to trash receptacles and separate pedestrian gate or opening.
- D. If trash enclosures abuts a landscape area, the landscape area shall have at least a 5' wide planting bed and be planted with appropriate plant materials to screen enclosure walls.
- E. Locate enclosures such that they don't infringe on adequate sight distances for vehicles/pedestrians/bikes.

5.10.5.8 Utilities and Utility Connections

- A. All transformers and utility pedestals to be placed in planting beds if possible and screened with appropriate plant material, fencing or architectural elements.

5.10.6 Landscaping

5.10.6.1 Intent - The intent, for this section, is to produce landscapes that contribute to visual quality and continuity within and between development sites, provide appropriately scaled gathering spaces, connections and refuges, planted with year-round visual interest, ensures significant canopy shading to reduce glare and heat build-up, reduce erosion and stormwater runoff, encourage water conservation and mitigate air pollution. Landscaping should enhance and compliment the modern agrarian character of Timnath.

5.10.6.2 Usable Open Space

- A. All sites will be required to have a minimum of 5% usable open space.
- B. Usable Open spaces shall be considered:
  - 1. Areas that encourage gathering and create connection between internal elements within a development and connection to the Harmony Corridor pedestrian spine.
  - 2. Plaza/Gathering spaces that provide public areas for general use and do not require private patronage in order to use.
- C. All developments will be required to provide outdoor, public, plaza/ gathering spaces with amenities based on number of development parking stalls:
- D. Public Plaza / Outdoor Spaces
  - 1. Locations
    - a. Adjacent to the Harmony Roadside Trail and pedestrian connections.
    - b. Building entry ways.
    - c. Centralize along circulation paths and connections to sidewalks where possible.
  - 2. Materials
    - a. Concrete.
    - b. Pavers or other unitized decorative paving options.
    - c. Limited use of turf in high use areas.
  - 3. Amenities can be considered as:
    - a. Standard Amenities– seating boulders, level and set at least 18” high, 18” seating wall or seat furnishings such as benches.
    - b. Large Amenities - Play equipment, shade structures / sails, planting beds or other items that enhance the user experience of the plaza space.

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Table 5.10.6.A

| Number of Parking Spaces | Minimum Plaza / Outdoor Space Required size                     | Minimum Amenities Required | Maximum number of splits | Minimum Sized Allowable Split |
|--------------------------|---|----------------------------|--------------------------|-------------------------------|
| 0 - 40                   | 100 sf  | (2) Standard               | 0                        | No split                      |
| 41 - 80                  | 500 sf  | (3) Standard               | 1                        | 200 sf                        |
| 81 - 120                 | 1500 sf   | (4) Standard               | 2                        | 400 sf                        |
| 121 - 200                | 3000 sf   | (4) standard<br>(1) Large  | 4                        | 500 sf                        |
| 201+                     | 5000 sf + extra<br>100 sf per 20<br>parking spaces<br>over 201. | (6) Standard<br>(2) Large  | 6                        | 500 sf                        |

5.10.6.3 50' Harmony Road Setback Landscaping Standards

A. Berming

1. Toe of slopes must transition smoothly into existing landscape.
2. Shoulders must be smooth and present a rounded top.
3. All berms must be landscaped and irrigated.
4. Slopes may not exceed 3:1 with turf.
5. Greater than 3:1 slope may be utilized for berms with planting beds. 2:1 slope max.

B. Plant Metrics

1. Trees – (1) large deciduous tree and (2) ornamental trees per 60 lineal feet of setback in addition to the required Right of Way street trees.
2. Planting beds – Minimum of 10% of total setback square footage shall be planting bed.
3. Plantings – 75% of planting beds must be ornamental grasses, remaining 25% to be shrubs, perennials or annuals.
4. Turf Areas – All remaining setback areas to be covered with turf. All turf areas to be irrigated with dedicated system.

5.10.6.4 Storm Water / Detention Area Landscaping

- A. 1 tree per every 5,000sf of detention area bottom.
- B. Tree species should be appropriate for detention area moisture levels.
- C. Detention ponds perimeter to be planted with 1 tree per 80 lineal feet.
- D. Detention area bottom and sides should be planted with appropriate seed mixes based on annual soil moisture due to water detention and sun exposure.

5.10.6.5 Parking Lot Landscaping

A. Parking Lot Perimeter

1. Trees must be placed at a rate of 1 per 80 linear feet of parking lot

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perimeter.

2. Trees may be spaced irregularly in informal groupings or be uniformly spaced, as consistent with larger overall planting patterns and organization.
3. Perimeter landscaping along a street may be located in and should be integrated with the streetscape in the street right-of-way.

B. Parking Lot Interior

1. Parking lot interior landscaping is 1 tree plus (4) shrubs per every 144 square feet of parking lot island.

5.10.6.6 Irrigation

A. Water Conservation

1. Group plants with similar water requirements.
2. Limit high water use to high visibility and functional needs areas.

B. Irrigation Plans

1. Irrigation plans are due with Development Site Plan and at a minimum must show point of connection's, backflow locations and main line routing.

C. Irrigation System Requirements

1. All landscaping shall have a dedicated irrigation system with backflow prevention device and master shut off valve.
2. Smart controller with moisture sensor shall be installed.
3. All backflows shall be enclosed in protective / vandal proof structure, placed within planting bed and screened with plant material.

D. Natural Area Irrigation

1. All natural and native seeded areas must have a dedicated irrigation system.

E. Detention Pond Irrigation

1. Detention pond bottoms require a dedicated irrigation system or at a minimum demonstrate irrigation coverage.
2. All detention pond sides must have a dedicated irrigation system.

5.10.6.7 Soil Amendments

- A. Incorporate at least 3 cubic yards of aged compost per every 1,000 square feet of turf area.
- B. Incorporate at least 1 cubic yard of aged compost per every 100 square feet of native seeded area.
- C. Amendment standard in Section XX of the Technical Criteria Manual to be met.

5.10.6.8 Planting

A. Turf Grass

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1. Only high-use areas shall be planted with irrigated turf grass sod.
  2. Short-grass, prairie grasses, or other adapted grasses that have been certified as xeriscape landscaping may be established in areas of lower traffic with the goal of conserving water by reducing the use of turf with higher water needs.
- B. Foundation Plantings
1. Exposed sections of screening walls, building walls or fencing that are in high use or high-visibility areas of the building exterior, except where walks are adjacent to buildings, shall have planting beds at least five (5) feet wide and shall be planted to reduce the visual impact.
- C. Planting Beds
1. Shrub and ground cover planting beds shall be separated from turf grass with edging and shall have open surface areas covered with mulch with a preferred width of 5 feet. Reductions may be allowed on a case-by-case basis.
  2. Organic mulches (i.e.: bark or wood chips, wood grindings) to a minimum depth of three (3) inches are used wherever possible.
  3. Inorganic mulches (i.e.: gravel) retain and reflect heat, compact the soil, and are generally discouraged except for functional purposes such as parking islands. In no case shall nonorganic mulch be installed without permeable weed barrier.
  4. Black plastic or impermeable weed barriers shall not be used.
  5. In no case shall mulches be the finished condition unless it is part of the overall planning theme, as in the case of a dry creek bed.
- D. Shrubs and Ornamental Grasses
1. Shrub and ornamental grass species shall be xeric in nature and tie into surrounding prairie aesthetic.
- E. Trees
1. Trees planted in turf areas shall have an organic mulch ring with a radius of at least eighteen (18) inches.

5.10.6.9 Maintenance

- A. The Harmony Road / Right of Way landscape improvements adjacent to the site shall be constructed and maintained by adjacent property owner or business association, whichever the case may be.

5.10.7 Building Placement, Massing & Articulation Standards

5.10.7.1 Intent. The intent of the building placement, massing and articulation standards is to promote high quality architectural and site design that, when implemented in conjunction with the Materials and Features & Details sections, creates a dynamic, engaging environment with a strong sense of place for the residents of Timnath and its visitors.

5.10.7.2 Placement/Orientation. In multi-building developments, building placement and configuration shall be shaped to give deliberate form to adjacent exterior



communal spaces, pedestrian connections, other landscape/hardscape areas and shall be site-specific responding to adjacent land uses.

5.10.7.3 View Corridors. Between buildings and visual transparency into and out of buildings shall be a key consideration. Properly orient the principal mass(es) in relation to the key site elements, adjacent streets or open space.

5.10.7.4 Massing / Articulation

- A. Massing. In simplest terms, architectural massing is the volumetric form of the building. The three-dimensional proportions (a building's height, width and major massing elements, in relation to its overall configuration) play a significant role in determining the impact it will have on its surrounding environment. Proper building scale and massing should respond to its context.
- B. Articulation. Four-sided building design is encouraged to ensure all facades are considered equally in the design process, rather than "turning its back" on the main thoroughfare. All sides shall be complementary in design, details and materials.

5.10.7.5 Placement / Orientation Compliance

- A. Buildings shall extend along at least 35% but not more than 75% of the overall property frontage along Harmony Road and be built to the required setback line with allowances for articulation. Buildings shall extend along at least 25% of overall property frontage along adjacent public streets feeding to Harmony Road.
- B. Extend "activation" spaces and features between and around buildings to be highly visible from Harmony Road, including outdoor patios, primary and secondary entries, large glazing features, canopy elements and communal plazas.
- C. Building design elements shall incorporate features to serve as three-dimensional screening of both ground and roof-mounted service/utility equipment including roof top units, gas/electric meters, loading docks, etc. Service equipment shall not be visible from public right-of-way and adjacent uses.
- D. Include prominent design features (such as main entries, canopies, communal spaces, site lighting features) at north/south public streets that intersect Harmony Road.

5.10.7.6 Building Massing & Articulation Compliance

- A. High-quality, well-proportioned building materials shall be used on all sides of buildings and trash enclosures.
- B. Carefully consider the relationship of overall height to frontage width and building depth to achieve proper proportional relationships to adjacent buildings and site features.
- C. Organize the building's mass to clearly define different horizontal and vertical elements and to express internal functions. Break down or divide the overall mass into a series of discrete and complementary forms with a clear intentional rhythm.

- D. Develop a blend of flat roof areas mixed with sloped roof (4:12 or greater) features to articulate roofline changes and create visual interest.
- E. Horizontal step backs in the façade shall be significant in relation to length of prominent massing forms and overall building length. Recess and project elements to avoid long monotonous façades. For instance, an 80' to 100' long structure, should have at least 3 primary massing elements on each façade including at least an 8' to 10' grade plane change, i.e. 8-10% of overall length.
- F. Consider multi-story buildings with mixed uses to provide even more vertical change in wall planes.
- G. Storefront windows should be a prominent component of a building façade. Glazing elements should match the proportion and rhythm of the massing features noted above.
- H. Maximize building transparency especially at the pedestrian level with at least 50% transparency on the primary front ground-level façade; at least 30% on side elevations; and a minimum 15% of the rear façade.
- I. Distribute entrances and related storefront elements evenly around a building to reinforce the four-side building design approach previously noted.

5.10.8 Materials

5.10.8.1 Intent. To ensure that the materials, textures and colors used on buildings within the Harmony Corridor shall create a look which is compatible with the Town’s vision for rural and agricultural buildings while creating a platform for creativity and function of different uses. When combined with other Architectural standards, creative use of materials shall create contextual unity within and between the developments of the Harmony Corridor, promote creativity while maintaining threads of similarity within the corridor, establish metrics which enhance the simplicity of the rural vernacular while maintaining opportunities for diversity, and define material pallets and guidelines for application which are consistent throughout developments and, when applied appropriately, create articulated buildings with a common thread.

5.10.8.2 Standards

- A. Color
  - 1. The colors of materials shall be of earth tones such as tans, greens, browns and greys that resemble soils, woods and forests and are consistent with the rural architectural vision for the corridor.
  - 2. Color shades/hues shall be used to facilitate blending into neighborhoods and unifying the development in which the project is located.
  - 3. Alternate material colors used as ‘accent’ materials shall be considered for their architectural purpose and impact on the development or neighborhood where it is located.
  - 4. Colors deemed incompatible with adjacent buildings within the development will be prohibited.

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- B. Glare
  - 1. Building materials shall not create excessive glare.
  - 2. If highly reflective building materials are proposed such as aluminum, unpainted metal and reflective glass, the potential for glare from such materials will be evaluated to determine whether the glare would create an adverse impact on adjacent property owners, the development, enjoyment of views, vehicular safety or be deemed incompatible with the Town’s vision. If so, such materials shall not be permitted.
- C. Durability
  - 1. Materials used within developments shall be of high quality, durable and appropriate for use in the proposed application.
  - 2. Materials used at grade or ground level shall be appropriately detailed and able to withstand increased moisture and impact from drifted snow, irrigation and routine landscape maintenance.
- D. Application
  - 1. Materials shall create continuity between buildings within each development and shall be used in conjunction with the forms, massing, site amenities and detailing of each building. In an effort to create compatibility within developments and not limit architectural creativity, materials shall fall into four (4) categories as defined below. A maximum of three (3) materials shall be used for vertical wall surfaces defining the perimeter of the building to further enhance compatibility and to limit ‘busy’ or detracting architecture.

5.10.8.3 Primary Materials. Primary materials are materials which create and define the massing and articulation of the architectural project. Primary materials shall comprise no less than 55% of the overall vertical surface of the project.

- A. One (1) primary material shall be allowed on each project; however, complementary accent colors/hues shall be allowed for such elements as trim, banding, accent detailing and borders within the primary fields. Primary accents shall be limited to two (2) colors so as not to detract from the primary field and shall be incorporated into primary and secondary fields for compatibility through the project.
- B. Primary materials shall generally touch the ground providing a solid ‘base’ to the building; however, primary material fields may be elevated above more appropriate durable materials in contact with the ground.
- C. Primary materials shall include articulation when used in large fields exceeding 250 s.f. Articulation may be in the form of hue/color changes, banding, shadow lines created by projections or recesses of the primary material, architectural detailing creating rhythms and patters and interruptions of the field with windows, pilasters or other prescribed massing elements.
- D. Primary Materials may include
  - 1. Masonry (Per table 5.3.4.1.F - No metal surfaces (except in industrial)

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or flat-faced cement block shall be visible upon the exterior of any building as a primary surface material.)

- a. Concrete masonry units (CMU) of either split face or ground face (honed) units. No standard or painted CMU shall be considered.
  - b. Clay fired brick masonry. No glazed masonry shall be considered.
  - c. Cast or composite masonry panels.
  - d. Natural stone
2. Siding – Siding shall be of cementitious or engineered wood composite and appropriate for exterior use. Real wood siding shall be considered only if it is treated with approved manufacturer recommended stains or coatings and of sufficient dimension to provide product stability. Siding shall be either smooth or wood grain textured. All siding shall be maintained on a regular basis. Appropriate siding applications include:
    - a. Horizontal lap siding with consistent or staggered exposure.
    - b. Panelized board and batten siding.
    - c. Shingle siding products and materials.
  3. Stucco - Stucco shall be allowed as a primary material; however, stucco shall be required to include appropriate banding, reveals and articulation which complements the massing and articulation of the project.
- 5.10.8.4 Secondary Materials. Secondary materials are those materials which further enhance the architecture of the development and shall be complementary and compatible in design, detail, color/hue of the primary field. Secondary materials shall comprise a maximum of 45% of the overall perimeter vertical wall surfaces.
- A. Secondary materials shall be limited to two distinct colors/tones to further enhance the massing and articulation of the project. Secondary colors shall be limited so as not to appear ‘busy’ and detract from the overall massing and articulation of primary or secondary fields.
  - B. Secondary materials include:
    1. Masonry (5.10.8.3.D.1)
    2. Synthetic or ‘faux’ stone
    3. Siding (5.10.8.3.D.2)
    4. Stucco (5.10.8.3.D.3)
    5. Metal siding – Metal siding as a secondary material shall be corrugated or deep ribbed profile siding.
      - a. Metal siding shall not include siding that is designed to imitate board and batten, stucco or panel siding typically used within the industrial sector.
      - b. Metal siding shall be non-reflective (5.10.8.2.B) and shall be pre-finished or treated for weathering.

## ARTICLE 6. LAND SUBDIVISION

### 6.1 Applicability

6.1.1 Unless otherwise provided by action of the Town Council, the provisions of this Article applies to all residential, commercial, industrial and other subdivisions. Refer to Article 2 for the subdivision review and approval process.

### 6.2 Intent

6.2.1 This Article is designed and enacted for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the Town by:

- Ensuring compliance with this Code and the Town Comprehensive Plan.
- Promoting compact, well-defined, sustainable neighborhoods that enhance the Town's character;
- Creating livable neighborhoods that foster a sense of community and reduce dependency on private vehicles;
- Encouraging the proper arrangement of streets in relation to existing or planned streets and ensuring streets facilitate safe, efficient and pleasant walking, biking and driving;
- Providing a variety of lot sizes and housing types in every neighborhood;
- Protecting sensitive natural and historic areas and the Town's environmental quality;
- Providing adequate space for educational facilities;
- Providing protection from [geologic hazards](#) and [flood prone](#) areas; and,
- Regulating such other matters as the Council may deem necessary in order to protect the best interest of the public.

### 6.3 Types Of Subdivisions

6.3.1 Minor Subdivision. A Minor Subdivision consists of the subdivision of land into six or fewer lots.

6.3.2 Major Subdivisions. A Major Subdivision is a subdivision of land creating seven lots or more.

### 6.4 Administration

6.4.1 Minor Subdivision. Applications for Minor Subdivisions will be reviewed according to the procedures in Article 2.9.10 of this Code. The approving authority for a Minor Subdivision is the Town Council.

6.4.2 Major Subdivision. Applications for Major Subdivisions will be reviewed according to the procedures in Article 2.9.10 of this Code. The approving authority for a Major Subdivision is the Town Council.

## 6.5 Plans And Specifications Standards

- 6.5.1 The design, construction and maintenance of subdivisions shall be consistent with:
- A. All adopted plans and policies;
  - B. Site specific requirements of the zone district;
  - C. All requirements of this Land Use Code; and,
  - D. Applicable requirements of the Town of Timnath Design Criteria Manual.
  - E. Applicable requirements of the Larimer County Urban Area Street Standards

## 6.6 Subdivision Standards

### 6.6.1 Lot Layout

- A. Access to Public Roads: All lots shall have access to a dedicated public road. When indirect access is provided over intervening private streets, shared drives, parking lots or other specifically identified limited common elements, access [easements](#) or access tracts benefiting all lots with indirect access shall be provided on the [plat](#).
  - 1. Residential lots shall front only on local and collector streets.
  - 2. Double frontage lots are prohibited.
- B. [Flag Lots](#). The use of flag lots is prohibited unless approved by Town Council.
- C. Shared Driveways. No more than six single family dwelling units are allowed to share a single driveway access to a public street. Any project utilizing a shared drive will require a site development plan.
- D. [Alleys](#)
  - 1. Alleys are permitted when they continue an existing development pattern or to provide access to new residential properties.
  - 2. Alleys may be allowed in commercial and industrial areas when no other service access is provided.
  - 3. Single family developments that have alleys must take their vehicle access off the alley.
  - 4. Alleys must be built to some standard TBD see LCUASS re truck traffic
  - 5. Alleys must be dedicated right-of-way to the Town.

### 6.6.2 Circulation

- A. General Requirements
  - 1. All streets must be designed consistent with the Timnath Design Criteria Manual and the Town’s adopted Larimer County Urban Street Standards.
  - 2. Subdivisions must be designed to allow for through movement of traffic to avoid isolation of residential areas and over reliance on arterial streets for traffic movement.
  - 3. Street layouts must be designed so emergency providers can find their way efficiently and quickly.

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4. All streets shall intersect at right angles or right angles with a 10% deflection.
  5. Commercial subdivisions shall provide for vehicular circulation and connection between lots and must dedicate appropriate easements accordingly.
- B. Street Layouts
1. All Streets shall be sized per the Town of Timnath Transportation Master Plan
  2. Street layouts shall continue streets in adjoining subdivisions or provide connections to adjoining property that is not yet developed.
  3. Subdivisions shall provide a system of collector and local streets connecting local destinations such as parks and schools without requiring the use of arterial roadways.
  4. Subdivisions containing or adjacent to lots designed for retail and commercial uses must provide pedestrian and, where possible, vehicular connections to the commercial lots.
- C. Pedestrian and Bicycle Circulation
1. Sidewalks shall be provided on both sides of all new streets and must extend to the property line on streets that terminate at adjacent undeveloped property.
  2. Sidewalks shall be a minimum of five feet in width for local and collector streets and eight feet for arterials. If the town adopts a specific area plan, standard established within that plan shall prevail.
  3. Sidewalks shall be separated from streets by a five foot minimum landscaped strip.
  4. Multipurpose trails must be provided within the subdivision where identified on the Parks, Recreation, Open Space and Trails Master Plan (PROST Plan). Trails must be taken to the edge of the property up to the property line for future connection.
  5. Arterial and collector streets shall include eight foot wide designated bike lanes on both sides.
  6. Where a development abuts a collector or arterial street, a bicycle and pedestrian access point to the collector or arterial shall be provided every 1,200 feet.
  7. Pedestrian and bicycle ways internal to subdivisions and development sites must connect to the community-wide path system and provide future connection to adjacent properties by stubbing facilities to the property line in locations directed by adopted plans or as approved by the Director.
  8. In commercial subdivisions, or in mixed-use subdivisions with lots designated for commercial use, connecting walkways shall be provided between public sidewalks and building entries. Walkway connections may cross parking lots. Pedestrian walks shall also be provided along internal parking lot circulation drives.

6.6.3 Open Space

- A. Required open space may be held in common ownership by a property owner’s association, or, if accepted, deeded over to a land trust or governmental entity. It may not be held in separate ownership on individual parcels within a subdivision.

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- B. Open space is required to protect the following environmental features, and can be utilized as open space or usable open space per section 5.7.6.4 of this code.
    - 1. Natural, geologic or other hazard areas such as expansive soils and floodplains.
    - 2. Stream beds and corridors, mature trees and or stands of native vegetation, wetlands, riparian areas and wildlife corridors.
    - 3. Water features including drainages, canals, ditches, lakes, natural ponds, and retention and detention ponds.
  - C. Open space in each subdivision shall be integrated with schools, parks and other open spaces or public property in or near the subdivision.
  - D. Public Access and Visibility. Open spaces in each subdivision will be open, accessible and visible to all subdivision residents and to the public using public streets, trails and open spaces if the open space is dedicated to the public.
  - E. Open space for active use should not be located in isolated areas or corners of the subdivision.
  - F. Storm drainage, retention and detention ponds shall be located, designed, maintained, planted and managed to serve as visual amenities or opportunities for recreation within the subdivision.
  - G. Limits of Development: Each subdivision construction plans, landscaping plans and plat shall specify the limits of development (LOD) which are any specific areas within a subdivision where development and construction shall be limited or prohibited so that natural hazard areas are avoided and natural features are protected.
- 6.6.4 Common Facilities. When a subdivision proposes to contain common facilities, such as common recreation facilities, such facilities shall be located within the development so as to be easily accessible to residents and to least interfere with neighboring developments.
- 6.6.5. Development Incentives: To encourage open space behind every lot, a subdivision may include one of the following incentives:
- A. Option A - R-2 Zoning District Setback Incentive:
    - 1. Minimum requirements to be granted the setback incentive:
      - a. Developer to provide open space behind any block of lots that have direct access to public right of way or public open space; and
      - b. Open space width shall be at least 20' wide at the narrowest point and have an average width of 30'; and
      - c. Open space shall be landscaped, irrigated, and maintained by the metro district or HOA in perpetuity; and
      - d. HOA or Metro Districts shall not prohibit access from the rear yard to the open space; and
      - e. Fencing along open space shall be low (no more than 4' high if an opaque fence) or open rail style (at least 50% open) to provide visual access to the open space.
    - 2. Setback incentives include the following:
      - a. Side yard setbacks shall be reduced to 5'; and

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- b. All buildings shall maintain 10' separation; and
  - 3. All other dimensional requirements will be maintained.
- B. Option B - R-2 Zoning District Functional Open Space Incentive:
  - 1. For all residential subdivisions the developer shall provide a minimum of 20% of the gross land being subdivided for use as functional open space.
  - 2. Minimum requirements to be granted the Open Space Incentive:
    - a. Developer to provide open space behind every lot in the subdivision; and
    - b. No lots shall adjoin at the rear property line; and
    - c. Open space width shall be at least 20' wide at the narrowest point and have an average width of 30'; and
    - d. Open space shall be landscaped, irrigated, and maintained by the metro district or HOA in perpetuity; and
    - e. HOA or Metro Districts shall not prohibit access from the rear yard to the open space; and
    - f. Fencing along open space shall be low (no more than 4' high if an opaque fence) or open rail style (at least 50% open) to provide visual access to the open space.
  - 3. Functional open space may include (in addition to those listed in the code):
    - a. Areas that meet the above criteria.
- C. Option C - R-2 Zoning District Pocket Park Reduction Incentive:
  - 1. For all residential subdivisions the developer shall provide a minimum of 20% of the gross land being subdivided for use as functional open space.
  - 2. Minimum requirements to be granted the Pocket Park Reduction Incentive:
    - a. Developer to provide open space behind every lot in the subdivision; and
    - b. No lots shall adjoin at the rear property line; and
    - c. Open space width shall be at least 20' wide at the narrowest point and have an average width of 30'; and
    - d. Open space shall be landscaped, irrigated, and maintained by the metro district or HOA in perpetuity; and
    - e. HOA or Metro Districts shall not prohibit access from the rear yard to the open space; and
    - f. Fencing along open space shall be low (no more than 4' high if an opaque fence) or open rail style (at least 50% open) to provide visual access to the open space.
  - 3. Pocket Park Reduction will include the following:
    - a. For developments that between 50 and 100 dwelling units there shall be at least one pocket park in accordance with the requirements of this Chapter;
    - b. Developments in excess of 100 dwelling units the subdivision may forgo the installation of one pocket park in accordance with the requirements of this Chapter.

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- c. For developments with more than 50 dwelling units there shall be at least one pocket park in accordance with the requirements of this Chapter.

**6.7 Development Agreement**

6.7.1 A development agreement stating the developer agrees to construct all public improvements, setting forth the plan, method and parties responsible for the construction of improvements is required for all subdivisions. A development agreement shall run with and be a burden upon the land described in the agreement.

**6.7.2 Security Requirements**

A. **Completion Security:** To assure the construction, installation, and completion of the Public Improvements in all Phases of the Property, Developer shall, prior to commencing any work within a particular Phase of the Property, furnish to the Town Engineer an irrevocable sight draft letter of credit or other security reasonably acceptable to the Town Engineer as listed below (“Completion Security”) to secure the completion of Public Improvements required for the applicable Phase of the development. The Town of Timnath shall be designated as the beneficiary of the Completion Security. The Completion Security shall be provided Phase by Phase and shall be in the amount equal to one hundred percent (100%) of the estimated costs of the Public Improvements to be completed within a Phase. The amount of the Completion Security shall not include the portion of the Public Improvements which are to be constructed for the water improvements managed by the Water District or the sanitary sewer improvements managed by the Sewer District, nor shall it include any costs of improvements for gas, electric, telephone, or cable TV.

1. Upon provision of such Completion Security to the Town in a manner acceptable to the Town Engineer for the applicable Phase, authorization to proceed with construction may be issued by the Town Engineer within such Phase.
2. 2. Completion Security may be comprised of the following options:
  - A. A construction completion bond – Bond may not to exceed 80% of the total cost of the Public Improvements.
  - B. Sight draft Letter of Credit – minimum 20% of the total cost of the Public Improvements if combined with a warranty Bond.
  - C. Cash
3. Upon completion of fifty percent (50%) or more of the improvements within a Phase, as verified by the Town Engineer, Developer may request that the one hundred percent (100%) Completion Security be reduced to fifty percent (50%) of the initial Completion Security pending Town approval and at the sole discretion of the Town Engineer.
4. Upon issuance of a Letter of Initial Acceptance of 100% of the required improvements by the Town Engineer in accordance with the provisions herein, the Completion Security will be reduced to twenty percent (20%) of the initial Completion Security to be held as Warranty Security or released once replaced by Warranty Security as described below. This requirement for a Completion Security also applies to earthwork performed under a separate “Early Grading Permit” if so applied for and issued by the Town with the exception that no

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Warranty Security will be held upon completion of the Early Grading Permit for the grading improvements.

- B. Warranty Security: Developer shall warrant any and all Public Improvements for a period of two (2) years from the date Town issues a letter of Initial Acceptance for the applicable Phase that has been constructed. Final landscape inspection must be requested within (1) year of initial acceptance. As a condition of issuance of any letter of Initial Acceptance of any Public Improvements, Developer shall provide to Town a sight draft letter of credit (“Warranty Security”), and in the amount of the remaining Completion Security set forth in paragraph above, to ensure that Public Improvements for which Initial Acceptance has occurred will attain Final Acceptance by the Town during the Warranty Period, which Warranty Security will be satisfied by either retention or replacement of the remaining Completion Security.
  - 1. If prior to the issuance of a letter of Final Acceptance, any significant warranty work is required in connection with Public Improvements for which a letter of Initial Acceptance has been issued by the Town Engineer, the Town may require Warranty Security for up to two (2) years from the date of completion of said significant warranty work, provided that the two (2) year period for the remainder of the Public Improvements in such Phase shall not be extended. In such event, the Town Engineer shall issue a supplemental letter of Initial Acceptance specifying the Warranty Security required by Town and the work to be completed by Developer prior to a letter of Final Acceptance for such Public Improvements.

