

CHAPTER 16

Unified Development Code*

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***Editor’s note:** Ord. 2015-3, § 1, adopted Jan. 4, 2016, repealed the former Ch. 16, §§ 16-1-10—16-26-70, and enacted a new Ch. 16 as set out herein. The former Ch. 16 pertained to zoning and derived from Ord. 1, 1994 §§ 1.4—1.5, 2.1, §2.2—2.3, 2.6, 2.7, 3.1, 3.2, 4.1—4.8, 5.1—5.8, 6.1—6.8, 7.1—7.11, 8.1—8.9, 9.1—9.5, 9.10—9.13, 10.1—10.8, 11.1—11.7, H, 12.1—12.10, 13.1—13.5, 13.F, 14.1—14.4, 17.1—17.8, 19.1—19.8, 20.1—20.3, 21.1—21.4, 22.1—21.9, 22.11, 25.2; Ord. 1, 2002 §§ 1—8; Ord. 11, 2002 §1; Ord. 1, 2003 §§ 1, 2; Ord. 1, 2004; Ord. 2009-4 §1; Ord. 2010-3 Ord. 2011-1; Ord. 2012-2; Ord. 2013-2 §1; Ord. 2014-8, § 1, 8-4-2014.

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ARTICLE I

General Provisions—Title, Purpose, and Intent

Sec. 16-1-10	Title
Sec. 16-1-20	Effective date
Sec. 16-1-30	Authority
Sec. 16-1-40	Policies of the Town of Fairplay
Sec. 16-1-50	Purposes
Sec. 16-1-60	Jurisdiction of the Board of Trustees
Sec. 16-1-70	Provisions of this Chapter declared to be minimum requirements
Sec. 16-1-80	Interpretation
Sec. 16-1-90	Severability
Sec. 16-1-100	Repeals, effective date

Sec. 16-1-10. Title.

These regulations shall be known as the Unified Development Code (UDC) of the Town of Fairplay, Colorado.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-1-20. Effective date.

This Unified Development Code shall become effective on February 8, 2016.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-1-30. Authority.

The Board of Trustees of the Town of Fairplay is authorized by the Colorado Revised Statutes to adopt and administer the provisions of these regulations under CRS 29-20-101 et seq., and CRS 31-23-301 as amended.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-1-40. Policies of the Town of Fairplay.

(A) Comprehensive Plan. The duly adopted Fairplay Comprehensive Plan establishes the vision, goals and policies pertaining to land-use that support the provisions of this Unified Development Code (UDC). The Comprehensive Plan was adopted in conformance with CRS Section 31-23-201, et seq., and includes a community vision, goals, policies, maps, charts and written narratives intended to guide land-use decision-making in the community. The Comprehensive Plan is to be consulted as part of the land-use review and decision-making process in conjunction with this UDC as a basis for decisions on land use applications. Land use applications should be substantially compliant with the provisions of the Fairplay Comprehensive Plan.

(B) Land-use policies.

1. Protect Fairplay's character through historic preservation and quality design.

2. Maintain a compact community.
3. Ensure substantial compliance with the comprehensive plan.
4. Maintain parks, open space and trail acreages that keep pace with growth and demands.
5. Promote walkability and non-motorized access.
6. Support renewable and sustainable energy options.
7. Protect scenic vistas, air/water quality, riparian corridors and sensitive habitat.
8. Avoid development in hazard areas.
9. Support a variety of housing options.
10. Ensure a sustainable and dynamic local economy.
11. Maintain high quality infrastructure and services that meet long-term needs.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-1-50. Purposes.

The purpose of this Chapter is to promote the public safety, health, convenience, comfort, prosperity and welfare of the present and future inhabitants of the Town, by regulating the use and development of land, by lessening of congestion in the streets and roads, securing safety from fire and other dangers; preventing pollution of air/water/land; providing light and air; avoiding undue congestion of population; facilitating the adequate provision of transportation, water, schools, and other public requirements; and protect the historic and architectural heritage of the community; and securing protection of the tax base; to ensure substantial compliance with the comprehensive plan; and to encourage and facilitate the orderly growth and expansion of the Town. Unless specifically exempted from its terms, all regulations contained in this Chapter shall apply to the lands and activities of all government agencies, whether federal, state, county or municipal, to the maximum extent permitted by law.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-1-60. Jurisdiction of the Board of Trustees.

The Jurisdiction of Board of Trustees is the Fairplay municipal limits within which they have the statutory authority to enforce the Building, Zoning and Subdivision Regulations and up to three (3) miles outside the Town boundaries where Board of Trustees has authority to adopt a master plan (i.e., comprehensive plan).
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-1-70. Provisions of this Chapter declared to be minimum requirements.

The provisions of this Chapter shall be held to be the minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever this Chapter is at variance with other adopted rules, regulations or other ordinances, that which is most restrictive or requires the highest standards shall apply.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-1-80. Interpretation.

In interpreting and applying the provisions of this Chapter, the provisions shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this Chapter to interfere with, or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Chapter imposes a greater restriction upon the use of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules or regulations or by easements, covenants or agreements, the provisions of this Chapter shall govern.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-1-90. Severability.

Should any section, subsection, paragraph, clause, word, or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-1-100. Repeals, effective date.

All previously, enacted zoning and subdivision ordinances are hereby repealed. This Chapter shall become effective on February 8, 2016.

Passed by the Town of Fairplay, Colorado Board of Trustees on the 4th day of January, 2016.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE II

Administration and Enforcement

- Sec. 16-2-10 Administration of UDC
- Sec. 16-2-20 Enforcement
- Sec. 16-2-30 Building official
- Sec. 16-2-40 Application fees
- Sec. 16-2-50 Violations
- Sec. 16-2-60 Penalty
- Sec. 16-2-70 Financial security and warranty

Sec. 16-2-10. Administration of UDC.

Authority is hereby vested in the Town Administrator or her/his designee, to administer and enforce the provisions of this Chapter. In the absence of a Town Administrator, the Town Building Official shall have authority to administer and enforce this Chapter. The authority to administer and enforce this Chapter includes the following:

(A) To appear and intervene for and on behalf of the Town in all public hearings before the Board of Trustees or Board of Adjustment, present facts and information to assist these decision makers in reaching a decision, resist and oppose any deviations from the standard provisions of this Chapter which are contrary to the public interest, and have the decisions of the Board of Trustees or Board of Adjustment reviewed in a court of proper jurisdiction when, in his or her judgment, such review is desirable;

(B) To propose and recommend to the Board of Trustees the enactment of amendments to this Chapter for the purpose of improving administration and enforcement of this Chapter;

(C) To propose and recommend to the Board of Trustees the establishment of amendments to the Official Zoning Map or provisions of this Chapter as made desirable or necessary by judicial or administrative proceedings, or as deemed desirable or necessary because of changed or changing conditions. All amendments proposed hereunder shall be subject to the limitations and procedures hereinafter set forth under amendment procedure;

(D) To receive all applications for land use, subdivision, amendments to this Chapter and/or to the Official Zoning Map, and forward such applications to the proper staff, consultants or agencies for examination.

(E) To review all applications for land use, subdivision, zoning or amendment, or with regard to any land development, and assist the Board of Trustees in the review of all proposed land use applications and other such matters related to planning as it deems desirable.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-2-20. Enforcement.

There is hereby vested in the Town Administrator and Building Official, or such other Town officer as designated by the Board of Trustees, the duty of enforcing this Chapter and the power necessary for such enforcement, incidental to which duty and power he or she shall:

(A) Conduct investigations and surveys to determine compliance or noncompliance with the provisions of this Chapter. Incidental to such investigations and surveys, the Town Administrator and/or Building Official may enter into and upon any land or structure to be inspected and examined. A failure or refusal to permit such entry and inspection, after issuance of an order therefor shall constitute a violation of this Chapter. Additionally, the right of entry and inspection may be enforced by application to and proper orders from a court of proper jurisdiction;

(B) Make written orders requiring compliance with the provisions of this Chapter. Such orders shall be served personally or by certified mail upon the person deemed to be violating the provisions of this Chapter; provided, however, that if such person is not the owner of the land or structure in which the violation is deemed to exist or have occurred, a copy of such order shall be sent by certified mail to the owner of such land or structure. The date of mailing shall be deemed the date of service of any order served by the certified mail.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-2-30. Building official.

(A) It shall be the duty of the Town Administrator or her/his designee to enforce the provisions of this Chapter; and it shall be unlawful to erect, construct, reconstruct, alter or use any building or land without first obtaining from the Building Official all necessary permits. The Building Official shall not issue any permit unless the plans for the proposed erection, construction, reconstruction, alteration or use of any structure or building fully conform to all zoning regulations then in effect.

(B) No oversight or dereliction of duty on the part of the Town Administrator, Building Official or of any official, employee or board of the Town shall legalize, authorize or excuse a violation of any of the provisions of this Chapter.

(C) The Town Administrator or her/his designee shall enforce such regulations as are necessary as to the maintenance of premises and condition of operations to ensure against unnecessary odors, glare, vibration, smoke or noise of any permitted use.

(D) The application for each permit shall give the legal description of the lot or land involved, location and intended use of the proposed building, the number of dwelling units the building is designed to accommodate, and any other information necessary for the enforcement of this Chapter. All applications for permits and copies of permits issued shall be kept by the Building Official for ready public reference. The Board of Trustees shall from time to time fix a reasonable schedule of fees for the issuance of such permits.

(E) For all new buildings, before footing inspections and approval thereof, it shall be required that the owner, lessee, builder or contractor locate the property boundaries, by placing at the property corners of the building site, stakes or other monuments to establish said boundaries.

(F) The requirements imposed by Subsections (A) through (E) above are in addition to and not in lieu of any requirements imposed by this Chapter and/or the Building Code adopted by the Town.

(G) Nothing contained in this Chapter shall be construed so as to prohibit Board of Trustees or Board of Adjustment from recommending or imposing reasonable conditions on a development permit to better protect or advance the public interest.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-2-40. Application fees.

(A) The Board of Trustees may establish reasonable fees to defray the costs of processing an application and mailing notices, inclusive of fees to cover costs incurred for outside consultants, including planners, engineers and lawyers, utilized by the Town to review and evaluate the application. All fees or fee deposits shall be paid at the time an application is submitted and shall not be refunded unless the applicant withdraws his request prior to the mailing of referrals and/or notices by the Town staff, and/or prior to the Town incurring costs and expenses for consultants retained to review and evaluate the application. Fees shall reflect the reasonable and approximate cost to the Town of processing an application and may be revised from time to time as necessary.

(B) The Town Clerk shall publicly post at Town Hall and make available to interested persons on request the hourly rates for planning, engineering and legal services charged to the Town by outside providers in the processing and reviewing of subdivision applications. These rates shall also be disclosed to all applicants for subdivision by the Town Clerk at all pre-application conferences.

(C) The Town may require a deposit to be posted at time of application by the applicant to pay for some or all of the reasonably anticipated costs to be incurred by the Town in processing an application. The Town will periodically issue itemized billing statements to developers setting forth amounts owed, payment due dates, amounts credited, outstanding balances and/or amounts remaining on deposit. All application fees shall be nonrefundable and must be paid at time of application. All fees paid on deposit shall be credited against future billings and amounts deposited in excess of fees subsequently incurred shall be timely refunded, without interest, to the applicant. Failure to pay any fee or deposit when due shall result in the suspension of the processing of an application and/or a halt in construction inspections.

(D) All fees or costs for the mailing or publication of notices for public hearings, and the recordation of plats and other subdivision or development documents, shall be paid by the applicant and be in addition to application fees.

(E) All development approvals shall be subject to the full and timely payment of all fees.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-2-50. Violations.

(A) Where the performance of any act is required or prohibited by the provisions of this Chapter or the Building Code, or wherever any regulation, dimension or limitation is imposed on the use or change of use of or upon any land, on the erection or alteration of any structure, or the use or change of use of such structure, a failure to comply with such provision or regulation shall constitute a violation thereof, and every day on which a violation exists shall constitute a separate violation and offense.

(B) Any representation knowingly and falsely made by any person, firm or corporation, or officer or employee thereof (either as owner or as participating principal agent, servant or employee of such owner), in an application for a building permit required by the provisions of this Chapter, shall constitute a violation of this Chapter.

(C) The prohibition of any act in this Chapter, or any rule or regulation adopted hereunder, shall include the causing, securing, aiding or abetting of another person to do said act.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-2-60. Penalty.

(A) Any person violating any regulations of this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided by Section 1-4-20 of the Fairplay Municipal Code.

(B) Each and every day upon which a violation continues shall be deemed a separate offense. In case of a violation of this Chapter, the Board of Trustees may direct the Town Attorney to file an action for and on behalf of the Town seeking an injunction to abate or halt such violation.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-2-70. Financial security and warranty.

For any land use approval, including but not limited to, subdivisions, PUDs and special uses for which public infrastructure or improvements are required, a written development improvements agreement (DIA) setting forth same and including all specific terms and conditions of approval shall be prepared and submitted by the applicant. The DIA shall be in a format approved by the Town and be delivered to the Town Clerk for approval by the Board of Trustees by written resolution. The DIA shall be recorded with the County Clerk and Recorder along with any associated plan, plat, PUD etc. The agreement shall specify the amount and type of financial security that must be posted by the developer to ensure the timely and satisfactory installation of all public infrastructure and other improvements, inclusive of any required landscaping for common or public areas. Financial security shall be posted prior to the issuance of any building permit or start of development activity and shall be in an amount not less than one hundred twenty-five percent (125%) of the estimated cost of the completion of all improvements; and may be provided by letter of credit, performance bond, cash escrow or other financial instrument as deemed acceptable by the Town. Upon the complete installation, inspection and acceptance of the improvements and/or infrastructure, all but twenty-five percent (25%) of the posted financial security shall be released, which twenty-five percent (25%) shall continue to remain posted as security to ensure that all improvements and infrastructure shall remain free of defects for a period of two (2) years after preliminary acceptance of same by the Town. The Town shall be entitled to draw on any posted financial security in order to complete, correct or repair any PUD infrastructure or improvement as called for in the PUD approval.
(Ord. 2015-3, §1, 1-4-2016)

ARTICLE III

Common Submittal Requirements

- Sec. 16-3-10 General
- Sec. 16-3-20 Common submittal requirements
- Sec. 16-3-30 Drawing and report requirements
- Sec. 16-3-40 Site plans
- Sec. 16-3-50 Specific submittal requirements

Sec. 16-3-10. General.

The application submittal requirements consist of elements that are common to all applications as well as requirements that are necessary only for certain types of applications. Common submittal requirements are indicated first followed by a reference to the corresponding section in these regulations with the specific requirements of various types of applications. In some instances, additional submittal requirements may be specified as part of the supplemental or special development requirements of these Regulations. Complete applications must be submitted, as required in these regulations, at the point of initiation of the land use review process. A separate submission is required for each type of application.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-3-20. Common submittal requirements.

Application Common Submittal Items required of all applications unless specified otherwise
Unless indicated otherwise in these Regulations or by the Town Clerk, three (3) copies of the application shall be submitted. All applications identified in this Chapter shall, at a minimum, include:
(1) Application form, signed by the owner(s) of the property, in the format provided by the Town Clerk. If the applicant is not the owner of the property, a notarized letter of consent signed by the property owner or owners authorizing the applicant to process the specific land use application on the property owner's behalf shall be delivered with the submittal;
(2) Legal description of the subject property;
(3) Proof of legal ownership and the names and addresses of the owners of the property and any lienholder(s). This can be in the form of a deed, current title policy (not older than 90 days), or a letter from the owner's attorney affirming ownership of the property;
(4) Names and addresses of any owners or lessees of mineral rights as listed in the records of Park County for the property;
(5) Names and addresses of any property owners of adjacent property including properties across a public street, public right-of-way or alley;
(6) Statement of the purpose of the application and a description of the proposal;
(7) Vicinity map indicating the location of the property included in the land use application;
(8) Agreement to pay form to cover the costs of any outside consultants to assist the Town with review of the application;
(9) Application fee.

In addition to the common submittal requirements listed in in this Article, the following information is required and which may vary depending on the type of application submitted.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-3-30. Drawing and report requirements.

General map requirements: Unless otherwise specified in this Chapter, any maps or other graphic plans shall be drawn or plotted in black ink and shall be delivered as clearly legible copies. The dimensions of all maps shall be twenty-four by thirty-six inches (24" x 36") or eleven by seventeen inches (11" x 17") if approved by the Town. No map shall exceed twenty-four by thirty-six inches (24" x 36"). In the case of multiple sheets, an index map showing the relationship of individual sheets shall be provided and locations of adjacent sheets shall be indicated on each sheet. Each map plan shall include:

(A) Section, township and range of the property included in the application;

(B) Name, address, and telephone number of the owner and applicant;

(C) Name, address, and telephone number of the person or firm that prepared the map and the date of preparation;

(D) North arrow and scale which shall be one inch equals fifty feet (1" = 50'); and

(E) Title of the map located at the top of the map and in a title block in the lower right corner which shall also indicate the type of application.

(F) General report requirements: All reports shall contain consecutively numbered pages and shall include, or clearly indicate by reference, any maps or other relevant elements required by these regulations which are necessary for the report. Any report required by these regulations shall include:

(G) The name, address and telephone number of the person(s) or firm(s) that prepared the report and the date of preparation;

(H) The title of the report.

(I) Qualifications of preparers of maps and reports: All professionally prepared maps and reports must bear suitable evidence of the qualifications of the person responsible for the preparation of the map or report. Engineered plans containing information pertaining to water supply, sanitation, wastewater treatment, utilities, drainage, soils, grading, streets, structures, or any other engineering information must be certified by a professional engineer licensed in the State of Colorado. All required documents containing land survey descriptions and topographic maps must be certified by a professional land surveyor licensed in the State of Colorado. All data submitted regarding environmental studies and other disciplines, not requiring registration by the State of Colorado, must be accompanied by a statement of qualifications sufficient to demonstrate the author's degree of expertise and experience.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-3-40. Site plans.

In addition to the requirements of this Chapter and unless otherwise specified, any required site plan shall include:

(A) A scaled drawing showing the location of all existing and proposed drainage ways, easements, buildings, utilities and other improvements on the property. A building envelope (a portion of the property within which a building may be located) may be shown for proposed buildings to allow minor adjustments;

(B) The location and number of parking spaces for off-street parking and loading areas and the finished surface material of the parking areas (e.g., gravel, asphalt);

(C) Traffic circulation plan showing the direction of traffic flows and indicating the locations of entries and exits of parking lots and the relationships of parking lots to entrances and exits of any buildings;

(D) The location of service and refuse collection areas;

(E) The location of all signs, if any, indicating the size, shape and height of each sign;

(F) The area and location of any open space and recreation areas;

(G) The location and type of outdoor lighting;

(H) The location of existing and proposed fences, landscaping features and other methods of visual screening. The proposed landscaping plan shall conform to the requirements of this Chapter and shall indicate the method of maintenance of the landscaping as well as list of type, size, and quantity of plant materials and location of the landscaping;

(I) The estimated date of completion of the proposed improvements; and

(J) Adjacent streets and rights-of-way and street improvements.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-3-50. Specific submittal requirements.

In addition to the common submittal requirements specified in this Section, additional submittal items are required based upon the type of application. These submittal items are detailed in each section of this Chapter under each application type.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE IV

Public Notice

Sec. 16-4-10 Public notices and hearings on applications

Sec. 16-4-20 Public notice—Standards

Sec. 16-4-10. Public notices and hearings on applications.

Whenever the regulations contained in this Chapter call for a public hearing on an application, whether before the Town Administrator, Board of Adjustment, the Board of Trustees or other Commission, the following shall be adhered to:

(1) All public hearings shall be preceded by written notice that shall be mailed, first class postage prepaid, posted and published in conformance with the following table. The applicant shall bear the costs of all noticing regarding public hearings on his or her application.

Public Notice			
Type of Application	Minimum Notice	Property Owner Notice	Additional Requirements
Zoning <ul style="list-style-type: none"> • Variance • Zoning Amendment 	10 days prior to hearing	Notice shall be mailed/hand delivered to all adjoining property owners including those directly across adjoining street or alley	<ul style="list-style-type: none"> • Publication of Notice in Newspaper • Posting of Notice on subject property • Copy of Application available at Town Hall
Zoning <ul style="list-style-type: none"> • Protest 	Minimum 72 hours prior to Board of Trustee Vote, written notice filed	Minimum 20% owners of land area surrounding and extending 100' from land subject to rezoning must file written protest	<ul style="list-style-type: none"> • Requires vote of 2/3 of all members of Board of Trustees
Subdivision <ul style="list-style-type: none"> • Minor • Major 	10 days prior to hearing	Notice shall be mailed/hand delivered to all adjoining property owners including those directly across adjoining street or alley	<ul style="list-style-type: none"> • Publication of Notice in Newspaper • Posting of Notice on subject property • Copy of Application available at Town Hall
Major or Minor Subdivision and Exemption Appeals	10 days prior to hearing	Regular mail or personally delivered to the appellant	<ul style="list-style-type: none"> • Posted at Town Hall
Planned Unit Development (PUD) <ul style="list-style-type: none"> • PUD Hearing • Cure of Deficiencies • PUD Plan Enforcement • PUD Plan Modification 	10 days prior to hearing	Notice shall be mailed/hand delivered to all adjoining property owners including those directly across adjoining street or alley	<ul style="list-style-type: none"> • Publication of Notice in Newspaper • Posting of Notice on subject property • Copy of Application available at Town Hall
Special Use	10 days prior to hearing	Notice shall be mailed/hand delivered to all adjoining property owners including those directly across adjoining street or alley	<ul style="list-style-type: none"> • Publication of Notice in Newspaper • Posting of Notice on subject property • Copy of Application available at Town Hall
Appeals	10 days prior to hearing	Notice shall be mailed/hand delivered to all adjoining property owners including those directly across adjoining street or alley	<ul style="list-style-type: none"> • Publication of Notice in Newspaper • Posting of Notice on subject property • Copy of Application available at Town Hall

Public Notice			
Type of Application	Minimum Notice	Property Owner Notice	Additional Requirements
Board of Adjustment	10 days prior to hearing	Notice shall be mailed/hand delivered to all adjoining property owners including those directly across adjoining street or alley	<ul style="list-style-type: none"> • Publication of Notice in Newspaper • Posting of Notice on subject property • Copy of Application available at Town Hall
Home Occupation Complaint	10 days prior to hearing	Notice shall be mailed/hand delivered to all adjoining property owners including those directly across adjoining street or alley	<ul style="list-style-type: none"> • Publication of Notice in Newspaper • Posting of Notice on subject property • Copy of Application available at Town Hall
Vested Property Rights	10 days prior to hearing	Notice shall be mailed/hand delivered to all adjoining property owners including those directly across adjoining street or alley	<ul style="list-style-type: none"> • Publication of Notice in Newspaper • Posting of Notice on subject property • Copy of Application available at Town Hall

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-4-20. Public notice—Standards.

(A) Written notice—Published and mailed.

1. Name of applicant; address of property.
2. Date, time and place for the hearing.
3. Name of the body conducting meeting/hearing.
4. Brief description of proposed request/application.
5. Where subject request/application can be reviewed or acquired—address/telephone number, (e.g., Town Hall).
6. Applicant is responsible for the costs of and accurate and timely noticing by newspaper publication, posting and mailing of public notice regarding a request/application.
7. Notice by mail to persons other than those required in this Section shall be made for purposes of convenience only; and a failure by any person other than an applicant to have received mailed notice shall not constitute grounds to delay or deny an application, or a meeting or hearing on an application, so long as the other types of notice required by this Section were timely and properly provided.

(B) Posted Signs.

1. Minimum size twenty-two (22) inches wide by twenty-six (26) inches tall.
2. Constructed of waterproof/weather-resistant materials.

3. All print at least one (1) inch high.

4. Install on subject property in conspicuous place; facing street. If the subject property abuts more than one (1) street, a sign shall be placed facing each such street.

(C) Persons notified.

1. All property owners adjoining subject property including those across adjoining streets and alleys.

2. Owners names and addresses shall be those listed current Park County real property tax records on the application submittal date.

(D) Availability of application.

1. Applicant shall provide at their own expense at least one (1) complete copy of application including all supporting documentation for public inspection at Town Hall during regular business hours at least ten (10) days prior to any noticed public hearing.

(E) Responsibility for notice.

1. The accurate and timely public notice is the responsibility of the applicant. Assistance may be requested from the Town Clerk.

2. Notice by mail to persons other than as provided for in this Section shall be made for purposes of convenience only; and a failure by any person other than an applicant to have received mailed notice shall not constitute grounds to delay or deny an application, or a meeting or hearing on an application, so long as the other types of notice required by this Section were timely and properly provided.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE V

Zoning Districts and Map

- Sec. 16-5-10 Zone districts established
- Sec. 16-5-20 Description of zone districts
- Sec. 16-5-30 Table of uses
- Sec. 16-5-40 Table of dimensional standards
- Sec. 16-5-50 Official zoning map and interpretations
- Sec. 16-5-60 Amendments and rezoning
- Sec. 16-5-70 Submittal requirements
- Sec. 16-5-80 Zoning/amendment protest
- Sec. 16-5-90 Applicability of regulations; density limitation
- Sec. 16-5-100 Enforcement and penalties; void permits

Sec. 16-5-10. Zone districts established.