**6.8 Contribution for Public School Sites**

- 6.8.1 To meet the increased need for schools as a result of new housing, the subdivider shall dedicate land areas or sites suitable for school purposes in the amount specified for every dwelling unit, or portion thereof, which may be constructed within the subdivision to serve the elementary, middle, and high school public school needs of the residents of such dwelling units. The Town may elect that public school sites may be transferred and conveyed to the Town or school district pursuant to stipulations in intergovernmental agreements between the Town and school district or the Town may elect to impose a cash in lieu fee to the subdivider based on either the below calculations or a number from the intergovernmental agreements between the Town and school district.
  - 1. For single family dwelling units, the amount of land shall be 1.84 acres per 100 dwelling units;
  - 2. For duplex or triplex dwelling units, the amount of land shall be 1.40 acres per 100 dwelling units;
  - 3. For multi-family dwelling units, other than duplex or triplex units, the amount of land shall be 0.64 acres per 100 dwelling units;
  - 4. For condominium and town home units, the amount of land shall be 0.82 acres per 100 dwelling units; and
  - 5. For mobile homes, the amount of land shall be 1.10 acres per 100 dwelling units.

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**ARTICLE 7. SIGNS**

**7.1 Purpose and Intent.**

The purpose of this Article is to promote the public health, safety and welfare of the Town by establishing standards and criteria for the construction, installation, maintenance and operation of signs in the Town. Specifically this Article is intended to:

- Recognize that signs are a necessary means of visual communication for the convenience of the public and provide flexibility within the sign review and approval process to allow for unique circumstances and creativity.
- Recognize and ensure the right of those concerned to identify businesses, services and other activities by the use of signs, and limit signs to those which are accessory and incidental to the use on the premises where such signs are located.
- Provide a reasonable balance between the right of an individual to identify his or her business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices.
- Protect the public from damage or injury caused by signs that are poorly designed or maintained and from distractions or hazards to pedestrians or motorists caused by the indiscriminate placement or use of signs.
- Ensure signs are well designed and contribute in a positive way to the Town’s visual environment, express local character, and help develop a distinctive image for the Town.
- Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings and uses, and the surrounding neighborhood. Ensure signs are compatible and integrated with the building’s architectural design and with other signs on the property.
- Ensure signs are appropriate for the type of street on which and zoning district in which they are located.
- Bring nonconforming signs into compliance with these regulations.

**7.2 Applicability.**

- 7.2.1 This Article shall apply to all signs in the Town of Timnath, except as specifically stated otherwise.
- 7.2.2 A sign may only be erected, established, painted, created or maintained in conformance with the standards, criteria, procedures and other applicable requirements of this Article. Any sign not expressly allowed by this Article or not in conformance with its requirements is prohibited. On properties where [mixed-uses](#) exist, residential uses shall comply with the sign regulations for residential uses, and non-residential uses shall comply with the appropriate sign regulations for uses in that category.
- 7.2.3 Sign regulations herein shall not apply to official federal, state, county or town signs which are erected and intended for public information, direction, safety and control purposes.

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**7.3 General Sign Regulations.**

- 7.3.1 Flags. A total of three federal, state and local flags may be allowed for a commercial use. A total of one federal, state or local flag may be allowed for a residential use. Such flag, when fully extended, shall not encroach on the public right-of-way. Corporate banners or flags will be allowed, but shall be counted as part of the allowable square footage for signs and must follow the permitting process.
- 7.3.2 No sign shall be erected in a public right-of-way unless otherwise permitted in this Article.
- 7.3.3 All signs (except government signs) shall be located outside of the public right-of-way. Signs shall not interfere with traffic signs or the [sight distance triangle](#) at intersections. Figure 7-16 in Larimer County Urban Area Street Standards (LCUASS) provides detailed information on sight distance triangles.
- 7.3.4 The Town of Timnath will erect and maintain off-premise signage along major thoroughfares within the Town to advertise various residential developments within the Town. These signs shall be the only off-premise advertising signs allowed within the Town of Timnath.
  - 7.3.4.1 The off-premise signs will be monuments erected and maintained by the town and shall be of uniform design and dimensions.
  - 7.3.4.2 The signs will include the Town of Timnath logo and the various development names.
  - 7.3.4.3 Sign program shall be coordinated through the Town of Timnath or their assigned agent.

**7.4 Sign Permits and Administration.**

- 7.4.1 Sign Permit Required. To ensure compliance with the regulations of this Article, a sign permit shall be required in order to erect, move, alter, reconstruct or substantially repair any permanent or temporary sign, except signs that are expressly exempted in this Article. Routine maintenance of existing signs shall not require a permit. In multiple tenant buildings, a separate permit shall be required for each business entity’s sign(s). Separate building and electrical permits may be required for signs and will be determined on a case-by-case basis. Changing or replacing identical copy on an existing lawful sign shall not require a permit, provided the copy change does not alter the nature or intent of the sign.
- 7.4.2 Compliance. Signs shall come into compliance with this Article whenever one of the following occurs:
  - 7.4.2.1 If a sign is damaged or in need of repair, or the owner intends to remodel the sign and the cost of the sign’s repair or remodeling exceeds 50% of the sign’s replacement cost, the repaired or remodeled sign shall come into full compliance with this Article.
  - 7.4.2.2 If the business to which a sign relates changes use or name, the sign shall be brought into full compliance with this Article.
  - 7.4.2.3 If a business closes for 90 days or longer and is reopened, all existing signs shall be brought into full compliance with this Article.

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7.4.3 Application for a Sign Permit.

7.4.3.1 Sign Permit Application Requirements. Applications for sign permits shall be made in writing on forms furnished by the Town. The application shall contain:

- E. A completed sign permit application form and fee;
- F. Information, written materials and drawings as required by the Land Use Administration Manual.

7.4.3.2 Sign Permit Application Certification of Completion. Within 10 business days of the date of application, the Director shall either certify the application is complete and in compliance of all submittal requirements or reject it as incomplete and notify the applicant in writing of any deficiencies.

7.4.3.3 Staff Review and Approval. When the Director has determined the application to be complete, they shall review the sign permit in accordance with the established review criteria and shall approve, approve with conditions or deny the sign permit. Upon approval of the sign permit, the sign permit and any building or electrical permits required for the sign shall be issued to the applicant.

7.4.4 Temporary Sign Permit. Upon written request, the Director may grant a temporary sign permit which shall be limited to no more than 10 days. An example of a temporary sign is a “grand opening” sign. A single property shall not have more than three temporary signs in a calendar year.

**7.5 Exempt Signs.**

Exempt signs shall otherwise be in conformance with all applicable requirements contained in this Article. All other signs shall be allowed only with a permit and upon proof of compliance with this Article. The following types of signs are exempt from permit requirements of this Article and may be placed in any zoning district subject to the provisions of this Article.

7.5.1 Certain Onsite Signs. Signs that are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way except that such signs shall be subject to the safety regulations and all applicable codes governing building construction in the Town. Such signs shall include signs located inside buildings.

7.5.2 Address. Non-illuminated signs not exceeding two square feet in area which identify the address of a dwelling unit or of an establishment. Per the adopted fire code, address numerals shall be visible from the street fronting the property, and posting with a minimum of six inch numerals on a contrasting background.

7.5.3 Art. Integral decorative or architectural features of buildings, or works of art; so long as such features or works do not contain letters, numbers, trademarks, logos, moving parts or lights. Murals are an example of this exclusion.

7.5.4 Building Identification, Historical Markers. Non-illuminated signs constructed of metal or masonry which are permanently affixed to buildings or structures for the purpose of identifying the name of a building, date of erection or other historical information as approved by the Director.

7.5.5 Bulletin Board/Marquee Signs. Bulletin board and marquee signs securely attached to a

- building face and not exceeding 15 square feet in gross surface area accessory to a church, school, public or nonprofit institution.
- 7.5.6 Directional or Public Information Signs. On-premise directional and instructional signs not exceeding six square feet in area each. These include such signs as “restrooms”, “no smoking”, etc.
- 7.5.7 Doors. Signs affixed to door surfaces which identify the name and/or address of an establishment.
- 7.5.8 Farm Products. Temporary farm product signs provided that:
  - 7.5.8.1 One on-premises sign may be used. Said sign shall be located off the street right-of-way and at least ten feet away from any [side lot line](#). Such sign shall have a maximum area of nine square feet and may not be illuminated.
- 7.5.9 Garage, Estate, Yard Sale or Farm Auction. Signs which advertise a private garage or yard sale on the lot on which the sign is located; provided such signs are displayed no more than twice per year per dwelling unit for a period not to exceed five days (for auctions, 30 days). Such signs shall include the address of the event and the date which the sale or auction will take place. Signs shall be removed within 48 hours of completion of the sale or auction.
- 7.5.10 [Oil and Gas Operation](#). Identification signs for any oil and gas operation.
- 7.5.11 Political. Political signs displayed on private property in accordance with an official election or signs erected on behalf of candidates for public office provided:
  - 7.5.11.1 The signs are removed within seven days after the election for which they were made.
  - 7.5.11.2 No such sign shall be erected in public right-of-way, easements or sight triangles.
- 7.5.12 Religious Symbols. Religious symbols located on a building or lot used for organized religious services.
- 7.5.13 Regulatory Signs. Regulatory signs erected on private property, such as “no trespassing” and “beware of dog” signs, which do not exceed two square feet per face or four square feet in total surface area, limited to four such signs per use or per building, whichever is the greater number.
- 7.5.14 Sale, lease, rent (onsite). Temporary signs used to offer for sale, lease or rent of the land or the buildings upon which the sign is located provided:
  - 7.5.14.1 One sign per street frontage advertising real estate (“for sale”, “for rent” or “for development”) not greater than 64 square feet may be located on the property being advertised so long as said sign is located behind the street right of way line. If property so advertised lies on a corner lot or double frontage lot, then a second sign may be oriented along the second street so long as the two signs are at least 100 feet apart as measured by the shortest straight line.
  - 7.5.14.2 Such signs shall not be illuminated.
  - 7.5.14.3 All such signs shall be removed within seven days after the real estate closing or lease transaction.

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- 7.5.15 Special Events. Temporary special event signs and banners for religious, charitable, civic, fraternal or similar non-profit or not-for-profit organizations provided that:
  - 7.5.15.1 Signs shall be erected no sooner than 30 days prior and removed no later than seven days after the event.
  - 7.5.15.2 No such sign shall exceed 32 square feet.
  - 7.5.15.3 No such sign shall be illuminated.
  - 7.5.15.4 All such signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the Town or the Colorado Department of Transportation (CDOT). In no case may any such sign be located within the [sight distance triangle](#) or be attached to any structure within the right-of-way (government signs, telephone poles, etc.)
- 7.5.16 Text. No permit shall be required for text or copy changes on conforming or legal nonconforming signs specifically designed to permit changes of the text or copy; provided that no structural changes are made to the sign, and provided that the name of the business to which the sign belongs is not changed.
- 7.5.17 Time and Temperature. Signs displaying time and temperature shall not be included within the sign area calculations if embedded within a larger sign. A portion of the sign displaying time and temperature only shall not be included within sign area calculations if less than four square feet in total size.
- 7.5.18 Vacancy and No Vacancy. All “vacancy” and “no vacancy” signs, where they are not illuminated, [internally illuminated](#), indirectly illuminated or directly illuminated signs; provided that the area of the sign does not exceed two and one-half square feet per face. Also, signs designed to indicate vacancy such as “yes,” “no” or “sorry” shall also be exempt under the provisions of this paragraph if they meet the area requirement.
- 7.5.19 Vehicular Signs. Signs displayed on trucks, buses, trailers or other vehicles which are being operated or stored in the normal course of a business, such as signs indicating the name of the owner or business which are located on moving vans, delivery trucks, rental trucks and trailers and the like, shall be exempt from the provisions of this Article, provided that the primary purpose of such vehicles is not for the display of signs, and provided that they are parked or stored in areas appropriate to their use as vehicles in conjunction with the advertised business. Vehicle signs shall not be placed in the bed of a truck or on the roof of a vehicle in a manner which jeopardizes the health, safety and welfare of the community.

**7.6 Prohibited Signs.**

The following signs are inconsistent with the purposes and standards in this Article and are prohibited in all zoning districts.

- 7.6.1 Flashing, rotating, blinking or moving signs, animated signs, signs with moving, rotating or flashing lights or signs that create the illusion of movement, except as otherwise provided by this Article.
- 7.6.2 Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle, bicycle, or pedestrian traffic and/or traffic-control devices including any sign that obstructs clear vision in any direction from any street intersection or

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driveway or is located within the [sight distance triangle](#).

- 7.6.3 Mechanical or electrical [appurtenances](#), such as [revolving beacons](#), that are designed to compel attention.
- 7.6.4 Roof signs.
- 7.6.5 Any sign other than traffic control signs erected, constructed, or maintained within, over or upon the right-of-way of any road or highway, except in the case of a sign for which a permit has been issued with the requirements of this Article.
- 7.6.6 Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air.
- 7.6.7 Any sign located in such a way as to intentionally deny visual access to an adjoining property owner’s existing sign.
- 7.6.8 Vehicle-mounted signs, including but not limited to, signs painted on or attached to semi-trailers or [cargo containers](#) when exhibited on private property adjacent to public right-of-way for the purpose of advertising a business, service, or product for sale or rent. Vehicle-mounted signs used in connection with a special event are exempted from the requirements of this section during the duration of the special event only. Upon the conclusion of the special event, such signs must be dismantled. For the purposes of this subsection, the term special event shall mean a parade, circus, fair, carnival, festival, farmers’ market or other similar event of less than 10 days duration that is different in character from the customary or usual activities generally associated with the property upon which the special event is to occur.
- 7.6.9 Portable signs except as allowed in each zone district by this Article.
- 7.6.10 Rotating signs.
- 7.6.11 Searchlights.
- 7.6.12 Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy.
- 7.6.13 Electronic message boards except governmental signs.
- 7.6.14 Any sign (together with its supporting structure) now or hereafter existing which, 30 days or more after the premises have been vacated, advertises an activity, business, product or service no longer produced or conducted upon the premises upon which such sign is located. If the sign or sign structure is covered or the identifying symbols or letters removed, an extension of time may be granted by the Town Manager or designee upon good cause for such extension being shown. (This provision shall not apply to permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is clear intent to continue operation of the business).
- 7.6.15 Permanent [freestanding signs](#) on residential lots, except as provided in Section 7.5
- 7.6.16 Any sign or sign structure which:
  - 7.6.16.1 Is structurally unsafe.
  - 7.6.16.2 Constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;

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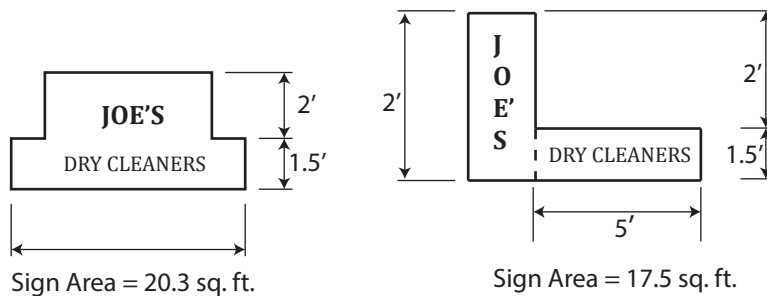


- 7.6.16.3 Is not kept in good repair; or
- 7.6.16.4 Is capable of causing electrical shocks to persons likely to come in contact with it.
- 7.6.17 Any sign or sign structure which:
  - 7.6.17.1 In any other way obstructs the view of, may be confused with or purports to be an official traffic sign, signal or device or any other official sign.
  - 7.6.17.2 Uses any words, phrases, symbols or characters implying the existence of danger or the need for stopping or maneuvering a motor vehicle or bicycle.
  - 7.6.17.3 Creates in any other way an unsafe distraction for motor vehicle or bicycle operators.
  - 7.6.17.4 Obstructs the view of motor vehicle or bicycle operators, pedestrian and horses entering a public roadway from any parking area, service drive, private driveway, [alley](#) or other thoroughfare.
- 7.6.18 Off-premise advertising signs.
- 7.6.19 Any sign not pertinent and clearly incidental to the permitted use on the property where located except as otherwise provided in this Article.

**7.7 Measurement of Sign Area and Height.**

- 7.7.1 Sign Surface Area. The area of a geometric shape enclosing any message, logo, symbol, name, photograph or display face shall be measured using standard mathematical formulas. Time and temperature devices shall not be included within the measurement of maximum sign area.

Diagram 7.7.1. Sign Area



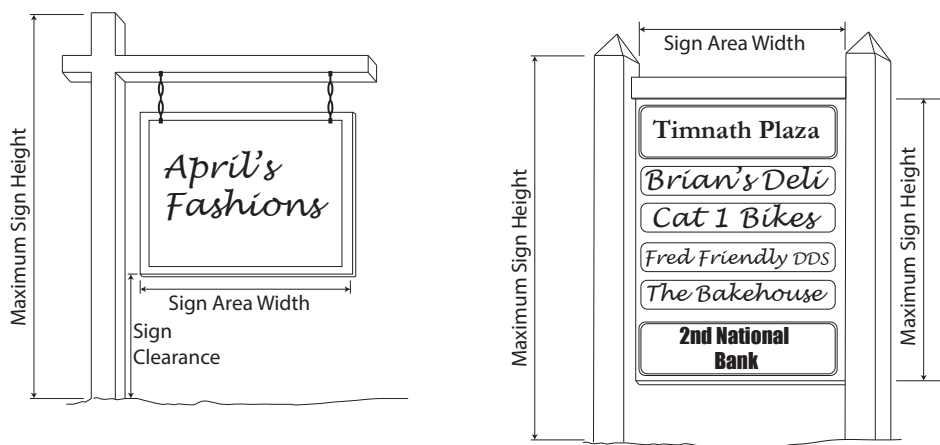
- 7.7.2 Sign Support. Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.
- 7.7.3 Back-to-Back (Double-Faced) Signs. Back-to-back signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two feet at any point.
- 7.7.4 Three-Dimensional Signs. Where a sign consists of one or more three-dimensional objects (i.e. balls, cubes, clusters of objects, sculpture), the sign area shall be measured as their maximum projection upon a vertical plane. Signs with three-dimensional objects that exceed a projection of six inches from the sign face may be approved in compliance



with Section 7.XX (Creative Signs) .

- 7.7.5 **Wall Signs.** If a sign is attached to a wall, only that portion of the wall onto which the sign face or letters cover shall be calculated in the sign area.
- 7.7.6 **Sign Height.** The height of a sign shall be measured from the highest point of a sign to the ground surface beneath it. When berms are used in conjunction with signage, the height of the sign shall be measured from the mean elevation of the fronting street.

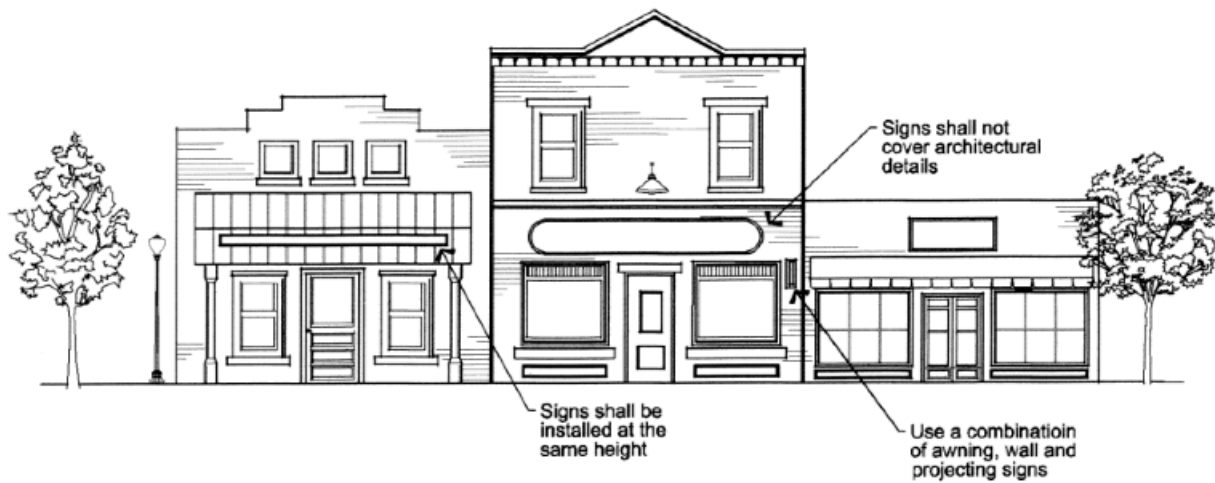
Diagram 7.7.6. Sign Height



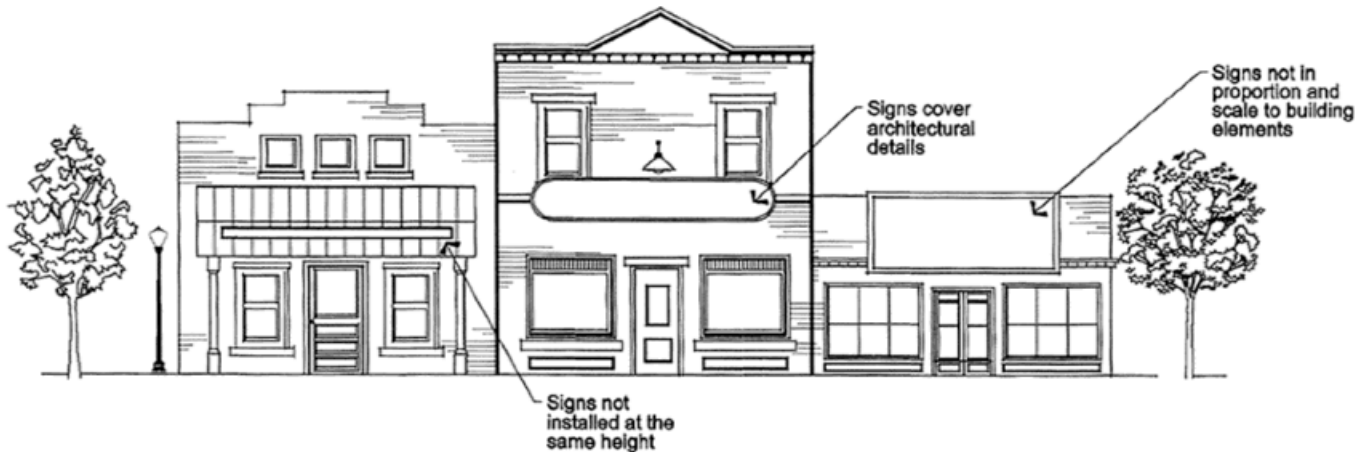
## 7.8 Sign Design—General

### 7.8.1 Design Compatibility.

- 7.8.1.1 **Professional.** Signs shall be made by a professional sign company or other qualified entity acceptable to the Town.
- 7.8.1.2 **Proportionate size and scale.** The scale of signs shall be appropriate for the building on which they are placed and the area in which they are located. Building signs shall be harmonious in scale and proportion with the building facade they are mounted to.
- 7.8.1.3 **Sign location and placement.**
  - A. **Visibility** – Signs shall not visually overpower nor obscure architectural features.



Place signs as shown above, not below.

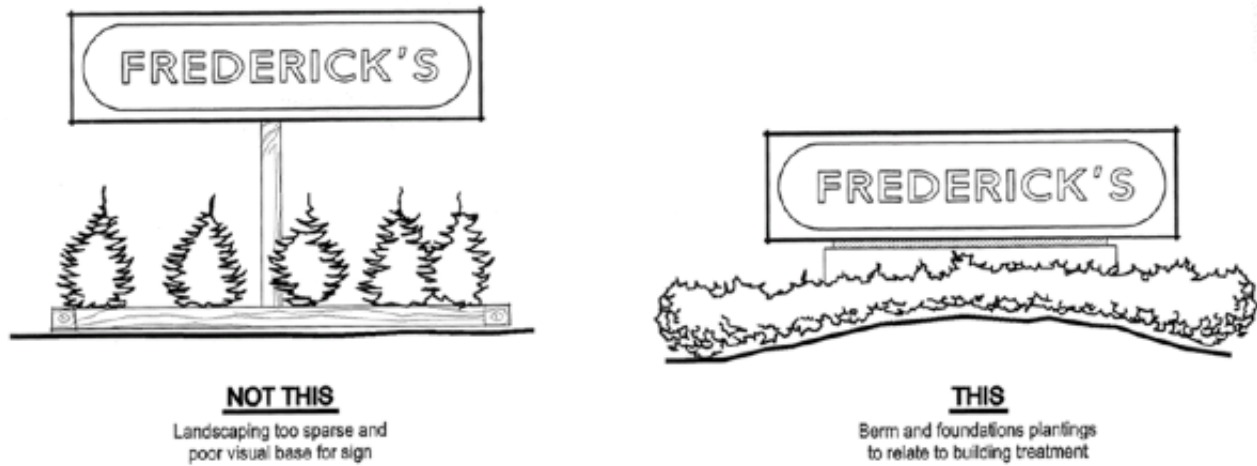


- B. Integrate signs with the building and landscaping – Carefully coordinate the sign with the architectural design, overall color scheme and landscaping. Signs shall be designed to complement or enhance the other signs for a building.
- C. Unified sign band – Whenever possible, signs located on buildings with the same blockface shall be placed at the same height, in order to create a unified sign band. Locate [wall signs](#) at the first floor level only for retail uses.
- D. Monument signs – Locate monument signs in a planter setting within a landscaped area at the primary entries to the development /subdivision to provide an overall project identity. A maximum of one monument sign per each side of a street for each entrance into a development /subdivision is permitted.
- E. Pedestrian-oriented signs – Pedestrian-oriented signs are encouraged. It is desirable to include a pedestrian-oriented sign as one of the permitted signs for a business. These signs are designed for and directed toward pedestrians so they can easily and comfortably read the sign as they stand adjacent to the business.
- F. Road right-of-way – No sign shall be erected within the road right-of-way or near the intersection of any road(s) or driveways in such a manner as to obstruct free and clear vision of motorists, bicyclists or pedestrians or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. Signs located at an

intersection must be outside of the [sight distance triangle](#).

7.8.1.4 Landscaping. [Freestanding signs](#) shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer.

Diagram 7.8.1.4. Landscaping



7.8.1.5 Reduce sign impact. When land uses of different character (ie: residential adjacent to commercial) are adjoining or exist in close proximity, signs shall be designed, located and/or screened with landscaping so that they have little or no impact on adjacent residential neighborhoods. Small-scale signs are encouraged.

Diagram 7.8.1.5. Reducing Sign Impact



7.8.2 Color.

- 7.8.2.1 Select colors carefully. Colors shall be selected to contribute to legibility and design integrity. Sign colors shall complement the colors used on the structures and the project as a whole. Colors or combinations of colors that are harsh and disrupt the visual harmony and order of the street are unacceptable.
- 7.8.2.2 Use contrasting colors. Provide a substantial contrast between the color and the material of the background and the letters or symbols to make the sign easier to read during both the day and night. Light letters on a dark background or dark letters on a light background are most legible.
- 7.8.2.3 Avoid using too many colors. Colors or color combinations that interfere with legibility of the sign copy or that interfere with viewer identification of other signs shall be avoided.

7.8.3 Materials. Signs shall be constructed of durable, high quality architectural materials. The sign package must use materials, colors and designs that are compatible with the building facade. Sign materials must be of proven durability. Treated wood, painted metal, stone and brick are the preferred materials for signs.

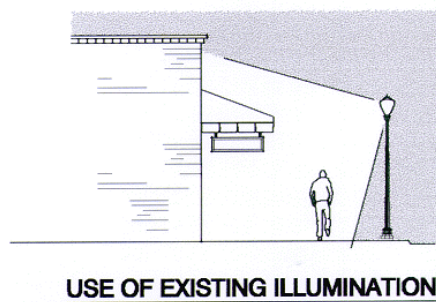
7.8.4 Legibility. Signs shall be adequately legible under the circumstances in which they are primarily seen. The legibility of signs is related to:

- 7.8.4.1 The speed at which they are viewed.
- 7.8.4.2 The context and surroundings in which they are seen.
- 7.8.4.3 The design, colors and contrast of the sign copy and sign face.
- 7.8.4.4 The design of the sign including copy, lettering size and style, and colors shall logically relate to the average speed of the traffic which will see it. Signs shall legibly convey their messages without being distracting or unsafe to motorists reading them. Symbols and logos can be used in place of words whenever appropriate.

7.8.5 Sign Illumination.

- 7.8.5.1 Use illumination only if necessary.
- 7.8.5.2 Sign illumination shall complement the design of the site.