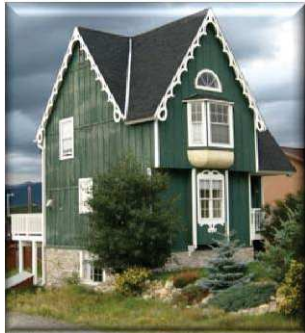
In order to regulate the location, height, bulk and size of buildings and other structures; the percentage of lot which may be occupied; the size of lots, courts and other open spaces; the density and distribution of population and the location and uses of land, buildings and structures for trade, industry, residence, recreation, public activities or other purposes, the incorporated area of the Town is hereby divided into the following districts:

Abbreviation	Zone District
SF-Res	Single Family Residential
MF-Res	Multi-family Residential
T	Transitional
TC	Town Center
C	Commercial
MU	Multi-use
LI	Light Industrial
CC	Civic Center
POST	Parks-Open Space-Trails

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-5-20. Description of zone districts.

Single Family Residential (SF-Res)



Single-Family Residential comprises primarily single-family residential uses in neighborhoods. Other more intensive uses such as churches, community facilities and schools must be carefully planned to avoid adverse impacts to the residential character.

Multi-family Residential (MF-Res)



Multi-family residential permits a variety of residential uses which includes single-family, duplex and multi-family buildings. Other more intensive uses such as churches, community facilities and schools must be carefully planned to avoid adverse impacts to the residential character.

Transitional (T)



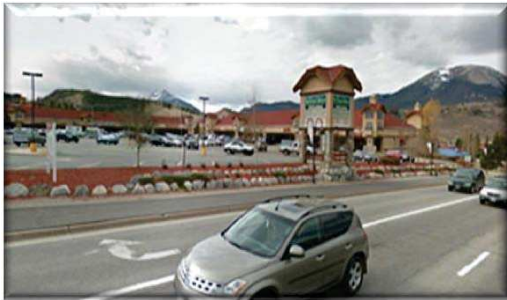
Transitional encompasses most of the original town-site lots and includes single-family uses, home offices, small-scale retail, cafés and businesses which coexist with residential neighborhoods. Business use is on the ground-level and do not require much off-street parking. Sidewalks and alleys are important features.

Town Center (TC)



The Town Center is the historic core of Fairplay. Uses in Town Center include small businesses, hotels, restaurants, taverns, governmental buildings, professional offices, medical/dental clinics, museums, art galleries and a compatible collection of uses. Residential use requires a special use permit. Buildings front on sidewalks. The Town Center is the hub of civic activity and a place for social interaction. The associated Town Center Overlay District (TCO) ensures that the historic character is maintained.

Commercial (C)



Commercial adjacent to Highway 285 allows larger more intensive highway oriented commercial. Uses include grocery, restaurants, vehicle service, general retail, business/professional offices, governmental facilities, banks, medical/dental clinics, vehicle sales, motels, car wash, bowling lanes etc. Residential located in the rear of structures or on the second floor primarily serves employees and is secondary to business use. Storage is enclosed and screened with berms, landscaping and/or opaque fencing.

Multi-use (MU)



Multi-Use is a hybrid of Town Center and Multi-family Residential with recreational uses. This designation requires a mix of Town Center uses and residential. Uses include restaurant/café, brewpubs, fishing shops, ski/bike/hike/sporting goods, upper floor residential uses, stand-alone multi-use structures with residential and commercial/office uses. Architectural design of structures is important. The district supports design and land-use flexibility. The development community will work with the Town using PUDs to create a unique and inviting neighborhood.

Light Industrial (LI)



Light Industrial areas include larger acreages for industrial uses and should be buffered from other uses to ensure compatibility. Uses include lumber yards, wholesale sales, contractor's yards, offices, manufacturing, cabinet shops, ministorage, vehicle/truck repair, vehicle/equipment sales, jails, county facilities, emergency service facilities, veterinary hospitals and other light industrial activities. Outside storage is screened. Residential use is intended for employees, is allowed on upper stories.

Civic Center(CC)



Civic Center is for public uses and includes governmental facilities, libraries, recreation centers, museums, schools, fairgrounds, utility facilities and like uses. Civic Center architecture is important and shall recognize existing iconic historic buildings. Civic sites that contain governmental facilities with light industrial features are regulated the same as uses in Light Industrial with buffering and screening.

Parks-Open Space-Trails (POST)



Parks, Open Spaces and Trails includes active/passive open spaces and trails. Active open space sites include ball fields, playgrounds, "The Beach", sports facilities and fairgrounds. Passive open spaces incorporate natural areas along the Middle Fork of the South Platte River, undeveloped open lands in subdivisions, cemeteries and other areas. Passive sites include primitive trails or educational waysides where human presence is minimized in the landscape. Trails range from hard surfaced paths (including sidewalks) to primitive gravel paths. Parks and open spaces are linked by trails. Areas with more intensive active uses contain adequate parking, restrooms, shade structures and other elements.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-5-30. Table of uses.

Table of uses									
P=Permitted Use, S=Special Use, ■=Prohibited Use									
Land Use	Residential		Mixed Use	Commercial			Light Indus.	Public	
	SF-Res	MF-Res	T	TC	C	MU	LI	CC	POST
Accessory dwelling unit	S	■	S	■	■	■	■	■	■
Amateur radio tower or antenna	S	■	■	■	■	■	S	■	■
Art gallery	■	■	P	P	P	P	P	■	■
Assembly halls	■	■	S	S	P	P	S	S	S
Athletic fields (daytime & nighttime use)	■	■	■	■	S	S	S	P	P
Automobile and truck repair	■	■	■	■	S	S	P	■	■
Automobile fuel stations	■	■	■	■	P	P	P	■	■
Automobile service stations	■	■	■	■	P	P	P	■	■
Automotive sales and service	■	■	■	■	P	S	P	■	■
Bakeries	■	■	S	P	P	P	P	■	■
Bank/financial institution-w/o drive-up	■	■	■	P	P	P	S	■	■
Bank/financial institution-w drive-up	■	■	■	P	P	S	■	■	■
Bar/drinking establishments w/o drive-up	■	■	S	P	P	P	P	■	■
Bed and breakfast	S	S	S	P	S	S	■	■	■
Building materials-sales, yards	■	■	■	■	S	■	P	■	■
Campground & RV park (limited stay—Max. of 30 days within a 180 day period)	■	■	■	■	S	S	S	■	S
Car washes	■	■	■	■	P	P	P	■	■
Carpentry and contractors shops	■	■	■	S	S	S	P	■	■
Cemetery	■	■	■	■	■	■	■	■	P
Church	S	S	S	S	S	S	S	■	■
Clubs and lodges	■	■	S	S	P	P	S	■	■
Commercial or public recreation facilities-Indoor	■	■	■	S	P	S	P	■	S
Commercial or public recreation facilities-Outdoor	■	■	■	■	S	S	S	S	P
Commercial parking lots or garages	■	■	S	S	S	S	S	■	■
Community Center	S	S	S	S	S	S	S	P	P
Community garden/greenhouse	S	S	S	S	S	S	S	P	P
Community or public building	■	■	S	S	S	S	P	P	P
Contractor facility-w/inside storage	■	■	■	■	S	S	S	■	■
Contractor facility-w/outside storage	■	■	■	■	S	S	S	■	■
Daycare—child or adult	S	S	S	S	S	S	■	■	■
Daycare—On-site (child only) accessory to business for the business employees	■	■	S	S	S	S	S	■	■

Table of uses											
P=Permitted Use, S=Special Use, ■=Prohibited Use											
Land Use	Residential		Mixed Use		Commercial			Light Indus.		Public	
	SF-Res	MF-Res	T	TC	C	MU	LI	CC	POST		
Equipment sales and rental	■	■	■	■	S	S	P	■	■	■	
Golf course	■	■	■	■	S	S	S	S	S	P	
Governmental facility w/warehouses, storage facilities or repair services	■	■	■	S	S	■	P	S	S	S	
Governmental facility w/o warehouses, storage facilities or repair services	■	■	S	S	S	P	P	P	P	P	
Grocery store	■	■	S	S	P	P	P	■	■	■	
Group home-developmentally disabled or persons 60 or more years of age	S	S	S	■	■	S	■	■	■	■	
Home business	S	S	P	P	P	P	S	■	■	■	
Home occupation	P	P	P	P	■	P	■	■	■	■	
Horses, keeping of; stables and other equestrian facilities	■	■	■	■	S	S	S	S	S	S	
Hospitals	■	■	■	S	S	S	S	■	■	■	
Hotels/motels	■	■	S	P	P	P	S	■	■	■	
Kennels	■	■	■	■	S	S	P	■	■	■	
Laundry, dry cleaning.	■	■	■	■	S	■	P	■	■	■	
Laundromats—Self service	■	■	S	S	P	P	P	■	■	■	
Library	■	■	P	P	P	P	■	P	P	■	
Machine shops	■	■	■	S	S	S	P	■	■	■	
Manufacturing, fabrication and assembly	■	■	■	S	S	S	P	■	■	■	
Medical and dental clinics	■	■	P	P	P	P	S	■	■	■	
Mobile home sales	■	■	■	■	S	S	S	■	■	■	
Municipal wastewater treatment facilities	■	■	■	■	■	■	S	P	P	S	
Municipal water treatment facilities	■	■	■	■	■	■	S	P	P	S	
Nursery—Commercial large > 8,000 sq. ft.	■	■	■	■	P	S	P	■	■	■	
Nursery—Commercial small ≤ 8,000 sq. ft.	■	■	S	S	P	P	P	■	■	■	
Nursing homes	S	S	S	S	S	S	S	■	■	■	
Offices-business or professional	■	■	S	P	P	P	P	■	■	■	
Office—On-site property rental/management	■	P	P	S	S	S	S	■	■	■	
Outdoor display	■	■	S	S	P	S	P	■	■	■	
Outdoor market—farmers, flea, other	■	■	S	S	P	S	P	■	■	■	
Paint and body shops	■	■	■	■	■	■	P	■	■	■	
Parks	P	P	P	P	P	P	S	P	P	P	
Parks and open space owned by the Town	P	P	P	P	P	P	P	P	P	P	
Personal adornment/tattoo Parlor	■	■	S	P	P	S	P	■	■	■	
Personal service establishments	■	■	P	P	P	P	P	■	■	■	

Table of uses											
P=Permitted Use, S=Special Use, ■=Prohibited Use											
Land Use	Residential		Mixed Use		Commercial			Light Indus.		Public	
	SF-Res	MF-Res	T	TC	C	MU	LI	CC	POST		
Printing/publishing	■	■	P	P	P	P	P	■	■	■	
Public buildings	S	S	P	P	P	P	P	P	P	P	
Public transit maintenance facilities	■	■	■	■	■	■	■	■	■	■	
Public transit stops	P	P	P	P	P	P	P	P	P	P	
Recreational vehicle sales and service	■	■	■	■	S	S	P	■	■	■	
Recycling facilities	■	■	■	■	S	S	P	■	■	■	
Renewable energy system	S	S	S	S	S	S	S	S	S	S	
Residential—In same building as business	■	■	P	P	P	P	P	■	■	■	
Residential—Multi-family > 2 Units	■	P	P	■	■	S	■	■	■	■	
Residential—Single-family	P	P	P	S	■	■	■	■	■	■	
Residential—Two-family (duplex)	S	P	P	■	■	■	■	■	■	■	
Restaurant w/ Drive-up	■	■	■	S	P	S	S	■	■	■	
Restaurant w/o drive-up	■	■	P	P	P	P	P	■	■	■	
Retail sales establishments	■	■	S	P	P	P	P	■	■	■	
Roadside stand	■	■	S	S	P	S	S	■	■	■	
Schools, high school, junior high, elementary	S	S	S	S	S	S	■	P	P	P	
Schools-trade or business	■	■	S	S	S	S	P	■	■	■	
Sewing shop/tailor	■	■	P	P	P	P	P	■	■	■	
Sexually oriented business	■	■	■	■	■	■	S	■	■	■	
Storage—Outdoor screened	■	■	■	■	P	■	P	■	■	■	
Storage—Outdoor unscreened	■	■	■	■	■	■	S	■	■	■	
Storage—Commercial indoor	■	■	■	■	P	S	P	■	■	■	
Storage—Personal storage units (mini-storage)	■	■	■	■	S	■	P	■	■	■	
Storage shed < 120 sq. ft.	P	P	P	P	P	P	P	P	P	P	
Studio—Art, crafts, design, dance, music, photo	■	■	P	P	P	P	P	■	■	■	
Telecommunications facility	■	■	■	■	■	■	S	■	■	■	
Theaters	■	■	S	P	P	P	S	■	■	■	
Truck stops	■	■	■	■	S	S	P	■	■	■	
Utility distribution facilities—Electric, gas, other	P	P	P	P	P	P	P	P	P	P	
Utility transmission facilities—Electric, gas, other	■	■	■	■	■	■	S	■	■	■	
Utility—Underground	S	S	S	S	P	S	P	S	S	S	

Table of uses									
P=Permitted Use, S=Special Use, ■=Prohibited Use									
Land Use	Residential		Mixed Use	Commercial		Light Indus.	Public		
	SF-Res	MF-Res	T	TC	C	MU	LI	CC	POST
Veterinary hospitals w/outdoor kennels	■	■	■	■	S	S	P	■	■
Veterinary hospitals w/o outdoor kennels	■	■	■	S	P	S	P	■	■
Warehouses & distribution facilities	■	■	■	■	■	■	P	■	■
Wholesale establishments	■	■	■	■	S	S	P	■	■

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-5-40. Table of dimensional standards.

Land Use	SF-Res	MF-Res	T	TC	C	MU	LI	CC	POST
Primary Structure Setbacks									
Minimum lot size - sq. ft.	2,500	3,000[2]	2,500	2,500	5,000	3,000	6,000	2,500	None
Minimum lot width - ft.	25	30	25	25	50	30	50	25	None
Maximum lot coverage - %	40	60	50	100	80	80	80	80	20
Minimum lot frontage - ft.	25	30	25	25	50	25	25	25	None
Front setback - ft.	15	15	10	0	25	10	25	10	10
Rear setback - ft.	10, 5[1]	10, 5[1]	10, 5[1]	5	10	10	10	10, 5[1]	5
Side yard setback - ft.	5	10	5	0	10	0	10	5	5
Maximum principal building height - ft.	30	35	30	30	30	30	30	35	35
Maximum accessory building height - ft.	22	22	22	22	n/a	n/a	n/a	22	22
Minimum building footprint - sq. ft.	450	450	450	n/a	n/a	n/a	n/a	n/a	n/a

[1] Adjacent to alley.

[2] Plus one thousand (1,000) square feet for each additional dwelling unit over three (3) units.

Building height exceptions: Building height shall exceed the maximum limitations set forth in the Table of Dimensional Standards except as follows:

- a. Parapet walls may extend above the maximum building height by up to thirty (30) inches.
- b. Stacks, vents, cooling towers, elevator structures and similar mechanical building appurtenances, spires, domes, cupolas, towers and similar non-inhabitable building appurtenances may extend above the applicable maximum building height limitations by up to ten (10) feet.

Setback encroachments: No structure shall encroach into a required setback except as follows:

- a. Uncovered porches and decks, not more than thirty (30) inches above undisturbed grade, may project into required setbacks. Uncovered porches and decks shall be a minimum of five (5) feet from the property line.
- b. Balconies and fire escapes, not used as passageways, may project four (4) feet into required setbacks. Balconies and fire escapes shall be a minimum of five (5) feet from the property line.
- c. Cornices, eaves, canopies, gutters, chimneys, flues, headers, sills, belt courses, pilasters, ornamental features and other similar architectural features may project two (2) feet into required setbacks. All projections shall be a minimum of five (5) feet from the property line.
- d. Slabs, patios and steps may project into required setbacks. All slabs, patios and steps shall be a minimum of one (1) foot from the property line.
- e. Walks and handicap access ramps may be located within required setbacks.

(Ord. 2015-3 §1, 2016; Ord. 2016-3 §1, 2016)

Sec. 16-5-50. Official zoning map and interpretations.

(A) The Town Zoning Map shall be an integral part of this Chapter and is hereby designated as the Official Zoning Map. The districts set forth and delineated thereon are hereby approved by the Board of Trustees. The Official Zoning Map shall be filed in the office of the Town Clerk.

(B) Amendments to zone district boundaries made pursuant to the provisions of this Chapter shall be promptly recorded and reflected on the Zoning Map upon their effective date. Data illustrated on the map is subject to the limitations of accuracy of the underlying data and does not constitute a survey of individual lots and parcels. The district map and all information officially entered thereon shall have the same force and effect as if fully set forth in this Chapter.

(C) All lots and parcels in any newly annexed area shall be given a zone designation under the provisions of the Chapter within ninety (90) days from the effective date of the annexation ordinance. During this period, no building permits shall be issued on any portion or all of the newly annexed area until such time as the property is designated on the Official Zoning Map.

(D) Where uncertainty exists or should arise with respect to the boundaries of any district shown on the district map, the following rules shall apply:

1. Where district boundaries are indicated as approximately following the centerlines of streets, alleys, highways, streams, irrigation ditches, rivers, street or railroad right-of-way lines, or such lines extended, such lines shall be construed to be such boundaries.

2. Where district boundaries are so indicated that they approximately follow lot lines, section lines, mining claim lines, or other property lines, such lines shall be construed to be the boundaries.

3. Where district boundaries are so indicated that they are approximately parallel to the boundaries or centerlines of streets, alleys, highways or railroads, or rights-of-way of the same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the district map.

(E) Any use not specifically included in the district regulations as a "use permitted" or a "special use" shall be prohibited in that district. In certain districts, some types of "uses permitted" or "special uses" are general in nature, listing examples of the type of use which shall be permitted in the district. Where a use, or category of uses, which is not listed in a general category of uses is proposed, or where a question of interpretation occurs, the Board of Trustees, with the advice of the staff, may make a determination that such use, or type of use, is or is not appropriate within the district.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-5-60. Amendments and rezoning.

(A) This Chapter, including the official Zoning Map and any zone district boundaries, may be amended from time to time.

(B) The Board of Trustees may amend this Chapter, the Official Zoning Map and/or any zone district boundary; including, the number of districts, shape of district boundaries and/or the zoning designation of property. The Trustees may solicit the recommendations of the Town Planner on amendments. No

amendment shall be effective unless voted upon by the Board of Trustees after a public hearing thereon at which citizens and parties in interest shall have had an opportunity to be heard. Notice of a public hearing shall be made in compliance with the requirements of Article IV. A zoning amendment or rezoning may be granted where the following findings are made:

1. That the rezoning is consistent with the Town's goals, policies and plans; and
2. That the rezoning is substantially compliant with the Fairplay Comprehensive Plan, and
3. That the land to be rezoned was previously zoned in error and the existing zoning is inconsistent with the Town's goals, policies and plans; or
4. That the area for which rezoning is requested has changed substantially such that the proposed rezoning better meets the needs of the community; or
5. That the rezoning is incidental to a comprehensive revision of the Town's zoning map which recognizes a change in conditions and is consistent with the Town's goals, policies and plans.

(C) Resubmission of a rezoning application previously denied pertaining to the same parcel of ground, or portion thereof, and a similar zone classification will not be accepted for consideration by the Town for one (1) year from the date of said denial unless evidence is presented clearly showing that a substantial change in physical conditions and circumstances warrant a new application.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-5-70. Submittal requirements.

(A) In addition to the Common Submittal Requirements in Article III, the following submittal items are required.

1. Applications for rezoning shall include a petition for rezoning signed by the owners of at least fifty percent (50%) of the area of land or area of lots subject to the rezoning application.
2. Description of proposed zone district change—text amendment or zone district boundary change.
3. Justification for district change. Please clearly state the basis upon which the proposed zoning change is made including a justification for the change. Examples for justification may include the following: Rezoning of subject property is in compliance with the recommendations of the comprehensive plan or the property was improperly zoned originally or there has been a substantial change in condition and use on the surrounding properties to justify a change of zoning.
4. Narrative describing the designation of the property in the Fairplay Comprehensive Plan including recommendations on zoning, use, density or other provisions which demonstrate substantial compliance of the request to the Plan.
5. Identification of the surrounding zoning and land uses.

6. For text amendments the application shall include (in addition to the previous items) a description of the proposed text amendment and the proposed new text.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-5-80. Zoning/amendment protest.

In the event a written protest is filed with the Town Clerk against proposed changes to the text of this Chapter, or against amendments to the Zoning Map or to the boundaries of a zone district applicable to particular land, at least seventy-two (72) hours prior to the vote of the Board of Trustees thereon, and such protest is signed by the owners of not less than twenty percent (20%) of the land area surrounding and extending one hundred (100) feet from the land area which is the subject of the proposed change, disregarding intervening streets and other public rights-of-way, such change shall not be adopted or become effective except upon the favorable vote of two-thirds ($\frac{2}{3}$) of all of the members of the Board of Trustees.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-5-90. Applicability of regulations; density limitation.

(A) No lot shall be created, reduced or diminished nor shall any structure be constructed, enlarged or moved, so as to cause the lot to fall below minimum yard, lot area, lot width, open space or setback requirements for the zoning district where located, except where the Board of Adjustment, within its authority, grants a variance as provided in this Chapter.

(B) Every building hereafter erected shall be located on a lot, as defined herein, and in no case shall there be more than one (1) principal building or structure on a single lot, except as may be otherwise provided herein.

(C) Where a line designating the future width of any street or highway is shown on a comprehensive plan, official map or state highway plan, or is established in any other way, a front yard depth or building setback shall be measured from such line instead of from any other existing front line.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-5-100. Enforcement and penalties; void permits.

(A) In addition to the following provisions, enforcement of the requirements of this Article shall be made in compliance with Article II of this Chapter.

(B) It is unlawful for any person, including an owner, occupant, builder or agent, to develop or use, or to attempt to develop or use, any real property in violation of the provisions of this Chapter, and violations of this Chapter shall be punishable upon conviction for each separate offense by a fine or imprisonment, or both, as set forth in the general penalty provisions of this Code.

(C) No building permit, sanitation system permit, water system connection permit, access permit or other permit shall be issued for any building, development, structure, lot or parcel created, used, sold or conveyed in violation of this Chapter.

(D) All persons are presumed to know the terms and requirements of this Chapter and the extent of the legal authority of the Town and its employees, boards to issue zoning approvals or permits. Any permit or approval issued in error, or otherwise not in conformity with the requirements of this Chapter, shall be void.

Similarly, any permit or approval issued in reliance upon or as a result of a materially false statement or representation made in the process of obtaining a permit or development approval shall, likewise, be void. Any person having received a void or voidable permit or approval shall not be relieved from having to comply with all applicable terms and conditions of the Chapter, and the Town shall not be stopped from fully enforcing same.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE VI

Special Use Permits

Sec. 16-6-10	Special use permits
Sec. 16-6-20	Application submittal requirements
Sec. 16-6-30	Special use permit application procedures
Sec. 16-6-40	Vesting and expiration of special use permits
Sec. 16-6-50	Public notice
Sec. 16-6-60	Resubmittal of denied application

Sec. 16-6-10. Special use permits.

(A) A use that is not allowed as a matter of right or without restriction in a zone district may be authorized by special use permit granted by the Board of Trustees. Only uses identified as a special use within a particular zone district may be approved.

(B) Special use permits may or may not run with the land and shall be issued subject to safeguards, terms and conditions as deemed necessary and appropriate by the Board of Trustees to protect and preserve the intent and purposes of the zone district regulations. Violations of the terms and conditions imposed on a special use permit shall be deemed violations of this Section and shall be punishable as set forth in the general penalty provisions of this Code.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-6-20. Application submittal requirements.

(A) In addition to the common submittal requirements in Article III, the following submittal items are required.

1. Statement about the purpose and description of proposed special use.
2. A site plan prepared in conformance with Section 16-3-40.
3. Identification of utilities, with reference to location, availability including letters from utility providers indicating a willingness and ability to serve
4. Screening and buffering, with reference to type, dimensions and character
5. Location of all existing and proposed buildings, utilities and other improvements on the property. A building envelope may be shown for proposed buildings to allow minor adjustments.
6. Location and number of parking spaces for off-street parking and loading areas and finished surface material of the parking areas.
7. Traffic circulation plan showing the direction of traffic flows and indicating entries and exits of parking lots and the relationships of parking to buildings entrances and exits if any.
8. Location of service and refuse collection areas.

9. Any proposed screening and buffering, including type, dimensions and character in conformance with Article XI.

10. Location of any signs indicating the size, shape and height of each.

11. Location and type of outdoor lighting in conformance with Article XII.

12. Location of existing and proposed fences.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-6-30. Special use permit application procedures.

(A) Applications for a special use permit (with appropriate copies and supporting materials) shall be submitted to the Town Clerk on forms provided therefor. A reasonable fee shall be charged for each application, excluding applications for child day care homes and family child care homes, and a site plan and/or other drawing and information may be required as part of the application. Actual costs for professional planning, engineering, legal and/or other consulting services incurred by the Town in reviewing an application shall be paid by the applicant.

(B) All applications for a special use permit shall be initially reviewed by Town staff for completeness and recommendation and then referred to the Board of Trustees for review at a public hearing. The applicant shall be notified in advance of the time and place of the public hearing and shall be allowed to attend and participate therein. The Board of Trustees shall hold a public hearing on each application for a special use permit.

(C) The Board of Trustees after conducting the public hearing shall, by resolution, approve, deny or conditionally approval the application.

(D) Special use permits may be granted by the Board of Trustees only after finding that the proposed special use will not adversely impact the neighborhood or the public safety and welfare. In determining whether to grant a permit, the Board of Trustees shall consider, as applicable, the following factors:

1. Ingress and egress to the property and proposed structures with particular reference to automotive and pedestrian safety, convenience, traffic flow and control, and access in case of fire or catastrophe;
2. The need and/or adequacy of off-street parking and loading areas and the economic, noise, glare or odor effects of the special use on adjoining properties and the neighborhood generally;
3. Refuse and service areas;
4. Utilities, with reference to location, availability and compatibility;
5. Screening and buffering, with reference to type, dimensions and character;
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility and harmony with properties in the neighborhood;
7. Required yards and other open spaces; and

8. General compatibility with adjacent property and other property in the neighborhood.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-6-40. Vesting and expiration of special use permits.

(A) A special use permit in and of itself shall not constitute a site specific development plan for purposes of vesting a property right; however, a special use permit may be incorporated into a site specific development plan as part of a larger or different land use approval. Unless substantially acted upon within one (1) year from the date of approval as illustrated by actual construction or other objectively measurable development activity, or such shorter time period as specified by the Board of Trustees, the permit shall expire and become void.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-6-50. Public notice.

(A) Notice of the public hearing shall be made in conformance with Article IV of this Chapter.

(B) Notice by mail to persons other than an applicant as specified in this Section is provided for purposes of convenience only and a failure by any person other than an applicant to have received a mailed notice shall not constitute grounds to delay or deny an application, or a meeting or hearing on an application, so long as the other types of notice required by this Section were timely and properly provided.

(C) For purposes of this Section, the names and addresses of the owners of properties abutting the property that is the subject of a hearing shall be those as listed in the most recent real property tax records for the County as of the date the subject application was filed with the Town.

(D) The accurate and timely noticing of the application required in this Chapter shall be performed by the applicant under the guidance of the Town Clerk. The applicant shall be responsible for complying with all public notice requirements and associated costs.

(E) At least one (1) copy of the special use application and all supporting documentation supplied by the applicant, inclusive of any maps and design plans, shall be made available at the applicant's expense for public inspection at Town Hall during regular business hours not less than ten (10) days prior to any noticed public hearing on the application.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-6-60. Resubmittal of denied application.

An application for a special use that has been previously denied may not be submitted or resubmitted for a period of one (1) year from the date of the previous denial unless the application has been substantially changed and/or the reasons for the previous denial have been satisfactorily and fully addressed.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE VII

Supplemental Standards

- Sec. 16-7-05 [Additional standards]
- Sec. 16-7-10 Accessory dwelling units (ADUS)
- Sec. 16-7-20 Animals
- Sec. 16-7-30 Bed and breakfast
- Sec. 16-7-40 Community garden/greenhouse
- Sec. 16-7-50 Construction trailer
- Sec. 16-7-60 Group home
- Sec. 16-7-70 Day care center or home, adult or child
- Sec. 16-7-80 Outdoor display
- Sec. 16-7-90 Roadside stand
- Sec. 16-7-100 Setback from waterways
- Sec. 16-7-110 Sight triangles
- Sec. 16-7-120 Outside storage—Screened
- Sec. 16-7-130 Accessory uses
- Sec. 16-7-140 Home occupations

Sec. 16-7-05. [Additional standards.]

This Article sets forth additional standards for certain uses located within the various zone districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. Unless otherwise expressly stated, compliance with such standards is required regardless of whether the use is a limited use, an accessory use, or requires special use approval.

The following standards shall apply to any parcel of property.

Sec. 16-7-10. Accessory dwelling units (ADUS).

Accessory dwelling units are intended to provide increased affordable housing opportunities within the Town and to facilitate housing in close proximity to places of employment.

(A) Variances shall not be granted for an accessory dwelling unit.

(B) Only one (1) accessory dwelling unit shall be permitted per lot.

(C) Detached accessory dwelling units shall not be permitted on lots smaller than three thousand five hundred (3,500) square feet.

(D) ADUs shall not contain more than eight hundred fifty (850) square feet and not less than four hundred (400) square feet. Only one ADU shall be allowed per principal building.

(E) ADUs shall meet all current and applicable building codes including, but not limited to, fire, electrical and plumbing.

(F) Each ADU shall contain a kitchen equipped, at a minimum, with an oven, a stove with two (2) burners, a sink, and a refrigerator/freezer with a capacity not less than six (6) cubic feet.

(G) Each ADU shall contain a bathroom equipped with, at a minimum, a sink, a toilet and a shower.

(H) No ADU shall contain more than two (2) bedrooms, and one (1) off-street parking space shall be provided for each bedroom in addition to the required parking space(s) for the principal building/use.

(I) All water service connections made to an ADU shall comply with the Town's water and wastewater service connection requirements, and each ADU sharing and/or connected to the water and wastewater service line/system serving a principal building shall be assessed water service expansion/connection based on the fee schedule in place at the time the fee is paid.

(J) Detached ADUs in a residential zone district must be located in the rear half of the residential lot or parcel unless the ADU is to be located within or above a garage.

(K) An ADU may not be condominiumized and/or sold separate and apart from the primary building to which it is accessory.

(L) The design, exterior treatments and color of an ADU shall be the same as, or compatible with, the design and exterior color and treatments of the primary building to which it is accessory.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-20. Animals.

Animals are regulated in Chapter 7 of the Fairplay Municipal Code:
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-30. Bed and breakfast.

Where identified as a use, a bed and breakfast shall be subject to the following:

(A) A bed and breakfast shall be operated by an individual who occupies the dwelling unit as a primary residence.

(B) All bed and breakfast structures shall comply with all dimensional standards of the applicable zone district.

(C) Depending on the applicable zone district, food service may be restricted to guests of the bed and breakfast.

(D) The exterior of a dwelling unit may be modified for a bed and breakfast. However, the exterior shall be similar in appearance to that of the surrounding residential character of the neighborhood in which it is to be located including, but not limited to, materials, color, roof pitch and detailing.

(E) Signage shall comply with the standards set forth in this Chapter

(F) All off-street parking required for the bed and breakfast, with the exception of the spaces required as part of the primary residence, should be located behind the primary structure.

(G) Parking shall be provided in accordance with this Chapter.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-40. Community garden/greenhouse.

Community garden/greenhouses shall be subject to the following:

(A) A community garden/greenhouse shall be well maintained at all times, including necessary watering, weeding, pruning, pest control, and removal of dead or diseased plant material.

(B) Structures that are incidental to a community garden, such as storage or utility buildings, gazebos, trellises, or greenhouse structures, are allowed if they are eight hundred (800) square feet or less in size and fifteen (15) feet or less in height.

(C) One structure shall be allowed for each community garden containing up to six thousand (6,000) square feet of garden space. One additional structure shall be allowed per each additional six thousand (6,000) square feet of community garden space.

(D) Structures shall comply with all applicable dimensional standards.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-50. Construction trailer.

A construction trailer may be approved by the Town Administrator for a period of up to one (1) year and shall be subject to the following:

(A) The trailer must be removed from the site prior to issuance of the final certificate of occupancy for the project.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-60. Group home.

Where identified as a use, a group home shall be subject to the following:

(A) The group home shall be limited to those individuals protected by the Fair Housing Act.

(B) The group home shall not be located closer than seven hundred (750) feet from any other group home of a similar type.

(C) The proposed occupancy shall comply with the requirements of the building code.

(D) Any alterations or additions to any structure shall maintain the residential character of the neighborhood.

(E) The group home shall not create a fundamental alteration to Fairplay's land use and zoning scheme.

(F) The group home shall not impose an undue financial or administrative burden to Fairplay.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-70. Day care center or home, adult or child.

Where identified as a use, a home day care facility shall be subject to the following:

(A) A home day care shall comply with all applicable license requirements of the State of Colorado.

(B) External alterations that would change the residential character of the property shall be prohibited.

(C) Any play equipment associated with a home child day care shall not be located within the primary front yard of the lot.

(D) Signage shall comply with the standards set forth in this Chapter.

(E) The exterior of the building shall be similar in appearance to that of the surrounding residential character of the neighborhood in which it is located including, but not limited to, materials, color, roof pitch and detailing.

(F) Parking shall be provided in accordance with the standards set forth in this Chapter.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-80. Outdoor display.

Outdoor display of merchandise shall be permitted subject to the following:

(A) The merchandise shall be limited to merchandise sold within the business associated with the outdoor display.

(B) Any merchandise and associated apparatus shall be kept within ten (10) linear feet parallel to the front entrance of the business which is displaying the merchandise, but in no case shall the merchandise extend beyond the business frontage.

(C) The merchandise and associated apparatus shall be restricted to the business front and shall not block pedestrian access.

(D) The outdoor display of merchandise shall only occur during times of business operation
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-90. Roadside stand.

Where identified as a use, a roadside stand shall be subject to the following:

(A) A stand shall not operate for more than six (6) months within any twelve (12) month period.

(B) A stand shall be set back at least fifteen (15) feet from any edge of asphalt or back of curb of an abutting street and shall not obscure traffic line of sight or roadway visibility.

(C) Parking shall be provided in accordance with this Chapter.

(D) Signage shall comply with the standards set forth in this Chapter.

(E) Roadside stand operators shall obtain and display a current business license from the Town of Fairplay.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-100. Setback from waterways.

(A) No structure, improvement, excavation, dumping, or backfill shall be located over or within a thirty-foot (30') setback area measured horizontally from the normal high-water elevation of any lake, river, stream or similar water body.

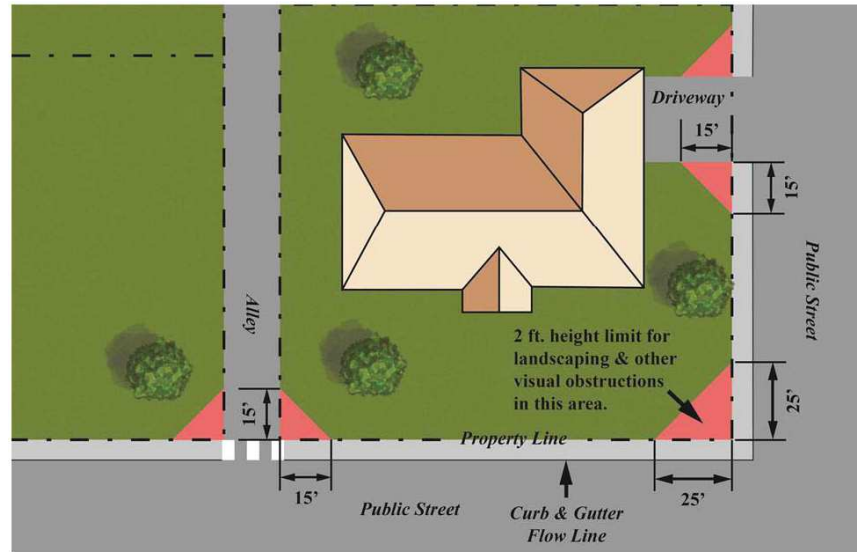
(B) Utilities, public park structures, bridges, paths for non-motorized use, irrigation structures, flood control and erosion protection devices are permitted within a required waterway setback.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-110. Sight triangles.

(A) Sight triangles shall be required where a driveway or alley intersects a public street or where property abuts the intersection of two public streets. Unobstructed sight lines shall be provided at all times within the sight triangle area on the property adjacent to the intersection in order to preserve clear vehicle sight lines to oncoming vehicular and non-vehicular (i.e., pedestrians, bicyclists, etc.) traffic.

(B) A sight triangle shall be defined as follows:

1. Intersection of two public streets: A triangular area that is formed on the corner of a property located at the intersection of two (2) public streets. This area is formed by measuring twenty-five (25) feet along the curb and gutter flow line or edge of pavement (if no curb exists) of the two public streets and connecting the lines diagonally across the property making a ninety-degree (90°) triangle as shown in Figure below.



2. Intersection of public street and alley or driveway: A triangular area that is formed at the corner of an intersecting alley or driveway and a public street. This area is formed by measuring fifteen (15) feet along the curb and gutter flow line or edge of pavement (if no curb exists) of the public street and the edge of the driveway or alley and connecting the lines diagonally across the property making a ninety-degree (90°) triangle as shown in figure above.

(C) Structures, fencing, walls, landscaping and other visual obstructions shall not be located in a sight triangle except as follows:

1. Deciduous trees may be permitted in a sight triangle provided that all branches and foliage are removed to a minimum height of eight (8) feet. Minimum height of branches and foliage shall be measured from the top of the adjacent roadway surface.

2. Landscaping may be permitted in a sight triangle provided that the height of such landscaping does not exceed a maximum height of two (2) feet. Maximum height of landscaping shall be measured from the top of the adjacent roadway surface.

3. Traffic safety devices, utility poles, and other government or utility installed devices are permitted in sight triangles but shall be installed to minimize any impact on visibility at the intersection.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-120. Outside storage—Screened.

Where identified as a use, outdoor storage shall be subject to the following:

(A) Outdoor storage shall be screened when viewed by a person six (6) feet tall standing on the centerline of the adjacent street(s) and/or the adjacent setback of adjoining properties.

(B) Outdoor storage shall not extend above the required screening.

(C) The screening shall be architecturally compatible with the primary structure including, but not limited to, materials, color, roof pitch and detailing.

(D) The minimum height of any screening shall be six (6) feet.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-130. Accessory uses.

(A) Accessory uses are customarily associated with and subordinate to an allowed principal use within any zoning district.

(B) No accessory building or structure shall be constructed and/or occupied prior to the completion of construction of the principal structure to which it is accessory.

(C) Accessory buildings shall maintain the same front, side and rear yards as are required for the principal building on the lot or parcel, or as may be specified in any individual zoning district.

(D) Accessory use structures shall comply with all applicable dimensional standards.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-7-140. Home occupations.

Where identified as a use, a home occupation shall be subject to the following:

(A) The home occupation shall be incidental and secondary to the use of a primary dwelling for dwelling purposes.

(B) The home occupation shall not change the essential residential character of a dwelling.

(C) The on-site activities of the home occupation shall be carried on entirely within the primary dwelling or in an attached or a detached building on the subject premises, and that portion of the primary dwelling and/or the attached or detached building used for a home occupation and not on outdoor portions of the lot. The use shall comply with all building, fire, safety and other codes applicable to the particular use.

(D) There shall be no storage or display of any goods, products, equipment or materials outside of the dwelling, garage or other building on the property containing the home occupation; and no hazardous or dangerous materials, or such quantities of the same, not customarily associated with a residential use shall be stored or used on the premises.

(E) A home occupation shall not occupy more than twenty-five percent (25%) of the total gross floor area of the primary dwelling or when located in an accessory structure, the total amount of space allowed for the home occupation(s) shall not exceed twenty-five percent (25%) of the primary dwelling unit or in any case, no home occupation shall exceed five hundred (500) square feet, whichever is less.

(F) The home occupation may be allowed no more than one (1) non-illuminated freestanding or wall sign not to exceed two (2) square feet.

(G) The home occupation shall not cause any use or activity which is inconsistent with the residential zone in which it is located, or which disrupts the neighborhood by the creation of traffic, congestion, dust, smoke, vibration, noise from equipment, excessive lighting, offensive odor or electrical interference.

(H) All persons engaged in a home occupation must obtain and maintain all necessary business licenses prior to and during the operation of the home occupation.

(I) The home occupation shall not operate during such hours as to disturb neighbors or alter the residential character of the subject premises.

(J) The home occupation shall not employ more than two (2) full-time equivalent persons on site who are not fulltime residents of the dwelling or property on which the home occupation occurs.

(K) Vehicle traffic generated by the home occupation shall not significantly increase over the traffic level normally associated with the subject premises and shall not create or cause a need for new or additional off-site parking. No use or storage of heavy equipment or commercial or heavy trucks or trailers shall be permitted or allowed.

(L) No sales of goods or products shall be allowed on the premises of the home occupation, except that which is incidental to any service provided by the home occupation.

(M) Any structural addition shall comply with setbacks and dimensional standards.

(N) Outdoor storage of inventory or supplies is prohibited.

(O) The operation of a home occupation may be subject to review upon written complaint. In the event a complaint is received by the Town containing substantial credible information illustrating a possible violation of the terms and/or operating standards contained in this Section, the Town Administrator or his/her designee shall cause notice of such complaint to be served personally or by certified mail, return receipt requested, on the operator of the home occupation. The notice shall describe in reasonable detail the complaint concerning the home occupation and command the operator to appear before the Board of Trustees at a public hearing to show cause why the operation of the home occupation should not be suspended, modified or terminated. The public hearing notice shall be issued in conformance with Article IV of this Chapter. A copy of the notice shall also be timely provided in advance of the hearing to the person who submitted the subject complaint. The Board of Trustees may suspend, modify or terminate the operation of a home occupation upon a finding that the terms of this Section have been violated. All decisions of the Board of Trustees under this Section shall be reduced to writing and copies thereof shall be promptly mailed or personally delivered to the operator and complainant.

Examples for Maximum Allowable Space for Home Occupations



(Ord. 2015-3, §1, 1-4-2016)

ARTICLE VIII

Town Center Overlay District (TC)

Sec. 16-8-10	Purpose
Sec. 16-8-20	Architectural review committee created
Sec. 16-8-30	Design guidelines for the Town Center Overlay District
Sec. 16-8-40	Certificate of appropriateness required
Sec. 16-8-50	Rules and procedures for design review
Sec. 16-8-60	Certificate of appropriateness
Sec. 16-8-70	Findings
Sec. 16-8-80	Action, appeals and expiration of approval
Sec. 16-8-90	Plan check and building permit
Sec. 16-8-100	Fees
Sec. 16-8-110	Historic structures and sites
Sec. 16-8-120	Design standards for Town Center Overlay District
Sec. 16-8-130	Rules and procedures for design review
Sec. 16-8-140	Violations and penalties

Sec. 16-8-10. Purpose.

The purpose of the Town Center Overlay District is to ensure that high standards of design are maintained for all residential, business and commercial buildings and uses in the Town Center Overlay District. The requirements applicable to properties located in the Town Center Overlay District are in addition to the requirements and limitations of the underlying zone district designation of the property. Anyone seeking to renovate the exterior of or add to an existing structure or building, or construct a new building in the Town Center Overlay District shall be subject to the Architectural Review Committee approval. In promoting the general purposes of this Chapter, the specific intent of this Article is to:

- (A) Protect the historic and architectural qualities of the Town's historic building stock;
- (B) Promote development and building consistent with the policies of the comprehensive plan;
- (C) Promote a consistent standard in architectural design and the construction of aesthetically pleasing structures;
- (D) Improve the general quality of the historic environment and promote conservation of the historic resources of the Town;
- (E) Encourage land uses which are orderly, functionally efficient, healthful and convenient to the historic sections of the Town;
- (F) Encourage the development of structures that are compatible within the historic districts;
- (G) Promote neighborhood integrity by compatibility in architecture and cohesiveness in style within the historic districts;

(H) Encourage the preservation of pre-1910 and Victorian styles of architecture; and

(I) Promote visual relief throughout the historic districts by preservation of mountain vistas and open space.

(Ord. 2015-3 §1, 2016)

Sec. 16-8-20. Architectural review committee created.

(A) There is hereby created the Architectural Review Committee which shall be empowered to architecturally review and approve the construction of new structures and the reconstruction, exterior alteration or renovation, relocation or demolition of historic and non-historic structures or sites within the Town Center Overlay District. The Committee shall be comprised of three (3) regular members and two (2) alternates who shall serve three-year overlapping terms. Committee members shall be appointed by and serve at the pleasure of the Board of Trustees. The Committee may adopt, subject to the approval of the Board of Trustees, such rules and procedures for the conduct of its meetings as the Committee deems necessary to the efficient performance of its responsibilities. The Town Clerk shall serve as secretary to the Committee and all meetings of the committee shall be open to the public and conform to the requirements of the Colorado Open Meetings Law, Section 24-6-401 et seq., C.R.S.

(B) Notwithstanding the provisions in Subsection (A) above, and as an alternative to the establishment of a separate committee or, the Board of Trustees may serve and act as the Architectural Review Committee, in which event the Board of Trustees and its members shall possess and exercise all duties, powers and authority vested in the Architectural Review Committee under this Article and/or any other ordinance or law.

(Ord. 2015-3 §1, 2016)

Sec. 16-8-30. Design guidelines for the Town Center Overlay District.

The Architectural Review Committee shall prepare and submit to the Town Board of Trustees written design guidelines the construction of new structures and the reconstruction, exterior alteration or renovation, relocation or demolition of historic and non-historic structures or sites within the Town Center Overlay. Once approved by the Board of Trustees the design guidelines shall be made available for purchase by the public and shall be applied by the staff and Architectural Review Committee in considering applications for certificates of appropriateness pursuant to this Article. These standards are included in Fairplay Resolution No. 2014-19.

(Ord. 2015-3 §1, 2016)

Sec. 16-8-40. Certificate of appropriateness required.

Certificate of appropriateness. If the Architectural Review Committee approves the application as submitted, a certificate of appropriateness shall be issued within seven (7) business days by the Town Clerk per plans submitted and approved or modified by the Committee.

(Ord. 2015-3 §1, 2016)

Sec. 16-8-50. Rules and procedures for design review.

(A) Preliminary review.

1. An application for a certificate of appropriateness shall first be informally reviewed by the Town Planner, Town Building Official and other appropriate Town staff.

2. As part of this preliminary review, Town staff shall review the application, the plans and exterior design and may make suggestions for revisions to the applicant. Staff shall also make suggestions and recommendations, in the form of a written report, to the Architectural Review Committee regarding approval, conditions of approval or denial of the application for a certificate of appropriateness. Minor work in the nature of routine maintenance and repairs may be approved administratively by the Town staff without submission to the Committee.

(B) Final review.

1. Following preliminary review the application shall be formally reviewed by the Architectural Review Committee.

2. The application and plans submitted to the Architectural Review Committee shall include the items specified in the Design Standards for the Town Center Overlay District adopted by the Board of Trustees in Resolution No. 2014-19.

(Ord. 2015-3 §1, 2016; Ord. 2016-3 §2, 2016)

Sec. 16-8-60. Certificate of appropriateness.

(A) If the Architectural Review Committee approves the application as submitted, a certificate of appropriateness shall be issued within seven (7) business days by the Town Clerk per plans submitted and approved or modified by the Committee.

(B) If the applicant fails to appear at a review meeting or hearing:

1. The item shall be automatically moved to the end of the regular agenda.

2. If the applicant is not present by the end of the meeting, the item will be continued to the following meeting.

3. If after fifteen (15) days the applicant has not requested a continuance or withdrawn the application, the Chairperson will request a motion to delete the item from the agenda. If the motion fails, action must be taken or the item will be deemed approved as submitted.

(Ord. 2015-3 §1, 2016)

Sec. 16-8-70. Findings.

(A) In reviewing all proposed plans, the Committee is required to consider the Town Center Overlay District Design Guidelines and shall be guided by the protection, safety and preservation, as nearly as is practicable, of the historic style, qualities and characteristics of the buildings, structures and architectural features associated with or surrounding the subject development and historic district.

(B) In order to disapprove or deny a project, the Committee shall make findings relating to the project's inconsistency with one (1) or more of the Town Center Overlay District Design Guidelines or the goals and policies set forth for the district or as stated in this Article.

(Ord. 2015-3 §1, 2016)

Sec. 16-8-80. Action, appeals and expiration of approval.

(A) Action by Committee: The Committee is required to take action (approval, conditional approval or denial) on an application no later than thirty (30) days from the date of the meeting at which the application was heard. The application may be continued for a reasonable period of time not to exceed sixty (60) days at the request of the applicant or by action of the Committee. The Committee may continue an application if it is necessary to receive reports from other agencies or departments which pertain to the project.

(B) Expiration of approval: A final approval is valid for one (1) year from the date of final action unless a time extension has been granted or a building permit has been issued.

(C) Time extensions: Time extensions must be requested by the applicant prior to the expiration of the approval. The Committee may only grant a maximum extension of one (1) year on a final approval.

(D) Judicial review. Decisions of the Architectural Review Committee shall be final subject to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(E) Refiling denied project: When an application is denied by the Committee, the same application cannot be refiled for one (1) year unless the application is substantially changed from the original. Any changes must address the original reasons for denial. Upon acceptance by an applicant of changes recommended by the Committee and in the absence of changed facts or circumstances, the Committee may issue a certificate with the conditions of approval noted on the certificate.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-8-90. Plan check and building permit.