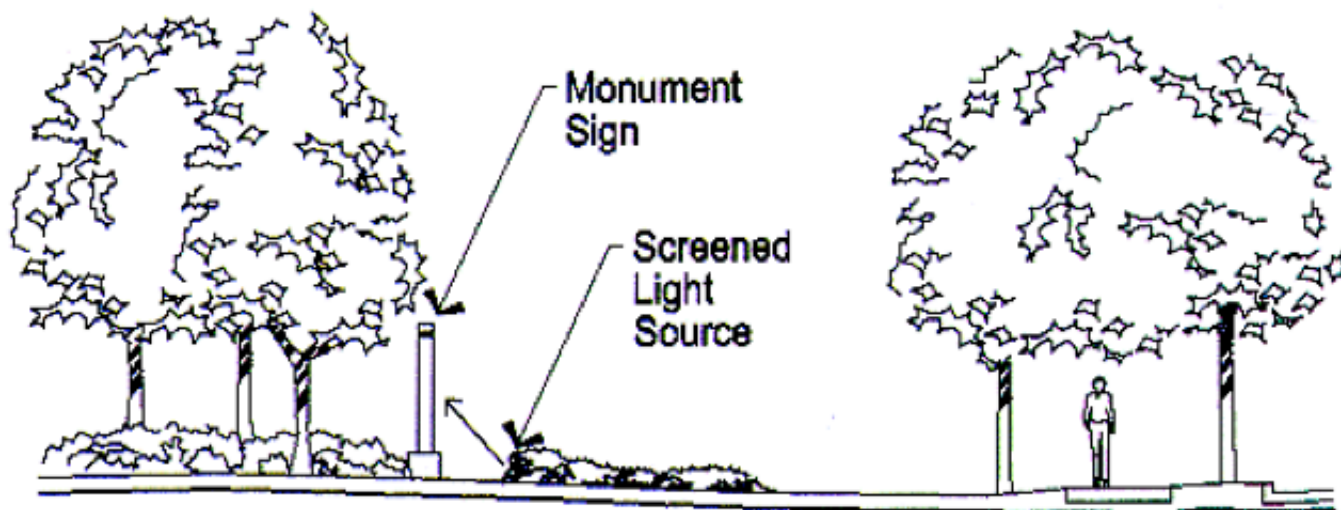
Diagram 7.8.5.2. Sign Illumination



- 7.8.4.3 Use a direct light source. All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign. When external light sources are directed at the sign surface, the light source must be concealed from

pedestrians' and motorists' "lines of sight."

Diagram 7.8.4.3. Concealing Light Sources



**External light sources directed at signs should be concealed from pedestrians' and motorists' "lines of sight"**

- 7.8.4.4 Signs must be illuminated in a way that does not cause glare onto the street and adjacent properties. Signs shall be lighted only to the minimum level for nighttime readability and should not be so bright as to overpower an area.
- 7.8.4.5 All lighted signs shall meet all applicable electrical codes and the electrical components used shall bear the label of an approval agency. Additionally, electrical permits shall be obtained for electric signs.
- 7.8.4.6 Flashing, moving, blinking, chasing or other animation effects shall be prohibited on all signs except time and temperature signs.
- 7.8.4.7 Neon tubing is an acceptable method of sign illumination for window signs in commercial districts.

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- 7.8.4.8 The use of individually-cut, back-lit letter signs is encouraged.
- 7.8.4.9 No commercial sign within five hundred linear feet of a pre-existing residential structure, and visible from that structure, may be illuminated between the hours of 11:00 p.m. and 6:00 a.m. A residence shall be deemed “pre-existing” for purposes of this Section if it has a valid building permit in effect for construction of said structure or if construction of said structure was complete on or prior to the effective date of this Article.

**7.9 Sign Installation and Maintenance.**

7.9.1 Installation.

- 7.9.1.1 Where possible, signs shall be mounted so that the mounting brackets and associated mounting hardware are concealed.
- 7.9.1.2 [Projecting signs](#) shall be mounted so they generally align with others in the block.
- 7.9.1.3 All signs and all components thereof, including sign structures and sign faces, shall be kept neatly painted, in a good state of repair and in compliance with all building and electrical codes in force at the time of installation. The Town may inspect any sign governed by this Article and shall have the authority to order the painting, repair, [alteration](#) or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.
- 7.9.1.4 Owners of projecting signs extending over public right-of-way shall be required to maintain public liability insurance in an amount to be determined appropriate by the Town, in which the Town is named as an “other insured.”

7.9.2 Maintenance.

- 7.9.2.1 The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources in neat and orderly condition, and in a good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign. The sign must also be in compliance with all building and electrical codes.
- 7.9.2.2 The owner of any sign regulated by this Article shall be required to keep signs and supporting hardware, including temporary signs and time/temperature signs structurally safe, clean, free of visible defects and functioning properly at all times. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.
- 7.9.2.3 The Town may inspect any sign governed by this Article and shall have the authority to order the painting, repair, [alteration](#) or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

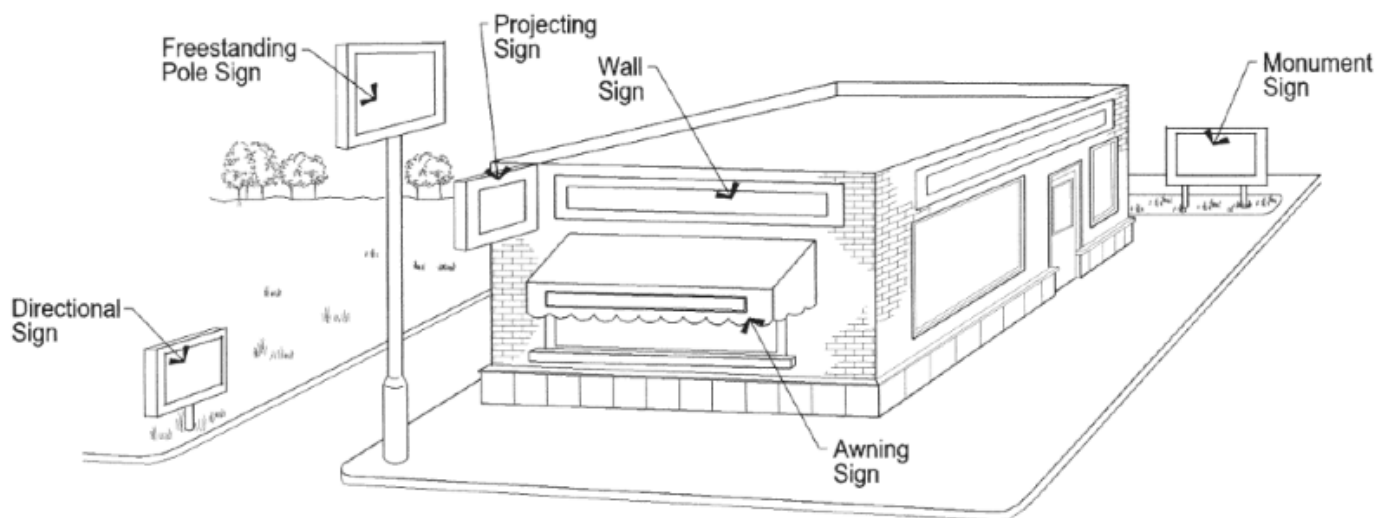
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## 7.10 Standards for Specific Types of Signs.

- 7.10.1 **Awning Signs.** An awning sign is a wall sign which is painted, printed, stitched, sewn or stained onto the exterior of an awning. An awning is a movable or permanent shelter supported entirely from the exterior wall of a building and composed of nonrigid materials except for the supporting framework.

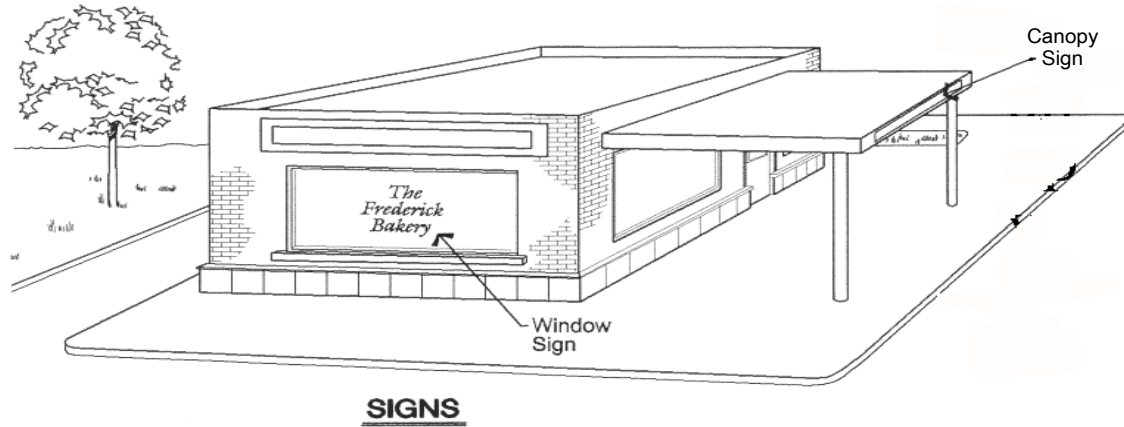
Diagram 7.10.1. Types of Signs



- 7.10.1.1 **Location.** Signs may be placed only on awnings that are located on first- and second-story **building frontages**, including those fronting a parking lot or pedestrian way. No awning sign shall project beyond, above or below the face of an awning.
- 7.10.1.2 **Lighting.** **Awnings** shall not be **internally illuminated** except as part of a creative sign. Lighting directed downwards that does not illuminate the awning is allowed.
- 7.10.2 **Banners.** Banners are allowed per the guidelines below.
- 7.10.2.1 It is displayed in conjunction with a grand opening celebration for a period not to exceed 30 days.
- 7.10.2.2 It is displayed in conjunction with a special sale for a period not to exceed 30 days.
- 7.10.2.3 It is displayed no more than two times per calendar year per establishment.
- 7.10.2.4 It is securely attached to the wall of the establishment, **freestanding signs** or light poles on private property.
- 7.10.2.5 One single-sided banner per street frontage per establishment is permitted attached to any building.
- 7.10.2.6 No banner shall be more than 24 square feet in size.
- 7.10.2.7 Any banner in disrepair, tattered and/or torn shall be removed immediately.
- 7.10.2.8 Flag or feather style signs shall be treated as banners.

- 7.10.3 **Canopy Signs.** A canopy sign is a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

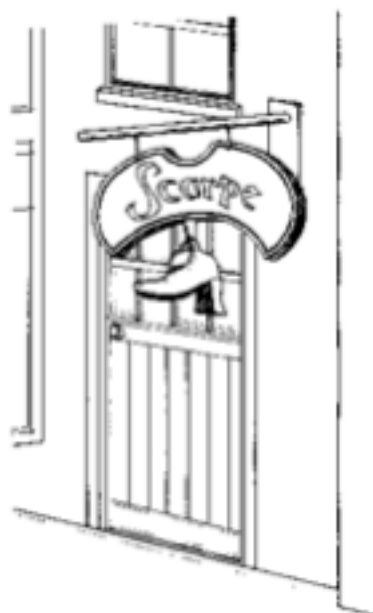
Diagram 7.10.3. Canopy Signs



- 7.10.3.1 **Location and Lighting.** No canopy, with or without signage, shall extend above the roof line of any building. No canopy sign shall project above the top of the canopy upon which it is mounted. However, such signs may project horizontally from the face of a canopy the distance necessary to accommodate the letter thickness and required electrical equipment, but not more than twelve inches (measured from the bottom of the sign). Under-canopy signs which are perpendicular to the face of the building shall be deemed to be projecting **wall signs**. Under-canopy signs which are parallel to the face of the building shall be a minimum of eight feet above **grade** and shall be deemed to be flush wall signs.
- 7.10.4 **Freestanding Signs Including Pole Signs .** A freestanding sign is a sign which is supported by one or more columns, uprights, poles or braces extended from the ground, or which is erected on the ground and shall also include a monument sign and pole signs but does not include a sign attached to a structure.
- 7.10.4.1 **Location.** The sign may be located only on a site frontage adjoining a public street. No freestanding sign in any zoning district can be erected closer than eight feet from any curb line, nor closer than four feet to any building. No freestanding signs in business and industrial districts may be located less than twenty-five feet from any **property line** adjacent to a residential zoning district line.
- 7.10.4.2 **Sign mounting.** The sign shall be mounted on one or more posts or have a solid monument-type base. Posts shall not have a diameter greater than twelve inches.
- 7.10.4.3 **Pole signs.** Pole signs should not be so large as to obscure the patterns of front facades and yards.
- 7.10.5 **Monument Signs.** A monument sign is a permanent sign where the entire bottom of the sign is affixed to the ground, not to a building. Pole signs that utilize more than one pole shall not be allowed.

- 7.10.5.1 Location. The sign may be located only along a site frontage adjoining a public street.
- 7.10.5.2 Design. The design of a monument sign shall be consistent with the overall scale of the building. The design and placement of the sign shall not obstruct visibility through the [sight distance triangle](#). Monument signs shall contain only the name and address of the project which it identifies.
- 7.10.5.3 Landscaping requirements. Landscaping shall be provided at the base of the supporting structure equal to twice the area of one face of the sign. For example, twenty square feet of sign area equals forty square feet of landscaped area. The Planning Commission may reduce or waive this requirement if it is determined that the additional landscaping would not contribute significantly to the overall aesthetic character of the project.
- 7.10.6 [Projecting Signs](#). A projecting sign is any sign supported by a building wall and projecting at least twelve inches or more horizontally beyond the surface of the building to which the sign is attached.
  - 7.10.6.1 Location. Projecting signs shall be placed only on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access. Mount projecting signs so they generally align with others in the block and fit with architectural detail of the structure. This helps to create a “canopy line” that gives scale to the sidewalk.
  - 7.10.6.2 Sign Structure. Sign supports and brackets shall be compatible with the design and scale of the sign.
  - 7.10.6.3 Quantity. The number of projecting signs is limited to one per business. Projecting signs are not permitted in conjunction with wall-mounted or pole signs.

Diagram 7.10.6 Projecting Signs



7.10.7 Time and/or Temperature Signs. A time and/or temperature sign is any sign intended

to be displayed for a limited period of time and capable of being viewed from any public right-of-way, [parking area](#) or neighboring property.

- 7.10.7.1 **Maximum area.** Time and/or temperature signs which do not exceed ten square feet shall not be required to be included in the allowable sign area permitted in [Section 7.7](#) (Measurement of Sign Area and Height; Sign Setbacks); provided however, that any identification or advertising which is attached to or made part of the same sign structure shall be included in the allowable sign area for the premises.
- 7.10.7.2 **Design.** The sign shall be designed in a manner that is compatible with other signs on the site and with the structure on which it is placed.
- 7.10.7.3 **Maintenance.** It shall be the responsibility of the owner of such signs to maintain such signs and insure that they are kept accurate. If these conditions are not met, the sign shall be repaired or removed at owner’s expense.

7.10.8 **Wall Signs.** A wall sign is any sign painted on, incorporated in or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall.

- 7.10.8.1 **Location.** The sign shall not be placed to obstruct any portion of a window, doorway or other architectural detail. Locate wall signs on buildings at the first floor level only for retail uses. No part of a wall sign shall be located more than twenty-five feet above [grade](#) level.
- 7.10.8.2 **Projection from wall.** No sign part, including cut-out letters may project from the surface upon which it is attached more than required for construction purposes and in no case more than twelve inches.
- 7.10.8.3 **Design.** Wall signs shall identify the individual business, building or building complex by name or trademark only.

7.10.9 **A-Frame Signs and Footed Vertical Signs.** A-Frame Signs are [freestanding signs](#) that are no taller than four feet and no wider than three feet, with one or two message-bearing sides that are hinged or attached at the top. A-Frame Signs have the general appearance when viewed from the side of a capital “A”. Footed Vertical Signs are freestanding signs with braces (feet) at the bottom to hold them upright, that are no taller than four feet and no wider than three feet, with one or two message-bearing sides that are not hinge or attached at the top, and when viewed from the side appear as a “⊥” and from the front as a rectangle. A-Frame Signs must be placed on sidewalks against the building of the business they advertise if there is no private property between the building and the street surface, or they may be placed on private property. Footed Vertical Signs must be placed on private property and not on sidewalks. Such signs shall be constructed of at least one-quarter-inch plywood, or of metal equivalent in strength. Such signs shall be neat, attractive and visually appealing, so that they are an asset of the business, adjacent land uses and the community at large. A-Frame and Footed Vertical Signs shall meet the following requirements:

- 7.10.9.1 Only one A-Frame or Footed Vertical Sign shall be allowed per building regardless of the number of businesses at that location.
- 7.10.9.2 There shall be at least 10 feet between either type sign at one building and either type of sign at the next building.

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- 7.10.9.3 Placement of either type sign shall allow a minimum of six feet of unobstructed pedestrian walkway and shall be safely placed so as not to interfere with pedestrian traffic or access to parked vehicles, or block the view of vehicular traffic in the [sight distance triangle](#) at an intersection.
- 7.10.9.4 Either type sign shall be constructed, or adapted, to prevent being blown by the wind from their placement, or into persons, vehicles or other buildings.
- 7.10.9.5 A-Frame and Footed Vertical Signs require a sign permit pursuant to [Section 7.4 Sign Permit and Administration](#) and shall be allowed in the following zoning districts only:
  - A. Any commercial development in any mixed-use district.
  - B. NC- Neighborhood Commercial District.

7.10.10 Sign Regulations By District And Location. The following table lists requirements by sign type by district and relative location to I-25.

Table 7.10.10 Sign Regulations By District And Location

| Note: for banners, temporary signs, A-frame signs, see applicable section. |   |                     |         |                                  |           |         |                            |          |         |                                     |           |         |  |           |         |
|--|---|---------------------|---------|----------------------------------|-----------|---------|----------------------------|----------|---------|-------------------------------------|-----------|---------|--|-----------|---------|
| Zoning District  | Free Standing Pole or Monument <sup>3</sup> |                     |         | <a href="#">Projecting Signs</a> |           |         | <a href="#">Wall Signs</a> |          |         | A-Frame/Vertical Signs <sup>1</sup> |           |         | Canopy or <a href="#">Awning Signs</a> |           |         |
|  | # Signs                                     | Max. Area           | Max. Ht | # Signs                          | Max. Area | Max. Ht | # Signs                    | Max Area | Max. Ht | # Signs                             | Max. Area | Max. Ht | # Signs                                | Max. Area | Max. Ht |
| RE, R1, R2, R3, R4   | 1 Entry sign per entrance                   | 48 sq. ft. per face | 8'      |                                  |           |         |                            |          |         |                                     |           |         |  |           |         |
| RMU, LDMU  | 1 Entry sign per entrance                   | 48 sq. ft. per face | 8'      |                                  |           |         |                            |          |         |                                     |           |         |  |           |         |

|                                   |                           |                     |         |                                     |                         |  |  |  |   |                                |        |        |              |         |                              |
|-----------------------------------|---------------------------|---------------------|---------|-------------------------------------|-------------------------|--|--|--|---|--------------------------------|--------|--------|--------------|---------|------------------------------|
| CMU, BD, NC, CC, RC, Industrial   | 1 Entry sign per entrance | 48 sq. ft. per face | 8'      | 1 per first floor commercial tenant | 3' wide (total 6' area) | Must be 8 feet from sidewalk, no higher than wall of single story building and no higher than second story window of 2-story building. Cannot extend more than 4' from building face | 1 per tenant <a href="#">building frontage</a> | 1 for first 100 lineal feet of building frontage plus 1 for each 2 lineal feet thereafter of building frontage up to 200 ft. max | Not more than 25" above <a href="#">grade</a> level or higher than the eave line. | 1 per first floor tenant space | 8 feet | 4 feet | 1 per tenant | 10 feet | At least 8 feet above grade. |
| I-25 (w/in 1/8 mile) <sup>2</sup> | 1 per frontage            | 196 sq. ft.         | 50 feet |                                     |                         |  |  |  |   |                                |        |        |              |         |                              |

1. Must maintain 6' pedestrian clearance.
2. Must also follow Colorado Department of Transportation regulations and must be for a single business of 150,000 or more square feet.
3. Pole signs are prohibited in the BD district.

|   | ZONING DISTRICT/LOCATION  |                             |                                   |
|---|---------------------------|-----------------------------|-----------------------------------|
|   | A, RE, R1, R2, R3, R4     | RMU, CMU, B, NC, CC, RC, I1 | I-25 (w/in 1/8 mile) <sup>3</sup> |
| <b>Free Standing Pole or Monument Signs<sup>2</sup></b> |                           |                             |                                   |
| Number of Signs Permitted                               | 1 Entry sign per entrance | 1 Entry sign per entrance   | 1 per frontage                    |
| Maximum Sign Area                                       | 48 sq. ft. per face       | 48 sq. ft. per face         | 196 square feet                   |
| Maximum Sign Height                                     | 8'                        | 8'                          | 50 feet                           |
| <b><a href="#">Projecting Signs</a></b>                 |                           |                             |                                   |



|   | ZONING DISTRICT/LOCATION |  |                       |
|---|--------------------------|--|-----------------------|
|   | A, RE, R1, R2, R3, R4    | RMU, CMU, B, NC, CC, RC, I1  | I-25 (w/in 1/8 mile)3 |
| Number of Signs Permitted                 | -                        | 1 per first floor commercial tenant  | -                     |
| Maximum Sign Area                         | -                        | 3' wide (total 6' area)  | -                     |
| Maximum Sign Height                       | -                        | Must be 8 feet from sidewalk, no higher than wall of single story building and no higher than second story window of 2-story building. Cannot extend more than 4' from building face | -                     |
| <b>Wall Signs</b>                         |                          |  |                       |
| Number of Signs Permitted                 | -                        | 1 per tenant <u>building frontage</u>  | -                     |
| Maximum Sign Area                         | -                        | 1 for first 100 lineal feet of building frontage plus 1 for each 2 lineal feet thereafter of building frontage up to 200 ft. max   | -                     |
| Maximum Sign Height                       | -                        | Not more than 25" above <u>grade</u> level or higher than the <u>eave</u> line.  | -                     |
| <b>A-Frame/Vertical Signs<sup>1</sup></b> |                          |  |                       |
| Number of Signs Permitted                 | -                        | 1 per first floor tenant space   | -                     |
| Maximum Sign Area                         | -                        | 8 feet   | -                     |
| Maximum Sign Height                       | -                        | 4 feet   | -                     |
| <b>Canopy or Awning Signs</b>             |                          |  |                       |
| Number of Signs Permitted                 | -                        | 1 per tenant   | -                     |
| Maximum Sign Area                         | -                        | 10 feet  | -                     |
| Maximum Sign Height                       | -                        | At least 8 feet above grade.   | -                     |

1. On properties where mixed-uses exist, residential uses shall comply with the sign regulations for residential uses, and non-residential uses shall comply with the appropriate sign regulations for uses in that category
2. Pole signs are prohibited in the BD district.
3. Must maintain 6' pedestrian clearance.
4. Must also follow Colorado Department of Transportation regulations and must be for a single business of 150,000 or more square feet.

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## ARTICLE 8. ENVIRONMENTAL STANDARDS

### 8.1 Purpose and Intent.

The purpose of these regulations is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by:

- Guiding, regulating, and controlling the design, construction, use and maintenance of all stormwater facilities and development, and more specifically to address requirements under the federal [Clean Water Act](#), National Pollution Discharge Elimination System ;
- Encouraging the use of low impact stormwater design to reduce public [infrastructure](#), minimize negative impacts to aquifers, and protect the integrity of natural stormwater systems;
- Establishing regulations to protect the form and function of wetlands;
- Limiting the impacts of land grading and clearing;
- Promoting the design and construction of green buildings;

### 8.2 Floodplain Regulations.

8.2.1 Statutory Authorization. The Legislature of the State of Colorado, has, in Title 29, Article 20, C.R.S., delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

8.2.2 Findings of Fact.

8.2.2.1 The flood hazard areas of Timnath, Colorado are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.

8.2.2.2 These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

8.2.3 Statement of Purpose. It is the purpose of this ordinance is to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

8.2.3.1 Protect human life and health;

8.2.3.2 Minimize expenditure of public money for costly flood control projects;

8.2.3.3 Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

8.2.3.4 Minimize prolonged business interruptions;

- 8.2.3.5 Minimize damage to critical facilities, infrastructure and other [public facilities](#) such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
- 8.2.3.6 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
- 8.2.3.7 Insure that potential buyers are notified that property is located in a flood hazard area.
- 8.2.4 **Methods of Reducing Flood Losses.** In order to accomplish its purposes, this ordinance uses the following methods:
- 8.2.4.1 Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- 8.2.4.2 Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 8.2.4.3 Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- 8.2.4.4 Control filling, grading, dredging and other development which may increase flood damage; and
- 8.2.4.5 Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
- 8.2.5 **Lands to Which This Ordinance Applied.** The ordinance shall apply to all [Special Flood Hazard Areas](#) and areas removed from the floodplain by the issuance of a FEMA [Letter of Map Revision Based on Fill](#) (LOMR-F) within the jurisdiction of Timnath, Colorado.
- 8.2.6 **Basis for Establishing the [Special Flood Hazard Area](#).** The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "[Flood Insurance Study](#) for Larimer County, Colorado and Incorporated Areas," dated February 6, 2013, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this ordinance and may be supplemented by studies designated and approved by the Town of Timnath. The [Floodplain Administrator](#) shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.
- 8.2.7 **Establishment of [Floodplain Development Permit](#).** A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.
- 8.2.8 **Interpretation.** In the interpretation and application of this ordinance, all provisions shall be:
- 8.2.8.1 Considered as minimum requirements;
- 8.2.8.2 Liberally construed in favor of the governing body; and
- 8.2.8.3 Deemed to neither limit nor repeal any other powers granted under State statutes.

- 8.2.9 **Warning and Disclaimer of Liability.** The degree of flood protection required by this ordinance 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 ordinance does not imply that land outside the [Special Flood Hazard Area](#) or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town Timnath or any official, Town contracted consultant or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- 8.2.10 **Designation of the [Floodplain Administrator](#).** The Town Engineer is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR ([National Flood Insurance Program Regulations](#)) pertaining to [floodplain management](#).
- 8.2.11 **Duties and Responsibilities of the [Floodplain Administrator](#).** Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
- 8.2.11.1 Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation (in relation to [mean sea level](#)) of the [lowest floor](#) (including basement) of all new or substantially improved structures and any [floodproofing](#) certificate required by Article 4, Section C.
- 8.2.11.2 Review, approve or deny all applications for [Floodplain Development Permits](#) required by adoption of this ordinance.
- 8.2.11.3 Review Floodplain Development Permit application to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- 8.2.11.4 Review permits for proposed development 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.
- 8.2.11.5 Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
- 8.2.11.6 Where interpretation is needed as to the exact location of the boundaries of the [Special Flood Hazard Area](#) (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the [Floodplain Administrator](#) shall make the necessary interpretation.
- 8.2.11.7 When [base flood elevation](#) data has not been provided in accordance with Section 8.2.6, the [Floodplain Administrator](#) shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State or other source, in order to administer the provisions of Section 8.2.14 through 8.2.21.
- 8.2.11.8 For waterways with [Base Flood Elevations](#) for which a regulatory Floodway has not been designated, no [new construction](#), [substantial improvements](#), or other development (including fill) shall be permitted within Zones A1-30 and

AE on the 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 foot at any point within the community.

- 8.2.11.9 Under the provisions of 44 CFR Chapter 1, Section 65.12, of the [National Flood Insurance Program](#) regulations, a community may approve certain development in Zones A1-30, AE, or AH, on the community's FIRM which increases the [water surface elevation](#) of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA ([Conditional Letter of Map Revision](#)), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
- 8.2.11.10 Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the FEMA.
- 8.2.11.11 Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- 8.2.12 Permit Procedures. Application for a [Floodplain Development Permit](#) shall be presented to the [Floodplain Administrator](#) on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to [Special Flood Hazard Areas](#). Additionally, the following information is required:
- 8.2.12.1 Elevation (in relation to [mean sea level](#)), of the [lowest floor](#) (including basement) of all new and substantially improved structures;
- 8.2.12.2 Elevation in relation to [mean sea level](#) to which any nonresidential structure shall be floodproofed;
- 8.2.12.3 A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the [floodproofing](#) criteria of Section 8.2.15.2;
- 8.2.12.4 Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
- 8.2.12.5 Maintain a record of all such information in accordance with Section 8.2.11.
- Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
- 8.2.12.6 The danger to life and property due to flooding or erosion damage;
- 8.2.12.7 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 8.2.12.8 The danger that materials may be swept onto other lands to the injury of others;



- 8.2.12.9 The compatibility of the proposed use with existing and anticipated development;
- 8.2.12.10 The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 8.2.12.11 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;
- 8.2.12.12 The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- 8.2.12.13 The necessity to the facility of a waterfront location, where applicable;
- 8.2.12.14 The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
- 8.2.12.15 The relationship of the proposed use to the comprehensive plan for that area.
- 8.2.13 Variance Procedures.
- 8.2.13.1 The Appeal Board, as established by the Community, shall hear and render judgment on requests for variances from the requirements of this ordinance.
- 8.2.13.2 The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the [Floodplain Administrator](#) in the enforcement or administration of this ordinance.
- 8.2.13.3 Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- 8.2.13.4 The [Floodplain Administrator](#) shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- 8.2.13.5 Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- 8.2.13.6 Variances may be issued for [new construction](#) and [substantial improvements](#) to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 8.2.12 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 8.2.13.7 Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of Section 8.2.3.
- 8.2.13.8 Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.