(A) Following final approval, the certificate of appropriateness shall note that approval is conditioned upon a plan check and building permit to be secured by the applicant from the Building Official.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-8-100. Fees.

(A) All fees as may be established by the Board of Trustees for processing applications under this Article shall be paid by the applicant upon submittal of the application for a certificate of appropriateness to the Town Clerk. Applicants proposing a demolition may be required to post a bond, the amount of which shall be set by the Committee prior to the issuance of the certificate of appropriateness, in order to ensure restoration of the subject site and the complete removal of debris left by said demolition.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-8-110. Historic structures and sites.

(A) The terms and conditions in this Section shall govern the designation, alteration, relocation or demolition of historic landmark structures and/or sites within the Town Center Overlay District and shall be in addition to the general requirements applicable to the Town Center Overlay District. As used in this Article, historic landmark structures and/or sites means any structure, building or site that has received historic landmark designation under federal, state or local law or regulation.

(B) Nomination of structures or sites for local historic landmark designation. Structures and sites within the Town Center Historic Overlay District may be nominated and designated as local historic landmarks pursuant to those procedures and standards set forth in Park County Resolution No. 99-1, a Resolution Establishing the Park County Architectural Review Advisory Commission and Providing for the Designation of Historic Buildings, Structures, Landscapes, Sites and Districts, such procedures and standards having been incorporated into this Code and adopted by the Town pursuant to that Intergovernmental Agreement Between the Town of Fairplay and the County of Park, Colorado for the Purpose of Designating Structures, Sites and Districts Within the Incorporated Limits of Fairplay as Park County Historic Landmarks, and Ordinance No. 1 (Series of 2000), an Ordinance Approving an Intergovernmental Agreement with Park County Regarding Architectural Review and Incorporating Park County Resolution No. 99-1 into the Town's Zoning Ordinances, adopted February 28, 2000 by the Town of Fairplay. All nominations for the designation of a structure or site as a local historic landmark shall first be approved by the Architectural Review Committee and then forwarded to the Board of Trustees for its review and approval prior to submission to the Park County Historic Preservation Advisory Commission. Written notice of the proposed landmark designation of a structure or site shall be mailed by certified U.S. mail, return receipt requested, to the owner thereof not less than twenty-one (21) days prior to any meeting at which the Committee or Board of Trustees shall nominate and/or recommend approval of such structure or site for landmark status.

(C) Alteration, relocation or demolition of designated landmark structures or sites. No person shall alter the exterior of, relocate or demolish, in whole or in part, a designated historic landmark structure or site without first having obtained a permit to do so from the Park County Architectural Review Advisory Commission in accordance with the rules and regulations contained in Park County Resolution No. 99-1 and such future amendments as duly adopted thereto. All applications to alter the exterior or relocate or demolish a landmark structure or site shall first be reviewed by the Architectural Review Committee utilizing the standards and standards set forth in in this Article and Fairplay Resolution No. 2014-19. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-8-120. Design standards for Town Center Overlay District.

Design standards for the Town Center Overlay District are contained in Fairplay Resolution No. 2014-19. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-8-130. Rules and procedures for design review.

(A) The application and plans submitted to the Architectural Review Committee shall include:

1. A written explanation of work to be accomplished, including architectural style, arrangement, texture and construction material of the existing and proposed improvements and their relation to other nearby structures;
2. The condition of the existing structure, if any, and whether or not it is a hazard to public health or safety;
3. A proposed final site plan;
4. A recent photograph of any existing structure; and

5. A rendering of any proposed structure sufficiently detailed to allow effective review of the proposed work and which specifically describes and depicts:

(a) Any exterior or site changes:

a. Any exterior paint/color which replaces existing or approved colors and any changes thereof;

b. Any door and window changes in existing facades if changes match the existing building;

c. Addition of parking spaces; and

d. Any landscaping to the existing site or minor changes to proposed landscaping of the project;

(b) Other information or material as reasonably required by Town staff following the preliminary review.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-8-140. Violations and penalties.

The erection, movement, demolition, reconstruction, renovation or alteration of any building or structure located in the Town Center Overlay District without obtaining a certificate of appropriateness and otherwise complying with the requirements of this Article is unlawful and is punishable in accordance with Article II of this Chapter, and the Town may in addition to the penalties also prescribed by Section 1-4-20 institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove this violation.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE IX

Planned Unit Development (PUD)

- Sec. 16-9-10 Planned unit development (PUD) designation, purpose and objectives
- Sec. 16-9-20 Zoning classification
- Sec. 16-9-30 PUD plan; conformity with comprehensive plan
- Sec. 16-9-40 Subdivision and zoning regulations applicable; PUD plan
- Sec. 16-9-50 Subdivision provisions modification authorized
- Sec. 16-9-60 Compatibility of land use elements
- Sec. 16-9-70 Overview of PUD procedure; integration with subdivision procedures
- Sec. 16-9-80 PUD approval procedure
- Sec. 16-9-90 Form of PUD approval
- Sec. 16-9-100 Site plan review criteria; general requirements
- Sec. 16-9-110 PUD submittal requirements
- Sec. 16-9-120 Permitted uses
- Sec. 16-9-130 Common open space
- Sec. 16-9-140 PUD and subdivision separate
- Sec. 16-9-150 PUD agreement
- Sec. 16-9-160 PUD plan enforcement; modifications
- Sec. 16-9-170 PUD amendment/modification submittal requirements

Sec. 16-9-10. Planned unit development (PUD) designation, purpose and objectives.

(A) The purpose of planned unit development (PUD) is to encourage innovation and flexibility in the development of land so as to promote variety in the type, design and layout of buildings; improve the integration, character and quality of land uses; promote the more efficient use of land and infrastructure while achieving compatibility of land uses; achieve economy in the delivery and maintenance of public services; and promote the preservation of open space and natural and scenic areas.

(B) PUD zoning or overlay designation may be applied for with regard to any contiguous land (disregarding intervening public streets, easements or other rights-of-way) located within any zone district. The decision to approve an area for PUD zoning or treatment shall at all times rest within the discretion of the Board of Trustees, and an application for PUD designation shall be denied where the particular proposal will not adequately satisfy or implement the purposes of this Article.

(C) This Article has been adopted to implement the authority granted to the Town pursuant to Article 67, Title 24, C.R.S. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-20. Zoning classification.

PUD constitutes a zoning classification and is established by rezoning or overlaying the designation upon land within an existing or newly created zone district. Approval of a PUD shall be illustrated and its land area defined on the Town's Zone District Map. When an area that is already zoned is approved for a PUD

overlay, e.g., "SF-Res PUD," the underlying zone district's regulations shall remain intact and, in the event the PUD is not completed or is terminated, the underlying zone district regulations shall apply to and govern land uses and development in the subject area.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-30. PUD plan; conformity with comprehensive plan.

No land shall be designated PUD in the absence of a PUD plan, which plan shall set forth the written and graphic materials as described in this Article. All PUD plans must be in substantial compliance and consistent with the Town's comprehensive plan.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-40. Subdivision and zoning regulations applicable; PUD plan.

(A) The subdivision regulations and zoning provisions of the Town shall apply to a PUD insofar as they are consistent with these PUD regulations and with any specific zoning or subdivision requirements approved by the Board of Trustees at the time of zoning or platting the PUD in question. To the extent that any zoning or subdivision regulation conflicts with the PUD regulations contained in this Article, or with such specific zoning or subdivision requirements incorporated into a PUD approval by the Board of Trustees, the former shall not be applicable and the provisions of the latter shall control.

(B) The approval of a PUD overlay/zoning shall be inseparable from a PUD plan and a PUD shall not be established or approved without the simultaneous approval of a PUD plan. The approved PUD overlay/zoning and the approved PUD plan shall together establish and govern the land uses and development allowed within the PUD and shall supersede any other underlying zone district regulations.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-50. Subdivision provisions modification authorized.

It is recognized that the uniqueness of each proposal for a PUD requires that the specifications, standards and requirements for various facilities, including but not limited to streets, highways, alleys, utilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, storm drainage, water supply and distribution, and sewage collection and treatment, may be subject to modification from the specifications, standards and requirements established in the subdivision regulations and the zoning ordinances of the Town for like uses in other zone districts. The Board of Trustees may, therefore, either at the time of PUD zoning or upon final platting under the Town's subdivision regulations, waive or modify the subdivision specifications, standards and requirements which would otherwise apply to the proposed development.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-60. Compatibility of land use elements.

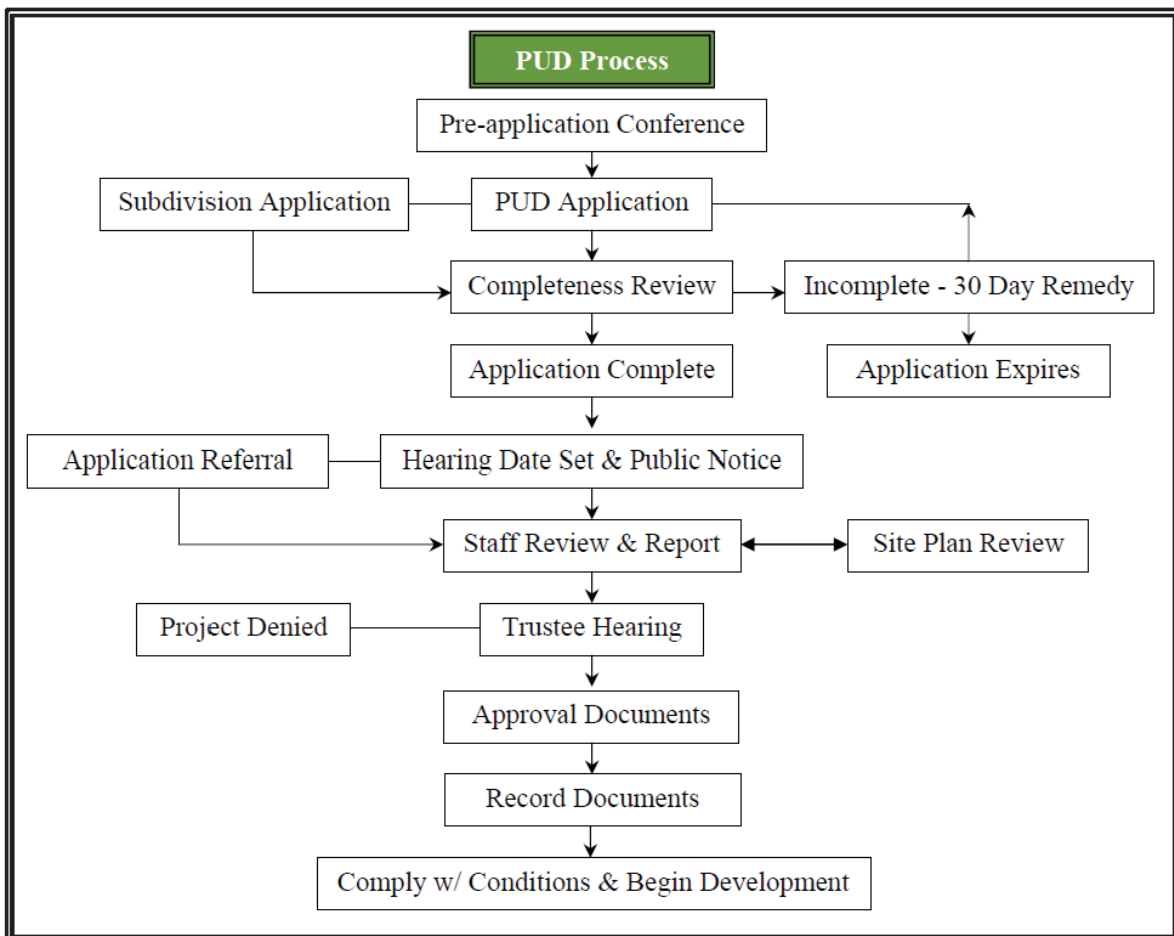
It is recognized that certain individual land uses, regardless of their adherence to all the design elements provided for in this Article, might not exist compatibly with one another. Therefore, a proposed PUD shall be considered from the point of view of the relationship and compatibility of the individual elements of the plan, and no PUD shall be approved which contains incompatible elements.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-70. Overview of PUD procedure; integration with subdivision procedures.

Approval of a PUD shall be subject to the submission of a full and complete application, the payment of all review and approval fees, preliminary review by the staff and final approval by written resolution by the Board of Trustees after a public hearing. All applicants for a PUD intending to subdivide or resubdivide land as part of the PUD plan shall concurrently submit and pursue a subdivision application as provided for in this Code. Review requirements for a PUD incorporating the subdivision or resubdivision of land shall be construed and applied together with subdivision requirements. PUD applications incorporating a minor or major subdivision shall be subject to the subdivision review procedural steps applicable to such subdivisions. Whenever PUD and subdivision application procedures or requirements overlap, the overlapping procedures or requirements shall be applied in a manner to avoid redundancies and process the application in an expeditious fashion.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-80. PUD approval procedure.



(A) A pre-application conference shall be held by the applicant with the Town staff (planning, building and public works) to review the conceptual plan for the PUD and to acquaint the applicant with the PUD application procedures and review criteria.

(B) A completed PUD application conforming to the requirements of this Article may be submitted to the Town Clerk along with the appropriate application fee only after the completion of a pre-application conference as is described in Subsection (A) above. No application shall be accepted, processed or scheduled for review unless and until it is complete and all necessary fees have been paid. The application shall be accompanied by such number of copies as the Town Clerk deems necessary to ensure the proper review of the application by the Town staff and the Board of Trustees. In the event the Town must retain outside professional services to process or evaluate the application, the applicant shall bear the costs for the same, inclusive of planning, land planning, engineering and legal fees.

(C) After a PUD application has been determined to be complete and all fees have been paid, it shall promptly be referred to the Board of Trustees. The Board of Trustees shall consider the PUD application at a noticed public hearing conducted not later than thirty (30) days after the date upon which the Board of Trustees receives the complete application. Written notice of the subject matter and the time and place of the hearing shall be provided in accordance with the notice requirements for a Planned Unit Development contained in Article IV of this Chapter. The hearing may be continued for up to forty (40) days to allow for the gathering and submission of additional information deemed necessary to complete the Board of Trustees' review. At the conclusion of the hearing and after discussion and deliberation, the Board of Trustees shall vote to approve, approve with conditions or deny the application, and shall thereafter direct staff to prepare a written resolution with supporting findings reflecting the Board of Trustees' decision for its review and approval at its next regularly scheduled meeting.

(D) The time limits as set forth in this Section may be waived or extended upon the written request or consent of the applicant.

(E) The burden to demonstrate the application's compliance with all applicable review criteria shall rest with the applicant.

(F) No PUD designation shall be approved absent the applicant's full and timely payment of all fees assessed under this Chapter.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-90. Form of PUD approval.

All decisions of the Board of Trustees approving a PUD shall be in the form of a written resolution and contain, at a minimum, the information set forth below. No building permit may issue and no development activity may commence within the PUD area until the PUD approval and plat have been duly executed and recorded in the office of the County Clerk and Recorder, along with any necessary PUD agreement.

- (A) The density allocated to the property by type and number of units;
- (B) Approved uses on each development parcel or use areas within the PUD site;
- (C) Approved densities in total numbers of units for each development parcel identified;
- (D) Approved density transfers from one (1) parcel to another, if any;

(E) The phasing and general timetable of development that shall ensure the logical and efficient provision of municipal services;

(F) Specific conditions applied to the development of any parcels that, by their nature, are subject to special development constraints;

(G) Variations in any dimensional limitations expressed as either an allowable maximum or a specific maximum; and

(H) Such facts and information illustrating compliance of the PUD with the applicable site plan review criteria set forth in Section 16-9-100 of this Article.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-100. Site plan review criteria; general requirements.

In addition to the common submittal requirements in Article III and Sections 16-3-40 and 16-3-50, a PUD submittal shall meet the following site plan criteria unless the application can demonstrate that one (1) or more of them are not applicable to the proposed plan. Compliance with the criteria shall be illustrated on the proposed PUD plat/plan submitted by the applicant.

(A) The PUD shall have an appropriate relationship to the surrounding area, with adverse effects on the surrounding area being minimized.

(B) The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, separation from living areas, convenience and access. Private internal streets may be permitted, provided that adequate access for police, fire and emergency protection is maintained; streets are named in a logical fashion to avoid confusion; and provisions for using and maintaining the streets are imposed upon the private users and approved by the Board of Trustees. Bicycle traffic shall be provided for if appropriate for the land use.

(C) The PUD shall provide parking areas adequate in terms of location, area, circulation, safety, convenience, separation and screening.

(D) The PUD shall provide common open space adequate in terms of location, area and type of space, and the uses permitted in the PUD. The PUD shall strive for optimum preservation of the natural features of the terrain.

(E) The PUD shall provide for variety in housing types and densities, other facilities and common open space.

(F) The PUD shall provide adequate privacy between dwelling units.

(G) The PUD shall provide pedestrian ways adequate in terms of safety, separation, convenience, access to points of destination, and attractiveness.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-110. PUD submittal requirements.

A planned unit development submittal shall include, at a minimum, the following:

(A) Application form, signed by the owner(s) of the property, in the format provided by the Town Clerk. If the applicant is not the owner of the property, a notarized letter of consent signed by the property owner or owners authorizing the applicant to process the specific land use application on the property owner's behalf shall be delivered with the submittal.

(B) Proof of legal ownership and the names and addresses of the owners of the property and any lienholder(s). This can be in the form of a deed, current title policy (not older than 90 days), or a letter from the owner's attorney affirming ownership of the property.

(C) Statement of the purpose of the application and a description of the proposal.

(D) Vicinity map indicating the location of the property included in the land use application.

(E) Application fee.

(F) Proposed name of the development.

(G) Name, business address, telephone number, seal and license number of the surveyor, engineer, architect or land planner responsible for plan preparation.

(H) A proposed PUD/subdivision plat illustrating the following. In addition to the following requirements, the submitted map(s) and documents shall conform to Drawing and Report Requirements specified in this Article and Section 16-3-40 of this Chapter.

1. North point, scale and date.
2. Legal description.
3. Natural features including, but not limited to, topography at two-foot intervals, drainageways and major foliage.
4. Proposed PUD Zoning Plan formatted to be consistent with the layout of this Chapter and including use areas and the specifications of each use area, including, as applicable:
 - (a) Dwelling unit type, total land area and maximum density of residential use areas.
 - (b) Uses, total land area and maximum floor area ratios of commercial and/or industrial use areas.
 - (c) Maximum land area to be covered by structures.
 - (d) Building heights.
 - (e) Minimum lot areas and setbacks.
 - (f) Types and colors of exterior building materials for each structure or group of structures.
 - (g) Minimum proportion of each site to remain in unobstructed open space including, but not limited to, general location; height, type and color of building materials; and general landscaping treatment, plant materials and other elements.
 - (h) Provisions for off-street parking and loading which shall conform to the minimum requirements of Article X of this Chapter.

5. Tentative location of collector, arterial or limited access streets, and tentative locations of access points to such streets.

6. Tentative location of all lands proposed to be dedicated for public purpose and the proposed use of such lands.

7. Location and outline of existing structures to be retained and the proposed general outline and location of buildings and parking areas.

8. General information on adjacent lands adequate to show relationships between the proposed development and existing and/or proposed development of such adjacent lands, including, but not limited to, land uses, zoning, traffic circulation, public facilities and natural features.

(I) A written statement and exhibits containing, at a minimum, the following information:

1. An explanation of the objectives to be achieved by the PUD.

2. A development schedule indicating the approximate date when construction of the PUD, or stages of the PUD, can be expected to begin and be completed.

3. Copies of any special agreements, covenants or other property owners' agreements or dedications which will govern the use, maintenance and continued protection of the PUD and its common areas.

4. Names and addresses of any property owners of adjacent property including properties across a public street, public right-of-way or alley.

5. Overall density proposed for the land as well as the maximum density to occur in each area.

6. Description of snow removal methods or techniques to be utilized and locations of snow storage areas.

7. Description of the proposed method of providing permanent maintenance of all nonprivate buildings, facilities and areas, and private streets, if any.

8. Description of water and wastewater utilities and impact to the municipal systems; including projected water/wastewater demands, demonstration of adequate and dependable capacity to service the proposed development.

9. Soil, geological and ground water conditions of the site.

10. Traffic capacity of existing and proposed streets and whether these are sufficient to accommodate the PUD.

11. The manner in which storm drainage shall be handled.

12. The limits of the one-hundred-year floodplain for the area.

13. Adequate fire and emergency equipment access.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-120. Permitted uses.

(A) A PUD may provide for and include any land use permitted in any zone district within the Town as long as they are internally harmonious and compatible with surrounding land uses.

(B) The land uses which shall be actually permitted in any PUD shall be limited to those specified in the approved PUD plan.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-130. Common open space.

(A) Every PUD shall provide for common open space to serve and benefit the residents and lands within the PUD. Areas designated as common open space shall largely remain unoccupied and unobstructed by buildings or other structures, provide visual and spatial relief from the mass of buildings or development in the vicinity and may, without limitation, include pocket or passive parks, pools and/or fountains, plazas and areas maintained in their natural and undisturbed state.

(B) A minimum of thirty percent (30%) of the total area within the boundary of any PUD shall be devoted to usable and accessible common open space; provided, however, that the Board of Trustees may reduce such requirement if it finds that such decrease is warranted by the design of, and the amenities and features incorporated into, the PUD plan, and that the needs of the occupants of the PUD for common open space can otherwise be met.

(C) The common open space of a PUD shall be owned and maintained by the property owners within the PUD, or by an organization chosen therefrom or thereby. In the event that any person or organization established to own and maintain the common open space, or any successor, shall at any time after establishment of the PUD fail to maintain the open space in reasonable order and condition in accordance with the PUD plan, the Town Clerk or Building Official may serve written notice thereof by regular mail or hand delivery upon such person or organization, or upon the residents of the PUD, setting forth the manner in which there has been a failure to maintain the open space in reasonable condition. The notice shall reasonably identify all deficiencies and include a demand that all deficiencies be cured within thirty (30) days thereof. In the event that the responsible person or organization wishes to contest the notice, a public hearing shall be scheduled in conformance with Article IV and the public hearing notice shall provide a date and place for a hearing thereon. At such hearing, the Board of Trustees may modify the terms of the original notice as to deficiencies, and may give an extension of time within which they shall be cured. If the deficiencies set forth in a notice are not cured within the thirty (30) days as specified in the notice, or any extension granted, the Town, in order to preserve the taxable values of the properties within the PUD and prevent the open space from becoming a public nuisance, may enter upon the open space and undertake maintenance on the same. The cost of such maintenance shall be the sole responsibility of the property owners within the PUD whose properties are benefited by the open space, and a lien for such cost shall automatically apply against such properties to secure payment, which lien may be certified to the County Treasurer by the Board of Trustees and enforced and foreclosed upon in the same manner as liens for real property taxes. The entry and maintenance work by the Town shall not vest in the public any rights to use the common open space, except when the same is voluntarily dedicated to the public by the owner.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-140. PUD and subdivision separate.

A PUD is a zoning designation and may be approved separate from submission of a PUD subdivision plat for a parcel that remains under single ownership. A PUD may include a concurrent submission of PUD/subdivision application prepared in accordance with the plat requirements contained in the Town's subdivision regulations and no development activity may occur within a PUD that also includes a subdivision prior to the proper execution and recordation of the PUD/subdivision plat in the real property records of Park County.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-150. PUD agreement.

For any PUD in which variances from underlying zoning requirements are granted, or for which public infrastructure or improvements are required, a written PUD agreement setting forth same and including all specific terms and conditions of approval shall be prepared and submitted by the applicant to the Town Clerk for approval by the Board of Trustees by written resolution. The PUD agreement shall be recorded with the County Clerk and Recorder along with the PUD plat/map, and shall run and be a burden upon all lands within the PUD. The agreement shall also specify the amount and type of financial security that must be posted by the PUD developer to ensure the timely and satisfactory installation of all public infrastructure and other improvements, inclusive of landscaping for common or public areas associated with the PUD. Financial security shall be posted prior to the issuance of any building permit or development activity within the PUD area and shall be in an amount not less than one hundred twenty-five percent (125%) of the estimated cost of the completion of all improvements; and may be provided by letter of credit, performance bond, cash escrow or other financial instrument as deemed acceptable by the Town. Upon the complete installation, inspection and acceptance of the improvements and/or infrastructure, all but twenty-five percent (25%) of the posted financial security shall be released, which twenty-five percent (25%) shall continue to remain posted as security to ensure that all improvements and infrastructure shall remain free of defects for a period of two (2) years after preliminary acceptance of same by the Town. The Town shall be entitled to draw on any posted financial security in order to complete, correct or repair any PUD infrastructure or improvement as called for in the PUD approval.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-160. PUD plan enforcement; modifications.

(A) Development of the area within a PUD shall be limited to the uses, densities, configuration and terms, elements and conditions contained within the approved PUD plan and development agreement, and may be enforced by the Town at law or equity. The configuration and mix of the units may be modified as provided for in this Article or in the PUD agreement, but no portion of the density allocation may be transferred to land not included in the PUD plan.

(B) In addition to any and all other remedies as available to the Town under law, the Town Clerk may serve a written notice on the PUD developer, or any landowner within the PUD, to appear before the Board of Trustees when reasonable grounds exist to believe that the PUD plan, or any part thereof, is not being adhered to. The Board of Trustees shall conduct a public hearing in conformance with Article IV to determine the existence of any alleged failure or violation of the PUD approval, and may enter orders directing the correction of same.

(C) All provisions of an approved PUD plan shall run in favor of the residents, occupants and owners of the PUD, but only to the extent expressly provided in the plan and in accordance with the terms of the plan; and to that extent, the provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by such residents, occupants or owners acting individually, jointly or through an organization designated in the plan to act on their behalf.

(D) All provisions of the PUD plan authorized to be enforced by the Town may be modified, removed or released by the Town subject to the following:

1. No modification, removal or release of the provisions of the plan by the Town shall affect the rights of the residents, occupants and owners of the PUD to maintain and enforce those provisions in law or in equity; and

2. No substantial modification, removal or release of the provisions of a PUD plan by the Town shall be permitted except upon a finding by the Board of Trustees, following a public hearing upon notice as required in Article IV, that the modification, removal or release is:

- i. Consistent with the efficient development and preservation of the entire PUD;

- ii. Does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the PUD or the public interest;

- iii. Is not granted solely to confer a special benefit upon any person.

(E) Residents and owners of land in the PUD may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove or release their rights to enforce the provisions of the plan; but no such action shall affect the right of the Town to enforce the provisions of the plan.

(F) An insubstantial amendment to an approved final PUD plan may be authorized by the Town Administrator, or in the absence of a Town Administrator, the Building Official. However, insubstantial amendments may only be approved if they promote the terms, purposes and conditions of the original PUD plan and approval. The following shall not be considered an insubstantial amendment:

1. A change in the use or character of the development.

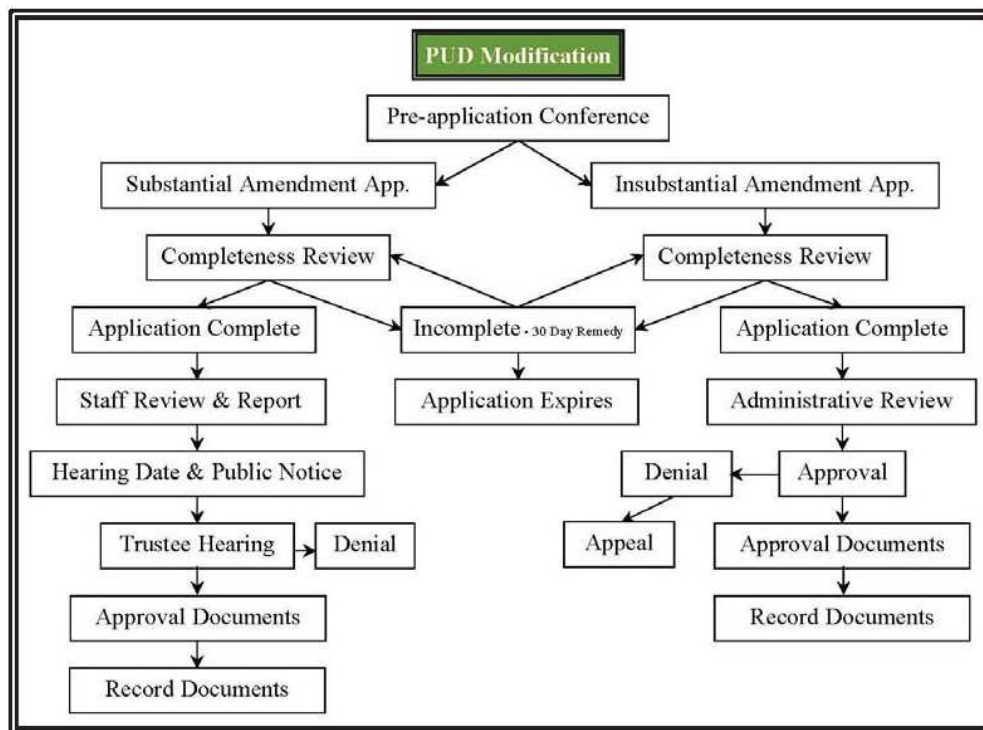
2. An increase or decrease by greater than three percent (3%) in the overall coverage of structures as originally approved within the PUD.

3. Any amendment that substantially increases vehicle trip generation rates arising from the PUD, or the demand for public facilities.

4. A reduction by greater than three percent (3%) of the originally approved common or public open space.

5. A reduction by greater than one percent (1%) of the originally approved off-street parking or loading space.

- 6. A change in the alignment, or reduction in required pavement widths or rights-of-way, for streets or easements.
- 7. An increase or decrease of greater than two percent (2%) in the originally approved gross floor area of commercial buildings.
- 8. An increase or decrease by greater than one percent (1%) in the originally approved residential density of the PUD.
- 9. Any change which is directly contrary to a condition or representation of the PUD's original approval, or which requires granting a further variation from the PUD's approved use or dimensional requirements.



(G) During the review of any proposed significant amendment to the PUD, the Town may require such new conditions of approval as are necessary to ensure that the development will be compatible with current community standards and regulations. This shall include, but not be limited to, applying to the portions of the PUD which have not obtained building permits, or are subject to the proposed amendment, any new community policies or regulations which have been implemented since the PUD was originally approved. An applicant may withdraw a proposed amendment at any time during the review process. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-9-170. PUD amendment/modification submittal requirements.

In addition to the Common Submittal Requirements in Article III Sections 16-3-40 and 16-3-50, a planned unit development amendment or modification submittal shall include, at a minimum, the following:

(A) Application form, signed by the owner(s) of the property, in the format provided by the Town Clerk. If the applicant is not the owner of the property, a notarized letter of consent signed by the property owner or owners authorizing the applicant to process the specific land use application on the property owner's behalf shall be delivered with the submittal.

(B) Proof of legal ownership and the names and addresses of the owners of the property and any lienholder(s). This can be in the form of a deed, current title policy (not older than ninety (90) days), or a letter from the owner's attorney affirming ownership of the property.

(C) Statement of the purpose of the application and a description of the proposal.

(D) Proposed name of the development.

(E) Name, business address, telephone number, seal and license number of the surveyor, engineer, architect or land planner responsible for plan preparation.

(F) A proposed PUD/subdivision plat illustrating the following. In addition to the following requirements, the submitted map(s) and documents shall conform to Drawing and Report Requirements specified in this Article and Sections 16-3-40 and 16-3-50 of this Chapter.

1. North point, scale and date.

2. Legal description.

3. Natural features including, but not limited to, topography at two-foot (2') intervals, drainageways and major foliage.

4. Proposed PUD Zoning Plan formatted to be consistent with the layout of this Chapter and including use areas and the specifications of each use area, including, as applicable:

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE X**Off-Street Parking**

- Sec. 16-10-10 General parking requirements
- Sec. 16-10-20 Off-street parking spaces required
- Sec. 16-10-30 Combination of uses and shared parking facilities
- Sec. 16-10-40 Deferral of parking requirements
- Sec. 16-10-50 Modification of requirements
- Sec. 16-10-60 Parking requirements for uses not listed
- Sec. 16-10-70 Loading—Schools
- Sec. 16-10-80 Loading—Other
- Sec. 16-10-90 Maintenance required
- Sec. 16-10-100 Location of parking
- Sec. 16-10-110 Storage use prohibited
- Sec. 16-10-120 Parking plan
- Sec. 16-10-130 Design requirements
- Sec. 16-10-140 Parking stall dimensions and layout
- Sec. 16-10-150 Completion of improvements
- Sec. 16-10-160 Appeals

Sec. 16-10-10. General parking requirements.

(A) At the time of the erection of a new structure or at the time of enlargement or change in use of an existing structure within the Town, off-street parking spaces shall be provided as specified in this Chapter and in the sections designated for each use.

(B) No parking shall be eliminated for an existing use if it reduces the required number of parking spaces below the minimum requirements of this Chapter.

(C) Where square feet are specified, the measured area shall be the total inhabitable horizontal floor area of all floors in a building exclusive of garage, storage and utility areas, except for warehouses or other commercial storage areas in which case, the floor area shall be determined by the measurements of the perimeter of the outside of the building wall on each level.

(D) All uses other than single family residential dwellings and two-family dwellings shall be required to submit a site and grading plan prepared by a qualified Colorado licensed professional engineer. The site plan shall be submitted with the application for any building permit and shall indicate the location and dimensions of off-street parking spaces as well as the number of parking spaces for off-street parking and loading areas and the finished surface material of the parking areas.

(E) Required parking spaces shall be constructed as required by these Regulations and made available for use before completion of a final inspection for a building permit or a special use. The inspection of the required parking spaces shall be conducted by the Town Engineer or the Town Building Official as directed by the Town Administrator.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-20. Off-street parking spaces required.

Unless specifically exempted or variations are permitted in accordance with these Regulations, all land uses in the Town of Fairplay shall include, at a minimum, the number of vehicle off-street parking spaces specified in the following subsections of these Regulations.

Type of Land Use	Minimum Number of Vehicle Off-Street Parking Spaces Required
A. Residential	
Single-family detached dwellings	2 spaces per dwelling unit.
One (1) bedroom multiple-unit dwellings	1.5 spaces per dwelling unit.
Two (2) bedroom multiple-unit dwellings	1.75 spaces per dwelling unit.
Three (3) or more bedroom multiple-unit dwellings	2 spaces per dwelling unit.
Group homes or other group living facilities not otherwise listed	1 space per 4 beds.
B. Commercial and Industrial	
Retail business and commercial uses	1 space for every 400 square feet of gross floor area with a minimum of 2 spaces per building.
Wholesale commercial uses and warehouses	1 space for every 1,000 square feet of gross floor area or 1 ½ spaces per employee whichever results in more parking spaces.
Industrial uses and facilities	1 space for every 1,000 square feet of gross floor area or 1-1/10 spaces per employee whichever results in more parking spaces.
Manufacturing	1 space for every 1,000 square feet of gross floor area or 1-1/10 spaces per employee whichever results in more parking spaces.
Medical and dental offices	1 space for every 400 square feet of gross floor area with a minimum of 2 spaces per building.
Automotive sales and service	1 space per 10% of vehicle outside display area plus 1 space per 450 square feet of gross floor area.
Vehicle service	4 spaces per service bay plus appropriate stacking area.
Banks, savings and loans and finance companies	1 space for every 200 square feet of gross floor area.
Business and professional offices	1 space for every 400 square feet of gross floor area with a minimum of 2 spaces per building.
Convenience store	1 space per 150 square feet of gross floor area.
Indoor restaurants, eating and drinking establishments	1 space for every 150 square feet of gross floor area or 1 space per 3 seats whichever results in more parking spaces.
Drive-in or fast food restaurants	1 space for every 100 square feet of gross floor area, plus 3 stacking spaces for drive-thru window.
Drive-in restaurants without any indoor seating	1 space per employee on maximum shift, plus 3 stacking spaces for drive-thru window.
Veterinary hospitals and clinics	1 space for every 300 square feet of gross floor area.
Medical laboratories	1 space for every 400 square feet of gross floor area.
Shopping center	1 space per 250 square feet of gross floor area.
C. Commercial Amusement	
Bowling alley	2 spaces per lane, plus 1 additional space for each 2 employees.
Indoor Recreation Facility including auditoriums, dance halls, skating rinks and similar facilities	1 space per 4 seats or occupants or 1 space for every 200 square feet of gross floor area whichever is greater.
Athletic fields including baseball diamonds	20 spaces per field or 1 space per 4 seats whichever is greater. Bench capacity is calculated as 1 seat per 20 inches.
Golf course	4 spaces per hole, plus 1 space per employee.
Miniature golf facility	2 spaces per hole.
Membership clubs or lodges	1 space per 200 square feet of gross floor area.
D. Commercial Residential	
Dwellings in the same building as a business	1.5 spaces per dwelling unit in addition to the spaces required for the business use.
Hotels, motels, rooming houses, boardinghouses, and tourist homes	1 space per lodging unit.

Type of Land Use	Minimum Number of Vehicle Off-Street Parking Spaces Required
Bed and Breakfast	1 space per guest room plus 2 spaces for owner's portion.
E. Educational Facilities	
Pre-school nurseries or childcare centers	1 space per 6 students/attendees, plus 1 space per teacher.
Kindergarten, elementary and intermediate schools	1 space per employee, plus 1.5 spaces per classroom and 0.75 bicycle spaces per classroom.
High schools, vocational or colleges and universities	1 space for each employee, plus 1 space for every 5 students plus 1 bicycle space per 10 students and employees.
F. Institutions	
Hospitals	1 space per 2 beds plus 1 space per employee (maximum shift).
Nursing homes, assisted living facilities, small and large group living facilities	1 space per 5 beds plus 1 space per employee (maximum shift).
G. Places of Public Assembly	
Religious Assembly	1 space for every 3 seats in the principal place of assembly. Bench capacity is calculated as 1 space per 20".
Theaters, auditoriums or stadiums; meeting rooms	1 space for every 3 seats in the principal place of assembly or 1 space per 1,000 square feet of gross floor area whichever is greater. Bench capacity is calculated as 1 space per 20".
Community Center	1 space per 250 square feet of gross floor area or 1 space for every 3 seats in auditoriums or other places of assembly whichever results in more parking spaces and one bicycle space per 20 parking spaces. Bench capacity is calculated as 1 space per 20".
Library, reading room or museums	1 space per 500 square feet of gross floor area, plus 1 space per 2 employees and one bicycle space per 10 parking spaces.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-30. Combination of uses and shared parking facilities.

(A) Determining the Required Number of Parking Spaces for Multiple Uses. When one (1) building or land use is planned to include a combination of different uses, including accessory uses, the minimum parking requirement will be determined by applying the above requirements and standards to each use and structure, resulting in a total parking requirement for the property. The minimum number of parking spaces required shall be the sum of the requirements for each separate use.

(B) Shared Parking Facilities. An off-street parking space in a business or industrial district may be used jointly for more than one use, provided its occupancy ordinarily would not be used during the same hours, and that a copy of a recorded agreement by owners involved in such joint use is presented to the Town Clerk and further subject to the following provisions.

(C) Off-street parking requirements of a given use may be met by off-site off-street parking available on the property of another only if:

- a. The off-site, off-street parking spaces are within three hundred (300) feet of the property except that the distance is one thousand (1,000) feet for employee parking;
- b. Based on information supplied by the applicant, the Town Clerk, or other sources, the aggregate parking demands at the highest use time is less than the total parking spaces required; and
- c. A written lease, license or easement approved by the Town Attorney between the owner of the project and the owner of the off-site parking property is executed and recorded and contains the following terms: a term of at least twenty (20) years; owner of the off-site property shall notify the Town

Clerk if the lease is terminated prior to the term; the lease, license or easement is enforceable by the project owner. Should the lease, license or easement expire or otherwise terminate, the use for which the off-site parking was provided shall terminate and no owner shall maintain such use without a substitute parking lease, license or easement, approved by the Town Attorney. Continuation or expansion of the use shall be prohibited until the use is brought into compliance with the parking regulations in this Article. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-40. Deferral of parking requirements.

(A) The Board of Trustees may authorize the deferral of construction of not more than fifty percent (50%) of the required off-street parking spaces and may set such conditions as necessary to guarantee provision of such deferred parking spaces at such time as the Board of Trustees determines such additional parking spaces are needed.

(B) The land area required for provision of deferred parking spaces shall be maintained and reserved and shall be landscaped pursuant to a plan approved by the Board of Trustees, which shall demonstrate that the deferred spaces, when improved, will meet all requirements of this Chapter.

(C) The Board of Trustees may consider deferral of parking requirements where the need for off-street parking is lessened due to unusual characteristics of use, and reliable data is available to establish that there is not a present need for additional parking.

(D) The Board of Trustees may defer, in extraordinary cases, the requirement that all off-street parking spaces be paved. Such a deferral shall be for a period of not more than one (1) year, and shall be in accordance with such terms and conditions as the Board may from time to time determine. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-50. Modification of requirements.

(A) The Board of Trustees may approve a parking reduction of up to seventy percent (70%) for government sponsored elderly housing projects.

(B) The requirements for off-site parking specified in Section 16-10-20 of these Regulations may be reduced by the Board of Trustees for uses in the Town Center Zone District in accordance with the following criteria:

1. There are no additional required on-site parking requirements associated with an existing structure or land use in conformance with zoning regulations provided adequate permanent parking is available to the public within three hundred (300) feet of the building or land use;
2. On-site parking requirements associated with the replacement of an existing structure may be partially or wholly reduced by the Board of Trustees provided the new structure does not contain more floor area than the structure being replaced and provided adequate permanent parking is available to the public within three hundred (300) feet of the building or land use;

3. Additions to existing structures and new construction will necessitate the requirement to provide parking in accordance with Section 16-10-20 based on the floor area and uses in the building addition or new construction. The on-site parking requirements may be reduced by the Board of Trustees provided adequate permanent parking is available to the public within three hundred (300) feet of the building or land use; and

4. Permanent parking, available to the public, within three hundred (300) feet of the building or land use may be used to satisfy in part or entirely the parking requirements in the Town Center Zone District if allowed by the Board of Trustees. The applicant shall be required to submit parking information and parking survey data which demonstrates, to the satisfaction of the Board of Trustees, that adequate off-site parking is available for public use.

(C) The Board of Trustees may increase or decrease the required number of off-street parking spaces in consideration of the following factors:

1. Expected number of cars owned by occupants of dwellings;
2. Parking needs of any non-dwelling uses; and
3. Varying time period of use.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-60. Parking requirements for uses not listed.

For specific uses not listed in Article V, the Board of Trustees shall determine the appropriate number of parking spaces required based upon the type of activity, intensity, number of employees and similarity to listed uses.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-70. Loading—schools.

A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five (25) students.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-80. Loading—other.

(A) A minimum loading area of three hundred (300) square feet shall be provided for all commercial or industrial uses that have a building area in excess of two thousand (2,000) square feet, with the exception of office and similar uses.

(B) Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use.

(C) No loading area for an existing use shall be eliminated unless the required loading area is re-established.

(D) Off-street parking areas used to fulfill the requirements of this Chapter shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-90. Maintenance required.

(A) The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner.

(B) No building permit or other permit shall be issued until plans are presented that show the location of parking spaces as well as property that is and will remain available for exclusive use as off-street parking and loading space.

(C) The subsequent use of property for which a building permit and certificate of occupancy is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Chapter.

(D) Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this Chapter to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-100. Location of parking.

Except for approved shared parking allowed pursuant to Section 16-10-30, off-street parking spaces for residential uses shall be located on the same lot as the principal use or structure. Parking spaces in residential zone districts shall not be located in the front yard setback area except for parking for single family and two-family dwellings. Required spaces shall be located not further than three hundred (300) feet from the buildings or use they are intended to serve, measured by means of pedestrian access from the building or use to the parking area. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-110. Storage use prohibited.

Required parking spaces shall be available for the parking of operable passenger automobiles, trucks, or motorcycles of residents, customers, patrons and employees, and shall not be used for the storage of vehicles or materials or the parking of trucks used in conducting the business or use. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-120. Parking plan.

(A) Prior to the issuance of a building permit for all uses, except single-family and duplex residences, a parking plan must be submitted which shows the following parking lot or area information:

1. Delineation of individual parking and loading spaces;
2. Circulation area necessary to serve spaces;

3. Access to streets and property to be served;
4. Curb cuts;
5. Dimensions, continuity, and substance of screening;
6. Grading, drainage, surfacing and subgrade details;
7. Delineation of obstacles to parking and circulation in finished parking area;
8. Specifications as to signs and bumper guards;
9. Location and specifications of shielded lighting for parking areas to be used at night;
10. Location and specifications (e.g., plants and materials) for landscaping of the parking area;
11. Irrigation plan for the landscaped areas; and
12. Other pertinent data.

(B) The Town Planner shall make the initial determination of whether or not the plans and specifications comply with the provisions of this Chapter. Appeals from the Town Planner's decision may be taken by any aggrieved party to the Board of Trustees within fourteen (14) days after such decision.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-130. Design requirements.

(A) Parking and loading areas shall be designed in accordance with the following requirements and the requirements of the Town of Fairplay Public Works Manual:

1. Surfaces. All off-street parking spaces and maneuvering areas shall be surfaced with asphalt or concrete material.
2. Maneuvering space. All parking areas servicing a use requiring three (3) or more parking spaces shall be designed and traffic controlled so that access to and from a public street shall require vehicular traffic to be traveling in a forward direction when entering or exiting from the parking area. The off-street parking shall be designed so that the parking lot is separated from the street by a physical barrier, which will be adequate to prevent a driver from backing from the off-street parking space directly into the street or across a sidewalk.
3. Access requirements and service drives.
 - a. Service drives to off-street parking shall be designed and constructed to facilitate the flow of traffic, and to provide maximum safety of traffic access and egress and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic that is anticipated.

b. Service drives shall not be more than twenty-four (24) feet in width and shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives.

c. Service drives on the same lot frontage shall be separated by a minimum length of curb of thirty (30) feet. For every one (1) foot by which the lot frontage exceeds one hundred (100) feet, the minimum required length of curb separation shall be increased by one (1) foot for every five (5) feet of property length beyond one hundred (100) feet, up to a maximum requirement of two hundred (200) feet. In the case of a corner lot, service drives shall not be located closer than fifty (50) feet to the intersecting curb and gutter flow lines.

d. The access to a service drive from a street shall be located not closer than fifteen (15) feet to a side lot line, except that a common service drive to two (2) adjacent properties with a width not exceeding twenty-four (24) feet may be provided at the common lot line.

e. Access onto any State highway will require an access permit from the Colorado Department of Transportation.

f. Corner Vision Clearance Area. Service drives on corner lots shall have a minimum vision clearance area formed by the intersection of the driveway centerline and the street right-of-way line, and a straight line joining said lines through points thirty (30) feet from their intersection. No vehicles or obstacles over forty-two (42) inches in height from the curb elevation may be placed within this area.

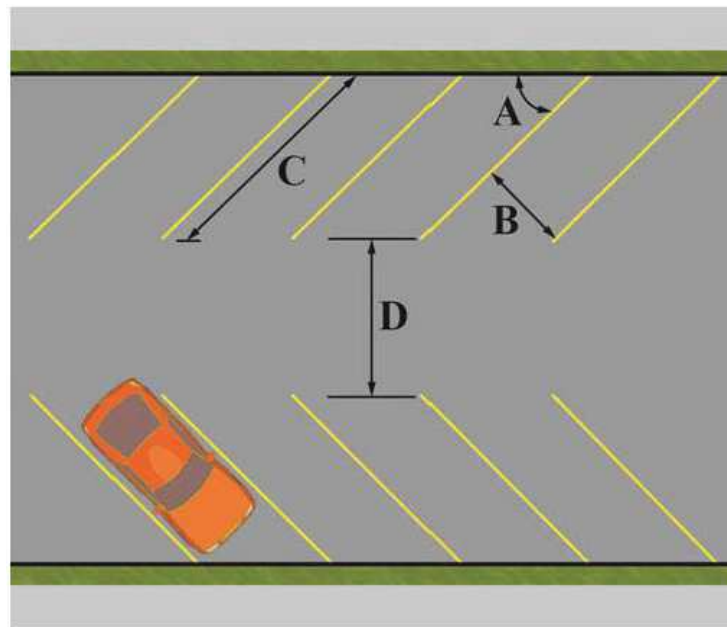
4. Parking space minimum dimensions. The minimum parking lot spacing requirements are listed in the table below.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-140. Parking stall dimensions and layout.

Minimum Parking Stall Dimensions				
	A Parking Angle	B Stall Width (in feet)	C Stall Length (in feet)	D Aisle Width (in feet)
Parallel Parking	0°	22.0	9.0	12.0
		22.0	9.5	12.0
		22.0	10.0	12.0
Diagonal Parking	30°	9.0	18.0	11.0
		9.5	18.0	11.0
		10.0	20.0	11.0
		8.5	21.0	13.0
	45°	9.0	21.0	12.0
		9.5	21.0	11.0
		8.5	21.1	18.0
	60°	9.0	21.0	16.0
		9.5	21.0	15.0
		8.5	19.5	25.0
	75°	9.0	19.5	23.0
		9.5	19.5	22.0

Minimum Parking Stall Dimensions				
Perpendicular Parking	90°	8.5	18.5	24.0



(A) Where larger vehicles may be frequent users of the parking facilities, it is appropriate to increase the parking stall dimensions according to the dimensions and turning characteristics of the vehicle.

(B) Parking aisles shall be designed to accommodate the turning characteristics of the vehicles that will most commonly use the parking facilities. Dead-end parking aisles are prohibited without provision of an adequate turn around. Aisles should not exceed three hundred (300) feet to three hundred fifty (350) feet in length without a break in circulation.

(C) A maximum of twenty percent (20%) of a parking lot containing five (5) or more spaces may be used for compact cars.