8.2.13.9 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.

8.2.13.10 Prerequisites for granting variances:

- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon:
  1. Showing a good and sufficient cause;
  2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- D. C. 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.

8.2.13.11 Variances may be issued by a community for [new construction](#) and [substantial improvements](#) and for other development necessary for the conduct of a [Functionally Dependent Use](#) provided that:

- A. The criteria outlined in Section 8.2.13.1 through 8.2.13.9, are met; and
- B. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

8.2.14 General Standards. In all Special Flood Areas the following provisions are required for all [new construction](#) and [substantial improvements](#):

- 8.2.14.1 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;
- 8.2.14.2 All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 8.2.14.3 All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- 8.2.14.4 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.

- 8.2.14.5 All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to the applicable State and local anchoring requirements for resisting wind forces.
- 8.2.14.6 All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 8.2.14.7 New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- 8.2.14.8 On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 8.2.15 Specific Standards. In all Special Flood Hazards Areas where [base flood elevation](#) data has been provided as set forth in (i) Section 8.2.6; (ii) Section 8.2.11.7; or (iii) Section 8.2.16, the following provisions are required:
- 8.2.15.1 Residential Construction - [New construction](#) and [Substantial Improvement](#) of any residential structure shall have the [lowest floor](#) (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the [Floodplain Administrator](#).
- 8.2.15.2 Nonresidential Construction – With the exception of Critical Facilities, outlined in Section 8.2.21 [new construction](#) and [Substantial Improvements](#) of any commercial, industrial or other nonresidential structure shall have the [lowest floor](#) (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and [sanitary facilities](#), be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- A registered Colorado 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. Such certification shall be maintained by the [Floodplain Administrator](#), as proposed in Section 8.2.12.
- 8.2.15.3 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 Colorado Professional Engineer or architect, or meet or exceed the following minimum criteria:

- A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- B. The bottom of all openings shall be no higher than one foot above grade; and
- 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.

8.2.15.4 **Manufactured Homes** - All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community’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, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air condition equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community’s FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

- A. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation; or
- B. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

8.2.15.5 **Recreational Vehicles** - All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community’s FIRM either:

- A. Be on the site for fewer than 180 consecutive days;
- B. Be fully licensed and ready for highway use; or
- C. Meet the permit requirements of Section 8.2.12, and the elevation and anchoring requirements for “manufactured homes” in Section 8.2.15.3.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and

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security devices, and has no permanently attached [addition](#).

- 8.2.15.6 Prior Approved Activities – Any activity for which a [Floodplain Development Permit](#) was issued by the Town of Timnath or a CLOMR was issued by FEMA prior to the date of this ordinance may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this ordinance if it meets such standards.
- 8.2.16 Standards for Subdivision Proposals.
- 8.2.16.1 All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonable safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
- 8.2.16.2 All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet [Floodplain Development Permit](#) requirements of Section 8.2.7; Section 8.2.12; and the provisions of Sections 8.2.14 to Section 8.2.21.
- 8.2.16.3 [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 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to Section 8.2.6 or Section 8.2.11, of this Ordinance.
- 8.2.16.4 All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- 8.2.16.5 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.
- 8.2.17 Standards for Areas of Shallow Flooding (AO/AH Zones). Located within the [Special Flood Hazard Area](#) established in Section 8.2.6, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 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:
- 8.2.17.1 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](#).
- 8.2.17.2 Nonresidential Construction – With the exception of Critical Facilities, outlined

in Section 8.2.21, all [new construction](#) and [Substantial Improvements](#) of nonresidential structures, must have the [lowest floor](#) (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the [highest adjacent grade](#) at least one foot above the depth number specified in feet on the 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 subsection, as proposed in Section 8.2.12 are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

8.2.18 Floodways. 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 of Floodway in Article 10). Located within [Special Flood Hazard Area](#) established in Section 8.2.6, 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:

8.2.18.1 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.

8.2.18.2 If this Section is satisfied, all [new construction](#) and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 8.2.14 through 8.2.23.

8.2.18.3 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.

8.2.19 Alteration of a Watercourse. For all proposed developments that alter a watercourse within a [Special Flood Hazard Area](#), the following standards apply:

8.2.19.1 [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,

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to assist in determining the most appropriate design.

- 8.2.19.2 [Channelization](#) and flow diversion projects shall evaluate the residual [100-year floodplain](#).
  - 8.2.19.3 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.
  - 8.2.19.4 Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
  - 8.2.19.5 All activities within the regulatory floodplain shall meet all applicable Federal, State, and Town of Timnath floodplain requirements and regulations.
  - 8.2.19.6 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 the existing conditions Floodway resulting from the project, otherwise known as a [No-Rise Certification](#), unless the community first applies for a CLOMR and Floodway revision in accordance with Section D of this Article.
  - 8.2.19.7 Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.
- 8.2.20 Properties Removed from the Floodplain by Fill. A [Floodplain Development Permit](#) shall not be issued for the construction of a new structure or [addition](#) to an existing structure on a property removed from the floodplain by the issuance of a FEMA [Letter of Map Revision Based on Fill](#) (LOMR-F), unless such new structure or addition complies with the following:
- 8.2.20.1 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.
  - 8.2.20.2 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 and effects of buoyancy.
  - 8.2.20.3 Standards for Critical Facilities. A [Critical Facility](#) is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

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- 8.2.20.4 Classification of Critical Facilities – It is the responsibility of the Timnath Town Council to identify and confirm that specific structures in their community meet the following criteria. Critical Facilities are classified under the following categories: (1) Essential Services; (2) Hazardous Materials; (3) At-risk Populations; and (4) Vital to Restoring Normal Services.
- A. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, [public utility](#) plant facilities, and transportation lifelines. These facilities consist of:
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 hangers).
- Specific exemptions to this category include wastewater treatment plants (WWTP0, non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
- Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Timnath Town Council 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 Timnath Town Council on an as-needed basis upon request.
- B. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These

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facilities 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.

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 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.P.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.P.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.P.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 of this ordinance, but exclude later amendments to or editions of the regulations. 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.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

- C. At-risk population facilities include medical care, congregate care, and schools. These facilities include:
  1. Elder care (nursing homes);

- 2. Congregate care serving 12 or more individuals (daycare and assisted living);
- 3. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);
- D. Facilities vital to restoring normal services including government operations. These facilities include:
  - 1. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
  - 2. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Timnath Town Council 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 Timnath Town Council on an as-needed basis upon request.

8.2.20.5 Protection for Critical Facilities - All new and substantially improved Critical Facilities and new [additions](#) to Critical Facilities located within the [Special Flood Hazard Area](#) shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

- A. Location outside the Special Flood Hazard Area; or
- B. 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](#).

8.2.20.6 Ingress and Egress for New Critical Facilities - New Critical Facilities shall, when practicable as determined by the Timnath Town Council, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a [100-year flood](#) event.

8.2.21 Certification. It is hereby found and declared by the Town of Timnath that (i) flooding has occurred in the past within its jurisdiction and will certainly occur within the future; (ii) that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; (iii) in order to effectively comply with minimum standards for coverage under the [National Flood Insurance Program](#); and (iv) in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

8.2.22 Penalty for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. [Violation](#) of the provisions of this ordinance by failure

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to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be punished as provided in Chapter 1, Article IV of the Timnath Municipal Code.

### 8.3 Low Impact Stormwater Design.

- 8.3.1 Low Impact Stormwater Design Required . In order to balance growth needs with environmental protection, reduce municipal [infrastructure](#) and utility maintenance costs (e.g. streets, curbs, gutters, sidewalks, storm sewer), reduce stormwater management costs, preserve the integrity of ecological and biological systems, protect water quality by reducing sediment, nutrient, and toxic loads to water bodies, and to preserve trees and natural vegetation, low impact design (LID) is required for all non-residential projects and all residential projects containing more than 10 dwelling units. All projects shall submit a stormwater plan that meets the goals of LID as well as the following criteria.
- 8.3.2 Low Impact Stormwater Design Criteria. To the maximum extent practicable, natural and vegetated stormwater management systems such as swales, constructed wetlands, and bioretention cells shall be used to manage stormwater and comply with federal and local stormwater regulations. In addition, the following requirements shall be met:
- 8.3.2.1 All low impact stormwater systems shall meet the intent and specifications as outlined unless otherwise specified in these regulations.
- 8.3.2.2 All impervious areas shall be designed with the minimum required pavement needed to support their intended uses such as:
- A. New streets, whether dedicated to the public or designed as internal drives serving multiple tenant sites, shall be matched to traffic volumes and shall be the minimum required to safely and effectively move traffic as determined by the Town Engineer;
  - B. Shared parking shall be used whenever practicable and parking space in general is the minimum required to meet the needs of the uses served;
  - C. Emergency and service vehicle access are designed to reduce duplication;
  - D. The number of homes per unit of paved area is maximized within residential subdivisions;
  - E. Permeable materials for overflow parking, trails, and shared use path areas are used where practicable.
- 8.3.2.3 Curb and guttering that directs the first inch of rainfall to an offsite stormwater conveyance shall be prohibited unless such conveyance is designed to discharge to an adjacent bioretention island or detention pond that has been approved by the Town and is part of an approved stormwater plan.
- 8.3.2.4 Open space areas set aside in residential cluster developments may be used for onsite treatment of stormwater consistent with an approved stormwater plan.
- 8.3.2.5 Roof top runoff shall be directed to rain gardens, bioretention areas, or may be allowed to sheet flow to any acceptable onsite stormwater treatment area as designated on an approved stormwater plan.

### 8.4 Wetlands.

- 8.4.1 Purpose. The purpose of these regulations is to protect public health, safety and general welfare by protecting the integrity of wetlands. Wetlands perform important biological and physical functions such as helping to maintain water quality, storing and conveying stormwater and floodwater, recharging groundwater, and providing important wildlife habitat.
- 8.4.2 Activities Limited. The following activities shall not be permitted within 50 feet of a regulated wetland unless otherwise exempted or preempted by state or federal regulation.
  - 8.4.2.1 Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind including oil and gas.
  - 8.4.2.2 Dumping, discharging or filling of any material.
  - 8.4.2.3 Draining, flooding or disturbing the water level or water table.
  - 8.4.2.4 Altering, constructing, reconstructing, or demolishing any structure or [infrastructure](#), including driving pilings or placing obstructions.
  - 8.4.2.5 Destroying or altering wetland vegetation through clearing, harvesting, shading or planting vegetation that would alter the wetland or buffer character.
  - 8.4.2.6 Activities that would result in significant changes in water temperature or physical or chemical characteristics of the wetland or buffer, including water quantity and quality, soil flow, or natural contours.
  - 8.4.2.7 Any other activity potentially or practically affecting a wetland or wetland buffer that is not otherwise exempt from this Code shall be reviewed by the Town Engineer on a case-by-case basis.
- 8.4.3 Activities Exempted. The following activities are exempt from the requirements of this section.
  - 8.4.3.1 Work such as mowing, maintenance, cleaning, excavation, or repair/ replacement of flow control structures of artificially created wetlands intentionally created from non-wetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities, and landscaping features. In those cases where stormwater control structures or devices were previously permitted in [regulated wetlands](#), the only exempt activity shall be allowed and it shall be limited to the minimum necessary to maintain the outlet or inlet structure. If the wetland requires additional work to maintain storage capacity as envisioned per the original permit approval, a report shall be prepared by a qualified wetland specialist that analyzes the extent, type, and function of wetland to determine the extent of the regulated or exempt activity.
  - 8.4.3.2 Work in wetlands unintentionally created as a result of public road, street, or highway construction.
  - 8.4.3.3 Construction of new utility facilities or improvements to existing utility facilities that take place within existing improved rights-of-way or existing [impervious surfaces](#) that does not increase the amount of impervious surface, or the use of trenchless technology that would not disturb the wetland or riparian buffer such as boring, tunneling or jacking under a wetland.

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## 8.5 Riparian Buffers and Bank Stabilization.

- 8.5.1 Riparian Buffer Required. A minimum 50 foot undisturbed vegetated buffer is required along all perennial streams and around all other water bodies including wetlands. A minimum 10 foot undisturbed vegetated buffer is required along all intermittent streams.
- 8.5.1.1 Exceptions. Ephemeral streams, ditches, and manmade ponds and lakes located outside of natural drainage ways shall not be subject to the provisions of this subsection.
- 8.5.2 Measurement. The buffer shall be measured landward from the top of bank of streams, the mean high water line of all ponds and lakes, and the upland edge of wetlands.
- 8.5.3 Permitted Uses and Activities. The following uses and activities shall be permitted by right in all riparian buffers subject to any other conditions required by this Code.
- 8.5.3.1 Natural or pervious footpaths no more than four feet in width providing a homeowner direct access to the stream or water body.
- 8.5.3.2 Passive recreational and educational uses that require limited areas of disturbance and minimal [impervious surfaces](#) including non-motorized recreational and greenway trails constructed of natural or pervious surfaces located no closer than 25 feet from the stream or water body within existing or planned public or private easements, approved as part of a [site specific development plan](#).
- 8.5.3.3 Buffer planting that does not require grubbing or grading of more than 100 square feet or the removal of natural cover for more than 48 hours.
- 8.5.3.4 Stream bank stabilization including live staking and other natural planting techniques to control erosion.
- 8.5.3.5 Maintenance of plant materials as needed, including pruning, trimming and removal of dead or dying plant materials, including underbrush, invasive plant management, and removal of hazardous trees where owners' property or adjacent properties, or the health and safety of the general public or employees are in danger of damage or where slope stabilization could be negatively affected where otherwise consistent with the requirements of this Code.
- 8.5.3.6 Maintenance, operation and reconstruction of existing roads, streets, railroad lines, utilities and associated structures undertaken pursuant to [best management practices](#), provided activities shall not increase the impervious area by more than 200 square feet and disturbed areas are restored to an acceptable usable condition as required by the Town Engineer.
- 8.5.3.7 Normal maintenance, repair and reconstruction of private or publicly-owned structures undertaken pursuant to Town Engineer approved best management practices; provided, that reconstruction of any structures shall not significantly impact the performance of buffers, and shall not increase structural footprint.
- 8.5.3.8 Site investigation work and studies necessary to prepare land use applications, including soils tests, water quality studies, wildlife studies and similar tests and investigations; provided, that any disturbance of the buffer shall be the minimum necessary to carry out the work or studies.



- 8.5.3.9 Education activities, scientific research, and outdoor recreational activities, including but not limited to, interpretive field trips, bird watching and hiking and associated interpretive signage that will not have a significant effect on the buffer.
- 8.5.3.10 Emergency activities that are required due to acts of nature or emergency utility repairs that are necessary to prevent an immediate threat to public health, safety or property.
- 8.5.3.11 Minor activities such as invasive plant management; snagging of dead, dying, or diseased vegetation; and removal of hazardous trees where owners' property or adjacent properties, or the health and safety of the general public or employees are in danger of damage or where slope stabilization could be negatively affected that are determined by the Town to have minimal impacts to buffers or water features.
- 8.5.4 Prohibited Uses and Activities. Any use or activity not expressly permitted by 8.5.3 shall be prohibited.
- 8.5.5 Protection During Development and Construction. Existing vegetation in riparian buffers shall be protected during all development and construction activities unless expressly permitted by the Town for removal. Buffers shall be effectively demarcated in the field to prevent accidental disturbance. The drip line of trees within the buffer shall be protected even when they lie outside the minimum buffer and shall be included in the demarcated area. The method of demarcation shall be approved by the Town and must at minimum be consistent with generally accepted [best management practices](#).
- 8.5.6 Stormwater Discharge. No stormwater shall be directly discharged into a jurisdictional wetland without onsite pretreatment.
- 8.5.7 Use of Natural Stream bank and Shoreline Stabilization Required. Unless otherwise approved by the Town Engineer, only natural stream bank and shoreline stabilization may be used along any perennial stream or water body. Natural stabilization includes bioengineering techniques such as live staking, root wads, tree revetments and the limited, strategic use of large rocks. Loose gravel, sand, rip rap, wire mesh and similar materials not commonly used in bioengineering shall not be used.

**8.6 Grading and Clearing.**

- 8.6.1 Permit Required. No lot shall be graded or disturbed prior to issuance of a Land Development Permit .
- 8.6.2 Area Limited. Clearing and grading shall be limited to that portion of a lot or development tract for which a valid building permit has been issued or for which a final plat has been approved.
- 8.6.3 Stabilization Required. All lots or tracts cleared or graded shall be stabilized with manmade or vegetative cover as required by the landscaping provisions of this Code.
- 8.6.4 Activities Exempted. Any activities related to commercial tree harvesting, bona fide agricultural operations, and the creation or extension of public [infrastructure](#) or other activities occurring within a public right-of-way for which a Land Development Permit is not required shall not be subject to the grading and clearing regulations, but shall meet any and all other applicable regulations contained within this Code.

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**8.7 Green Development, Infill, and Grayfield Development .**

8.7.1 Purpose. The Town encourages the creation of green development, infill development and grayfield development and establishes incentives for such in order to:

- Promote energy independence
- Conserve natural resources
- Encourage clean energy
- Improve environmental quality
- Maximize public investment and minimize public cost
- Reduce sprawl and greenfield development

8.7.2 Eligibility. As used in this Section, green development shall mean any one or a number of sustainable land development or building construction practices certified by the US Green Building Council or comparable organization approved by the Town. Infill development shall mean the location of new development on parcels, whether or not previously developed, that are surrounded on two or more sides by existing development or development-related [infrastructure](#). Grayfield development is a particular type of infill development that occurs on previously developed parcels that are underused, obsolete, or in a state of disrepair or decline.

8.7.3 Applications and Review. Developers, homeowners and contractors may apply for one or more of the following incentives. The Director shall review each application and shall determine whether or not the project is eligible for these incentives. Applications shall be submitted prior to construction.

8.7.4 Incentives Available. The following incentives shall be available for eligible projects as noted.

8.7.4.1 [Density](#) Bonus. All eligible residential developments shall be granted a density bonus equal to 130% of the maximum dwelling units per acre permitted in the zoning district in which they are located. All eligible non-residential and mixed use buildings shall be granted a density bonus equal to 130% of the maximum [floor area](#) ratio permitted in the zoning district in which they are located. In no case shall such bonuses permit the building or development to encroach upon any required buffer or open space; however, minimum setbacks may be reduced by up to 20% to accommodate the increased density.

8.7.4.2 Fee Waiver. All fees related to land development approval shall be waived for all eligible development.

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**ARTICLE 9. HISTORIC PRESERVATION**

**9.1 Intent.**

It is hereby declared to be a matter of public policy that the protection, enhancement, perpetuation and use of structures, land and districts of historical, architectural or geographic significance, located within the Town, is in the public interest. (Ord. 10-2002)

**9.2 Definitions.**

- 9.2.1 "Alter" or "Alteration" means the act or process of changing one or more of the exterior architectural features of a designated structure or district.
- 9.2.2 "District" means any structure(s), improvement(s), or group of structures or improvements and the surrounding environs.
- 9.2.3 "Site" means a structure, parcel of land, or district. (Ord. 10-2002)

**9.3 Commission Established.**

- 9.3.1 The Town Planning Commission shall serve as the Timnath Historic Preservation Commission (the "Commission").
- 9.3.2 Powers and Duties.
  - 9.3.2.1 The Commission shall review from time-to-time the criteria for designation of [historic sites](#) as set forth in this Code, and shall make recommendations to the Town Council for amendments.
  - 9.3.2.2 The Commission shall approve application forms, and shall review applications for designation of sites as being historic pursuant to this Code, and shall make recommendations to the Town Council as to whether they should designate the site described in the application for such designation. (Ord. 10-2002)

**9.4 Standards for Designation of Sites for Preservation.**

In order to qualify for designation as an [historic site](#) pursuant to this Code, the Commission must determine that it has historic significance due to one or more of the following factors:

- 9.4.1 It has character, interest or value, as part of the historical development, heritage or culture of the community, state, or nation.
- 9.4.2 Its location is a site of a significant historic event.
- 9.4.3 Its identification with a person or persons who significantly contributed to the culture and development of the Town.
- 9.4.4 Its exemplification of the cultural, economic, social, or historic heritage of the Town.
- 9.4.5 Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style.
- 9.4.6 Its embodiment of distinguishing characteristics of an architectural type or specimen.

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- 9.4.7 Its identification as the work of an architect or master builder whose individual work has influenced the development of the Town.
- 9.4.8 Its embodiment of the elements of architectural design, detail, materials, or craftsmanship that represent a significant architectural innovation.
- 9.4.9 Its relationship to other distinctive areas that are eligible for preservation according to a plan based on an historic, cultural, or architectural motif.
- 9.4.10 Its unique location or singular physical characteristic representing an established familiar visual feature of a neighborhood or of the Town. (Ord. 10-2002)

**9.5 Designation of Historic Sites.**

- 9.5.1 Recommendations for designation of historic sites. Pursuant to the procedures set forth in this Code, the Commission may make written recommendation to the Town Council that a site be designated as an historic site for preservation, meeting the criteria set forth in this Code. Each such recommendation shall include a description of the characteristics of the site which justify its designation and shall include a legal description of the site. The recommendation may indicate alterations that would have a significant impact on, or be potentially detrimental to, the historic features of the site. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this Code.
- 9.5.2 Procedures for Designating Historic Sites.
  - 9.5.2.1 Applications. Applications for designation of historic sites must be made to the Town staff on forms provided by the Town. Applications shall be made only by the owners of one hundred percent of the site for which the application is submitted.
  - 9.5.2.2 Staff review. The Town staff shall review applications for designation of historic sites for content and for completeness. The staff shall, within thirty days of receipt, forward complete applications and staff recommendations to the Commission.
  - 9.5.2.3 Commission review. The Commission shall consider and act upon applications at regularly scheduled or special meetings within thirty days of receipt of staff recommendations. The Commission shall approve, approve with conditions, or disapprove applications, and shall immediately forward notice of their decisions to the Town Council. In the event of failure of the Commission to act in a timely manner, the Town Council may proceed without a Commission recommendation.
  - 9.5.2.4 Town Council action. Within 30 days of action by the Planning Commission, the Town Council shall by resolution approve or modify and approve, or shall disapprove the proposed historic designation.
  - 9.5.2.5 Withdrawal of applications. Prior to action on applications by the Town Council, applicants may withdraw applications by submitting a written request to the Town Clerk.
  - 9.5.2.6 Recording. The resolution designating a site as a local historic landmark shall be recorded in the records of the County Clerk. (Ord. 10-2002)

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**9.6 Limitation on Resubmission and Reconsideration.**

Whenever the Town Council disapproves an application for historic designation, or whenever an owner withdraws an application, no person shall submit an application for the same site within one year of the disapproval or withdrawal. (Ord. 10-2002)

**9.7 Amendment of Designation.**

Designation of an [historic site](#) may be amended to add features or property to the site according to the application process described in this Code for new designations. (Ord. 10-2002)

**9.8 Alteration of a Designated Historic Landmark.**

All modifications to designated historic landmarks shall be done in conformance with the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as published by the U.S. Department of the Interior, National Park Service. (Ord. 10-2002)

**9.9 Notification of Intent to Alter a Designated Historic Landmark.**

Any owner filing an application for designation of a site shall, as a part of the application, agree that any time after a site is designated as an [historic site](#) to notify the Town Clerk of the owner’s intention to alter, demolish, move or remove the site and provide plans for the work at least 30 days prior to beginning such work. This notification requirement shall run with the land and shall bind successors and assigns. The Clerk shall, upon receipt, forward the notification and plans to the Commission for review. The Commission shall review the plans and may advise the owner on the potential affect of the plans on the historic designation. The Commission may forward a recommendation to the Town Council that, based on the plans, the historic designation be modified or revoked. (Ord. 10-2002)

**9.10 Revocation of Designation.**

The Town Council may by resolution revoke or modify the designation of a site, after 15 days notice to the owner and after public hearing, if any of the following conditions exist:

- 9.10.1 If any owner of a designated site fails to provide notification as required in this Code, or if alterations to the site will significantly alter the historic character of the site;
- 9. 10.2 If an owner of a designated [historic site](#) submits a written request to the Town for revocation of a historic designation;
- 9. 10.3 If the Commission makes a recommendation for modification or revocation based on an owner’s written intent to alter a designated historic site; or
- 9. 10.4 If modifications are made to an historic landmark that are found by the Commission to not be in accordance with the standards specified in this Code. (Ord. 10-2002)

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## ARTICLE 10. ANNEXATION

### 10.1 Purpose.

The purpose of this Article is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the Colorado Municipal Annexation Act of 1965, as amended (the "Act"). This Article, in part, provides supplemental requirements for annexation pursuant to the Act, and is not to be construed as altering, modifying, eliminating or replacing any requirement set forth in that Act, or any requirements set forth in other portions of the Town Municipal Code. In the event of a conflict between the Act, the provisions of this Article or any requirements set forth in other portions of the Town Municipal Code, it is the expressed intent of the Council that the more stringent provision shall control.

### 10.2 Statement of Policy and Review Criteria.

It shall be the general policy of the Town with respect to annexations, the annexation application, and the consideration of annexation petitions that:

- 10.2.1 The Town shall have the sole discretion in the annexation of territory to the Town and the Town is under no obligation to approve any annexation petition.
- 10.2.2 The land to be annexed and the uses proposed for the land shall conform to the goals, policies and strategies of the Town of Timnath Comprehensive Plan and to the land uses depicted on the Proposed Land Use Map, as amended.
- 10.2.3 Certain [public facilities](#), land, and amenities are necessary and must be constructed and dedicated as part of any territory annexed to the Town in order that the public needs may be served by such facilities. These include, but are not limited to, easements, arterial streets, bridges, public parks and recreation areas, water and sanitary sewer facilities, school sites, fire and police station sites, and storm drainage facilities. The annexation of lands to the Town shall be shown not to create any additional cost or burden on the then-existing residents of the Town to provide such public facilities in any newly annexed area.
- 10.2.4 The petitioner for annexation shall be responsible for paying the Town's full cost for processing the annexation applications and petition, from initial discussion with Town staff before submittal of the application, through the effective date of the annexation, and recording of the final annexation documents.
- 10.2.5 Annexation shall not divide tracts of land in such a way as to prevent annexation of adjoining parcels. (For example, leaving an unincorporated gap or a strip of land between property to be annexed and the adjoining property.)
- 10.2.6 All subsurface (non-tributary) water rights shall be deeded to the Town at the time of annexation.
- 10.2.7 The property owner shall have complied with the Annexation Application requirements of this Article prior to submitting an annexation petition.
- 10.2.8 Zoning of property being annexed shall occur concurrently with annexation and be consistent with the Town of Timnath Comprehensive plan.
- 10.2.9 The property owner and the [developer](#), if any, shall enter into an annexation agreement



with the Town to address the matters described in this Article and any variations to the application of this Code for development of the property to be annexed.

### 10.3 Annexation Process Summary.

The annexation process is as follows:

- 10.3.1 Pre-application conference.
- 10.3.2 Annexation application.
- 10.3.3 Evaluation by the Town of the feasibility of annexation .
- 10.3.4 Negotiation of an annexation agreement.
- 10.3.5 Annexation Petition.
- 10.3.6 Resolution of Substantial Compliance and public hearing set.
- 10.3.7 Annexation Impact Report prepared by the Town, if required.
- 10.3.8 Planning Commission review and recommendation, public hearing on zoning.
- 10.3.9 Council annexation hearing and consideration of annexation agreement and zoning, and final decision on annexation ordinance.

### 10.4 Pre-application Conference.

Annexation Pre-Application Conference. The application process begins with a pre-application conference in which the Mayor may attend. The meeting with the property owner, and designated Town staff members to review procedures and requirements, to discuss the intended use of the property, and to identify issues that are apparent at that time and relevant to the annexation. Following this informal meeting, the applicant may submit the Annexation Application as described in this Article, the completed Annexation Application form, maps and supporting documents.

### 10.5 Annexation Application.

10.5.1 Annexation Application. Following the Pre-application Conference, property owners wishing to proceed with the Annexation process shall submit an Annexation Application as defined in this Article to the Town prior to submitting a petition for annexation. Such application provides an opportunity for the Town to evaluate with the applicant the impacts on the Town of annexing the property identified in the application and to negotiate an Annexation Agreement. The Annexation Application shall include the following.

- 10.5.1.1 The name, street address, e-mail address, and phone number of the applicant on a completed application form supplied by the Town.
- 10.5.1.2 A written legal description and map of the property and its surroundings.
- 10.5.1.3 Requested zoning classification for the property.
- 10.5.1.4 Known hazards, if any, that may be present due to the topography, geology, or

hydrology of the property, and any environmental issues.