(D) All area to be considered as off-street parking shall be unobstructed and free of other uses.

(E) Unobstructed access to and from a street shall be provided for all off-street parking spaces.

(F) Handicap parking requirements: A portion of the required off-street parking spaces shall be specifically designated, located and reserved for use by persons with physical disabilities in accordance with the requirements specified in the Americans with Disabilities Act (ADA).

(G) Required handicapped parking spaces are as follows unless otherwise required by the Americans with Disabilities Act (ADA):

Total Spaces In Parking Lot	Required Handicap Accessible Spaces
1—25	1
26—50	2
51—75	3
76—100	4
101—150	5

1. The maximum grades in the areas designated for handicap parking shall be two percent (2.0%) or less.
2. One (1) in every eight (8) handicapped accessible spaces, but not less than one (1), shall be served by an access aisle ninety-six inches (96") in width. The minimum aisle width on all other handicapped parking spaces shall be sixty inches (60").
3. If a curb ramp is located where pedestrians must walk across the ramp, or where it is not protected by handrails or guardrails, it shall have flared sides: the maximum slope of the flare shall be a one to ten ratio (1:10). Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp.
4. All construction shall be required to meet the standards specified in the Town of Fairplay Public Works Manual.

(H) Parking Lot Landscaping shall conform to the requirements of Article XI.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-150. Completion of improvements.

Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the Building Inspector or the Town Engineer. An extension of time may be granted by the Building Inspector or the Town Engineer, provided a performance bond, or its equivalent, is posted equaling one and one-half (1½) times the cost to complete the improvements as estimated by the Building Inspector or the Town Engineer, and provided the parking space is not required for immediate use. In the event the improvements are not completed within one (1) year, the bond or its equivalent shall be forfeited and the improvements constructed under the direction of the Town.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-10-160. Appeals.

An applicant may appeal an administrative decision regarding the application of parking regulations by the Town Administrator or Town Planner to the Board of Trustees by filing a written notice of appeal with the Town Clerk not more than ten (10) days from the date of the staff's written decision. Such written notice shall specify in plain language the grounds for the appeal and shall be accompanied by any required filing fee and a copy of the Town Administrator's decision being appealed. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule the matter for a hearing before the Board of Trustees to be conducted not

more than thirty (30) days from the date the notice of appeal was received. Notice of the public hearing shall conform to the requirements of Article IV of this Chapter. Absent good and just cause, the failure of an appellant to attend the hearing on his or her appeal shall constitute an abandonment of the appeal and no further proceedings shall be had thereon.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XI

Landscaping

- Sec. 16-11-10 Applicability
- Sec. 16-11-20 Landscape design
- Sec. 16-11-30 Business/commercial and industrial development landscaping standards
- Sec. 16-11-40 State Highway 285 Corridor landscaping standards
- Sec. 16-11-50 Town Center landscaping standards
- Sec. 16-11-60 Parking lot landscaping standards
- Sec. 16-11-70 Storm drainage facilities
- Sec. 16-11-80 Fences, walls and screening devices
- Sec. 16-11-90 Submittal standards for landscape plans
- Sec. 16-11-100 Prohibited plant materials list
- Sec. 16-11-110 Recommended plant materials list

Sec. 16-11-10. Applicability.

The landscape standards set forth in this Article of the Fairplay Municipal Code shall apply to all new subdivisions, planned unit developments, special uses and site plans for which an application is filed with the Town on or after, the effective date of this Chapter.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-11-20. Landscape design.

(A) Intent. These standards are enacted to preserve Town of Fairplay's special character, and integrate and enhance new development by promoting quality landscape design that:

1. Reinforces the identity of the community and each neighborhood;
2. Provides tree-lined streets in urban areas;
3. Anchors new buildings in the landscape;
4. Provides tree canopies within paved areas; and
5. Is environmentally sensitive by preserving existing trees, using water conservation techniques, planting native species (when appropriate), and enhances valuable habitat.

(B) 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. Environmental considerations.

2. Landscapes shall use the following xeric design principles to facilitate water conservation:
 - a. Well-planned planting schemes;
 - b. Appropriate turf selection to minimize the use of bluegrass;
 - c. Use of mulch to maintain soil moisture and reduce evaporation;
 - d. Zoning of plant materials according to their microclimatic needs and water requirements;
 - e. Improve the soil with organic matter if needed;
 - f. Efficient irrigation systems; and
 - g. Proper maintenance and irrigation schedules.

(C) 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.

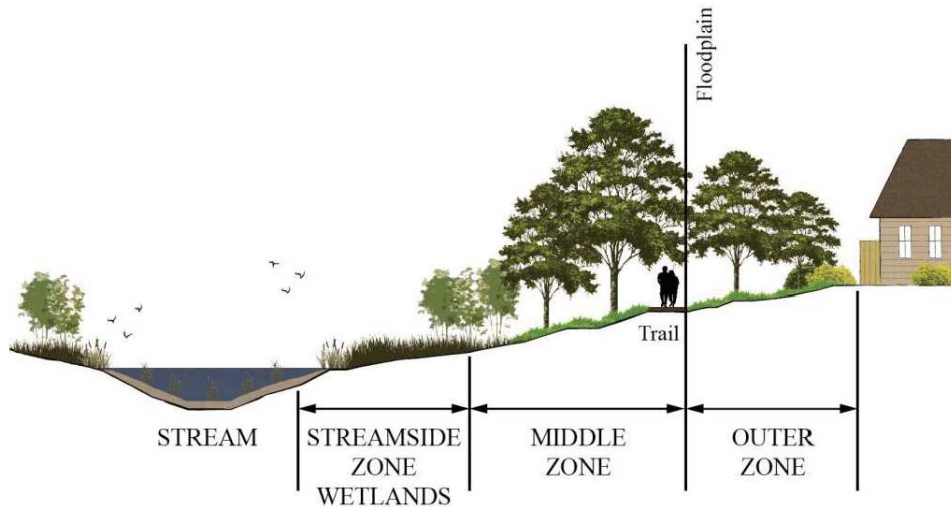
(D) Landscapes shall consist of a variety of species to enhance biodiversity. No one species may make up more than twenty-five percent (25%) of the total non-grass plant materials on the site.

(E) Buildings and parking areas shall be located to preserve and promote the health of existing trees, environmental resources and natural drainage ways. No healthy tree shall be removed without good cause. This requirement is not intended to prevent the removal of unhealthy trees in conjunction with site development

(F) Trees shall be located to provide summer shade and limit winter shade on walks and streets.

(G) All areas disturbed by construction shall be reseeded to prevent erosion. Native, noninvasive grasses shall be used for revegetation where practical. Weed control is the responsibility of the landowner on all reseeded areas and all preservation areas.

(H) A combination of plantings, berms, walls and fences shall be used as appropriate to buffer sensitive habitat.



(I) Use buffers to protect the physical integrity of riparian ecosystems. Try to preserve vegetation and trees in streamside zone and middle zone. Encourage grass and landscaping in outer zone to filter runoff from backyards, parking areas, roads, etc.

1. New buildings and paved areas.

a. Anchor structures in the landscape through the use of trees, shrubs and groundcover. 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.



A combination of berming, planting and wall to integrate land uses.

(J) Use landscaping to provide a transition from developed, managed landscape to more natural vegetation.

(K) Provide a tree canopy by installing shade trees within and adjacent to paved areas.

1. Plant Materials.

a. The minimum planting sizes on all required landscaping shall be two (2) inch caliper deciduous trees, one and one-half (1½) inch caliper ornamental trees, six (6) foot tall evergreen trees and five (5) gallon shrubs.

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

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

2. Irrigation.

a. 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.

b. Use of non-treated water for irrigation is encouraged if a permanent, suitable supply is available.

c. Required landscaping in urban developments shall be irrigated with a permanent irrigation system.

d. Temporary irrigation may be used to establish native grasses and vegetation.

3. Guarantee of installation.

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

4. Maintenance.

a. In order to provide for the ongoing health and appearance of landscape improvements, all landscaping shall be maintained and replaced by the landowner/occupant as necessary. All property owners/occupants shall be responsible for maintenance of landscaping within the portion of the public right-of-way between the back of the curb or street pavement and the adjacent property.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-11-30. Business/commercial and industrial development landscaping standards.

(A) Landscape improvements shall be designed to enhance the overall appearance of the development and integrate the project with adjacent land uses and into the surrounding neighborhood. All improvements shall consider the people who will use the site, travel through or by the site and adjacent land uses. A minimum of twenty-five percent (25%) of the site (gross) shall be landscaped area, street rights-of-way, building footprints, or hard surfaced or landscaped areas of parking lots and driveways.

1. The applicant shall provide:

a. Site trees—Plant a minimum of one (1) tree per one thousand (1,000) square feet of landscaped area, distributed on the site.

b. Shrubs—Plant a minimum of one (1) shrub per one hundred fifty (150) square feet of landscaped area. Group shrubs and distribute throughout the site. Trees may be substituted for up to one-half (½) of the required shrubs at the rate of one (1) tree for ten (10) shrubs.

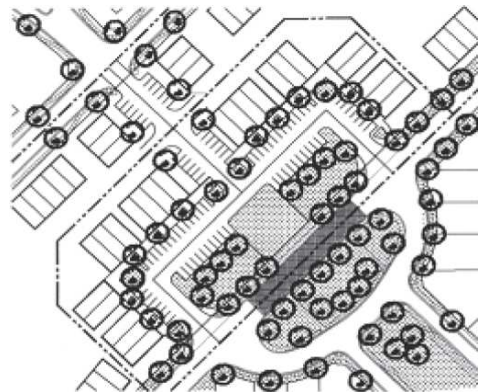
c. Groundcover—Establish irrigated grass turf maintained to appropriate standards for active recreation in areas that will function for active recreation. Where appropriate, use native grass for areas that will not function as active recreation areas. Native grass must be weed free and maintained at a maximum height of eight (8) inches. There shall be a minimum of seventy-five (75) percent live materials between the building and the street.

d. Landscape setback to parking lots—Thirty (30) feet from arterials or twenty-five (25) feet from other streets. The purpose of the setback is to provide a buffer between street parking areas. This setback may be reduced to fifteen (15) feet if used in combination with a three to four (3-4) foot masonry or stone decorative wall. Signage may be included in this setback.

e. 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 not acceptable screening materials.

f. Compatibility—Integrate activities on the subject property with adjacent land uses by utilizing a combination of landscaping, building orientation and appropriate architectural elements.

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



Create pedestrian-friendly commercial areas by:

1. Providing open areas for gathering places
2. Creating a tree canopy between on-street parking and store fronts to provide a separation between cars and sidewalks

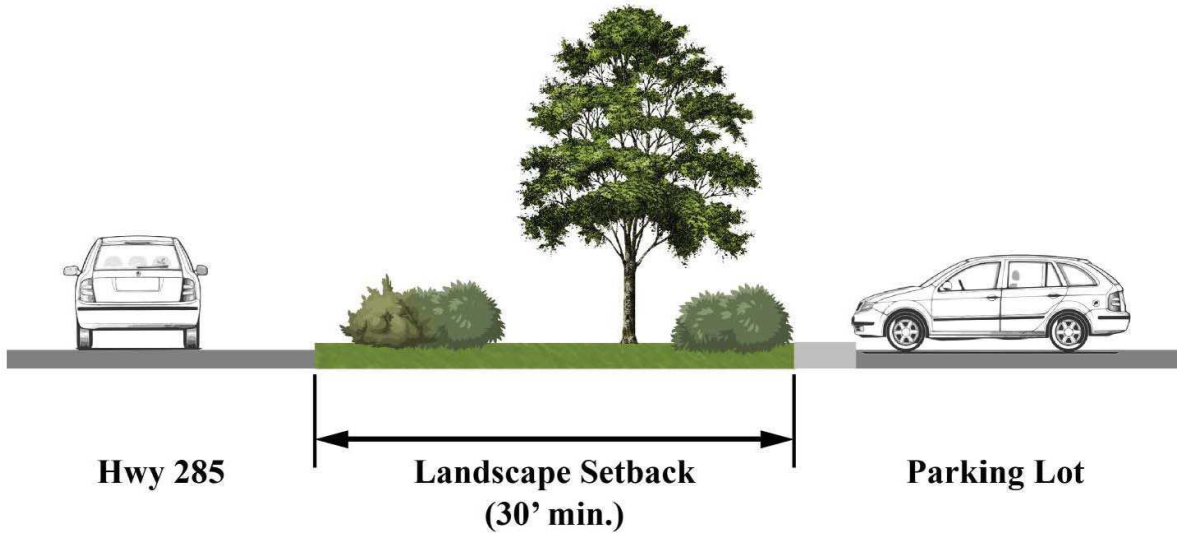
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-11-40. State highway 285 corridor landscaping standards.

(A) The applicant shall provide:

1. Landscape setback to parking lots—Provide a minimum thirty (30) foot landscape setback from the highway. The purpose of the setback is to provide a buffer between the street and parking areas. Signage may be included in this setback.

2. Shrubs—A minimum of one (1) shrub per one hundred fifty (150) square feet of landscaped setback. Group shrubs and distribute throughout the landscape setback. Trees may be substituted for up to one-half (½) of the required shrubs at the rate of one (1) tree for ten (10) shrubs.



(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-11-50. Town Center landscaping standards.

(A) Town Center landscaping is intended to provide an attractive environment for people to walk and shop. The developer or assigns shall provide:

1. Streetscape—A combination of window boxes, planters, trees, benches, etc., as appropriate to enhance building entries and the streetscape.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-11-60. Parking lot landscaping standards.

(A) 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.

1. Applicability—All parking lots with ten (10) spaces or more shall be subject to these requirements.

2. The developer or assigns shall provide:

a. Site trees—A minimum of one (1) tree per five (5) parking spaces. Group trees together in islands, which are a minimum of ten (10) 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 one (1) shrub per one hundred fifty (150) square feet of landscaped area. Group plantings in landscape islands.

c. Groundcover—Limit areas of irrigated turf. Grass is discouraged in areas less than ten (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—Thirty (30) feet from arterials or twenty-five (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 fifteen (15) feet if used in combination with a three to four (3—4) 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.



(Ord. 2015-3, §1, 1-4-2016)

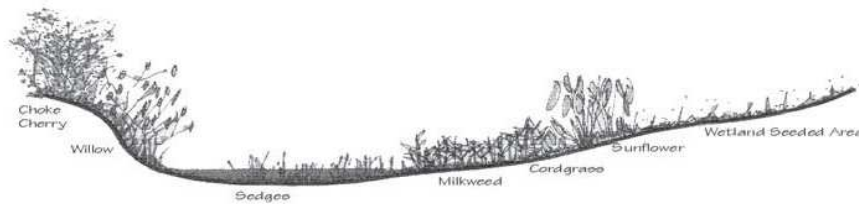
Sec. 16-11-70. Storm drainage facilities.

(A) Intent. To promote innovative and effective land and water management techniques that protect and enhance water quality.

(B) General provisions.

1. Landscaping associated with storm drainage facilities shall be integrated into the overall design of the project.

2. It shall enhance the overall appearance of the project, prevent erosion and improve water quality of storm water runoff whenever possible.
3. Storm drainage facilities may function as open space for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately and approved by the Board of Trustees.
4. The use of planting strips and shallow landscaped depressions in parking lots and along roads is encouraged to help trap and remove pollutants from storm water runoff.



(C) Develop storm drainage systems as landscape amenities, which can enhance the overall project.

(D) Applicability. All storm drainage facilities shall be appropriately landscaped.

1. Minimum requirements.

a. All facilities shall be seeded to grass appropriate to the function of the area. Areas to be used for active recreation shall be seeded to a turf-type grass and irrigated with a permanent irrigation system. Areas to be maintained for habitat enhancement shall be seeded to native grasses and wildflowers. Developer is responsible for establishment of a complete, weed free stand of grass. Trail corridors may be seeded to native grasses if appropriately integrated with adjacent improvements.

b. Maximum side slope on drainage facilities shall be 4:1, minimum slope of the bottom of a drainage facility shall be one-half (½) percent.

c. Landscape improvements shall be designed to enhance the function of the facility. Areas designed for recreation shall include clusters of trees to provide shade, located so they do not impair the function of the facility.

d. Habitat and water quality enhancement including wetland plantings in low wet areas is encouraged.

(E) Ownership and maintenance.

1. All drainage facilities shall be owned and maintained by the landowner or occupant unless otherwise approved by the Town of Fairplay.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-11-80. Fences, walls and screening devices.

(A) Maximum permitted height of fences, walls or screening devices in each zone district

Maximum Fence Height		
Zone District	SF-Res., MF-Res., T, TC & MU	C, LI, CC & POST
Front Yard (max. height)	42"	6'
Side Yard (max. height)	6'	6'
Rear Yard (max. height)	6'	6'

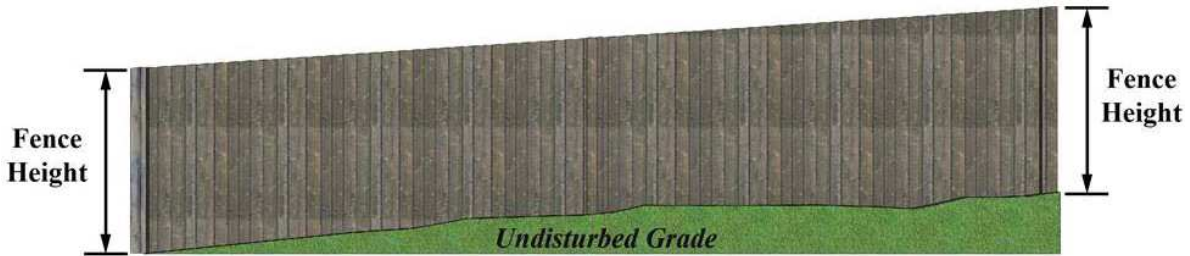
(B) Where the height of a front yard fence, wall or screening device is less than the height of a side yard fence, wall or screening device, the height of the side yard fence, wall or screening device shall be reduced to match the height of the front yard fence, wall or screening device at the front setback line.



(C) When a fence, wall or screening device is located adjacent to a public sidewalk, the fence, wall or screening device shall be setback a minimum of one (1) foot from the back of the sidewalk.

(D) Fences, walls or screening devices shall not adversely affect traffic safety or appropriate use of adjacent property.

(E) The height of a fence, wall or screening device shall be measured as the vertical distance from undisturbed grade (at the base of the fence, wall or screening device) to the top of the fence, wall or screening device.



(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-11-90. Submittal standards for landscape plans.

(A) All land development applications will be accompanied by the appropriate landscape plan:

Type of Application	Conceptual Landscape Plan	Final Landscape Plan
Preliminary Plat	■	
Final Plat/PUD		■
Special Use		■
Site Plan		■

1. Conceptual landscape plan. (Submit with preliminary plan) Intent: to illustrate the overall design concept for landscaping and depict how it relates to the overall development.

a. Describe the design intention of the proposed landscape improvements.

b. This information should be included on the preliminary plan map or combined with the conceptual open space plan if it can be clearly illustrated and the scale is not greater than one inch equals two hundred feet (1"=200').

c. Information required on the plan is listed in the table, which follows.

2. Final landscape plan. (Submit with final plat) Intent: to show the master landscape plan and the specific landscaping details for each phase for the development.

a. Describe the design intention and how the proposal is consistent with the purpose and intent of these regulations.

b. Landscaping should be included on the preliminary open space and ecological characterization plan if it can be clearly illustrated and the scale is not greater than one inch equals one hundred feet (1" = 100').

c. Information required on the plan is listed in the table, which follows.

d. The final landscape plan must be on a separate page from the final plat map and should be included with the final open space and ecological characterization plan if it can be clearly illustrated. The scale shall not be greater than one inch equals fifty feet (1"=50'). Information required on the plan is listed in the following table.

Information Required	Concept	Final
Scale, north arrow, site boundary	■	■
Existing and proposed streets		■
Existing and proposed utilities and easements		■
Existing contours (2' intervals), can be USGS for conceptual Landscape plan	■	■
General grading concepts for proposed improvements, typical cross-sections of streets and special treatment areas		■
Proposed contours (2' intervals)		■
Describe the design intention	■	■
Describe the general character and location of proposed landscaping and open space and how it meets the purpose of these regulations	■	
Illustrate how the open space network and pedestrian circulation system will function	■	
Existing site features including ditches, trees, shrubs and groundcovers and any drainage ways, wetlands or wildlife habitat present on the site. Indicate which plants will be preserved, the method of preservation and which will be removed.	■	■
Proposed landscaping including: trees, shrubs, groundcover, walks, and fences. Show which plantings are deciduous and evergreen.		■
Indicate which areas will be irrigated and method of irrigation		■
Typical detail drawings at 1"=20' to illustrate perimeter treatment, buffering, typical front yard, and any special treatment areas on the site		■
Define areas to be considered open space and if they will be public or private. Indicate how open space will be maintained including: erosion control, revegetation, and weed management both during and after construction.		■
Detailed planting plan indicating location, species, size and quantity of all proposed plantings and groundcover. Improvements shall be shown in their final location and mature size. Include a plant list in chart form and description of the type and location of groundcover, walks, fences, and mulches. Include a cost estimate for improvements. (This may be submitted as a separate sheet and is not required on the plans.)		■

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-11-100. Prohibited plant materials list.

(A) The following trees are prohibited in the Town of Fairplay.

1. Russian Olive (an invasive species that threatens native trees in riparian ecosystems).

2. Lombardy Poplar (susceptible to canker-forming fungi for which there are no available controls).
3. Siberian Elm (can dominate native vegetation, especially in disturbed areas; is weak-wooded and subject to continuous dieback when large; can be devastated by the elm leaf beetle).
4. Boxelder Maple (primary host plant of the boxelder bug).
5. Cotton-bearing Cottonwood. The Board of Trustees will consider Cotton-bearing Cottonwood on a case-by-case basis for restoration projects along riparian corridors. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-11-110. Recommended plant materials list.

(A) Species are categorized as either Class I or Class II

1. Class I species are those that are native to the Fairplay area and that are available and succeed in Fairplay.

2. Class II species are those that are native to the surrounding Park County area and/or are adapted to a high alpine environment and do well in Fairplay. Species are further denoted as to whether they are drought tolerant or require moisture. These guidelines also specify those species that are firewise to assist with selecting plants appropriate for planting within defensible space zones. Firewise plants are those species that have a higher moisture content and are less likely to ignite during a fire. In general, deciduous species have a higher moisture content than evergreens. Species that require a microclimate or special conditions, such as shelter from northwest winds, or need shade predominantly are also noted.