- 10.5.1.5 Annexation assessment report. Using information available at this stage of the development process, the application is to be accompanied by a narrative report assessing the effect of the proposed annexation upon the community and existing services and facilities. It shall detail the possible need for any expansion of those services and facilities to accommodate the development proposed for the property being annexed. The narratives shall be one or more paragraphs in length, and adequate to explain the needs, concepts and proposed solutions for each of the following.
- A. An assessment of the community needs for the proposed annexation and land use.
  - B. The economic impact to the Town of the proposed annexation. This is to include an analysis of short-term and long-term revenues to the Town to be generated by the development, short-term and long-term expenses of the Town likely to be incurred as a result of the annexation and development, and proposals to mitigate any negative impacts.
  - C. The school impact including an estimated of the number of students to be generated by development of the property, capital construction required to educate the students, and proposals to mitigate any negative school impacts.
  - D. The source of water, both potable and nonpotable, and sanitary sewer systems anticipated to serve the property, including a description of any regional facilities that must be constructed or upgraded to serve the development on the property.
  - E. The impact on the existing transportation system and proposals to mitigate any negative transportation impacts upon the community (arterial and collector street improvements, intersection improvements, intersection signalization, alternative modes of transportation, etc.)
  - F. The impact of the proposed development on the existing storm [drainage system](#) and proposals to mitigate any negative drainage impacts upon the community (historic rainfall drainage patterns, detention and retention areas, storm sewer requirements, discharged [irrigation ditches](#), floodways and floodplains, etc).
  - G. The impact of the proposed development on law enforcement in Timnath and proposals to mitigate any impact upon the existing law enforcement services (special security needs, additional officers required, additional equipment requirements, etc.).
  - H. The impact of the proposed development on the Poudre Fire Protection Authority and proposals to mitigate any impact upon the existing fire protection services (special fire hazards, fire prevention, fire detection, emergency access, additional equipment requirements, additional manpower requirements, additional fire stations, etc.).
  - I. The impact of the proposed development on the Town park facilities and recreation programs and proposals to mitigate any impact upon the existing facilities and programs.

- J. The impact of the proposed development on the environment of the Town and proposals to mitigate any negative impact (identify [environmentally sensitive areas](#), endangered species, significant habitats, etc.).
  - K. The short-term and long-term economic development potential for the property (numbers of jobs to be created, sales and use tax generation, property tax generation, utility revenue generation, incentives to be offered, etc.).
  - L. The [compatibility](#) of the proposed development with the street master plan as depicted by the Transportation Map contained in the Town Comprehensive Plan and proposals for mitigating any negative impact.
  - M. The compatibility of the proposed development with the Town Comprehensive Plan and any plan amendments that may be necessary for the proposed development.
  - N. The compatibility of the proposed development with the Town Land Use Code and any deviations in setbacks, space requirements, and permitted uses that may be required for the proposed development.
  - O. A review of existing and adjacent land uses, areas of compatibility or conflict, and possible mitigation measures that may be required for the proposed development.
- 10.5.1.6 A development concept map, describing the desired use of the property after annexation.
- 10.5.1.7 An outline of any known terms proposed for the Annexation Agreement.
- 10.5.1.8 Any other subjects pertinent to the property requiring inclusion in the annexation agreement between the Town and the applicant.
- 10.5.1.9 Application Fee as provided in Chapter 4 of this Code.
- 10.5.1.10 Authorization from the owners of private property within the property being annexed that the applicant has the right to negotiate an annexation agreement and submit an annexation to the Town or a statement that the annexation will be subject to an election.
- 10.5.2 Deposit for Professional and Administrative Costs. At the time of filing an Annexation Application, the applicant shall make a deposit pursuant to Article 1 of this Code, sign a statement agreeing to replenish the deposit by the amount withdrawn each month, and agree to pay all additional reasonable costs incurred by the Town pursuant to Article 1 of this Code. Any amount not expended will be refunded after the Annexation process is completed.
- 10.5.3 Town Evaluation of Annexation Application. Town Staff shall analyze the feasibility of annexing the proposed property, such analysis including but not limited to, the ability to serve with streets, water, sanitary sewer, storm sewer, parks and recreation, schools, law enforcement and fire protection. The analysis shall also consider the following: compliance with the Town’s Comprehensive Plan, codes and policies; sources of revenue from the property; the Town’s costs to serve development proposed for the property; and any other related matters.
- 10.5.4 Annexation Agreement. The Town Staff and the property owner(s) shall negotiate an

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Annexation Agreement, addressing the items of concern in the Town Staff evaluation, issues of concern to the owner of the property being annexed, and other applicable requirements of this Code. The draft agreement acceptable to the property owner shall accompany any annexation petition filed with the Town. Annexation Agreements shall not override processes subsequent to Annexation for which public hearings are required.

- 10.5.5 Council Review. The Town Staff shall submit its evaluation of the Annexation Application and a draft Annexation Agreement to the Council for its review and comment at a meeting of the Council as soon as reasonably possible following completion of negotiations on the draft Annexation Agreement. Comments received from the Council shall guide revisions to the Annexation Agreement to be submitted for consideration with the Petition

## 10.6 Annexation Petitions.

- 10.6.1 Following review and comment by the Council of the Annexation Application and the draft Annexation Agreement, the owner may prepare and submit to the Town Clerk an Annexation Petition with the required as indicated on the checklist provided by Town Staff. Any forms or letters requiring signatures shall have one original signed and dated in blue ink. The Annexation Petition shall be accompanied by
- 10.6.1.1 Cover letter. A cover letter addressed to the Council, introducing the applicant(s) to the Council, requesting annexation of the petitioner's property and describing in general terms the development plans for the property, if it is annexed.
- 10.6.1.2 Petition for annexation. A Petition for Annexation, in a form acceptable to the Town Attorney and complying with the requirements of the Act. The Town may provide a standard form petition. The Petition shall be signed by 100% of the owners of the private property described in the Petition.
- 10.6.1.3 Annexation map. The annexation map shall be signed and sealed by the registered land surveyor or engineer preparing the map, or under whose supervision the annexation map was prepared. The annexation map(s) shall comply with the technical drawing requirements contained in Article 1 of this Code and the Annexation Map Technical Standards listed in this Article.
- 10.6.1.4 Concept plan map. The concept plan map(s) shall comply with the technical drawing requirements contained in Article 1 of this Code and the Concept Plan Map Technical Standards listed in this Article .
- 10.6.1.5 [Title commitment](#). If the legal description of the property of the title commitment does not match the legal description shown on the annexation map, the title company shall certify the ownership of all property not within the title commitment but included on the annexation map.
- 10.6.1.6 Property tax statement. A copy of the prior year's property tax statement for all property to be annexed.
- 10.6.1.7 Public hearing notification envelopes. In addition, the applicant shall provide such envelopes for the Larimer County Commissioners, County Attorney, and Poudre Valley School District.
- 10.6.1.8 Surrounding and interested property ownership report.

- 10.6.1.9 Statement of conformance to the Comprehensive Plan. A narrative of how the project conforms to the goals, policies and strategies identified in the Comprehensive Plan.
- 10.6.1.10 Water rights. A “Water Rights Report” for the property prepared by a qualified water engineer or water attorney detailing the water rights appurtenant to and severed from the property to be annexed and their historical use. The report must include both surface (tributary) and subsurface (non-tributary and not non-tributary groundwater). The applicant shall provide to the Town a signed warranty deed(s) for sufficient water rights as defined by the Town Engineer and in a form acceptable to the Town Attorney to provide the domestic needs of property to be developed as a result of the annexation. In addition the applicant shall provide to the Town a signed standard form warranty deed for the transfer of all subsurface (non-tributary) water rights to the Town. The timing and form of required water rights [dedication](#) may be modified in the Annexation Agreement.
- 10.6.1.11 Petition for zoning of property to be annexed. The petitioner must submit a completed Rezoning Petition form, a Zoning Map for the property, a zoning amendment map amending the official zoning map , and the application and recording fees.
- 10.6.1.12 Fees. Annexation Petition Filing and Application Fees as provided in this Code.
- 10.6.2 Upon receipt of the Annexation Petitions and accompanying documents, the Petition shall be processed and considered as follows:
  - 10.6.2.1 Annexation petition certification and completion. The petition for Annexation, Annexation Agreement, Zoning Petition, and all other documents submitted shall be reviewed by Staff for completeness and compliance with the provisions of the Act and of this Code. The applicant shall be notified within a reasonable time of any deficiencies or inadequacies in the materials submitted. An incomplete submission shall not be processed, nor referred to the Council for a determination of substantial compliance.
  - 10.6.2.2 Annexation petition referral to Council. Upon the staff’s determination that the petition and supporting documentation are complete and in compliance with provisions of the Act, and of this Code, the Town Clerk shall refer the Petition and the Annexation Agreement to the Council.
  - 10.6.2.3 Council determination of substantial compliance. The Council shall consider at a regular or special meeting whether the petition is in substantial compliance with applicable provisions of the Act.
    - A. If the petition is found to be in substantial compliance with the Act, the Council may, by the adoption of a Resolution of Substantial Compliance, set the annexation and zoning for public hearing as provided in the Act.
    - B. If the petition is found to not be in compliance with the Act, no further action shall be taken, except that such findings shall be made by resolution of the Council.
  - 10.6.2.4 Notice of public hearing. After adoption by the Council of a Resolution of Substantial Compliance, the Town Clerk shall provide notice of the public hearing as provided in the Act and this Code.

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- 10.6.2.5 Annexation impact report. The Town shall prepare an Annexation Impact Report for annexations in excess of ten acres in size, unless such report is specifically waived by Larimer County.
- 10.6.2.6 Planning Commission review and recommendations.
- A. The Planning Commission shall consider the petition for annexation at a regular or special meeting to be held prior to the date of the public hearing before the Council. The Planning Commission shall give notice and hold a public hearing on the zoning of the property as provided by this Code.
  - B. The Planning Commission, upon the conclusion of the meeting at which they consider the annexation petition, shall by resolution recommend approval of the petition for annexation with or without conditions, or recommend denial.
  - C. The Planning Commission shall conduct a Public Hearing and consider the zoning petition according to the procedures set forth in this Code.
- 10.6.2.7 Council public hearing and action on the annexation and zoning. The Council shall hold a public hearing on the petition for annexation and zoning. The petitioners shall present evidence in support of the petition for annexation and zoning. Staff shall testify as to the elements required by statute to be present for annexation and any comments received from governmental entities affected by the annexation. Any person may appear at the hearing and present evidence on any matter related to the annexation petition as determined by the Council. The Council may continue the hearing to another date without additional notice as provided by the Act. At the conclusion of the public hearing, the Council shall adopt a resolution containing the findings of fact and conclusions, including:
- A. Whether or not the requirements of the Act and this Code have been met;
  - B. Whether or not the Annexation Agreement is acceptable to the Town;
  - C. Whether or not additional terms and conditions are to be imposed; and
  - D. Whether or not an election is required, either as result of a petition for election or the imposition of additional terms and conditions.
  - E. If the Council is not going to proceed to annex the property, either because the petition does not comply with the Act or this Code, or for any other reason, the Council shall terminate the proceedings and deny the petition.
- 10.6.2.8 Findings. If the Council finds that:
- A. The annexation is in compliance with the requirements of the Act and this Code;
  - B. That an election is not required under the Act; and
  - C. No additional terms and conditions are to be imposed;
- The Council may annex the land and approve the Annexation Agreement by ordinance without election. The zoning of the property shall be considered by separate ordinance.
- 10.6.2.9 Zoning. The Council may consider and act upon the Zoning petition as provided in this Code.



## 10.7 Annexation Map Technical Standards.

The annexation map shall be prepared by or under the supervision of a registered professional land surveyor licensed with the State of Colorado. The annexation map shall conform to the following drafting standards and contain the following information. It shall be a neat, clear, permanent, legible and reproducible document. Inaccurate, incomplete or poorly drawn maps shall be rejected

- 10.7.1 The final annexation map shall be an original drawing on 24" x 36" flat sheet(s) of mylar film with a uniform thickness of not less than .003 of an inch, using only permanent black ink that will adhere to drafting films, or a computer generated reproduction of the original drawing. A margin line shall be drawn completely around each sheet leaving a margin at least one-half ( $\frac{1}{2}$ ) inch on three sides and a margin at least two (2) inches on the left (short) side, entirely blank. Unless otherwise specified, text and numbers are to be large enough to be clearly legible at the scale drawn
- 10.7.2 The annexation map shall be drafted at a scale that best conveys the detailed survey, and confines the drafting error to less than one (1) percent. Acceptable scales are 1"=50' or 1"=100' and for annexations exceeding one hundred (100) acres, 1"=200'. In special instances another scale may be approved by the Town. When an annexation requires multiple sheets, an index shall be provided that delineates the boundaries and identify each sheet number. The scale of a composite map may be different from the individual sheets, as approved by the Town. A "title sheet" containing the certifications and signature blocks shall be provided in the event that the annexation map sheet is too crowded.
- 10.7.3 The title shall be centered at the top of the sheet along the long dimension of each sheet shall include the name of the proposed annexation. A general legal description stating the section, township, range, 6th P.M., Town of Timnath, Larimer County, Colorado, shall be included under the name. On the title sheet (Sheet #1), under the general legal description, include the total acreage. Annexation names may not duplicate existing annexation names.

Example:

NEW ANNEXATION  
TO THE TOWN OF TIMNATH, COLORADO  
A Part of the E/2 of Section 23, Township \_ North,  
Range \_\_ West, \_\_th P.M., Town of Timnath, Colorado  
xx.xx Acres

- 10.7.4 There shall be a title block in the lower right-hand corner, or along the right-hand margin that contains the name, address and telephone number of the land owner, the [developer](#), and the engineer or surveyor preparing the drawing, an appropriate title for the drawing, the preparation date, sheet number, the preparer's project identification numbers, revision dates, draftsman's initials, and the electronic drawing file name (matching the AutoCAD drawing file provided to the Town).
- 10.7.5 Adjacent to the title block, in the lower right-hand corner, there shall be a legend block which shall include a description of lines, points and symbols, a double-headed north arrow designated as true north and a written and graphic scale.
- 10.7.6 Adjacent to the right margin, or in a column to the right of the center of the title page if the

page is crowded, there shall be the Town's standard statement of ownership containing a written metes and bounds legal description of the land to be annexed (including the full width of [abutting](#) roadways not already within the Town) followed by the owner's signature block(s) and notary block(s), one for each owner or mortgagee.

- 10.7.7 Immediately following the ownership certificate, there shall be the Town's standard Surveyor's certificate, signed, dated and sealed by a licensed surveyor or engineer.
- 10.7.8 Immediately following the Surveyor's certificate, there shall be the Town's standard certificate blocks for the Planning Commission and Council.
- 10.7.9 Immediately following the Council's approval certificate, there shall be the Town's standard recording certificate block for the Larimer County Clerk and Recorder.
- 10.7.10 All certificate blocks shall be used or adapted from the Timnath Subdivision Regulations, or as otherwise provided by the Town.
- 10.7.11 A vicinity map that depicts the area to be annexed lands within a two-(2) mile radius superimposed on a current USGS Topographical Map, shall be placed on the left side of annexation map, outside the boundary of the area being annexed, or on the left side of the title sheet.
- 10.7.12 The annexation map drawing shall contain the following:
- 10.7.12.1 The outline of area to be annexed with boldest line.
- 10.7.12.2 Book, page, map number, etc., and place where all references are publicly recorded.
- 10.7.12.3 All recorded and apparent rights-of-way lines and names of roads both within and adjacent to the boundary, including right-of-way widths at each leg of an intersection, at the point of curve and point of tangent, at dead ends and at angle points; and right-of-way lines with accurate bearings and dimensions including chord lengths and bearings, central angles and radii of all curves. Whenever the centerline of a road has been established or recorded, the date and recording information shall be shown on the Annexation Map.
- 10.7.12.4 The contiguous boundary of the Town and the contiguous boundary of any other municipality [abutting](#) the area proposed to be annexed.
- 10.7.12.5 Section, quarter section, and other monument corners ties to section corners and to the State grid, if available, which show dimensions of all primary boundary survey control points with complete monument and location descriptions, all parcel lines showing dimensions with lengths, bearings, and curve data, including chord lengths and bearings, basis of bearings and relation to true meridian and similar data. Only circular curves shall be used. No spirals, parabolas, etc. shall be used. All dimensions are to be shown to the nearest 0.01' or in the case of degrees, to the nearest second. An accuracy of 1:50,000 (second order) minimum for linear and angular (bearing) closure shall be required for the boundary.
- 10.7.12.6 A description of all monuments, both found and set, which mark the boundaries of the property and of all control monuments used in conducting the survey.
- 10.7.12.7 The location of each ownership tract in unplatted land, and, if part or all of the area is platted, the boundaries and plat numbers of plots or of lots and [blocks](#).

All internal lots, tracts, or parcels shall have a closure accuracy of 0.01’.

- 10.7.12.8 The names and locations of all [abutting](#) subdivisions. The locations of all abutting unplatted parcels and public lands shall be depicted and designated as such.
- 10.7.12.9 The purpose, widths, location (with fine dashed lines) and ownership of all easements and all [abutting](#) easements, including but not limited to utility, oil and gas gathering and transmission lines and [irrigation ditches](#) (fee or prescriptive). If any easement already of record cannot be definitely located, a statement of its existence, the nature thereof and its recorded reference must appear on the title sheet. The widths of all easements and sufficient data to definitely locate the same with respect to the parcel to be annexed must be shown. All easements must be clearly labeled and identified. If an easement shown on the annexation map is of record, its recorded reference must be given.
- 10.7.12.10 Lines, names and descriptions on the annexation map which do not constitute a part of the annexation, depicted in dashed or screened lines. Any area enclosed by the annexation, but not a part thereof, shall be labeled “Not a Part of This Annexation.”
- 10.7.12.11 [100-year floodplains](#), all existing and proposed watercourses, retention and detention areas, wetlands, aquifer recharge areas, streams, lakes, or inlets on the affected property.
- 10.7.12.12 Length and bearing of all lines described in the written description.
- 10.7.12.13 Section numbers, quarter section quadrants, township and range lines, and label each.
- 10.7.12.14 All lines, calls, arcs, etc., described in written description.
- 10.7.12.15 Ellipse around each location where a detail drawing will be provided, and provide designation for each detail such as “See Detail A.”
- 10.7.12.16 “Point of Beginning” in bold letters with an arrow.
- 10.7.12.17 Show “True Point of Beginning” with bold letters and arrow, when appropriate.
- 10.7.12.18 A map note indicating the total perimeter of the annexation boundary, the contiguous length to the existing Town boundary and the length representing one-sixth (1/6) of the total annexation boundary perimeter.

## 10.8 Concept Plan Map Technical Standards.

The concept plan map shall be a neat, clear, permanent, legible and reproducible document.

- 10.8.1 Paper copies of the concept plan map(s) shall be blue line or black line copies of the original, folded to 12” x 9” size. The applicant shall also provide paper 11” x 17” and 8½” x 11” reductions of the concept plan map(s).
- 10.8.2 The concept plan map drawing shall contain the following:
- 10.8.2.1 The boundary of the area to be developed;

- 10.8.2.2 A written legal description of the area to be developed;
  - 10.8.2.3 The general location of each proposed land use on the property and the percentage of the whole for each use. General location of land uses may be shown as irregular graphic shapes depicting the approximate size and relationship to adjacent land uses. A table shall be used to list densities and land use by type, including the area of each, the [density](#) of residential development and the maximum and minimum lot sizes, and the maximum square footage of commercial and industrial buildings and the maximum and minimum lot sizes;
  - 10.8.2.4 Existing and proposed arterial and collector streets and their relationship to the principal land uses on the site;
  - 10.8.2.5 Existing and proposed major utility lines or facilities and their relationship to the principal land uses on the site;
  - 10.8.2.6 Contour lines at 10 foot intervals, except when there are significant geographical features on the land and a different interval is determined to be more appropriate; and
  - 10.8.2.7 Significant natural or manmade features on the site and [contiguous](#) to the property, including but not limited to, bluffs, tree galleries, lakes and ponds, [irrigation ditches](#) watercourses and wetlands.
- 10.8.3 An AutoCAD™ drawing file (release 12 or higher) of the concept plan map(s) and title sheets and all fonts used, shall be provided on IBM formatted compact or zip disk, or by other acceptable electronic transfer.

## 10.9 Minor Annexation.

- 10.9.1 **Definition.** An annexation to the Town of Timnath of a parcel of 10 acres or less and upon which will be permitted no more than one single family dwelling unit with a maximum of one additional mother-in-law apartment. The zoning upon annexation of the parcel shall be R-1 or B and only for the current existing use(s).
- 10.9.2 **Pre-application Conference.** The application process begins with a pre-application conference between the property owner and Town Staff to review procedures and requirements, and to identify relevant issues.
- 10.9.3 **Petition Phase.**
  - 10.9.3.1 Upon completion of the Preapplication Conference, the owner may proceed to submit an annexation petition. Any forms or letters requiring signatures shall have one original signed and dated in blue ink. Following staff review and notice of acceptance for referral to the Council , the applicant shall provide 20 copies of the selected documents as directed by staff. The annexation petition submission shall include:
    - A. **Petition for annexation.** One (1) original and four (4) copies of a petition for annexation, in a form acceptable to the Town Attorney and complying with the requirements of the Municipal Annexation Act, C.R.S. § 31-12-101 et seq. (the "Act"). The petition shall be signed by 100% of the owners of the property, exclusive of streets and alleys, described in the petition.

- B. Annexation Map. One (1) original and twenty (20) paper copies of the area to be annexed. The map must be reproducible at standard paper sizes. See, Subsection D for map technical standards.
  - C. [Title commitment](#) showing legal description of the property to be annexed is owned by the petitioners.
  - D. Property tax statement. A copy of the prior year's property tax statement for the property to be annexed.
  - E. Water rights. A "Water Rights Report" detailing the water rights appurtenant to and severed from the property to be annexed and their historical use. As a condition of annexation, the owner shall provide to the Town a signed standard form warranty deed for the transfer of all non-tributary water rights to the Town.
  - F. The name, street address, e-mail address, and phone number of the applicant on a completed Land Use application form supplied by the Town;
  - G. A vicinity map showing the property and its surroundings;
  - H. Water and sewer service. Using available information, a report identifying the source of water, both potable and nonpotable (if any), and sanitary sewer systems anticipated to serving the property.
- 10.9.3.2 Annexation agreement. Town staff and the property owner(s) shall negotiate an annexation agreement, if necessary. Items for discussion include, but are not limited to, future improvement of substandard roads, encroachment of buildings on current or future right-of-way, right-of-way [dedications](#), easements for wet and dry utilities, etc.
- 10.9.3.3 Upon receipt of the annexation petition submission, the petition shall be processed and considered as follows:
- A. Resolution finding substantial compliance. Once determined by staff to be complete, the petition shall be referred to the Council, which shall consider whether it is in substantial compliance with the requirements of C.R.S. § 31-12-107(1). If the Council so finds, it shall adopt a resolution of substantial compliance and setting public hearing. If Council finds the petition is not in substantial compliance, it shall adopt a resolution so stating and terminating annexation proceedings.
  - B. Notice of public hearing. As a part of the resolution finding substantial compliance, the Council shall set a date, time and place of a public hearing on the petition. The Town Clerk shall provide notice of the public hearing as provided in C.R.S. § 31-12-108(2). Notice shall also be provided to:
    1. All current and potential utility providers for the property, including water, sewer, electric, gas, telephone and cable;
    2. Property owners within 300 feet of the property being annexed; and

The notice may be combined with any notice of proposed zoning for the property.
  - C. Council public hearing. The owners shall present evidence in support of the petition for annexation. Staff shall testify as to the elements required by statute to be present for annexation and any comments received from



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governmental entities affected by the annexation. Any person may appear at the hearing and present evidence on the annexation petition. Council may continue the hearing to another date without additional notice, as provided by the Act.

- D. Considerations for the Council. The Council shall consider, among other things, the feasibility of annexing the property, including but not limited to the ability to serve with streets, water, sanitary sewer, storm sewer, parks and recreation, schools, law enforcement and fire protection. The analysis shall also consider compliance with the Town’s Comprehensive Plan, Codes and policies and the Town’s costs to serve the property.
- E. Council Action. At the conclusion of the public hearing, the Council shall consider a resolution making findings that:
  - 1. The annexation is in compliance with the requirements of the Act and this Code;
  - 2. That an election is not required under the Act; and
  - 3. No additional terms and conditions are to be imposed.

In the event the resolution is adopted, Council may annex the property and approve the annexation agreement by ordinance without election. If the Council elects not to approve the annexation, it shall act by resolution to terminate annexation proceedings.

10.9.4 Annexation Map Technical Standards. The Annexation map shall be a neat, clear, permanent, legible and reproducible document. Inaccurate, incomplete or poorly drawn maps shall be rejected. The following technical standards apply.

- 10.9.4.1 A cover sheet shall refer to the Annexation Ordinance by number and date of adoption.
- 10.9.4.2 An original drawing on flat, spliceless, tapeless and creaseless sheet(s), using only permanent black ink.
- 10.9.4.3 Paper copies shall be blue line or black line copies of the original.
- 10.9.4.4 The scale used shall best convey the detailed survey.
- 10.9.4.5 Drafting error to less than one (1) percent.
- 10.9.4.6 A general legal description stating the section, township, range, 6th P.M., Town of Timnath, Larimer County, Colorado, shall be included in the name. On the title page under the general legal description, include the total acreage.

Example:

NEW ANNEXATION  
 TO THE TOWN OF TIMNATH, COLORADO  
 A Part of the E/2 of Section 23, Township \_ North,  
 Range \_\_ West, \_\_th P.M., Town of Timnath, Colorado  
 xx.xx Acres

- 10.9.4.7 The name, address and telephone number of the person preparing the map
- 10.9.4.8 A statement of ownership containing a written legal description of the land annexed followed by the owner’s signature and a notary.



- 10.9.4.9 The outline of area to be annexed.
- 10.9.4.10 Adjacent and contained public streets, roads and rights of way.
- 10.9.4.11 Section numbers, quarter section quadrants, township and range lines.
- 10.9.4.12 The total perimeter of the annexation parcel boundary showing the portion of that boundary which is at least one-sixth (1/6) contiguous with an existing Town boundary .

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**ARTICLE 11. DEFINITIONS**

**11.1 General Terms.**

- 11.1.1 The word “Town” capitalized or not means the Town of Timnath, Colorado.
- 11.1.2 The words “Town Council” mean the Town Council of the Town of Timnath, Colorado.
- 11.1.3 The words “Board of Adjustment” mean the Town of Timnath Board of Adjustment.
- 11.1.4 The words “Planning Commission” mean the Town of Timnath Planning Commission.
- 11.1.5 The words “Town Manager” mean the Town Manager for the Town of Timnath or his designee.
- 11.1.6 The words “Town Clerk” mean the Town Clerk for the Town of Timnath or his designee.
- 11.1.7 The words “Zoning Administrator” mean the Zoning Administrator for the Town of Timnath or his designee.
- 11.1.8 The word “Director” shall mean the Planning Director of the Town of Timnath appointed by the Town Manager.
- 11.1.9 The words “Town Engineer” shall mean the Engineer of the Town of Timnath appointed by the Town Manager, or their designee.
- 11.1.10 The word “Staff” means a full or part-time employee of the Town, but may also include professional firms and/or persons designated by the Town to act within a certain capacity including legal, engineering, planning, code enforcement, inspection and other professional fields.
- 11.1.11 The words “Land Use Code” or “this Code” mean the Land Use Code of the Town of Timnath.
- 11.1.12 The words “Comprehensive Plan” mean the Comprehensive Plan for the Town of Timnath.
- 11.1.13 The words “shall,” “will” and “must” are mandatory; and the words “may,” “can,” “should” and “might” are permissive, except when the context of the particular use is negative (e.g., “may not”).
- 11.1.14 The word “lot” includes the words “plot,” “[parcel](#)” and “tract.”
- 11.1.15 The word “structure” includes the words “building” and “accessory structure” and any part thereof. A “building or other structure” includes all other structures of every kind, regardless of similarity to buildings.
- 11.1.16 The word “street” includes the words “road” and “highway.” “drive”, “parkway”, “avenue”, “lane”, “court”.
- 11.1.17 The word “person” includes an individual, firm, association, organization, partnership, corporation, company, trust, governmental unit, and any combination thereof.
- 11.1.18 The words “zoning map” or “Official Zoning Map” shall mean the Official Zoning Map of the Town of Timnath.
- 11.1.19 The word “day” or “days” means calendar days unless otherwise specified.
- 11.1.20 Words used in one gender include the other gender.