- a. Drought tolerant after establishment = D
- b. Requires moisture after establishment = M
- c. Those species that can tolerate seasonal moisture or drought are noted as SM-SD
- d. Firewise = FW
- e. Requires a microclimate (shelter from wind, prefers shade, etc.) to survive = MC
- f. Mature size—Height/spread = H/S

Deciduous Trees			
Botanical Name	Common Name	Conditions	Mature Size
<i>Class I</i>			
Alnus tenuifolia	Thin-leaf Alder	M, FW	H=15-20', S=15-20'
Populus tremuloides	Quaking Aspen	SM-SD, FW	H=20-50', S=20-30'
<i>Class II</i>			
Populus angustifolia	Narrowleaf Cottonwood	SM-SD, FW	H=30-50', S=20-30'
Populus balsamifera	Balsam Poplar	SM-SD, FW	H=60-80', S=20-30'
Populus balsamifera candicans	Balm of Gillead	SM-SD, FW	H=60-80', S=20-30'
Betula occidentalis	Mountain Birch	M, FW (small tree)	H=10-20', S=10-20'
Evergreen Trees			
<i>Class I</i>			
Abies lasiocarpa	Subalpine Fir	SM-SD	H=40-70', S=15-20'
Picea engelmanni	Engelmann Spruce	SM-SD	H=40-60', S=20-30'
Pinus aristata	Bristlecone Pine	D, W	H=20-40', S=varies
Pinus contorta latifolia	Lodgepole Pine	D	H=50-70', S=10-15'
Pinus flexilis	Limber Pine	D, W	H=30-50', S=15-30'
Pseudotsuga menziesii	Douglas Fir	SM-SD	H=50-80', S=15-25'
<i>Class II</i>			
Abies concolor	White Fir	SM-SD, MC	H=40-60', S=20-30'
Picea pungens	Blue Spruce	SM-SD, MC	H=40-60', S=20-30'
Shrubs			
<i>Class I</i>			
Artemisia tridentata 'vasiyana'	Tall Western Sage	D	H=4-6', S=2-4'
Betula glandulosa	Bog Birch	M, FW	H=3-6', S=3-6'
Juniperus communis	Common Juniper	D	H=1-3', S=3-6'
Lonicera involucrate	Twinberry Honeysuckle	SM-SD, FW	H=3-6', S=3-6'
Potentilla fruticosa	Shrubby Cinquefoil	D	H=2-3', S=2-3'
Ribes aureum	Alpine Currant	D, FW	H=4-6', S=4-6'
Rosa woodsii	Woods Rose	D	H=3-6', S=3-6'
Rubus idaeus	Native Raspberry	D, FW	H=3-5', S=2-3'
Salix monticola	Yellow Mountain Willow	M, FW	H=8-12', S=6-8'
Salix wolfii	Wolfs Willow	M, FW	H=8-10', S=6-8'
Sambucus pubens	Redberried Elder	M, FW	H=4-12', S=6-12'
Shepherdia Canadensis	Silver Buffaloberry	D	H=3-9', S=3-8'

Deciduous Trees			
Botanical Name	Common Name	Conditions	Mature Size
<i>Class II</i>			
Amelanchier alnifolia	Serviceberry	D, MC	H=6-12', S=6-12'
Caragana arborescens	Siberian Peashrub	D	H=10-15', S=8-12'
Cotoneaster acutifolia	Peking Cotoneaster	D	H=8-12', S=12-15'
Juniperus sabina	Buffalo Juniper	D	H=12-18", S=6-8'
Pinus mugo	Mugo Pine	D	H=5-20', S=5-20'
Prunus virginiana	Chokecherry	D, FW	H=8-20', S=8-12'
Purshia tridentate	Antelope Brush	D, MC	H=2-6', S=6-8'
Salix arctica	Arctic Willow	M, FW	H=3-4', S=2-3'
Sorbaria sorbifolia	False Spirea	D	H=4-6', S=6-8'
Syringa vulgaris	Common Lilac	SM-SD, FW, MC	H=10-20', S=8-12'

Perennials/Herbaceous Plants		
Botanical Name	Common Name	Conditions
<i>Class I</i>		
Achillea spp.	Yarrow	D
Aconitum columbianum	Monkshood	M
Aquilegia spp.	Columbine	SM-SD
Arctostaphylos uva-ursi	Kinnickinnick	D
Aster spp.	Aster	D
Astragalus spp.	Locoweed	D
Campanula spp.	Harebells	D
Delphinium spp.	Larkspur	M
Dodecatheon spp.	Shooting Star	SM-SD
Duchesnea indica	Mock Strawberry	D
Epilobium spp.	Fireweed	D
Erigeron spp.	Aspen Daisy	D
Gentiana spp.	Gentian	D
Hedysarum occidentale	Sweetvetch	D
Helianthella spp.	Sunflower	D
Iris missouriensis	Rocky Mountain Iris	SM-SD
Linum lewisii	Blueflax	D
Lupinus spp.	Lupin	D
Mahonia repens	Holly-grape	D

Perennials/Herbaceous Plants		
Botanical Name	Common Name	Conditions
Mertensia spp.	Bluebells	SM-SD
Pedicularis groenlandica	Elephanthead	M (may be difficult to find)
Penstemon spp.	Penstemon	D
Phlox spp.	Plox	D
Potentilla verna	Potentilla	D
Eriogonum umbellatum	Sulphur Flower	D
Sedum spp.	Stonecrop	D
Botanical Name	Common Name	Conditions
Senecio spp.	Senecio	M (may be difficult to find)
Viola spp.	Violets and Pansys	SM-SD
Class II		
Artemisia frigid	Sage	D
Artemisia "Silver Mound"	Silver Mound	D
Chrysanthemum leucanthemum	Painted Daisy	D
Chrysanthemum maximum	Shasta Daisy	D
Delphinium elatum	Delphinium	M
Dianthus barbatus	Sweet William	D
Escholtzia spp.	California Poppy	D
Fragaria Americana	Wild Strawberry	D
Gaillardia aristata	Gaillardia Daisy	D
Lathyrus odoratus	Sweet Pea	D
Lychinics chalcedonia	Maltese Cross	D
Paeonia officinalis	Peony	M
Papaver nudicale	Iceland Poppy	D
Papaver orientalis	Oriental Poppy	D
Pulsatilla patens	Pasque Flower	D
Rudbeckia vulgaris	Black-eyed Susan	D
Tanacetum vulgaris	Tansy	D
Botanical Name	Common Name	Conditions
Viola kitaibeliana	Johnny Jumpup	D

High Altitude Grasses

Recommended High Altitude Seed Mixture:

- Thurber Fescue—*Festuca thurberi*
- Alpine Fescue—*Festuca brachphylla*
- Tufted Hairgrass—*Deschampsia cespitosa*

Additional optional species include:

- Arizona Fescue—*Festuca arizonica*
- Alpine Bluegrass—*Poa alpine*
- Other High Altitude Grasses:*
- Canby or Sandberg Bluegrass—*Poa secunda*
- Idaho Fescue—*Festuca idahoensis*

Noxious Weeds

- Myrtle spurge—*Euphorbia myrsinintes*
- Orange hawkweed—*Hieracium aurantiacum*
- Absinth wormwood—*Artemisia absinthium*
- Black henbane—*Hyoscyamus niger*
- Bull thistle—*Cirsium vulgare*
- Canada thistle—*Cirsium arvense*
- Chinese clematis—*Clematis orientalis*
- Common tansy—*Tanacetum vulgare*
- Dalmation toadflax—*Linaria dalmatica*
- Dame's Rocket—*Hesperis matronalis*
- Diffuse knapweed—*Centaurea diffusa*
- Hoary cress—*Cardaria draba*

- Alpine Fescue—*Festuca brachyphylla*
- Sheep Fescue—*Festuca ovina*
- Rocky Mountain Fescue—*Festuca saximontana*
- Bluebunch Wheatgrass—*Pseudoroegneria spicata*
- Slender Wheatgrass—*Elymus trachycaulus*
- Western Wheatgrass—*Pascopyrum smithii*
- Blue Wildrye—*Leymus arenarius (L. glaucus)*
- Indian Ricegrass Rimrock—*Achnatherum hymenoides*
- June Grass—*Koeleria cristata*
- Houndstongue—*Cynoglossum officinale*
- Leafy spurge—*Euphorbia esula*
- Mayweed chamomile—*Anthemis cotula*
- Musk thistle—*Carduus nutans*
- Oxeye daisy—*Chrysanthemum leucanthemum*
- Perennial pepperweed—*Lepidium latifolium*
- Plumeless thistle—*Carduus acanthiodes*
- Russian knapweed—*Centaurea repens*
- Saltceder—*Taarix sp.*
- Scentless chamomile—*Matricaria perforata*
- Spotted knapweed—*Centaurea maculosa*
- Sulfur cinquefoil—*Potentilla recta*
- Wild caraway—*Carum carvi*

Yellow toadflax—*Linaria vulgaris*

Common mullein—*Verbascum Thapsus*

Downy brome—*Bromus tectorum*

Field Bindweed—*Convolvulus arvensis*

Poison hemlock—*Conium maculatum*

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XII

Lighting

- Sec. 16-12-10 Purpose and intent
- Sec. 16-12-20 Applicability, nonconforming lighting and compliance
- Sec. 16-12-30 General requirements and submittal standards
- Sec. 16-12-40 General standards for outdoor lighting
- Sec. 16-12-50 Residential lighting standards
- Sec. 16-12-60 Parking lot standards
- Sec. 16-12-70 Nonresidential lighting standards
- Sec. 16-12-80 Lighting of gasoline stations
- Sec. 16-12-90 Prohibited lights
- Sec. 16-12-100 Street lighting
- Sec. 16-12-110 Outdoor recreational facilities
- Sec. 16-12-120 Exemptions and variances
- Sec. 16-12-130 Enforcement
- Sec. 16-12-140 BUG (backlight-uplight-glare) diagram
- Sec. 16-12-150 Definitions

Sec. 16-12-10. Purpose and intent.

(A) The purpose of this Article is to improve the nighttime lighting environment for residents, pedestrians, drivers and visitors. This Chapter will address: increased light levels from excessive lighting, light trespass, glare from bright sources, and light shining into the night sky. Effective exterior lighting should be functional, glare-free, energy efficient, safe and ensure that outdoor lighting will:

1. Allow outdoor lighting that does not exceed the minimum levels specified in these regulations for night-time safety, utility, security, productivity, enjoyment, and commerce;
2. Establish ground rules for residential, commercial, and street lighting with the basic directive to use lighting levels, direct light where it is needed without shining it at the neighbor.
3. Recognize new lighting technologies that result in higher-efficacy light sources (lumens per Watt) and to support use of high efficiency light sources in Fairplay to conserve energy and resources.
4. Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light;
5. Ensure aesthetically appropriate outdoor lighting in keeping with the rural and small town character of Fairplay;
6. Curtail light pollution, reduce skyglow and improve the nighttime environment for unimpeded views of the night sky;
7. Help protect the natural environment from the adverse effects of night lighting from human generated light sources.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-20. Applicability, nonconforming lighting and compliance.

(A) Application for new construction. The lighting ordinance codified in this Article provides regulations for applications of exterior lighting. As of the effective date of the ordinance codified in this Article, lighting for all new residential, commercial, industrial and public facility construction must meet the requirements of the Article.

(B) All outdoor lighting shall be installed in conformance with the provisions of this Article and applicable building codes.

(C) All outdoor lighting installed after the date of effect of this Article shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting, or any other lighting whether attached to structures, poles or any other location, including lighting installed by any third party.

(D) Pre-existing nonconforming. All existing outdoor lighting that does not conform to the requirements of this Chapter shall be considered pre-existing nonconforming.

(E) Compliance for nonconforming commercial, industrial, schools and public facilities. All pre-existing nonconforming conditions must be brought into compliance:

1. Within five (5) years after the effective date of the ordinance codified in this Chapter; or
2. With a building permit resulting in a twenty percent (20%) increase in floor area; or
3. With any installation or replacement of exterior lighting fixtures valued over two thousand dollars (\$2,000.00).

(F) A property owner interested in bringing his/her lighting into compliance may request a site visit by the Fairplay Town Administrator or her/his designee to review specific concerns.

(G) New land use applications. Compliance with this Chapter is required for land use applications including: subdivision, subdivision exemption, condominium, condominium exemption, planned unit development, site plan development review, special use or multi-family site plan review.

(H) Compliance procedure for new commercial and industrial properties and properties listed in Section 16-12-20. Applicant shall request a lighting review by the Town at time of building permit, appropriate land use application or state electrical permit application. A full lighting plan, as specified in Section 16-12-30, shall be provided to the Town Planner.

(I) Compliance for residential. Property owners shall consider the impacts of their lighting impacts on the neighbors' environment. Existing residential properties whose lighting impacts immediately adjoining properties (those within two hundred (200) feet) will be required to comply with the Code if a lighting complaint is registered with the Town Administrator and a violation of these regulations is determined to exist. Existing residences receiving a validated formal complaint from an immediately adjacent property owner have thirty (30) days to comply with this Chapter. All new properties will be reviewed for compliance with the provisions of this Chapter during the course of construction while a building permit is open.

Building official will request specifics to document compliance, such as: providing wattage, fixture descriptions and placement details. Information may be required in a form suitable to the building department or a lighting plan, as per Section 16-12-30.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-30. General requirements and submittal standards.

(A) Lighting plans. Lighting point-by-point calculations (photometrics) shall be submitted. These calculations shall be performed by a registered professional engineer or lighting certified designer. For town lighting reviews lighting plans shall show the following:

1. The location and height above grade of light fixtures;
2. The type (such as light emitting diode (LED), incandescent, fluorescent, high pressure sodium, metal halide, LED), rated lumens and wattage of each light source;
3. The type of compliant fixture (such as full-cutoff, partial cut-off, lantern, wall pack);
4. The backlight, uplight, glare (BUG) rating for each fixture.
5. Calculations for site illumination resulting from the lighting, measured in foot-candles or lumens including minimum, maximum and average foot-candles (or lumens) and uniformity ratios;
6. Other information deemed necessary to document compliance with the provisions of this Chapter.
7. If building walls are to be illuminated, or if façade mounted fixtures are to be used, drawings of all relevant building elevations showing the fixtures and the portions of the walls to be illuminated calculated point-by-point and light levels.

(B) Light pollution abatement-light trespass and controls.

1. Lighting trespass. In order to minimize light trespass onto neighboring properties, the maximum light level at a property line shall not exceed two-tenths (0.2) foot-candles (fc) for residential zones and for industrial and commercial properties bordering residential zones. Properties within commercial and industrial zones shall also reduce light trespass at the property line to a maximum of three-tenths (0.3) fc. Light trespass is measured by vertical readings in foot-candles at the brightest point on the property line. Commercial and industrial properties may trespass onto public rights-of-way at main entrances or exits to a level not to exceed five-tenths (0.5) fc and to a level not to exceed four-tenths (0.4) fc at other portions of the right-of-way.

2. Controls. To minimize the amount of excess, unnecessary lighting at night, the use of motion sensors, photocells, processor-based lighting control systems, astronomical timeclocks, and/or photocell/timers to control duration of nighttime illumination is encouraged and is required as specified in this Article.

a. Automatic switching requirements. Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system or lighting energy management system, all with a battery or similar backup power or device.

b. Motion sensors. Sensors must be triggered by activity within the owner's property lines and should be used with LED, incandescent, fluorescent, or halogen lamps.

c. Astronomical timeclock. These activate the light source at dusk and turn it off at a selected time several hours later, at or before dawn.

d. Photocells. Use of photocells is appropriate when illumination is required all night for safety, their use is otherwise discouraged. These controls are activated by sunlight, turning lights on at dusk and off at dawn and illuminate an area for the entire night.

e. Non-astronomical timers. These mechanisms are prohibited when used alone.

(C) Electrical service. Electrical service shall be placed underground unless the fixtures are mounted directly on utility poles.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-40. General standards for outdoor lighting.

(A) The following general standards shall apply to all outdoor lighting unless otherwise exempted:

1. Background spaces, such as parking lots must be illuminated as unobtrusively as possible to meet the functional needs of safe circulation and protecting people and property. Foreground spaces, such as building entrances and plaza seating areas, must use local lighting that defines the space without glare.

2. Light sources must direct light downward and be concealed or shielded to mask the surface of the bulb or light-emitting element from adjacent properties.

3. The style of light standards and fixtures must be consistent with the style and character of architecture proposed on the site.

4. Light sources must produce accurate color rendition.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-50. Residential lighting standards.

(A) The following lighting standards shall be applicable to residential properties:

1. General standards throughout all residential neighborhoods and zone districts and all lighting zones.

a. Signs. In residential neighborhoods and zone districts shall conform to the requirements of this Article and Article XXV.

b. Glare. All exterior lighting shall be designed so that the (bulb) point light source is not directly visible from adjoining properties or the adjacent public rights-of-way. Placement of a fixture shall minimize light glare and trespass to an adjoining property-maximum of two-tenths (0.2) fc at the property line.

c. At critical entrances or common areas. Photocells may be used in these locations for multi-family properties to turn on lights at dark and to extinguish lights at dawn. Motion sensors are preferred for this use.

d. Flood lights shall be restricted as follows:

i. The point light source shall not be visible from adjoining lots or streets.

ii. Lights shall be focused on the task, fully shielded, down directed and screened from adjacent properties in a manner that prevents light trespass.

iii. Incandescent light sources above forty (40) watts are prohibited. Use of LED sources is encouraged.

iv. Light level shall not exceed 5 (five) foot-candles at grade.

v. Flood lights shall be controlled by a motion sensor, astronomical timeclock, or building control system for uses after 10:00 p.m.

vi. LED floodlights shall not exceed one thousand (1,000) lumens per fixture and can be controlled by a photocell, astronomical timeclock, or building control system.

e. General standards for new construction.

i. Height. Outdoor lighting shall be fourteen (14) feet or less in height. Second floor balconies and outdoor stairways can be lit with downward directed fully shielded fixtures. Site, roadway, and pedestrian lighting fixtures shall comply with BUG ratings in Table C to eliminate light output behind the luminaire.

ii. Maximum wattage. Incandescent light sources including halogen shall not exceed fifty (50) watts per fixture. LED light sources shall not exceed twenty (20) watts per fixture. Outdoor lighting with HID light sources shall be prohibited.

iii. Fixtures. Fully shielded down directed light sources are required. Point sources (bulbs) shall not be visible from adjoining properties or adjoining public rights-of-way. Clear, wavy, or seeded glass shall not be acceptable as a shielding media. Frosted or translucent glass which does not show the light source is acceptable for retrofit applications.

f. General standards for pre-existing dwellings.

i. Pre-existing "unshielded" light sources can be used, in which case the fixture lens must be fit, or sprayed with a non-clear material (e.g., frosted or opaque) and the total fixture wattage must be equal to or less than forty (40) watts (incandescent) or fifteen (15) watts LED.

ii. Landscape lighting: Landscape lighting is limited to twenty (20) watts incandescent or halogen or five hundred (500) lumens for LED per fixture per one hundred fifty (150) square feet of landscaped area. Up-lighting is only permitted if the light distribution from the fixture is effectively contained by an overhanging architectural or landscaping element. Such elements may

include awnings, dense shrubs or tree canopies, which can functionally reflect illumination back to the ground. In these cases the fixture is limited total lamp wattage within a fixture of twenty (20) watts for incandescent or halogen sources, or five hundred (500) lumens for LED sources. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-60. Parking lot standards.

(A) Parking lots: All parking lot area lighting shall be compliant with the BUG ratings as shown in Table C.

(B) A maximum of 2 (two) luminaires shall be allowed per pole.

Applications	Lighting Power Densities
Parking Lots and Drives	0.10 W/square foot
Walkways less than 10' wide	0.8 W/linear foot
Walkways greater than 10' wide, plazas, special feature areas	0.16 W/square foot
Stairways	1.0 W/square foot
Main Entries	30 W/linear foot of door width
Other Doors	20 W/linear foot of door width
Canopies (free standing and attached and overhangs)	0.4 W/square foot
Outdoor Sales Areas (including vehicle sales lots)	0.5 W/square foot
Automated Teller Machines and night depositories	270 W per location plus 90 W per additional ATM location
Entrances and Gatehouse inspection stations at guarded facilities	0.75 W/square foot of uncovered area
Loading for law enforcement, fire, ambulance, or other emergency service vehicles	0.5 W/square foot of uncovered area
Drive-up windows at fast food restaurants	400 W per drive through

(C) Standards for various districts are as shown in the following table:

Parking Lot Lighting Standards	LI	TC, T, C and MU	MF-Res
Mounting height (max.)	16 ft.	20 ft. ¹	14 ft.
Average light levels (at ground)	No more than 2.0 fc	No more than 1.5 fc	No more than 1.5 fc
Recommended average light level* (at ground)	No more than 0.4 fc	No more than 0.3 fc	0.3 fc
Allowable maximum light level (at ground)	No more than 6 fc	No more than 5 fc	No more than 5 fc
Uniformity ratio (maximum:minimum)	No more than 20:1	No more than 20:1	No more than 20:1

Parking Lot Lighting Standards	LI	TC, T, C and MU	MF-Res
Uniformity ratio (average: minimum)	8:1	8:1	8:1
Control	Photocell/timer	Photocell/timer or motion sensor	Timer/motion sensor
Time limits	More than ½ the fixtures off one hour after closing of active use or servicing or 9 p.m., whichever is later	More than ½ the fixtures off one hour after closing of active use or servicing or 9 p.m., whichever is later	Shut off by timer by 11 p.m. Motion sensor control after shut off is permitted. Critical applications may be activated by photocell.

Note: Schools in residential zones shall comply with MF-Res zone lighting.

¹Parking lots for any commercial use greater than 150 spaces may choose to use a mounting height up to nineteen 19 feet. Additional standards/criteria apply to these parking lot arrangements:

- Lighting fixtures shall be full cut-off, plain shoebox style.
- Maximum lumens—9,300 lumens high pressure sodium or metal halide.
- Allowable minimum horizontal illuminance—no more than 0.4 (at ground).
- Uniformity ratio—no more than 4:1 average to minimum.
- Uniformity ratio—no more than 20:1 maximum to minimum.

Lighting needs, minimum light level and uniformity ratio for individual parking lots may be lower depending on applicant's assessment of activity levels and concurrence of the Board of Trustees.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-70 Nonresidential lighting standards.

(A) General requirements. The following lighting standards shall be applicable to all nonresidential properties including mixed uses:

1. Lighting power densities for building exteriors shall comply with International Energy Conservation Code (IECC) requirements.
2. Outdoor lighting used to illuminate parking spaces, driveways, maneuvering areas, or buildings shall be designed, arranged and screened so that the point light source shall not be visible from adjoining lots or streets.
3. Lighting at Entrances and Storefront Windows. Maximum light level range including spillage from inside to outside shall be no more than 10—15 (ten to fifteen) fc. Maximum light level reading shall be no more than 15 (fifteen) fc, measured at ground, between 2'-0" from the building façade and either the edge of the curb or 8'-0" from the building façade, whichever is closer to the building.
4. Maximum foot-candles for specific locations-other than parking lots. Maximum maintained illuminance shall not exceed the range specified below. Values are taken from the Illuminating Engineering Society of North America's (IESNA) recommended illuminance values (9th Edition Handbook 2000).

Area/Criteria	Fast food/ Convenience (foot candles)	Under Gas Station/ Hotel Canopy (foot candles)	General Commercial (foot candles)
Average Maintained Illuminance	1.5-3.0	20-25	1.5-3.0
Horizontal Illuminance Range (fc) at grade	No more than 3.0 fc	Canopy with dark surroundings: No more than 5 fc; Canopy with light surroundings: No more than 10 fc.	No more than 3.0 fc

5. Reduce light levels with reduced activity. Except as otherwise provided in the sign regulations Section 16-25-170, exterior lighting shall be reduced after hours (at the close of business or servicing or by 9:00 p.m., whichever is later). Light levels in the Town Center may be maintained until midnight or close of business or servicing whichever is later. See specific details in parking lot lighting Section 16-12-60 and lighting Section 16-12-80.

6. Walkways/bikeways and pedestrian areas. Illumination is not required for these areas. If an applicant chooses to illuminate areas the following standards apply:

- a. The ground area shall be illuminated to a level no more than five (5) fc maximum, no more than five-tenths (0.5) fc average, measured at grade.
- b. The vertical illumination level at a height of five (5) feet above grade shall be no more than five-tenths (0.5) fc.
- c. Lighting shall be directed downward, pedestrian friendly and fully shielded or with full cut-off luminaires. Light sources for luminaries mounted 12'-0" above grade or lower shall have a maximum of one thousand two hundred (1,200) lumens. Light sources for luminaries mounted 12'-0" to 16'-0" shall have a maximum of three thousand (3,000) lumens.

7. Lower light levels in mixed use areas mixed use areas that include residential occupancies shall comply with the residential standards on those floors or areas that are more than fifty percent (50%) residential based on square footage of uses.

8. Wattage specifications. Maximum bulb wattage shall be fifty watts (50W) incandescent or thirty-watts (30W) LED with maximum two (2) bulbs per fixture.

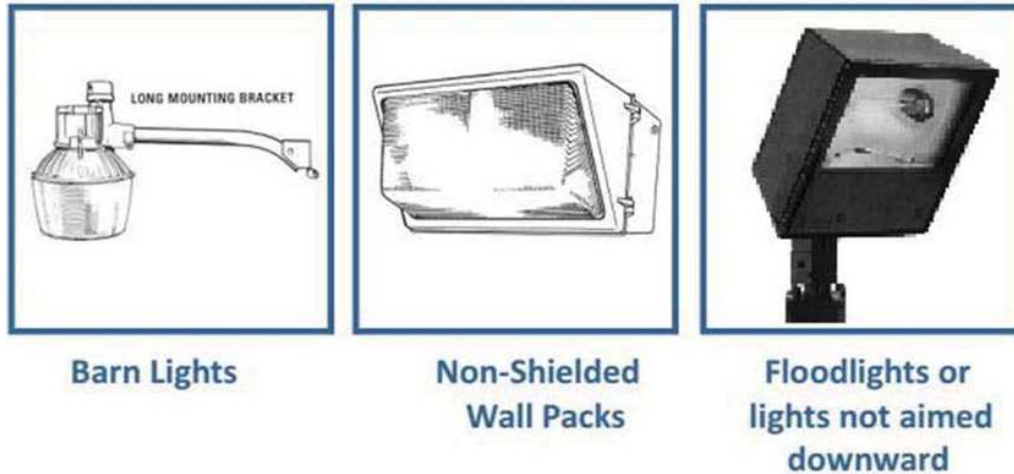
9. Fixture types. Fixtures shall be fully shielded or full-cutoffs and in compliance with the appropriate BUG rating. In certain applications cut-off fixtures with louvers or shields may be used for aesthetic purposes.

10. Fixture height. Outdoor lighting (except parking lot lighting) must be sixteen (16) feet or less in height unless it is:

- a. Building mounted lighting fully shielded, directed downward at a sign or building façade
- or

- b. Lighting on above grade decks or balconies shall be fully shielded.

Examples of Prohibited Unshielded Fixtures.



(B) Nonresidential security lighting. Security lighting is permitted. Security lighting shall be at a reduced level as activity decreases. After midnight, security lighting shall be motion-controlled.

1. Maximum light levels. Lighting for entrances, stairways and loading docks shall not exceed five (5) fc and for parking lots shall not exceed two (2) fc. Other areas of specific security concern can be lit at a level not to exceed one and five-tenths (1.5) fc.

2. At critical entrances or common areas. Photocells can be used in these locations for commercial, industrial and mixed-use properties to turn on lights at dark and to extinguish lights at dawn.