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- # 11.1.21 Words used in the singular include the plural and words used in the plural include the singular.
- A
- B 11.1.22 Words used in the present tense include the future tense; words used in the future tense include the present tense.
- C
- D 11.1.23 Any reference to a section shall mean a section of the Land Use Code of the Town of Timnath, unless otherwise specified.
- E
- F 11.1.24 Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.
- G
- H
- I 11.1.25 The particular controls the general.
- J
- K 11.1.26 If there is a conflict between figures and words in expressing a number, the words govern.
- L 11.1.27 The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for.”
- M
- N 11.1.28 The words “existing,” “existed,” “exists,” and “occupied” shall imply the modifier “lawfully.”
- O
- P 11.1.29 Unless otherwise stated, the term “mailed” shall always mean transmitted via first class U.S. Mail.
- Q
- R 11.1.30 For purposes of interpreting this ordinance, certain words, concepts, and ideas are defined in Section 11.2. Except as defined herein, all other words used in this Code shall have their customary dictionary meaning.
- S
- T
- U
- V
- W
- X
- Y
- Z

**11.2 Definitions.**

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 shall be interpreted by the Director based on the context of their usage and the intention of the section of this Code in which they occur.

#

**100-Year Flood:** A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms “one-hundred-year flood” and “one percent chance flood” are synonymous with the term “100-year flood.” The term does not imply that the flood will necessarily happen once every one hundred years.

**100-Year Floodplain:** The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

A

**Abandonment:** Unless otherwise defined within the context of the regulation, this word shall mean the discontinuance of nonconformity voluntarily for a period of six months with intent to abandon, or the commission of an overt act of substantial discontinuance for a period of six months with or without voluntary intent.

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**Abut or Abutting:** Having [property lines](#) in common.

**Accessory Building or Structure:** means any structure on the same lot with the [principal building](#) or use which is:

- d. Integrally related to the [principal use](#) on the lot;
- e. Subordinate and clearly incidental to the principal building or use of the lot;
- f. Customarily incidental to the principal building or use of the lot;
- g. Used only at the same time as the principal building is active and operational;
- h. Not detrimental or an alteration of the character of the area in which the building is located; and

An accessory building or structure shall include, but not be limited to storage sheds, permanently installed fire pits or Bar-B-Ques, pergolas, and detached garages in residential zoning districts. Microwave dishes, antennas. Liquid petroleum gas storage tanks, and similar devices which have a surface area of six square feet or larger shall also be considered accessory structures. All Accessory structures shall comply with requirements for accessory buildings and structures, including height and setback requirements.

**Accessory Dwelling:** means an apartment integrated within a single-family dwelling, or located in a detached accessory building, such as carriage houses or agricultural-type outbuildings. Accessory dwellings shall be limited to 850 square feet in [floor area](#). For purposes of calculating residential [density](#), each accessory dwelling shall count as ½ dwelling unit. There shall not be more than one accessory dwelling located on a lot in addition to a single-family dwelling.

**Accessory Use:** means a use of land or structure incidental to or subordinate to the [principal use](#) of a lot which is:

- a. Integrally related to the principal use on the lot;
- b. Subordinate and clearly incidental to the principal use of the lot;
- c. Customarily incidental to the principal use of the lot;
- d. Located on the same lot as the principal use;
- e. Used only at the same time as the principal building is active and operational; and
- f. Not detrimental or an alteration of the character of the area in which the use is located.

**Acute Care:** Is a facility where a patient receives active but short-term treatment for a severe injury or episode of illness, an urgent medical condition, or during recovery from surgery.

**Addition:** means a completely new structure or new component to an existing structure.

**Adjacent:** means two properties, lots, or parcels are “adjacent” where they [abut](#), or where they are separated by a roadway or street, right-of-way, or railroad line.

**Adult Establishment:** is distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas. Uses shall include, but shall not be limited to, the following:

- A. Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals and goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or sections devoted to the sale or display of such material.
- B. Adult Photo Studio: An establishment that, upon payment of a fee, provides on-premises photographic equipment, services, and/or models for the purpose of photographing specified

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# anatomical areas.

A C. Adult Theater: A theater used for the presentation of material distinguished or characterized by  
 B an emphasis on material depicting, describing, or relating to specified sexual activities.

C **Adverse Effect/Impact:** means a negative change in the quality of the historical, architectural,  
 D archaeological, environmental or cultural significance of a resource, or in the characteristics that qualify  
 E the resource as historically, architecturally, archaeologically, environmentally or culturally important.

F **Agriculture:** means farming, including plowing, tillage, cropping, utilization of best management  
 G practices, seeding, cultivating or harvesting for the production of food and fiber products; the grazing  
 H or raising of [livestock](#) (except in feedlots); aquaculture; sod production; orchards; Christmas tree  
 I plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise.

J **Alley:** means a public or private right-of-way primarily designed to serve as secondary access to the side  
 K or rear of those properties whose principal frontage is on some other street.

L **Alteration:** means any change, addition or modification in construction, occupancy or use.

M **Americans with Disabilities Act (ADA):** means 42 U.S.C. Subsection 1281 et seq., Pub. L. 101-336 and  
 N implementing regulations at 28 C.F.R. parts 35 and 36, as amended.

O **Animal Boarding:** means the operation of an establishment in which domesticated animals other than  
 P [household pets](#) are housed, groomed, bred, boarded, trained or sold. This term shall not include the  
 Q operation of a [kennel](#).

R **Animal, Large:** Animals, including, but not limited to, horses, mules, donkeys, llamas, cattle, goats, sheep,  
 S bison, ostriches and other animals or [livestock](#) of similar size and type, except inherently dangerous  
 T mammals and inherently dangerous reptiles. Horses, mules, donkeys, burros, llamas, alpaca, and bison,  
 U less than one year in age, and sheep, goats and swine less than 3 months of age shall not be included  
 V when calculating the [density](#) of large animals.

W **Animal, Small:** Animals or fowl other than a large animal, inherently dangerous mammals or inherently  
 X dangerous reptiles. Small animals include but are not limited to, dogs, cats, birds, chickens, guinea hens,  
 Y geese, ducks, turkeys, pigeons, rabbits, and other animals or fowl of similar size and type. Small animals  
 Z or fowl under 3 months in age shall not be included when computing intensity of small animals or fowl.  
 Young or miniature large animals are not included in this definition and are considered large animals.  
 Appeal means a request by an applicant to the Board of Adjustment for a review of an administrative in-  
 terpretation of any provision of this Code.

**Area of shallow flooding:** A designated Zone AO or AH on a community’s Flood Insurance Rate Map  
 (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three  
 feet where a clearly defined [channel](#) does not exist, where the path of flooding is unpredictable and where  
 velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Applicant:** means the owner of land; the owner’s authorized representative, or one with a financial  
 interest in the land, including mineral owners and lessees.

**Appurtenance:** means the visible, functional, or ornamental objects accessory to and part of a building.

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**Aquifer Recharge Area:** means an area where water is absorbed into a natural aquifer adding to the zone of saturation.

**Arcade:** means a series of arches supported on piers or columns.

**Area of Lot:** means the total horizontal area within the lot line boundaries of a lot.

**Area of Special Flood Hazard:** means the land in the [floodplain](#) within a community subject to a one percent or greater chance of flooding in any given year.

**Average Daily Trips (ADT):** means the average [vehicle trips](#) within a 24-hour timeframe of all lanes in both directions being further defined as the total number during a stated period, divided by the number of days in that period. Unless otherwise stated, the period is a year.

**Awning:** means a fixed or movable roof-like cover of canvas or other material extending in front of a doorway or window, or over a deck, to provide protection from the sun or rain.

**Awning Sign:** means a sign which is painted, stitched, sewn or stained onto the exterior of an awning.

**B**

**Bar or Tavern:** means an establishment providing or dispensing fermented alcoholic beverages in which the sale of food products such as sandwiches or light snacks is secondary.

**Base Flood:** means the flood having a 1 percent chance of being equaled or exceeded in any given year (also called “100-year frequency flood”).

**Base Flood Elevation:** means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the [water surface elevation](#) resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

**Basement:** means any area of the building having its floor subgrade (below ground level) on at least three sides.

**Bed and Breakfast Inn:** means an establishment operated in a private residence or portion thereof, where the principle resident is the operator and which provides temporary accommodations to overnight guests for a fee.

**Best Management Practices (stormwater):** means an effective integration of stormwater management systems, with appropriate combinations of landscape conservation, enhancement, structural controls, impervious cover, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices that provide an optimum way to convey, store, and release run-off, in order to reduce peak discharge, remove pollutants, and enhance the environment.

**Bike Path or Bikeway:** means a designated paved travelway intended for bicycle use, to the exclusion of routine motor vehicle use. Typically used by two-way bicycle traffic and may be used by pedestrians

**Block:** means a unit of land, or a group of lots, bounded by streets or by a combination of streets, or other rights-of-way except for an [alley](#), waterways or any barrier to the continuity of development, or land



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# which is designated as a block on any recorded subdivision tract.

A **Buffer Area/Strip:** means an area with sufficient planting and/or screening which acts as a separation  
 B area between two or more uses and/or districts.

C  
 D **Buildable Area:** means that portion of a lot remaining after required setback yards have been provided.  
 E See distance diagram.

F **Building:** means any structure used or intended for supporting or sheltering any use or occupancy.

G  
 H **Building Code:** means the current Building Code promulgated by the International Code Council and  
 I adopted by the Town.

J **Building Elevation:** means the view of any building or other structure from any one of four sides  
 K showing features, such as construction materials, design, height, dimensions, windows, doors, other  
 L architectural features, and the relationship of [grade](#) to floor level.

M **Building Frontage:** means the horizontal, linear dimension of that side of a building, which [abuts](#) a  
 N street, a parking area, a mall, or other circulation area open to the public and has either a main window  
 O display or a public entrance to the building.

P **Building Height (Structure Height):** means the height measured from the average of finished [grade](#) at  
 Q the center of all walls of the building to the top of the [parapet](#) or highest roof beam (whichever  
 R is higher) on a flat or shed roof, to the top of the parapet or deck level (whichever is higher) of a mansard  
 S roof, or the average distance between the highest ridge and its [eave](#) of a [gable](#), hip, or gambrel roof.

T **Building Lot – see Lot**

U **Building, Principal:** means a building in which is conducted the [principal use](#) of the lot on which it is  
 V situated.

W **Building Permit:** means an official document or certificate issued by the Building Official authorizing  
 X performance of a specified activity.

Y **Building Setback Line:** means the distance required by this Code to be maintained between a given lot  
 Z line, or right-of-way line and any structure foundation: front, rear, or side, as specified.

**Bulk:** means the size, mass, and volume of a structure

C

**Caliper:** means the American Association of Nurserymen standard for trunk measurement of nursery  
 stock, as measured at six inches above the ground for trees up to and including four-inch caliper size, and  
 as measured at 12 inches above the ground for larger sizes.

**Canopy:** means any structural protective cover that is not enclosed on more than one side.

**Care Center:** means any home, center, agency or place, however styled, where children or adults not  
 related to the operator are received for custodial care, apart from their parents or guardians, whether  
 for compensation, reward, or otherwise during part or all of the day or night and upon any number of

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# successive days or nights for a period less than 24 hours. This definition shall be construed consistent with §26-6-102 (1.5) of the Colorado Revised Statutes in effect at the time of interpretation for application to child care, and consistent with requirements and licensing for Adult Day Services as established by the Colorado Department of Public Health and Environment.

**Care Home:** means a home wherein care is given to up to eight care recipients with a maximum number of nine occupants located in the primary residence of the care giver. A Care Home is a [home occupation](#).

**Cemetery:** means a tract of land, private or public, divided into plots for interment of the human or animal remains in compliance with applicable state law and Town ordinances including mausoleums and mortuaries when operated in conjunction with, and within the boundaries of, such cemetery.

**Certificate of Occupancy:** means a certificate issued by the Town after final inspection and upon a finding that the building, structure, or development complies with all provisions of the applicable Town codes, permits, requirements and approved plans.

**Channel:** The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries

**Channelization:** The artificial creation, enlargement or realignment of a stream channel.

**Character:** means those attributes, qualities and features that make up and distinguish a building or development and give it a sense of purpose, function, definition and uniqueness.

**Cidery, Distillery, or Winery:** An establishment where malt liquors or fermented malt beverages, spirits or other alcohol, including but not limited to, fermented cider, or wine are manufactured that has a manufacturer’s or wholesaler’s license under the Colorado Liquor Code.

**Clean Water Act:** means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as amended.

**Clinic:** see “Facility, Medical and Dental” or “Facility, Veterinary.”

**Clubs and Lodges:** means a building housing 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.

**Common Area or Common Open Space:** means a [parcel](#) or parcels of land, or an area of water, or a combination of land and water, and/or developed facilities and complimentary structures and improvements, including, but not limited to, areas for vehicular and pedestrian access and recreational facilities within the site.

**Common Equestrian Stabling and Grazing:** means shared pastures and/or common barns for horses.

**Community Facility:** means a publicly owned facility or office building which is primarily intended to serve the recreational, educational, cultural, and administrative or entertainment needs of the community as a whole.

**Compatibility:** means the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height,

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scale, and **bulk** of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture. Compatibility does not mean “the same as.” Rather, compatibility refers to the sensitivity of development proposals to nearby existing and proposed development.

**Conditional Letter of Map Revision (CLOMR):** FEMA’s comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

**Conforming Use:** means any lawful use of a building or lot which complies with the provisions of this Code.

**Container (also known as cargo or shipping container):** means a truck trailer body that can be detached from the chassis for loading into a vessel, a rail car or stacked in a container depot. Containers may be ventilated, insulated, refrigerated, flat rack, vehicle rack, open top, bulk liquid or equipped with interior devices.

**Convenience Shopping and Retail Establishment:** means a shopping and service center located in a complex which is planned, developed and managed as a single unit, and located within and intended to primarily serve the consumer demands of adjacent employment areas and residences.

**Contiguous:** means lots that are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot for at least five feet. The contiguity of land areas shall not be affected by the existence between them of a road or **alley**; a public or private right-of-way; a public or private transportation or utility right-of-way; a river, creek, stream, or other natural or artificial waterway. The contiguity of land areas shall be assumed to be disrupted by the existence of a freeway, expressway, principal arterial, and minor arterial, and by lands contained within the boundaries of Larimer County and outside the legal boundaries of Timnath.

**Cornice:** means a continuous, molded projection that crowns a wall or other construction, or divides it horizontally.

**Covenant:** means a private written agreement outlining regulations specific to a development. Covenants are not enforced by the Town and no covenant shall be construed to be a waiver or modification of a requirement of this Code.

**Courtyard:** means a space, open and unobstructed to the sky, located at or above **grade** level on a lot, and bounded on three or more sides by the walls of a building.

**Critical Facility:** A structure or related infrastructure, but not the land on which it is situated 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.

**Critical Plant Community:** means vegetation which is essential to the conservation of threatened or endangered species and which may require special management considerations or protection.

**Crosswalk:** means that part of a street at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street (public, private, or safety lane) measured from the curbs, in the absence of curbs from the edges of the traversable roadway; any portion of a street (public,

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# private, or safety lane) at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the street surfaces.

A  
 B **Cul-de-sac:** means a local street with only one outlet and having the other end for the reversal of traffic  
 C movement.

D **D**

F **Deed:** means a legal document conveying ownership of real property recorded in the real property  
 G records of the Larimer County Clerk and Recorder.

H **Dedication:** means any grant to a public entity by a [landowner](#) of a right to use that land for public  
 I purposes. It involves a transfer of property rights and an acceptance of the dedicated property by the  
 J appropriate public agency.

K **Demolition:** means any act or process that destroys or razes in whole or in part, or permanently impairs  
 L the structural integrity, or allows deterioration by neglect of a building or structure, wherever located, or  
 M a building, object, site, or structure, including interior spaces, located within an historic district, on public  
 N property, or on the public right-of-way.

O **Density:** means the intensity of the use of land observing all yard, height, and [lot coverage](#) provisions of  
 P this Code, or the number of dwelling units per land area.

Q **Design Standards:** means the standards that set forth specific requirements for buildings and  
 R [infrastructure](#).

S **Developer:** means any person engaging in developing, improving, planning, platting, promoting, selling,  
 T or leasing a lot or group of lots or placing structures thereon for use or occupancy.

U **Development:** means any man-made change to improved or unimproved real estate, including but not  
 V limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or a drilling  
 W operation.

X **Development Agreement or Subdivision Improvement Agreement:** means the agreement between  
 Y the Town and the [Developer](#) specifying the terms and conditions of the approval and providing for  
 Z the construction and installation of [public improvements](#) and landscaping, security and warranties  
 therefore, and [dedications](#) of public improvements and land. This agreement implements the [site specific  
 development plan](#) which establishes vested rights under Article 68 of Title 24, C.R.S.

**Development Process:** Based on the rules and regulations set forth by this document the Town  
 establishes a variety of review processes that are used to examine development applications. The Town’s  
 development processes are as follows:

**Annexation and Zoning:** An agreement between the municipality and property owner that  
 transfers jurisdictional power to the Town. Annexation and zoning maps showing boundaries of  
 each, along with a petition and impact report, must be included to determine appropriateness of  
 uses in relation to the Comprehensive Plan.

**Comprehensive Plan Amendment:** The request of a future land use designation change that is  
 not in compliance with the future land uses determined in the Comprehensive Plan. Applications

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# must include a comprehensive plan map showing existing and proposed land uses, along with proper justification of change.

**Rezoning:** A request to redesignate an existing zoning district that changes the allowable uses and standards on the property. Rezoning must be consistent with the Comprehensive Plan and Land Use Code.

**Sketch Plan:** A conceptual layout of a future development submitted prior to the platting process containing land uses, density and major circulation that helps guide the vision and scope of the project that follows the Town’s comprehensive plan and code.

**Preliminary Plat:** The initial formal plat of a proposed land division or subdivision showing intended lots, landscape/open space, infrastructure, utilities, grading, circulation, and traffic impacts.

**Final Plat:** Final plan of the plat, subdivision, or dedication of land intended for recording showing detailed lots, landscape/open space, infrastructure, utilities, grading, circulation, and traffic impacts.

**Development Site Plan:** A set of detailed construction drawings that are consistent with the final plat for proposed developments showing site specific improvements in compliance with the Land Use Code. Site plans of two or more buildings or multi-family uses must be approved by Town Council.

**Building Permit:** The allowance of final construction on a site that is issued after the approval of the development process. Requires submittal of detailed plot plans or building plans demonstrating constructability in compliance with the Land Use Code. Is an official document of certificate issued by the Building Official authorizing performance of a specified activity.

**Drainage System, Storm:** means the facility to carry off large amounts of water produced from rain and which meets or exceeds the requirements to control stormwater runoff for the minimum 25 year flood level.

**Drive Aisles:** means the lanes in a parking lot devoted to the passage of vehicles, as opposed to the parking stalls. The term drive aisle does not include lanes used only or primarily for drive-in customer service.

**Driveway:** means a constructed vehicular access serving one or more properties and abutting a public or private road.

**Dwelling:** means one or more rooms providing complete living facilities for one family, including kitchen facilities or equipment for cooking or provisions for same, and including a room or multiple rooms for living, sleeping, bathing, and eating. Also known as a “dwelling unit.”

**Dwelling, Multi-Family:** means a dwelling containing three or more dwelling units, not including hotels, motels, fraternity houses and sorority houses and similar group accommodations.

**Dwelling, Single-Family:** means a building designed exclusively for occupancy by one family, but not including a mobile home, except as otherwise provided herein.



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**Dwelling, Single-Family Attached:** means a residential building containing dwelling units, each of which primary ground floor has access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses and duplexes.

**Dwelling, Single-Family Detached:** means a single-family dwelling which is not attached to any other dwelling or building by any means, Including mobile homes and manufactured housing situated on a permanent foundation.

**Dwelling, Two-Family:** means a building designed for occupancy by two families living independently of each other on one [parcel](#).

**Dwelling Unit:** See the definition for “dwelling.”

**E**

**Easement:** means a right 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.

**Employee:** means any person who does any type of work for the benefit of another in consideration of direct or indirect wages or profit, or provides uncompensated work of services to a business or nonprofit entity. “Employee” includes every person described in this paragraph, regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

**Entertainment Facilities and Theaters:** means a building or part of a building devoted to showing motion pictures or dramatic, musical or live performances

**Environmentally Sensitive Areas:** means [aquifer recharge areas](#), significant wildlife habitat and migration corridors, unique vegetation, ridge lines, and critical plant and animal communities. Family means an individual living alone, or either of the following groups living together as a single housekeeping unit and sharing common living, sleeping, cooking and eating facilities:

- a. Any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship; or,
- b. Any unrelated group of persons consisting of :
  - 1. Not more than three persons; or,
  - 2. Not more than two unrelated adults and their lineal descendants, if any; or
  - 3. Not more than eight developmentally disabled persons and appropriate staff occupying a dwelling unit and living as a single housekeeping unit.

**F**

**Fairgrounds and Stadiums:** means permanent or temporary establishments engaged in providing amusement or entertainment for a fee or admission charge and include such activities as dance halls; studios; theatrical producers; bands, orchestras, and other musical entertainment; bowling alleys and billiard and pool establishments; commercial sports such as arenas, auto racetracks, public golf courses and coin-operated devices; amusement parks, membership sports, and recreation clubs; amusement and bathing beaches; swimming pools, riding academies, carnival operations, expositions, game parlors, circuses, bingo parlors and horse shows. These operations may be of either a permanent or temporary



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# nature.

**Food Truck:** A person whether as owner, agent, or employee who sells or attempts to sell food or beverage to the public from motorized wheeled vehicle, or towed wheeled vehicle designed and equipped to serve food. The food is either cooked and prepared on site or where food is prepared off site and packaged to be sold on site.

**Fast Food Restaurant:** means any establishment which dispenses food for consumption on or off the premises, and which has the following characteristics: a limited menu, items prepared in advance or prepared or heated quickly, no table orders, and food served in disposable wrapping or containers.

**FEMA:** means the Federal Emergency Management Agency, the agency responsible for administering the [National Flood Insurance Program](#)

**Flood or Flooding:** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff or surface waters from any source.

**Floodplain or Flood Hazard Area:** means the general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of water from channels and reservoir spillways;
- B. The unusual and rapid accumulation or runoff of surface waters from any source; or
- C. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

**Floodplain Administrator:** The community official designated by title to administer and enforce the floodplain management regulations.

**Floodplain Development Permit:** A permit required before construction or development begins within any [Special Flood Hazard Area](#) (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

**Floodplain management:** 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.

**Floodproofing:** Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and [sanitary facilities](#), structures and their contents.

**Flood Prone:** means areas subject to flooding which have not been designated as a floodplain or flood hazard area by the Board, the Colorado Water Conservancy Board or [FEMA](#).

**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](#)

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# more than a designated height. The Colorado statewide standard for the designated height to be used for  
 A all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway  
 B delineations may continue to use the floodway criteria in place at the time of the existing floodway  
 C delineation.

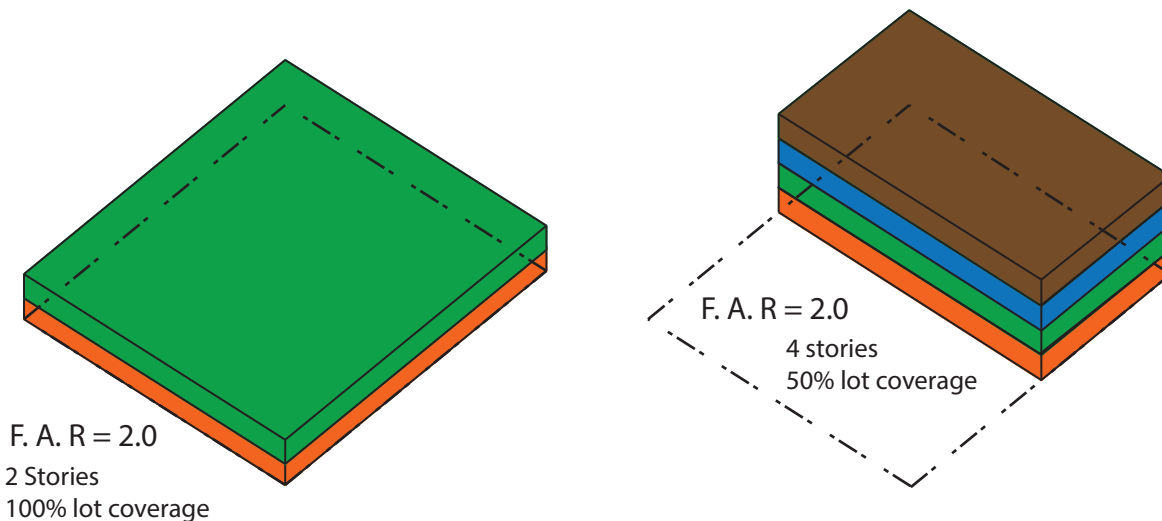
D **Flood Insurance Rate Map (FIRM):** means the official map on which the Federal Emergency  
 E Management Agency has delineated both the areas of [special flood hazards](#) and the risk premium zones  
 F applicable to the community.

G **Flood Insurance Study:** means The official report provided by the Federal Emergency Management  
 H Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding  
 I sources that can be used to determine Base Flood Elevations for some areas.

J **Floor Area, also called gross floor area:** means the total square footage of the building measured along  
 K the outside walls of the building and including each floor level, but not including open balconies, garages  
 L or other enclosed automobile parking areas and basement storage areas.

M **Floor Area Ratio (FAR):** means the amount of gross floor area of all [principal buildings](#) on a lot or  
 N block, as the case may be, divided by the total area of such lot, or the block size, respectively, on which  
 O such buildings are located. For [mixed-use](#) blocks, the residential square footage shall be added to the  
 P commercial development for a total block FAR.

Floor Area Ratio



Q **Food Truck:** A person whether as owner, agent, or employee who sells or attempts to sell food or  
 R beverage to the public from motorized wheeled vehicle, or towed wheeled vehicle designed and equipped  
 S to serve food. The food is either cooked and prepared on site or where food is prepared off site and  
 T packaged to be sold on site.

U **Freestanding Sign:** means a sign which is supported by one or more columns, uprights, poles or braces  
 V extended from the ground, or which is erected on the ground and shall also include a monument sign and  
 W pole signs but does not include a sign attached to a structure.

X **Functionally dependent use:** A use which cannot perform its intended purpose unless it is located  
 Y or carried out in close proximity to water. The term includes only docking facilities, port facilities that  
 Z

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- # 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.
- A
- B **G**
- C
- D **Gable:** means the triangular portion of wall enclosing the end of a pitched roof from [cornice](#) or [eaves](#) to ridge.
- E **Geologic Hazards:** means unstable or potentially unstable slopes, undermining, faulting, landslides, rockfalls, flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.
- F
- G
- H **Grade:** means the degree of rise or descent of a sloping surface.
- I
- J **Grade, Finished:** means the final elevation of the ground surface after development.
- K
- L **Grade, Natural:** means the elevation of the ground surface in its natural state, before man-made [alterations](#).
- M
- N **Group Home:** means a home licensed by the state for the exclusive use of not more than eight developmentally disabled, elderly, or mentally ill persons as defined by the state.
- O
- P **H**
- Q
- R **Highest adjacent grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- S
- T **Historic District:** means an area designated by local, state, or federal government that is related by historical events or themes by visual continuity or character or by some other special feature that gives it a unique historical identity.
- U
- V
- W **Historic Site:** means a structure or place of historical significance. Such structure or place may be designated a historic site by local, state, or federal government and given official status.
- X
- Y **Historic structure:** Any structure that is:
  - Z A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
  - D. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
    - 1. By an approved state program as determined by the Secretary of the Interior or;
    - 2. Directly by the Secretary of the Interior in states without approved programs.

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**Home Occupation:** means an occupation or business activity conducted in a residence in accordance with the standards set forth in this Code.

**Homeowners Association (HOA):** means the association set up to enforce the covenants and to maintain all common areas and buildings for a development. Also known as an Owners Association.

**Hospital:** means an institution providing health services for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training and central services facilities and staff offices.

**Hotel/Motel/Lodging Establishment:** means a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are five or more guest rooms.

**Household Pet:** means any animal that has been bred or raised to live in or about the habitation of humans, except inherently dangerous mammals and inherently dangerous reptiles, and is dependent on people for food and shelter, not including animals defined as [livestock](#), exotic animals or animals capable of inflicting substantial physical harm to humans. Includes dogs, domestic cats (*Felis catus*), canaries, parrots, hamsters, ferrets, potbellied pigs, guinea pigs and similar rodents, fish, reptiles, rabbits and such other species as would normally be sold at a local pet shop.

**Illumination, Indirect (signs):** means lighting by means of a light source directed at a reflecting surface in a way that illuminates the sign from the front, or a light source that is primarily designed to illuminate the entire building facade upon which a sign is displayed. Indirect illumination does not include lighting which is primarily used for purposes other than sign illumination; e.g., parking lot lights, or lights inside a building that may silhouette a window sign but are primarily installed to serve as inside illumination.

**Illumination, Internal:** means lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs, or which is within letters or designs that are made of a translucent material.

**Impervious Surface:** means pavements (roads, sidewalks, driveways and parking lots) and roofs that are covered by impenetrable materials such as asphalt, concrete, brick, and stone or any material which does not allow water to percolate through.

**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.

**Integrate:** means to combine or coordinate separate elements (such as housing, recreation, jobs, and shopping) to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.

**Irrigation Ditch or Canal:** means a [channel](#) designed to transport irrigation water.

J

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**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.

**Junkyard:** means a building, structure or parcel of land, or portion thereof, used for collecting, displaying, storing, selling or reselling junk. The word Junkyards shall not include a [recycling facility](#).

**K**

**Kenel:** means 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**

**Landowner:** means any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assigns 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 or fountains. Landscaping shall also include irrigation systems, mulches, topsoil and soil preparation, re-vegetation and the preservation, protection and replacement of existing trees.

**Lane:** means a private street, portion of a roadway delineated for a single line of vehicles; or a secondary means of access to the lots [abutting](#) a street and not intended for general traffic circulation.

**Laundry and Dry-Cleaning Retail Outlet:** means a laundry or dry-cleaning business which consists primarily of serving retail customers, provided that any laundry and dry-cleaning processing that occurs on the premises is limited to items which are brought directly to the premises by the retail customer.

**Letter of Map Revision (LOMR):** FEMA’s official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

**Letter of Map Revision Based on Fill (LOMR-F):** FEMA’s modification of the [Special Flood Hazard Area](#) (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

**Livestock:** means farm animals kept or raised for pleasure or profit including, but not limited to cows, horses, goats, sheep or chickens.

**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.



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**Lot Area:** means the total horizontal area within the lot lines of a lot; synonymous with area of lot.

**Lot Coverage:** is determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, and **impervious surfaces** such as parking and drives, by the gross area of that lot.

**Lot, 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, 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 a narrow access strip connecting the main building site with the frontage street.



**Lot Line, Front:** means the property line dividing the front of the lot from a street.

**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 Width:** means the distance parallel to the front lot line, measured at the front building **setback** line. Insert diagram

**Lowest Floor:** means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in **violation** of the applicable non-elevation design requirement of Section 60.3 of the **National Flood insurance Program** regulations.

**M**

**Management Agency:** means the agency in charge of the “208 Water Quality Plan” in the Timnath area.

**Manufactured Home:** means a single-family dwelling which:

- a. Is partially or entirely manufactured in a factory;
- b. Is permanently affixed to and installed on an engineered permanent foundation at the entire pe-



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# rimeter of the dwelling.  
 A c. Is certified pursuant to the “National Manufactured Housing Construction and Safety Standards  
 B Act of 1974”, 42 U.S.C. 5401, et seq., as amended.

C **Manufacturing:** means a business which makes products by hand or by machinery.

D **Material Safety Data Sheet (MSDS):** A form with data regarding the properties of a particular substance.  
 E An important component of product stewardship and workplace safety, it is intended to provide workers  
 F and emergency personnel with procedures for handling or working with that substance in a safe manner,  
 G and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity,  
 H health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

I **Mean sea level:** means, for purposes of the [National Flood Insurance Program](#), the National Geodetic  
 J Vertical Datum (NGVD) of 1929 or other datum, to which [base flood](#) elevations shown on a community’s  
 K [Flood Insurance Rate Map](#) are referenced.

L **Micro-Brewery:** means a limited production brewery, producing less than fifteen thousand (15,000  
 M barrels per year), where beer is brewed for consumption primarily on-site.

N **Mixed-Use:** shall mean the development of a lot tract or [parcel](#) of land, building or structure with two or  
 O more different uses including but not limited to residential, office, retail, public uses, personal service or  
 P entertainment uses, designed, planned and constructed as a unit.

Q **Mixed-Use Building:** means a building designed, planned and constructed as a unit, used partially for  
 R residential use and partly for commercial uses including, but not limited to, office, retail, public uses,  
 S personal service or entertainment uses.

T **Mixed-Use Dwelling Unit:** means the dwelling unit in a mixed use building. For purposes of calculating  
 U residential [density](#), each dwelling unit shall count as one-half (½) dwelling unit.

V **Motor vehicle, recreational vehicle, boat and truck sales:** means any uses included within the  
 W following NAICS codes:

- X 4411, Automobile Dealers (new and used)  
 Y 4412, Other Motor Vehicle Dealers (RVs, motorcycles, boats, aircraft, etc.)  
 Z

N **National Flood Insurance Program (NFIP):** FEMA’s program of flood insurance coverage and floodplain  
 management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance  
 Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal  
 Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood  
 Insurance Act of 1968.

**Natural Areas:** means areas such as floodplains and [floodways](#), natural drainage and waterways,  
 significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor  
 nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens, prairie dog colonies over  
 25 acres in size, remnant native prairie habitat, plains cottonwood galleries, and any wetland greater than  
 ¼ acre in size as identified on the Town Comprehensive Plan Maps.

**Neighborhood:** means a geographical area, the focus of which are residential uses, but also may include

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# a mixture of activities that people need to live. A neighborhood may include a diversity of housing types, schools, parks, shopping and jobs (frequently service-type), and civic buildings.

**New Construction:** means structures for which the start of construction or remodeling commenced on or after the effective date of this Code.

**Nightclub:** means a [bar or tavern](#) containing more than one hundred square feet of dance [floor area](#).

**No-Rise Certification:** A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered 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).

**Noxious Weeds:** means plants that are determined by the state of Colorado as a noxious weed or an alien plant that is aggressively invasive including but not limited to the State Of Colorado Noxious Weed List, which can be accessed here <https://www.colorado.gov/pacific/agconservation/noxious-weed-species>.

**O**

**Oil and Gas Operation:** means any structure, facility or activity which is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including but not necessarily limited to wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines.

**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 and protecting areas of agricultural, archaeological or historical significance. Open space shall not be considered synonymous with vacant or unused land. Usable open space shall exclude areas used for off-street parking, off-street loading, service driveways, setbacks from oil and gas wells and their appurtenances, or other hazards to the public, native open areas on steep slopes, [floodways](#), or [easements](#) for utilities.

**Open Space, Public:** means open space owned and maintained by a public agency such as the Town of Timnath, Larimer County, the State of Colorado or other governmental entities.

**Open Space, Privately Held:** means open space owned and maintained by a private entity such as a property owners association.

**Outdoor Storage:** means the keeping, in an un-roofed area, of any equipment, goods, junk, building materials, merchandise or vehicles in the same place for more than 24 hours.

**Outlot:** means a [parcel](#) 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 merger with a later subdivision, or be conveyed to an owners association.

**P**

**Parapet:** means a low, protective wall at the edge of a terrace, balcony or roof, especially that part of an exterior wall, fire wall, or party wall that rises above the roof.

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**Parcel:** means a plot of land held on one deed.

**Park:** means an area open to the general public and reserved and usable for recreational, educational or scenic purposes.

**Parking Area (off-street):** 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, but not including any [outdoor storage](#) area used principally as a [recreational vehicle](#), boat or truck storage use, storage areas for landscaping and other bulk items or public streets and rights-of-way. This definition include the term "Parking Lot." **Parking Garage:** means an off-street parking area within a building.

**Pergola:** is a structure of parallel colonnades supporting an open roof of beams and crossing rafters or trellis work, over which climbing plants are trained to grow.

**Personal and Business Service Shops:** means any business enterprise with the primary purpose of support that does not produce a tangible commodity including barber shops, beauty shops, nail salons, dry cleaners (not including plants), laundry and dry cleaning retail outlet, portrait and photographic studios, employment service, tailors, photocopy shops, mail centers, and other uses which are of the same general character as those enumerated herein. Tattoo parlors and [adult establishments](#) are not considered to be personal or business service shops.

**Phase:** means a portion of property that is being developed at one time.

**Place of Worship and Assembly:** means a building or area containing a hall, auditorium or other suitable room, rooms or areas used for the purpose of conducting religious or other services or meetings. Church or place of worship and assembly shall include churches, synagogues or the like, but shall not include buildings used for commercial endeavors, including, but not limited to, commercial motion picture houses or stage productions.

**Planned Development (PD):** means a development involving a related group of residences, businesses, or industries and associated uses planned as a single entity and subject to development and regulations as one land-use unit rather than as an aggregation of individual buildings located on separate lots.

**Plant Nursery and Greenhouse:** means any land or structure used primarily to raise trees, shrubs, flowers or other plants for sale or for transplanting, excluding the cultivation, sale, or transplanting of marijuana.

**Plat:** means a map of certain described land showing property and lot boundaries, location of streets, public utilities, [easements](#) and other information prepared in accordance with the requirements of this Code, approved by the Town and recorded in the records of the Larimer County Clerk and Recorder.

**Principal Use:** means the main or primary use of land or of a structure as distinguished from a subordinate or [accessory use](#).

**Professional Office:** means an office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, planners, 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.

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**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 of Colorado.

**Property:** means all real property subject to land use regulation by the Town.

**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 the said lot, parcel or tract [abuts](#).

**Public Facilities:** means publicly constructed or owned 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 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 Utility:** means a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or storm water 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**

**R**

**Radius Return:** means the portion of a street that is the origin of the curve of the radius.

**Recreation Facility, Indoor:** means a place where recreation activities occur completely within an enclosed structure including but not limited to bowling alleys, skating rinks, pool halls, and video and pinball parlors.

**Recreation Facility, Outdoor:** means 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):** means a vehicle primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is drawn by another vehicle. The following shall be considered a recreational vehicle:

- a. Camping trailer or tent trailer means a folding structure, constructed of canvas, plastic or similar water repellent material, designed to be mounted on wheels and designed for travel and recreation.
- b. Motorized camper, motor home, recreational conversion van or bus means a recreational vehicle consisting of a portable, temporary dwelling to be used for travel, recreation and vacation uses, and constructed as an integral part of a self-propelled vehicle.
- c. Pick-up camper means an enclosure designed to be mounted on or loaded into a pick-up truck chassis for use as a temporary dwelling for travel and recreation.
- d. A travel trailer, meaning a towed vehicle designed as a temporary dwelling for travel and recreation. Travel trailer, self-contained, means a trailer which can operate independently of connec-

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# tions to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or  
 A bath and kitchen sink, all of which are connected to water storage and sewage holding tanks locat-  
 B ed within the trailer.

C **Recycling Facility:** means a building or lot used for the collection and/or processing of recyclable  
 D material. Processing shall mean the preparation of material for efficient shipment by such means as  
 E baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a facility, if  
 F entirely enclosed within a building or buildings, shall be considered a warehouse and not a recycling  
 G facility.

H **Regulated wetland:** means jurisdictional wetlands as defined and regulated by the U.S.  
 I Army Corps of Engineers as well as non-jurisdictional wetlands greater than ¼ acre regulated by the  
 J Town.

K **Resource Extraction, Processes and Sales:** means removal or recovery by any means whatsoever of  
 L sand, gravel, soil, rock, minerals, mineral substances or organic substances other than vegetation, from  
 M water or land on or beneath the surface thereof, exposed or submerged.

N **Restaurant, Drive-Thru:** means any restaurant in which the design or principal method of operation of  
 O all or any portion of the business is to allow food or beverages to be served directly to the customer in a  
 P motor vehicle without the need for the customer to exit the motor vehicle.

Q **Retail and Supply Yard:** means material and equipment and supply businesses classified under NAICS  
 R code 444, Building Material and Garden Equipment and Supplies Dealers.

S **Retail Fuel Station, including the term gasoline station:** means any building, land area, premises or  
 T portion thereof, where gasoline or other petroleum products or fuels are sold and light maintenance  
 U activities such as engine tune-ups, lubrication and minor repairs may be conducted. Gasoline stations  
 V shall not include premises where heavy automobile maintenance activities such as engine overhaul,  
 W automobile painting and body and fender work are conducted.

X **Right-of-Way:** means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad,  
 Y road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for  
 Z another special use that is dedicated for public use or use by a [public utility](#).

**S Sanitary Facilities:** means toilets, urinals, lavatories, showers, utility sinks and drinking fountains, and  
 the service buildings containing these units.

**Senior Housing:** means housing specifically designed for and marketed to persons age 55 and older. For  
 the purposes of this code, the term “senior housing” shall not include institutional uses providing housing  
 and care for older adults (e.g. nursing care, rehabilitation centers, assisted living, etc.).

**Seasonal and Holiday Sales:** Sales of goods and items tied to a seasonal event during the year (such as  
 Christmas trees, pumpkins, wreaths, etc.). The sale of fireworks is prohibited.

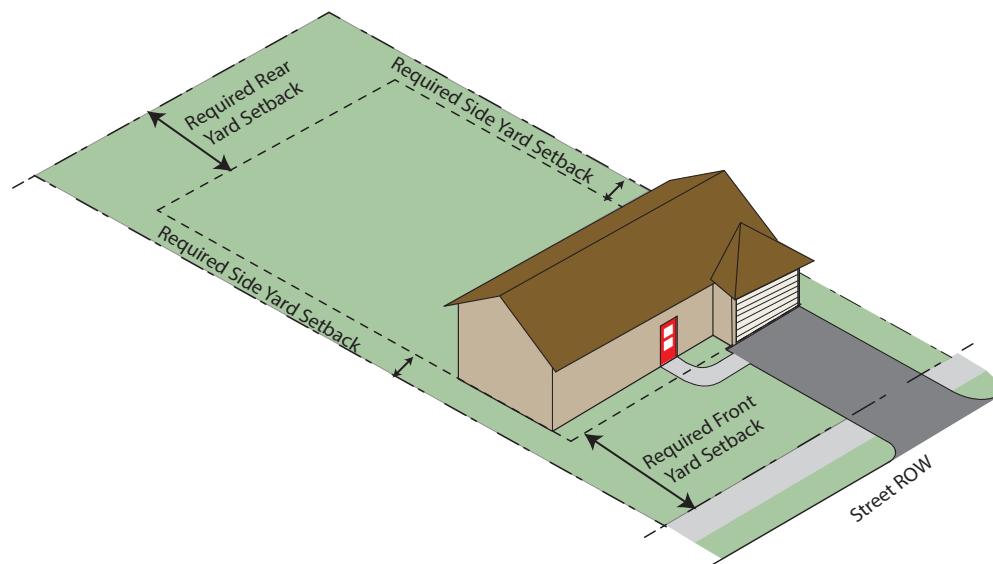
**Setback:** means the required unoccupied space between the nearest projection of a structure and the  
[property line](#) of the lot on which the structure is located.



**Setback, Front Yard:** means the distance a building or structure must be placed from the front lot line.

**Setback, Rear Yard:** means the distance a building or structure must be placed from the rear lot line.

**Setback, Side Yard:** means the distance a building or structure must be placed from the [side lot](#)

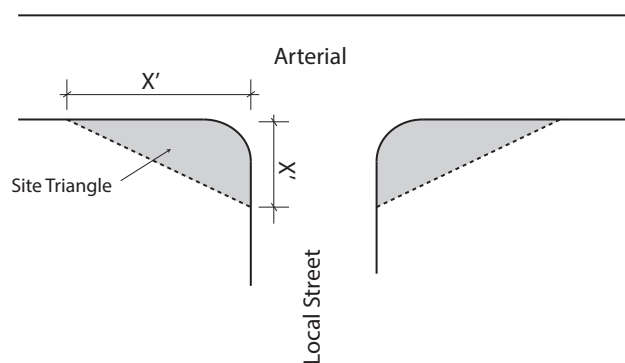


**Sidewalk:** means the hard surface path within the street right-of-way for use by pedestrians and bicyclists.

**Short Term Rental:** Short Term Rental shall mean a dwelling that under one ownership is leased in its entirety or as a portion at a time for periods of less than 30 consecutive days (i.e. Vacation Rental by Owner – VRBO or AirBnB).

**Sight Distance Triangle:** means the area at the corner of an intersection that is to be kept free of shrubs, ground covers, berms, fences, structures, or other materials or items that may obstruct the view of motorists. Sight Distance Triangles shall be in accordance with LCUASS standards.

Site Triangle



**Sign:** means any device that is sufficiently visible to persons not located on the lot where the device is located, designed to attract the attention of such persons or communicate information to them.

**Sign, Projecting:** means any sign supported by a building wall and projecting from that wall.

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**Sign, Wall:** means any sign painted on, incorporated in or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the sign other than the building wall itself.

**Sign, Awning:** (See definition of [Awning Sign](#))

**Sign, Canopy:** is a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

**Significant Wildlife Habitat and Migration Corridors:** are areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source ([www.ndis.nrel.colostate.edu](http://www.ndis.nrel.colostate.edu)) as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.

**Site Development Plan:** means a proposal for development approval, including such drawings, documents, and other information necessary to illustrate completely the proposed development. District means any zoning district established by this Code.

**Site Specific Development Plan:** shall mean and be limited to the final [plat](#) of a subdivision, or a “final site plan” of a PD Planned Development District (also known as a “final PD development plan”), or as part of a special use to establish a vested right pursuant to Part 1 of Article 68 of Title 24, C.R.S., as amended, describing with reasonable certainty the type and intensity of the proposed land use for a specific [parcel](#) or parcels of property.

**Special Flood Hazard Area:** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

**Street:** means a public thoroughfare which affords the principal means of vehicular access to [abutting](#) property. The term includes public or private streets.

**Street Furniture:** means constructed objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains and telephone booths, that have the potential for enlivening and giving variety to streets, sidewalks, plazas and other outdoor spaces open to and used by the public.

**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, but excluding the following:

1. retaining walls;
2. fences not over 6 feet high;
3. platforms or decks not more than 30 inches above [grade](#) and not over any basement or story below;
4. utility mains, lines, and underground facilities; and
5. yard and play equipment

**Subdivision:** means the platting of a lot or the division of a lot, tract or [parcel](#) of land into two or more lots.

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**Substantial damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

**Substantial Improvement:** means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or the structure has been damaged. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

**T**

**Temporary Building:** means a building that is intended for limited duration such as a construction trailer, temporary sales office, or temporary housing for emergency services.

**Temporary Use:** means a use intended for limited duration located in a zoning district which permits such use, and shall not include continuing a nonconforming use or building.

**Threshold Planning Quantity (TPQ):** A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

**Title Commitment:** means formal documentation from a title insurance company licensed by the State of Colorado listing the name of the owner of the property under consideration, the legal description of the property and any encumbrances of the property such as easements, rights-of-way, liens or mineral interests.

**Tree Lawn:** means a strip of landscaping within the right-of-way, generally between the street and an adjacent sidewalk.

**U**

**Undermining:** means land that has been mined under the surface of the ground.

**Usable Open Space:** provides occupants of the development, and its immediate surroundings, access to usable open space for recreation and leisure activities, while improving health and safety of its users, as well as enhancing the function and design of the site. Usable open space includes the following:

**Agricultural Preservation:** areas designated to protect farmland for the use, education, and enjoyment of future generations. Agricultural land preservation must be distinguished from open space preservation and must be viewed as protecting commercially viable farms and productive agricultural land which incidentally provides at least two components of these defined examples of usable open space.

**Bike Racks:** For every 10 standard bicycle parking spaces, there shall be (1) 11’ x 3’ bike parking space to accommodate a bike and bike trailer. There shall be a clear connection for bike access between existing public bike lanes and bike parking areas in each development. Bike racks shall be provided at the minimum required per this code.

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**Clubhouses:** A building or area used for social or recreational activities by occupants. The structure itself may not be determined as usable; however, the adjacent uses associated with the clubhouse can (e.g., fire pits, patios, and outdoor seating).

**Community Gardens:** A shared, semipublic space where people in the surrounding development share the work and harvest of maintaining a garden space for growing fruits, vegetables, flowers or even livestock.

**Courtyards/Plazas:** A space, opened and unobstructed to the sky, located at or above grade level on a lot, and bounded on three or more sides by the walls of a building. For the use and enjoyment of the residents directly adjacent. If completely enclosed and/or only accessible to the immediate residents of the community, credit toward the usable open space dedication requirements will be considered on a case-by-case basis by the Town Council at the time of platting and/or development site plan. The term “plaza” shall not include off-street loading areas, driveways, off-street parking areas.

**Dog Parks:** A contained area where dogs can be off leash with supervision of their owner. Landscaping and amenities can range greatly from park to park; however, surface treatments must be sustainable and maintained.

**Green Areas:** Accessible linear open space for public use majorly landscaped in natural grasses, vegetation and trees with benches or furniture elements enhancing the beauty and environmental quality of a neighborhood that provides passive recreational opportunities and must include pedestrian and/or bicycle paths. These areas may also be used to conserve natural areas.

**Landscaping:** Expanse of scenery including lawns, trees, plants, and other organic or inorganic materials used to soften or mitigate the impacts of development. Materials and treatment generally include naturally growing elements such as grasses and flowers for aesthetic and functional purposes. May be determined usable if it is part of a different use (e.g., plazas, parks, pocket parks).

**Multi-Use Pathways:** Shall be provided to link internal open space areas with peripheral open space areas and shall connect to multi-use pathway routes throughout the community.

**Natural/Habitat Areas:** Areas such as floodplains and floodways, natural drainage and waterways significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding, or feeding areas for birds; fox and coyote dens, prairie dog colonies over 25 acres in size, remnant native prairie habitat, plains cottonwood galleries, and any wetland greater than 1/4 acre in size as identified on the Town Comprehensive Plan Maps. Identification of natural habitat areas must provide an ecological study, from a qualified independent third party, verifying that it is a natural habitat. Natural habitat areas must include amenities for passive recreation such as trails or piers to be determined usable. Credit toward the usable open space dedication requirements will be considered on a case-by-case basis by the Town Council at the time of platting and/or development site plan, if at least two components of these defined examples of usable open space are incorporated.

**Outdoor Seating:** Area or “object” that may be utilized by residents and is designed for passive uses. Placement shall be such that can serve immediate occupants or in proximity to active uses within the project. Constructed objects, such as outdoor seating, sculptures, tree grids, and fountains, that have the potential for enlivening giving variety to streets, sidewalks, plazas, and

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other outdoor spaces open to and used by the public. Area may also include the use of picnic facilities, where two or more picnic tables may be reserved for use by at least 10 or more persons; can provide barbeque facilities or shelter. Credit toward the usable open space dedication requirements will be considered on a case-by-case basis by the Town Council at the time of platting and/or development site plan, if at least two components of these defined examples of usable open space are incorporated.

**Playground/Tot Lots:** A plot of land used for and typically equipped with play equipment (swings, slides, sand box, or play sets) for recreational purposes. A playground includes but is not limited to tot-lots and small playgrounds.

**Pocket Parks:** Usually no more than 1/4 acre facility designed for passive or active recreational activities. The development may include but shall not be limited to walkways, benches, open fields, multi-use courts, natural and scenic preserves.

**Recreational Areas:** Land designed for outdoor games and sporting activities (relatable activity for multi-family).

**Rooftop Common Areas:** Any unenclosed deck, patio, terrace, porch, exterior balcony or similar unenclosed building element either located on the roof of a primary or detached accessory structure or projecting from the building above the street level that is accessible to residents for leisure purposes. Must have an additional use (e.g., community garden or live ground cover). Credit toward the usable open space dedication requirements will be considered on a case-by-case basis by the Town Council at the time of platting and/or development site plan, if at least two components of these defined examples of usable open space are incorporated.

**Sports Courts:** Shall mean any surface constructed primarily for athletic activity use, which may be equipped with nets, standards, backboards, or other projections; or which may be equipped with sleeves suitable for the installation of such features, above grade.

**Storm Drainage & Usable Detention Facilities:** Storm drainage facilities, including stormwater detention and stormwater retention ponds, may function as open space for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately. A usable or improved detention pond(s) with turf, trees, shrubs, and other amenities such as benches or picnic tables, trails, that do not impede detention capacity, including a permanent irrigation system and higher quality construction materials. Credit toward the usable open space dedication requirements will be considered on a case-by-case basis by the Town Council at the time of platting and/or development site plan, if at least two components of these defined examples of usable open space are incorporated.

**V**

**Vacant Land:** means land that does not have structures or other development on it.

**Variance:** means a grant of relief from the requirements of this Code which permits construction in a manner that would otherwise be prohibited by this Code.

**Vegetation:** means plants growing in a place, including, but not limited to trees, shrubs, vines, grasses

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**Vegetation:** means plants growing in a place, including, but not limited to trees, shrubs, vines, grasses and ground cover.

**Vehicle Repair, Major:** means an establishment primarily engaged in the repair or maintenance of commercial and heavy truck motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender and major engine and engine part overhaul, provided it is conducted within a completely enclosed building. Such use shall not include the retail sale of fuel, gasoline or petroleum products.

**Vehicle Repair, Minor:** means an establishment primarily engaged in the repair or maintenance of passenger and light truck motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups and transmission work, , provided it is conducted within a completely enclosed building. Such use shall not include the retail sale of fuel, gasoline or petroleum products.

**Vehicle Trip:** means a single or one-way vehicle movement to or from a property or study area.

**Vested Property Right:** shall mean the right to undertake and complete the development and use of property under the terms and conditions of a [site specific development plan](#) approved as provided in this Code and Article 68 of Title 24, C.R.S.

**Veterinary Facility:** means any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

**Veterinary Facility, Large Animal Clinic:** means a veterinary facility that treats anything other than small animals treated at small animal clinics.

**Veterinary Facility, Small Animal Clinic:** means a veterinary facility that treats domestic cats, dogs, small mammals such as rabbits and ferrets, parrots and similar caged birds, and non-poisonous reptiles, amphibians, aquatic animals and arachnids commonly kept in the home.

**Violation (Flood Plain Regulations):** 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.

**Walkable:** means a distance of one-quarter (¼ ) mile or within a five to 10 minute walk.

**Walkway:** means a right-of-way dedicated to public use that is not within a street right-of-way that facilitates pedestrian access through a subdivision [block](#) by means of a hard surface path, or any portion of a [parking area](#) restricted to the exclusive use of pedestrian travel.

**Walkway, Connecting:** means any street sidewalk, or any walkway that directly connects a building entrance(s) to a sidewalk adjoining a street sidewalk, and connects other origins and destinations for pedestrians, including but not limited to commercial establishments, schools, parks, dwellings, work places and transit stops, without requiring pedestrians to walk across parking lots or driveways, around



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# buildings or following parking lot outlines which are not aligned to a logical route.

**Warehouse and Distribution:** means storage, wholesale, and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms, including incidental retail sales, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

**Warehousing:** means a business which stores or stocks merchandise or commodities.

**Water Surface Elevation:** means the height, in relation to the NGVD of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Wireless Telecommunication Equipment:** means any equipment used to provide wireless telecommunication service which is not affixed to or contained within a wireless telecommunication facility, but is instead affixed to or mounted on an existing building or structure that is used for some other purpose. Wireless telecommunication equipment also includes a ground mounted base station used as an accessory structure that is connected to an antenna mounted on or affixed to an existing building.

**Workshops and Custom Small Industry:** means a facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, restoration of antiques and other art objects, or other similar uses.

**X**

**Y**

**Yard:** means an area on a lot between the lot line and the nearest principal structure, unoccupied and unobstructed by any portion of a structure from the ground upward.

**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, 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, 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.

**Z**

**Zero Lot Line:** means the location of a structure on a lot in such a manner that one or more of the structures' sides rests directly on a lot line.



**ARTICLE 12. Oil and Gas Drilling and Production**

**12.1 Purpose**

The intent of these regulations is to manage the development of oil and gas resources within the Town, while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. Under Colorado law, the surface and mineral estates are separate and distinct interests in land and one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of these regulations and any applicable statutory and regulatory requirements. Municipal governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction. These regulations are intended as an exercise of this land use authority.

**12.2 Definitions**

All terms used in this Article that are defined in the Act or in Commission regulations and are not otherwise defined in this section, are defined as provided in the Act or in such regulations as of the effective date of this Article. All other words used in this Article are given their usual customary and accepted meaning and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in said oil and gas industry. When not clearly otherwise indicated by the context, the following words and phrases used in this Article have the following meanings:

**Act:** means the Oil and Gas Conservation Act of the State, as may be amended from time to time.

**Applicant:** means any person applying for a Conditional Use Permit from the Town in accordance with this Article.

**Building Unit:** means a Residential Building Unit; and every five thousand (5,000) square feet of building floor area in commercial facilities or every fifteen thousand (15,000) square feet of building floor area in warehouses that are operating and normally occupied during working hours.

**Commission or COGCC:** means the Colorado Oil and Gas Conservation Commission.

**Conditional Use Permit:** means a conditional use permit granted by the Town in accordance with this Article.

**County:** means Larimer or Weld County, Colorado whichever the case may be.

**Day:** means a calendar day.

**Dedicated Injection Well:** means any Class II wells used for the exclusive purpose of injection fluids or gas from the surface for enhanced oil recovery or the disposal of E&P wastes. A gas storage well is not a dedicated injection well.

**Director:** means the Director of the Oil and Gas Conservation Commission of the State of Colorado or any member of the Director’s staff authorized to represent the Director.

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**EPA:** means the Environmental Protection Agency.

**High Occupancy Building Unit:** means (a) any operating Public School as defined in §22-7-703(4), C.R.S. Nonpublic School as defined in § 22-30.5-103.6(6.5), C.R.S., Nursing Facility as defined in § 25.5-4-103(14), C.R.S., Hospital, Life Care Institutions as defined in § 12-13-101, C.R.S., or Correctional Facility as defined in § 17-1-102(1.7), C.R.S., provided the facility or institution regularly serves 50 or more persons; or (b) an operating Child Care Center as defined in § 26-6-102(1.5). C.R.S.

**Inspector:** means any person designated by the Town, or by the Town's designee, who shall have the authority to inspect Well Sites to determine compliance with this Article and other applicable ordinances of the Town.

**Oil Well:** means a well, the principal production of which at the mouth of the well is oil, as defined by the Act.

**Operating Plan:** means a general description of a Well Site or a Production Site identifying purpose, use, typical staffing, seasonal or periodic considerations, routine hours of operating, source of services/ infrastructure, travel routes of trucks and frequency of trips to the site, and any other information related to regular functioning of that facility.

**Operator:** means any person who exercises the right to control the conduct of oil and gas operations.

**Owner:** means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas produced therefrom either for such owner or other or for such owner and others, including owners of a well capable of producing oil or gas, or both.

**Production Site:** means the area surrounding proposed or existing production pits or other accessory equipment required for oil and gas production, at which may also be located tanks and tank batteries, exclusive of transmission and gathering pipelines.

**Reentering:** means accessing an existing well bore for either the original or amended purpose, provided that such well has not been abandoned.

**Residential Building Unit:** means a building or structure designed for use a place of residency by a person, a family, or families. The terms includes manufactured, mobile, and modular homes, except to the extent that any such manufactured, mobile, or modular home is intended for temporary occupancy or for business purposes.

**State:** means the State of Colorado.

**Surface Use Agreement:** shall mean any agreement in the nature of a contract or other form of document binding on the Operator, including any lease, damage agreement, waiver, local government approval or permit, or other form of agreement, which governs the operator's activities on the surface in relation to locating a Well, Well Site, pipeline or any other Oil and Gas Facility that supports oil and gas development located on the Owner's property.

**Town:** means the Town of Timnath, Colorado.

**Town Code:** means the Town's Municipal Code as may be amended from time to time.

**Twinning:** means the drilling of a well within a radius of fifty feet from an existing well bore when the well cannot be drilled to the objective depth or produced because of an engineering problem, such as a collapsed casing or formation damage.

**Well:** means an oil or gas well, and Oil Well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

**Wellhead:** means the equipment attaching the surface equipment to the wellbore equipment at the Well.

**Well Site:** means the areas that are directly disturbed during the drilling and subsequent operation of, or affected by production facilities directly associated with, any oil well, gas well, or Dedicated Injection Well and its associated well pad.

### 12.3 Requirements and Procedures

- 12.3.1 Proposed New Wells, Redrilling Certain Wells and Other Specific Enhancements. It shall be unlawful for any person to drill a well that has not been previously permitted under this Article, change the purpose of the Well (i.e. from a vertical well, to directional, or horizontal, or vice a versa), reactivate a plugged or abandoned Well, or perform initial installation of accessory equipment or pumping systems (in cases where a well is not being drilled) unless a Conditional Use Permit has first been granted by the Town in accordance with the procedures defined in this Article.
  - A. The granting of such Conditional Use Permit shall not relieve the Operator from otherwise complying with all applicable regulatory requirements of the Act, the Town, the State, and the United States.
  - B. When a Conditional Use Permit has been granted for a Well, reentry of such Well for purposes of Sidetracking, Twinning, deepening, recompleting or reworking shall not require a separate Conditional Use Permit.
  - C. The Conditional Use Permit shall be limited to the current proposed facilities as shown in the approved site plan. To the extent the Applicant desires, after initial completion of a well, to place additional equipment on a tank battery or Wellhead location which was not shown in the approved site plan, the Applicant must, except in a situation where additional equipment is necessary for a period of fourteen (14) days or less, notify the Town of installation of such additional equipment and update the site plan to reflect the changed conditions.
- 12.3.2. As-Built Drawings. Within thirty (30) days after completion of operations, the Applicant shall provide to the Town “as-built” drawings showing all facilities, pipelines, flow lines and gathering lines which the Applicant has installed subject to the Conditional Use Permit.
- 12.3.3. Inspections. In recognition of the potential impacts associated with oil and gas drilling and well operation in an urban setting, all wells and accessory equipment and structures may be inspected by an Inspector at reasonable times to determine compliance with applicable provisions of this Article, and all other applicable Town, County, or State health or safety standards. For the purpose of implementing and enforcing the provisions of this Article, Town personnel so designated have the right to enter upon private property after

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reasonable notification to the Operator.

- 12.3.4. Inspection Fee. The Town may impose inspection fees for inspection and monitoring for road damage and compliance with local fire codes, land use permit conditions, and the Town building code.
- 12.3.5. Taxation. All Operators must conform to applicable provisions of this Article and the Town Code relating to taxation.
- 12.3.6. Application Fee. A nonrefundable fee of one thousand dollars (\$1,000) shall accompany the application for any Conditional Use Permit.
- 12.3.7. Fee Agreement. The Applicant and the Town shall enter into an “Agreement for Payment of Land Use Application Review Expenses Incurred by the Town” or a similar agreement prior to the issuance of a Conditional Use Permit.
- 12.3.8. Conditional Use Review. This is a discretionary approval process for uses which have unique or specific characteristics that could create greater than expected impacts. The process results in approvals with conditions to ensure they will not have a significant adverse impact on surrounding properties, or denials if the impacts can’t be mitigated.
  - A. Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable.
  - B. Staff review and reporting. Staff shall review the application and coordinate changes or necessary resubmittals with the applicant. Staff shall then submit a report to the Planning Commission explaining how the application is or is not consistent with the conditional use application review criteria in Section 12.18. The staff will also make a recommendation for approval, approval with conditions, or denial.
  - C. Planning Commission review of the conditional use application. The Planning Commission shall hold a meeting to review the application and determine if the application complies with the conditional use review criteria in Section 12.18. The Planning Commission will then recommend to the Town Council approval, approval with conditions, or denial.
  - D. Town Council hearing and action on the conditional use. The Council shall hold a public hearing on the conditional use application. Following the public hearing, the Council may, by resolution, approve, conditionally approve or deny the conditional use application based on the conditional use review criteria in Section 12.18 and the intent of this Code. A conditional use permit may be granted for a limited time period, may be granted subject to conditions as the Council may prescribe to satisfy the review criteria, and may be revoked for cause.

**12.4 Application Elements**

- 12.4.1. An application for a Conditional Use Permit pursuant to this Article shall be filed with the Community Development Director and shall include the following information:
  - A. Site Plan. The site plans for a Well Site or Production Site submitted with a Conditional Use Permit application shall be submitted on one or more plats or maps, at a scale not less than one inch to fifty feet, showing the following

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information:

1. The proposed location of Production Site facilities or Well Site facilities associated with the Well in the event production is established, if applicable. Future development of the oil and gas resources shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within one thousand (1,000) feet of the Well Site or Production Site shall be shown.
  2. The location of layout including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.
  3. True north arrow.
  4. Existing improvements, if any, within a radius of one thousand (1,000) feet of the proposed Well.
  5. Existing utility easements and other rights-of-way of record, if any, within a radius of one thousand (1,000) feet of the proposed Well.
  6. Existing irrigation or drainage ditches within five hundred (500) feet of the Well Site or Production Site, if any.
  7. The Applicant's drainage and erosion control plans for the Well Site or Production Site and the area immediately adjacent to such site, if applicable.
  8. Location of access roads.
  9. The boundaries of the Well Site or Production Site and existing lease boundaries.
  10. The parcel lines and names of abutting subdivisions or the names of owners of abutting, unplatted property within one thousand (1,000) feet of the Well Site or Production Site.
  11. The name and address of the Operator and the name of the person preparing the site plan or map.
  12. The landscaping and visual abatement plans for the Well Site and/or Production Site including a visual depiction of the proposed privacy fence.
  13. Approval signature blocks for Planning Commission and Town Council.
- B. Vicinity Maps. The vicinity maps for a Well Site or Production Site submitted with a Conditional Use Permit application shall be to scale and submitted on one or more plats or maps showing the following information within ½ mile of the proposed improvements:
1. Location of all existing waterbodies and watercourses, including direction of water flow. This information shall be submitted on USGS 7.5 minute series or assessor base maps which indicate topographic detail and show all existing waterbodies and watercourses with a physically defined channel.



2. Location of existing Oil Wells as reflected in COGCC records. This information shall be submitted on a map and shall include any and all Wells.
  3. Location of drill site. The information to be submitted shall be Commission Form 2 or as may be modified from time to time and shall include the Parcel Tax Identification Number.
- C. Narrative. In addition to the site plans and the vicinity maps required in this subsection 12.4 , the application shall include the following:
1. The Operator’s and surface owner’s names and addresses, copies of any required COGCC forms and designation of agent, if applicable.
  2. An Operating Plan
  3. A list of all permits or approvals obtained or yet to be obtained from local, State or federal agencies other than COGCC.
  4. An emergency response plan that is mutually acceptable to the Operator and the appropriate fire district(s), sheriff’s office, local law enforcement, and other emergency responders that includes a list of local telephone numbers of public and private entities and individuals to be notified in the event of an emergency, the location of the Well, and provisions for access by emergency response entities.
  5. A plan for weed control at the Well Site or Production Site.
  6. A fire protection plan that is mutually acceptable to the Operator and the appropriate fire district(s) that includes planned actions for possible emergency events and any other pertinent information. Prior to application to the Town, a proposed fire protection plan and emergency response plan shall be submitted to and reviewed by the fire district.
  7. Sanitary facilities that comply with Rule 602 of the COGCC Rules and Regulations.
- D. Memorandum of Understanding. The Applicant and the Town shall enter into a Memorandum of Understanding to be negotiated simultaneous with the issuance of a Conditional Use Permit.

12.4.2. Application Procedures, Notice Provisions, and Public Hearings.

- A. Application Procedures per Section 2.9.3 of this code shall apply.
- B. Notice Provisions per Section 2.9.4 of this code shall apply.
- C. Public Hearings per Section 2.9.5 of this code shall apply.

**12.5 Notice to Proceed**

**12.6 Building Permit**

A Town of Timnath Building Permit must be obtained for all aboveground structures to which the Town Code applies.

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## 12.7 Oil and Gas Operations Buffering

12.7.1. Oil and Gas Operations Buffer Yard Standards. The following requirements shall apply to Production Site and Well Site:

12.7.1.1 *Measured.* The buffer yard shall be measured as either the distance from the outer edge of an Production Site or Well Site to the nearest wall or corner of any Residential Building Unit or High Occupancy Building Unit or, if any Colorado Oil and Gas Conservation Commission adopted setback measurement method applicable to a Residential Building Unit or High Occupancy Building Unit results in a greater distance between the Production Site or Well Site and the Residential Building Unit or High Occupancy Building Unit at issue, then the Colorado Oil and Gas Conservation Commission setback measurement method shall be used.

12.7.1.2 *Minimum Buffer Distances.* The following minimum buffer distances shall apply:

- A. *Residential Building Unit.* The minimum buffer between a Residential Building Unit and any Production Site or Well Site shall be five hundred (500) feet, or the Colorado Oil and Gas Conservation Commission designated setback distance, whichever is greater.
- B. *High Occupancy Building Units.* The minimum buffer between a High Occupancy Building Unit and any Production Site or Well Site shall be one thousand (1,000) feet, or the Colorado Oil and Gas Conservation Commission designated setback distance, whichever is greater.
- C. The minimum buffer between public playgrounds, parks, recreational fields, or community gathering spaces and any oil and gas location shall be one thousand (1,000) feet, or the Colorado Oil and Gas Conservation Commission designated setback distance, whichever is greater.

### Buffer Yard Requirements

| Type - Base Standard (plants per 100 linear feet along affected property line)* | Option Width | Plant Multiplier** | Option: Add 6' Wall | Option: Add 3' Berm or 6' Fence |
|---|--------------|--------------------|---------------------|---------------------------------|
|   | 500 Feet     | 1.25               |                     |                                 |
|   | 525 Feet     | 1.00               |                     |                                 |
|   | 550 Feet     | 0.90               |                     |                                 |
| 6 Shade Trees   | 575 Feet     | 0.80               | 0.75                | 0.85                            |
| 7 Ornamental Trees or Type 2 Shrubs ***   | 600 Feet     | 0.70               |                     |                                 |
| 5 Evergreen Trees   | 625 Feet     | 0.60               |                     |                                 |
| 35 Shrubs (Type 2)  | 650 Feet     | 0.50               |                     |                                 |

\* "Base standard" for each type of buffer yard is that width which has a plant multiplier.

\*\* "Plant multipliers" are used to increase or decrease the amount of required plants based on providing a buffer yard of reduced or greater width or by the addition of a wall, berm or fence.

\*\*\* Shrub types: Type 1: 4' -8' High Type 2: Over 8' High

12.7.1.3 *Alternative compliance buffer reduction from plugged and abandoned wells.* Upon Applicant request, the decision maker may approve a reduced buffer distance from a plugged and abandoned well for which reclamation has been completed, all of the aforementioned in accordance with Colorado Oil and Gas Conservation Commission regulations, in lieu of the minimum buffer distances set forth in the immediately preceding Subsection (b), provided that the approved reduced buffer is no less than 150 feet from the permanently abandoned Well and meets the requirements specified below.

- A. *Procedure.* To request alternative compliance, an alternative compliance buffer reduction plan shall be prepared and submitted in accordance with the submittal requirements established by the Director. At a minimum, the plan must:
  1. Clearly identify and discuss the proposed buffer reduction and the ways in which the plan will equally well or better eliminate or minimize the nuisances and reduce the adverse effects referenced in the purpose of this Article than would a plan which complies with the separation and spacing standards of this Article.
  2. Include information regarding environmental testing and monitoring for the Well Site. Site investigation, sampling, and monitoring shall be conducted to demonstrate that the Well has been properly abandoned and that soil, air and water quality have not been adversely impacted by oil and gas operations or facilities or other sources of contamination. Such sampling and monitoring shall be conducted by a qualified environmental engineering or consulting firm with experience in oil and gas investigations. Director approval that the sampling and monitoring plan contains the information required pursuant to this Article is required prior to sampling occurring and such plan shall include, but is not limited to, the following:
    - a. Site survey, historical research, and/or physical locating techniques to determine exact location and extent of oil and gas operations and facilities.
    - b. Documentation of plugging activities, abandonment and any subsequent inspections.
    - c. Soil sampling, including soil gas testing.
    - d. Groundwater sampling.
    - e. Installation of permanent groundwater wells for future site investigations.
    - f. A minimum of five (5) years of annual soil gas and groundwater monitoring at the well location.
  3. Upon completion of the site investigation and sampling, not including the ongoing monitoring, the consultant must provide a written report verifying that the soil and groundwater samples meet applicable EPA and State residential regulations and that a reduced buffer would not pose a greater health or safety risk for future residents or users of the site. Otherwise, the decision maker may specify an appropriate buffer distance or require that the following actions be completed by

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a qualified professional before development may occur, including but not limited to:

- a. Remediation of environmental contamination to background levels.
  - b. Well repair or re-plugging of a previously abandoned well.
- B. Review Criteria.* To approve an alternative compliance buffer reduction plan, the decision maker must first find that the proposed alternative plan eliminates or minimizes the nuisances and reduces the adverse effects referenced in the purpose of this Section equally well or better than would a plan which complies with the separation and spacing standards of this Section.
- C. Disclosure.* If any Residential Building Unit, or High Occupancy Building Unit is proposed to be located within one thousand (1,000) feet of an Production Site or Well Site, the following requirements shall apply:
- a. At such time as the property to be developed is platted or replatted, the plat shall show the one-thousand-foot radius on the property from such Production Site or Well Site and shall contain a note informing subsequent property owners that certain lots shown on the plat are in close proximity to an Production Site or Well Site.
  - b. For residential developments requiring a declaration pursuant to the Colorado Common Interest Ownership Act, a statement shall be included in such declaration specifying the lots within such residential development upon which dwellings may be constructed that are within one thousand (1,000) feet of an Production Site or Well Site. The approved plat for such residential development shall be attached to the recorded declaration. Where no such declaration is required, the property owner shall record a statement on the property where the dwelling is located indicating that such property is located within one thousand feet of an o Production Site or Well Site.
- D. Fencing.* If any residential development is proposed to be located within five hundred (500) feet of an oil and gas location, and if an existing fence does not surround the oil and gas location, the developer must erect a 6’ privacy fence that restricts public access to the Production Site or Well Site along the property boundary between the Production Site and Well Site and the development.

12.7.2. Exceptions

12.7.2.1 *Existing Oil and Gas Locations.* The location and setback requirements may be waived if an exception has been granted by the Director pursuant to COGCC Rule 604.

12.7.2.2 *Existing Surface Use Agreement or Site Specific Development Plan.* An Owner or Applicant may agree to locate future Building Units closer to existing or proposed Oil Well than otherwise allowed under COGCC Rule 604 pursuant to a valid Surface Use Agreement or site specific development plan

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(as defined in § 24-68-103, C.R.S., that establishes vested property rights as defined in § 24-68-103, C.R.S.) that expressly governs the location of Wells or Production Facilities on the surface estate.

## 12.8 Compliance with State Environmental Requirements

The approval of a Conditional Use Permit shall not relieve the Operators from complying with all current applicable State and federal regulations and standards concerning air quality, water quality, and waste disposal.

## 12.9 Noise Regulation and Special Mitigation Measures

- 12.9.1 The application of a Conditional Use Permit shall not relieve an Operator from complying with all applicable State laws and regulations concerning noise.
- 12.9.2 Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all occupied buildings to the extent practicable.
- 12.9.3 Where a Well and Well Site or Production Site do not comply with the required setback or other requirements of this Article or where the Well and Well Site or Production Site are in an area of particular noise sensitivity, additional noise mitigation may be required. An area of particular noise sensitivity includes but is not limited to the following: hospitals, dwelling units, nursing homes, hotels, churches and designated wildlife preserves. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
- A. Nature, proximity, location and type of adjacent development;
  - B. Prevailing weather patterns, including wind directions;
  - C. Vegetative cover on or adjacent to the site; or
  - D. Topography.
- 12.9.4 The level of required noise mitigation may increase with the proximity of the Well and Well Site or Production Site to areas of particular noise sensitivity or the level of noise emitted by the Well and Well Site or Production Site. One or more of the following additional noise abatement measures may be required:
- A. Acoustically insulated housing or cover enclosing the motor or engine;
  - B. Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted, and proposed mitigation measures; or
  - C. Any abatement measures required by the Commission for high-density areas, if applicable.

## 12.10 Visual Impact/Aesthetics Regulation and Special Impact Measures

### 12.10.1 Visual Impacts and Aesthetics.

- A. To the maximum extent practicable, oil and gas facilities shall be located away from prominent natural features, such as distinctive rock and land forms, vegetative patterns, ditch crossings, Town or County approved open

space areas and other approved landmarks to abate the visual impacts of oil and gas facilities.

- B. To the maximum extent practicable, oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting.
- C. To the maximum extent practicable, the Applicant shall use structures of minimal size to satisfy present and future functional requirements.
- D. To the maximum extent practicable, when clearing trees and vegetation for construction of oil and gas facilities, the Applicant shall feather and thin edges of vegetation. The Applicant shall replant cleared trees and vegetation to screen facilities to the maximum extent practicable.
- E. To the maximum extent practicable, the Applicant shall locate facilities at the base of slopes to provide a background of topography and/or natural cover.
- F. The Applicant shall replace earth adjacent to water crossings at slopes less than the normal angle of repose with the soil type of the site.
- G. To the maximum extent practicable, the Applicant shall align access roads to follow existing grades and minimize cuts and fills.
  - 1. Facilities shall be painted as follows:
    - a. Uniform, noncontrasting, nonreflective color tones.
    - b. Color matched to land, not sky, slightly darker than adjacent landscape.
    - c. Exposed concrete colored to match soil color.

12.10.2 Special Mitigation Measures; Visual. Where a Well, Well Site, or Production Site does not comply with the requirements of this Article, or in areas of increased visual sensitivity as determined by the Town in its sole discretion, such as a location near to and/or visible from a residential area, the Applicant shall submit a visual mitigation plan including one or more of the following standards, as appropriate:

- A. To the maximum extent practicable, exterior lighting shall be directed away from residential areas, or shielded from said areas to eliminate glare.
- B. One or more of the following landscaping practices may be required, where practicable, on a site specific basis:
  - 1. Establishment and proper maintenance of ground covers, shrubs and trees.
  - 2. Shaping cuts and fills to appear as natural forms.
  - 3. Cutting rock areas to create irregular forms.
  - 4. Designing the facility to utilize natural screens.
  - 5. Construction of fences for use with of landscaping and or berming.

12.10.3 Other Special Mitigation Measures. The Applicant shall keep the Town and public and private streets or roads reasonably free of mud or other materials during drilling and completion operations and during well operations. The Applicant shall use its best efforts to keep the Well Site or Production Site free of trash, litter and other refuse during and at the completion of drilling and shall not in any case bury said trash. The Operator shall

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construct and manage pits in accordance with applicable State and federal regulations.

### 12.11 Abandonment and Plugging of Wells

The approval of a Conditional Use Permit shall not relieve the Operator from complying with all Commission rules with respect to abandonment and plugging of Wells. The Operator shall provide the Town with any Commission plugging and/or abandonment application at the time that it is filed with the Commission. The Applicant shall abandon flowlines in accordance with applicable State rules and regulations.

### 12.12 Seismic Operations

The approval of Conditional Use Permit shall not relieve the Operator from complying with all Commission rules and regulations with respect to seismic operations. All notices which an Operator is required to file with the Commission with respect to seismic operations shall be filed with the Town on a timely basis. The Town shall comply with the same confidentiality requirements which bind the Commission.

### 12.13 Signage

The approval of a Conditional Use Permit shall not relieve the Operator from complying with all Commission rules with respect to signs and signage. In addition, the Operator shall maintain in good, readable condition all signs required by the Land Use Code.

### 12.14 Reclamation

The approval of a Conditional Use Permit shall not relieve the Operator from complying with all Commission rules and regulations with respect to site reclamation.

### 12.15 Geologic Hazard, Floodplain, Floodway Location Restrictions

All equipment at Well Sites and Production Sites in geological hazard and floodplain areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement, or subsidence and to the extent necessary to comply with the Federal Emergency Management Act.

### 12.16 Access Roads

12.16.1. All private roads used to maintain access to the tank batteries or the Well Site or Production Site shall be improved and maintained according to the following standards:

- A. Tank battery access roads. Access roads to tank batteries shall be subject to review by the Town Engineer in accordance with the following minimum standards:
  1. A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of six inches thick compacted to a minimum density of ninety-five percent of the maximum density determined in accordance with generally accepted



engineering sampling and testing procedures. The aggregate material, at a minimum, shall meet the requirements for Class 3, Aggregate Base Course as specified for aggregate base course materials in the Colorado Department of Transportation’s “Standard Specifications for Road and Bridge Construction,” latest edition.

2. Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways (such as roadside swales, gulches, rivers, creeks and the like) by means of an adequate culvert pipe. Adequacy of the pipe is subject to approval of the Town Engineer.
  3. Maintained so as to provide a passable roadway free of ruts and snow at all times.
- B. Wellhead access roads. Access roads to Wellheads shall be subject to review by the Town’s Engineer in accordance with the following minimum standards:
1. A graded, dirt roadway compacted to a minimum density of ninety-five percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures and approved by the Town Engineer.
  2. Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval by the Town Engineer.
  3. Maintained so as to provide a passable roadway generally free of ruts and snow at all times.
- C. Public access roads. An extra-legal vehicle or load permit shall be required for all extra- legal vehicles or loads as defined in §§ 42-4-401 through 42-4-411, C.R.S., which use Town streets. Said permit, if required, shall be obtained from the Town Engineer prior to such use. The Applicant shall comply with all Town and State regulations regarding weight limitations on streets within the Town, and the Applicant shall minimize extra- legal truck traffic on streets within the Town and provide accessible roads free of ruts and snow.

**12.17 Wildlife Impact Mitigation**

12.17.1 Wildlife. When a Well Site or Production Site is located within a designated Sensitive Wildlife Habitat as shown on a map prepared by the Colorado Parks & Wildlife, the Applicant shall consult with Colorado Parks & Wildlife to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures. The Operator shall implement such mitigation procedures as are recommended by Colorado Parks & Wildlife after consultation with the Town.

12.17.2 Endangered Species. The Applicant shall not engage in activities which, in the opinion of the Colorado Parks & Wildlife, threaten endangered species.

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**12.18 Review Criteria**

- 12.8.1 Staff and the Planning Commission shall review and make recommendations to the Town Council who shall then approve a Conditional Use Permit application if the application submitted by the Applicant conforms to the following requirements:
  - A. The site plans for a Well Site or Production Site application comply with the requirements of Section 12.4 of this Article.
  - B. The vicinity maps for a Well Site or Production Site application comply with the requirements of Section 12.4 of this Article.
  - C. The narrative for a Well Site or Production Site application complies with the requirements of Section 12.4 of this Article.
  - D. The Well location and setbacks comply with the requirements of Section 12.7 of this Article.
  - E. When applicable, compliance with the provisions for mitigation of noise required in Section 12.09 of this Article.
  - F. When applicable, compliance with the provisions for visual special mitigation required in Section 12.10 of this Article.
  - G. When applicable, compliance with the provisions for geologic hazards, floodplains or floodway required in Section 12.15 of this Article.
  - H. When applicable, compliance with the provisions for wildlife mitigation procedures required in Section 12.17 of this Article.
  - I. The Applicant and the Town have entered into a Memorandum of Understanding as required by Section 12.4 of this Article.
  
- 12.8.2 The Council decision shall be based upon evidence presented in the application, submitted as part of the public record, and at the public hearing. Following the conclusion of the public hearing, the Council may proceed to render its provisional decision orally on the application, or it may take the matter under advisement until the next regularly scheduled Town Council meeting, at which time it shall orally render its decision. In the event that an application is granted with conditions the Applicant may, within fourteen (14) days of the Council decision, request a rehearing to demonstrate that removal or modification of one or more of the conditions is necessary to prevent waste or protect owners of correlative rights in a common source to a fair share of production profits or that the decision is otherwise inconsistent with State laws and regulations. Following the Council’s oral announcement of its decision, and any subsequent rehearing, a written resolution shall be adopted as its final action or decision on the application. This written resolution shall set forth findings of the Council. The Town Attorney shall prepare the written resolution for Council consideration within fourteen (14) days of the oral decision, or any subsequent rehearing. Such written resolution shall be adopted within twenty-one (21) days of the announcement of the Council’s oral decision, unless the Applicant requests rehearing, in which case the written resolution shall be adopted within thirty (30) days of the oral decision. For the purposes of judicial review, the Council’s final action or decision on an application shall be deemed to have been made as of the date upon which the Council executes the written resolution, which shall constitute the final decision of the Council.

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## 12.19 Emergency Response Costs

The Operator shall reimburse the Town or the fire district for any emergency response costs incurred by the Town or the fire district in connection with activity at the Well Site or Production Site, except that the Operator shall not be required to pay for emergency response costs where the response was precipitated by an error of the Town.

## 12.20 Violation and Enforcement

- 12.20.1 Unlawful to Construct or Install Unapproved Oil and Gas Facilities. Except as otherwise provided in this Article, it is unlawful to construct, install or cause to be constructed or installed any oil and gas facility within the Town unless approval has been granted by the Council. The unlawful drilling or redrilling of any Well or the production therefrom is a violation of this Article.
- 12.20.2 Penalty. Any person, firm, corporation or legal entity that constructs, installs or uses, or which causes to be constructed, installed or used, any oil, gas or Injection Well, Well Site or Production Site or commits any act or omission in violation of any provision of this Article or of the conditions and requirements of a Conditional Use Permit may be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment. Each Day of such unlawful operation constitutes a separate violation.
- 12.20.3 Civil Action. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this Article or the conditions and requirements of the Conditional Use Permit, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.
- 12.20.4 False or Inaccurate Information. The Council may revoke a Conditional Use Permit if it is determined after an administrative hearing held on at least ten (10) days' notice to the Applicant, that the Applicant provided information and/or documentation upon which approval was based, which the Applicant, its agents, servants or employees, knew, or reasonably should have known, was materially false, misleading, deceptive or inaccurate.
- 12.20.5 Prospective Application. Unless specifically provided otherwise, this Article shall apply only to Wells which are drilled in the Town on and after the date that this Article is adopted. The Reentering of a Well in existence prior to the date of adoption of this Article for purposes of deepening, recompleting or reworking shall not require approval of a Conditional Use Permit.
- 12.20.6 Recovery of Fees. Should the Town prevail in any action for legal or equitable relief for a violation of the provisions of this Article, in addition to any other penalties or remedies which may be available, the Town shall be entitled to recover any damages, costs of action, expert witness fees and reasonable attorney's fees incurred.

## 12.21 Reserved