3. Light trespass. At property lines within the commercial/industrial zones, trespass shall be limited to a maximum of three-tenths (0.3) fc; properties bordering residential zones are limited to a maximum of two-tenths (0.2) fc.

4. Security lighting.

- a. Fully-shielded wall-packs or other fixtures;
- b. Full cut-off fixtures on parking lot poles;
- c. Recessed lights under a canopy;
- d. Floodlights are prohibited.

(C) Nonresidential-Illuminated Signs. Signs should not create glare or unduly illuminate the surrounding area.

1. Shut-off time (except for residential districts in Section 16-25-170 Sign Illumination Matrix). Signs more than twenty-eight (28) square feet shall be extinguished one (1) hour after business is closed or completing services, or by 10:00 p.m., whichever is later.

2. Signs. The applicant shall provide the building official with a sign permit, sufficient technical and design information to demonstrate that the following provisions are met:

a. Externally illuminated signs—Preferred method of illumination.

i. The average level of illumination on the vertical surface of the sign shall not exceed ten (10) fc.

ii. Point source of light shall not be visible to a passerby.

iii. Lighting fixtures for illuminating signs shall be carefully located, aimed and shielded so that light is directed only onto the sign façade. Down directed lighting for signs is preferred. If ground mounted lighting is used, the light source must be fully shielded by landscaping or other means.

b. Internally lit signs.

i. Illumination sources shall not exceed a total of nine thousand six hundred (9,600) lumens.

ii. For boxed internally lit signs, backgrounds shall be dark with white, yellow or light lettering.

iii. Pan channel lit signs are preferred versus internally lit signs. White lettering is not permitted.

iv. Signs shall not be used in a manner that creates a distraction to drivers on adjacent roadways. Excessive glare, color changing light sources, and visible lamps oriented towards the roadway are prohibited.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-80. Lighting of gasoline stations.

Lighting levels on gasoline station aprons and under canopies shall provide illumination adequate to facilitate the activities taking place in such locations without excessive lighting.

(A) Aprons and canopies.

1. Light levels. Areas around the pump islands and under canopies shall have average illumination as follows:

a. Areas with dark surroundings (less than one (1) fc): no more than five (5) fc average, twenty (20) maximum;

b. Areas with light surroundings (more than two (2) fc): no more than ten (10) fc average, forty (40) maximum, uniformity ration (average: minimum) shall not exceed 4:1.

c. Fixture and lamps. Lighting shall be provided with fully shielded fixtures. Light fixtures mounted under canopies shall be recessed with flat lenses so that the lens cover is flush with the bottom surface (ceiling) of the canopy.

2. Lights on top or sides. Lights shall not be mounted on the top or sides of the canopy. The sides (fascias) of the canopy shall not be illuminated for any purpose with the exception of permitted signs as in Article XXV

3. Retrofits. Existing fixtures may be retrofitted with metal side shields which extend below the bottom of the lens to fully shield fixtures and to avoid light shining from the side of the canopy. Canopies with drop sides may also be used to hide fixtures and to eliminate glare from the side of canopy.

(B) Other areas in the gas station.

1. Areas on the apron away from the gasoline pump islands, used for parking or vehicle storage, shall be illuminated in accordance with the requirements for parking areas.

2. Maximum light levels range for driveways and service areas (other than pump islands) are one and five-tenths to three (1.5-3) fc. Average light levels at areas other than pump islands:

a. Areas with dark surroundings (less than one (1) fc): not more than one and five-tenths (1.5) fc, five (5) maximum.

b. Areas with light surroundings (more than two (2) fc): no more than two (2) fc, seven (7) maximum.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-90. Prohibited lights.

This section identifies applications of lighting which cause glare, decrease our ability to see in dark, low level ambient light environments or produce unattractive lighting environments or excessive light pollution. These types of lighting are prohibited.

(A) Roof lights. Light sources shall not be affixed to the top of a roof, except where required by building code requirements.

(B) Unshielded light sources. This type is prohibited except as listed in residential section.

(C) Building illumination. Flood illumination of buildings shall be prohibited from the ground or on pole mounted lights or by lights mounted on adjoining structures. Buildings with exceptional symbolic (i.e., churches or public buildings) or historical significance may request exemptions to this prohibition.

(D) Nuisance lights. Lights which flash, move, revolve, blink, flicker, vary in intensity, change color, or use intermittent electrical pulsation are prohibited unless specifically approved as part of the lighting code exemption. (Winter holiday lights are exempt.)

(E) Other lamps. Mercury vapor and low-pressure sodium lighting shall be prohibited.

(F) Architectural lighting. Linear lighting such as: fluorescent awnings, rope light or neon shall be fully shielded so that the light source is not visible.

(G) Pre-existing, nonconforming lights must be brought into conformance when a major alteration is made to the exterior lighting or which increases the square footage of the building, Section 16-12-20.

(H) Lighting that may be emulates or may be confused with warning, emergency or traffic signals. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-100. Street lighting.

The Town of Fairplay is committed to installing energy-efficient luminaires and to replacing legacy fixtures. The Town understands that new technology can reduce electricity use and maintenance costs, resulting in savings to the Town. Over the next ten (10) years, Fairplay will work to develop and implement a program for upgrading and improving Town-owned street lighting.

(A) All lighting illuminating public right-of-ways and easements or private streets shall conform to the following standards:

(B) All light fixtures shall be compliant with BUG ratings as shown in Table C.

(C) Maximum fixture height shall be sixteen (16) feet. Exemptions up to a maximum of twenty-five (25) feet may be granted for street lights located at opposing corners of intersections.

(D) A minimum of four (4) times the mounting height of the light source shall be maintained between street light fixtures. Exemptions to this standard may be considered when fixtures are located on opposing corners of an intersection, at a pedestrian crosswalk or where similar special or unique conditions exist. Exemptions may be considered only where fixture type, placement and light intensity are modified to conform to the intent of the minimum spacing requirement.

(E) Fixture types shall be selected from a list of Town-approved designs. This list will be submitted to the Board of Trustees for review and approval. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-110. Outdoor recreational facilities.

If a recreational facility is requesting lighting for night time activities, the applicant must follow the exemption process and the following provisions apply:

1. Lighting plan. Lighting for outdoor recreational facilities, a full lighting plan as per Section 16-12-30 shall be submitted.

2. Conditions. Conditions placed on the lighting for the recreational facility may include: limited hours of operation, limits on lighting intensity, specific requirements for fixture design and others.

3. Light trespass. Designs shall address limiting light trespass to surrounding neighborhoods. Flood-lights in this application should not be aimed above sixty-two (62) degrees from vertical. In order to minimize light pollution and light spillage into the neighborhood, the lights shall have louvers and external shields.

4. Maximum wattage. Wattage of lamps shall be two hundred fifty (250) watts HID or less. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-120. Exemptions and variances.

(A) Permitted exemptions.

1. Holiday lighting which is of a temporary nature and operated no longer than forty-five (45) days within a three hundred sixty-five (365) day timeframe provided that individual lamps are less than ten (10) watts and seventy (70) lumens.

2. Municipal lighting installed for the benefit of public health, safety and welfare.

3. Traffic control signals and devices.

4. Street lights installed prior to the effective date of these land use regulations.

5. Temporary emergency lighting (i.e., firefighting, police work, infrastructure repair) and any permanent emergency lighting required by building code.

6. Lights on moving vehicles.

7. Lighting required by federal, state or local regulations.

8. Lighting specially approved by the Board of Trustees for temporary outdoor events.

9. Downward aimed lighting of the United States and/or the State of Colorado flags with no more than two (2) light fixtures.

(B) Exemption procedure. Exemption requests from the standards of this Chapter of the municipal code may be granted through the following procedure:

1. Exemption requests shall be formalized by letter to the Town Administrator requesting an exemption and submittal of a lighting plan as set forth in Section 16-12-30.

2. The request will be considered and may be granted by the Board of Trustees at a regularly scheduled meeting.

3. If the request is deemed acceptable by the Board of Trustees, they can impose conditions so the purpose and intent of Section 16-12-10 is met as well as any other applicable sections of the code.

4. Exemption procedures shall also be utilized in regard to any interpretation or clarification of the lighting code necessary or requested by an applicant.

5. Exemptions shall be reviewed in accordance with the following standards and procedures:

a. Compliance with the purpose and intent of this Chapter.

b. Submittal of a full lighting plan in accordance with Section 16-12-30.

c. The Board of Trustees may seek recommendations by a professional lighting consultant selected by the Town and paid for by the applicant.

d. Any special conditions of the applicant, circumstances, or hardships that warrant the exemption.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-130. Enforcement.

(A) Any person, firm or corporation violating these standards shall be subject to the enforcement and penalties specified in this Chapter the Fairplay Municipal Code.

(B) If any part, section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter and the Board of Trustees hereby declares it would have passed the ordinance codified in this Chapter and each part, section, subsection, sentence, clause or phrase thereof regardless of the fact that any one (1) or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

(C) This Chapter shall apply to all property within the boundaries of the Town.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-140. BUG (backlight-uplight-glare) diagram.

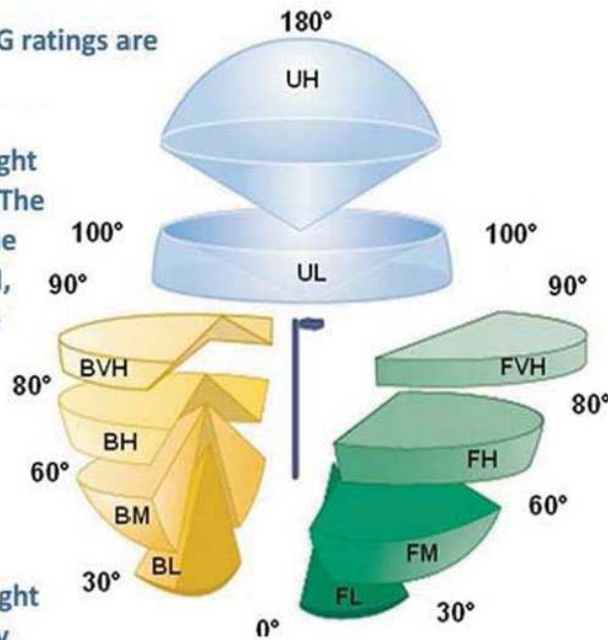
The three components of BUG ratings are based on IES TM-15-11

Backlight, which creates light trespass onto adjacent sites. The B rating takes into account the amount of light in the BL, BM, BH and BVH zones, which are in the direction of the luminaire OPPOSITE from the area intended to be lighted.

Uplight, which causes artificial sky glow. Lower uplight (zone UL) causes the most sky glow and negatively affects professional and academic astronomy. Upper uplight (UH) not reflected off a surface is mostly energy waste. The U rating defines the amount of light into the upper hemisphere with greater concern for the light at or near the horizontal angles (UL).

Glare, which can be annoying or visually disabling. The G rating takes into account the amount of frontlight in the FH and FVH zones as well as BH and BVH zones.

BUG ratings apply to the Lighting Zone of the property under consideration.



BUG Table Legend: UH=Uplight High, UL=Uplight Low, BVH=Backlight Very High, BH=Backlight High, BM=Backlight Medium, BL=Backlight Low, FVH=Forward Light Very High, FH=Forward Light High, FM=Forward Light Medium, FL=Forward Light Low.

For additional information about the BUG ratings, please refer to Illuminating Engineering Society's (IES) BUG Ratings—TM-15-11.

Maximum allowable backlight, uplight, glare (BUG) ratings.

Tables: B = Backlighting, U = Up Light, G = Glare

Refer to Illuminating Engineering Society's (IES) BUG ratings—TM-15-11

Backlight				
Table C-1	POST	SF-Res, MF-Res	T, TC, M-U, C, CC	LI
Allowed Backlight Rating*(B)				
Greater than 2 mounting heights from property line	B1	B3	B4	B5
1 to less than 2 mounting heights from property line and ideally oriented**	B1	B2	B3	B4
0.5 to 1 mounting heights from property line and ideally oriented**	B0	B1	B2	B3
Less than 0.5 mounting height to property line and properly oriented**	B0	B0	B0	B1

Uplight				
Table C-2	POST	SF-Res, MF-Res	T, TC, M-U, C, CC	LI
Allowed Uplight Rating (U)				
	U0	U1	U2	U3
Allowed % light emission above 90° for street or area lighting	0%	0%	0%	0%

Glare				
Table C-3	POST	SF-Res, MF-Res	T, TC, M-U, C, CC	LI
Allowed Glare Rating (G)				
	G0	G1	G2	G3
Any luminaire not ideally oriented*** with 1 to less than 2 mounting heights to any property line of concern	G0	G0	G1	G1
Any luminaire not ideally oriented*** with 0.5 to less than 1 mounting heights to any property line of concern	G0	G0	G0	G1
Any luminaire not ideally oriented*** with less than 0.5 mounting heights to any property line of concern	G0	G0	G0	G0

* For property lines that abut public walkways, bikeways, plazas, and parking lots, the property line may be considered to be five (5) feet beyond the actual property line for purpose of determining compliance with this Section. For property lines that abut public roadways and public transit corridors, the property line may be considered to be the center-line of the public roadway or public transit corridor for the purpose of determining compliance with this Section. NOTE: This adjustment is relative to Table C-1 and C-3 only and shall not be used to increase the lighting area of the site.

** To be considered 'ideally oriented', the luminaire must be mounted with the backlight portion of the light output oriented perpendicular and towards the property line of concern.

*** Any luminaire that cannot be mounted with its backlight perpendicular to any property line within 2X the mounting heights of the luminaire location shall meet the reduced allowed glare rating in Table C-3.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-12-150. Definitions.

Average maintained illuminance means the average work plane illuminance in lumens or foot candles within a space with a given number of luminaries.

BUG means backlight, uplight, glare.

Color rendering index (CRI) means the quantitative measure of the ability of a light source to reproduce the colors of various objects faithfully in comparison with an ideal or natural light source.

Correlated color temperature (CCT) means the color temperature of a light source is determined by comparing its chromaticity with that of an ideal black-body radiator. The temperature (usually measured in kelvin (K)) at which the heated black-body radiator matches the color of the light source is that source's color temperature. Yellow-red colors are considered warm, and blue-green colors are considered cool.

Cut-off fixture means a fixture where a maximum of two and one-half percent (2.5%) of the light occurs above ninety degrees (90%) from the vertical.

Fixture height means the vertical distance from the ground directly below the centerline of the fixture to the lowest direct light emitting part of the fixture, such as the lens.

Fluorescent lamp or fluorescent tube means a gas-discharge lamp that uses electricity to excite mercury vapor. The excited mercury atoms produce short-wave ultraviolet light that then causes a phosphor to fluoresce, producing visible light.

Foot-candle (fc) means the illuminance on a one (1) square-foot surface of which there is a uniformly distributed flux of one (1) lumen. One (1) foot-candle equals one (1) lumen. For the purposes of these regulations, foot-candle measurements shall be made at finished grade.

Fully shielded means light fixtures shielded or constructed so that no light rays are directly emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report. The fixture must also be properly installed to effectively down direct light in order to conform to the definition.

Full-cut off fixture means a fixture where zero (0) light occurs above or at an angle of ninety (90) degrees above vertical.

Glare means excessive contrast or intense and/or blinding light which creates visual discomfort or disability.

Horizontal illuminance range at grade means the difference between high and low levels of illumination across a given space at grade level and measured in foot-candles or lumens.

High intensity discharge light source (HID) means light sources characterized by an arc tube or discharge capsule that produces light, with typical sources being metal halide, high pressure sodium and other similar types which are developed in accordance with accepted industry standards.

Incandescent and/or halogen light source means the emission of light (visible electromagnetic radiation) from a hot body due to its temperature. Incandescence occurs in incandescent light bulbs because the filament resists the flow of electrons. This resistance heats the filament to a temperature where part of the radiation falls in the visible spectrum.

Light-emitting diode (LED) means a semiconductor diode that emits light when an electric current is applied in the forward direction of the device. The effect is a form of electroluminescence where incoherent and narrow-spectrum light is emitted.

Light fixture means an electrical device used to create artificial light or illumination.

Light trespass means the shining of light produced by a light fixture beyond the boundaries of the property on which it is located in excess of two-tenths (0.2) foot-candles.

Lumen means the SI unit of luminous flux, a measure of the perceived power of light. If a light source emits one (1) candela of luminous intensity uniformly across a solid angle of one (1) steradian, its total luminous flux emitted into that angle is one (1) lumen. Alternatively, an isotropic one-candela light source emits a total luminous flux of exactly 4π lumens. The lumen can be thought of casually as a measure of the total "amount" of visible light in a defined beam or angle, or emitted from a source.

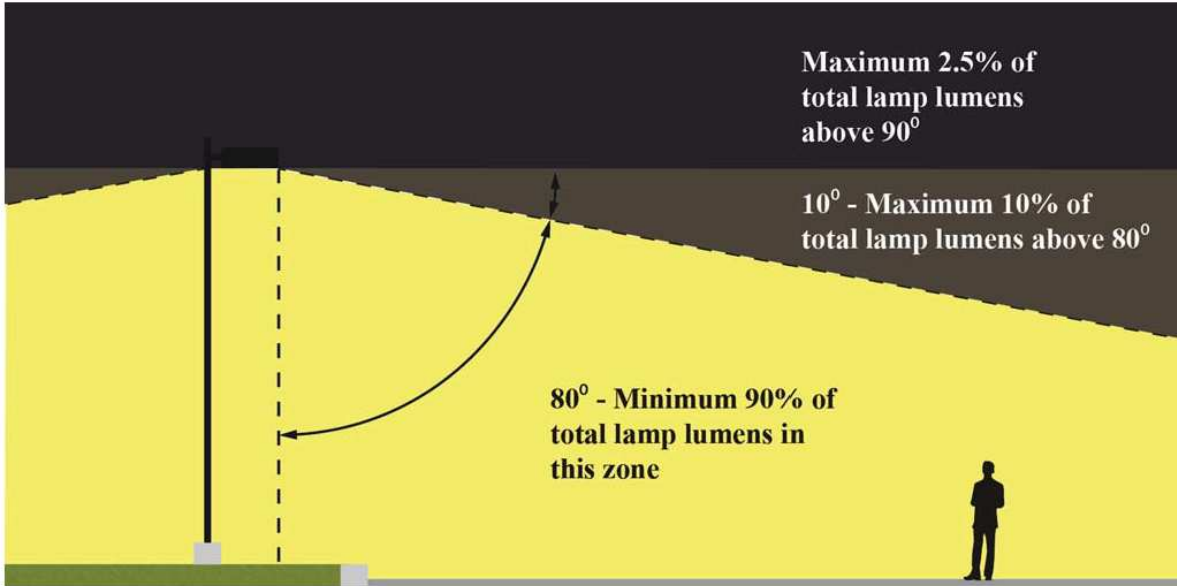
Luminaire means complete lighting unit consisting of one (1) or more electric lamps, the lamp holder(s), any reflector or lens, ballast or transformer, and any other components and accessories.

Point light source means the exact place from which illumination is produced (i.e., a light bulb filament or discharge capsule).

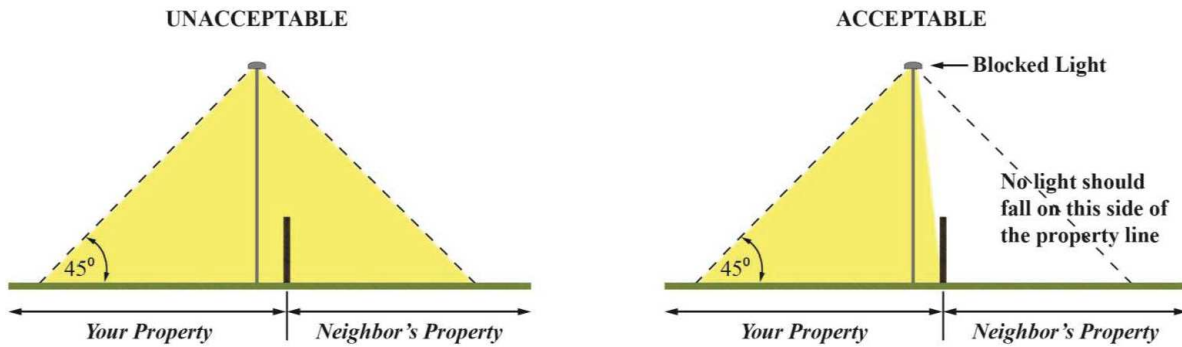
Uniformity ratio means the ratio of average illumination to minimum illumination.

Light pollution means the excess illumination of the nighttime environment.

Example of Full-Cutoff Fixture



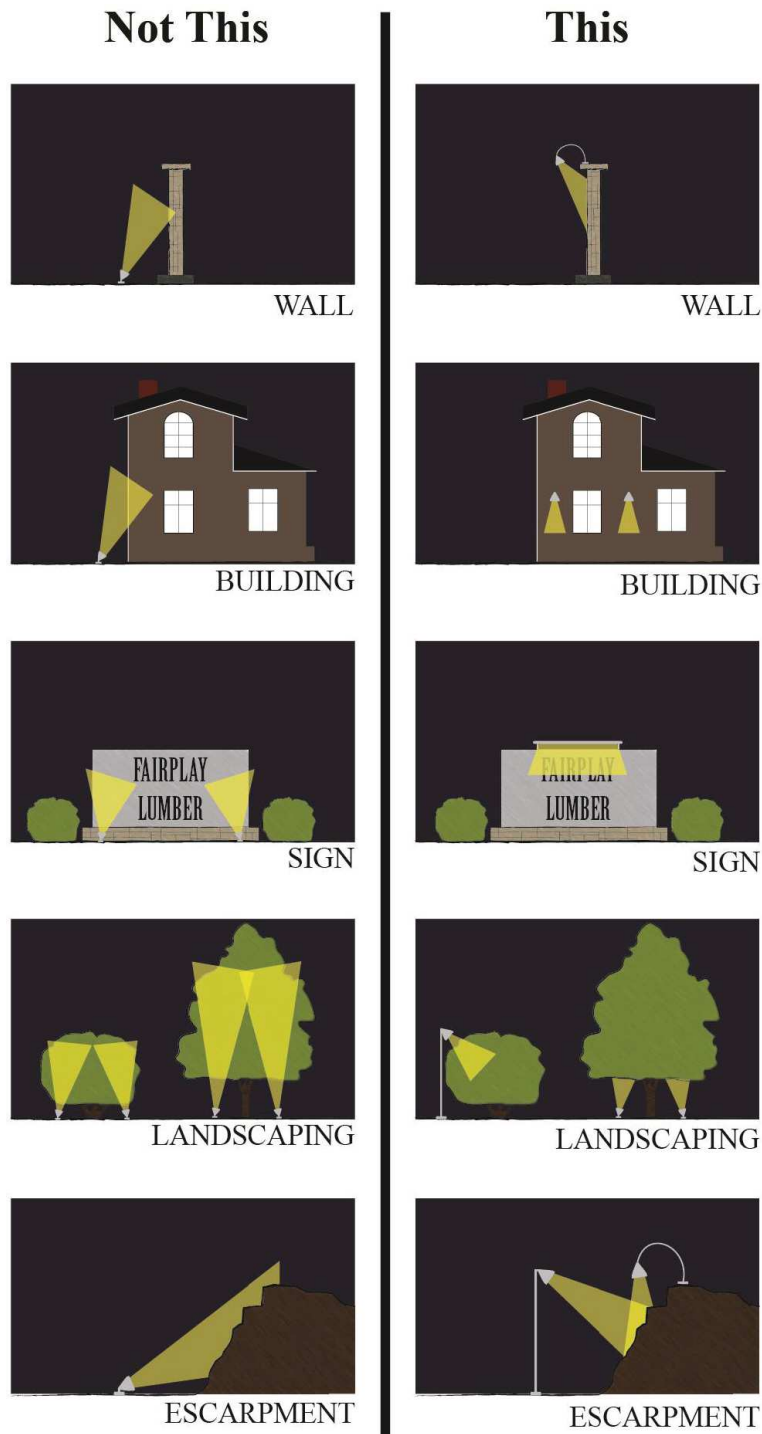
Example of Lighting Trespass



Examples of Acceptable/Unacceptable Lighting Fixtures

<p style="text-align: center;">Unacceptable</p> <p style="text-align: center;">Fixtures that produce glare and light trespass</p>  <p style="text-align: center;">Unshielded Floodlights or Poorly-shielded Floodlights</p>  <p style="text-align: center;">Unshielded Wallpacks & Unshielded or Poorly-shielded Wall Mount Fixtures</p>  <p style="text-align: center;">Drop-Lens & Sag-Lens Fixtures w/ exposed bulb / refractor lens</p>  <p style="text-align: center;">Unshielded Streetlight</p> <p style="text-align: center;">Unshielded Bollards</p> <p style="text-align: center;">Unshielded Barn Light</p>  <p style="text-align: center;">Unshielded "Period" Style Fixtures</p> <p style="text-align: center;">Louvered "Marine" Style Fixtures</p>  <p style="text-align: center;">Unshielded PAR Floodlights</p> <p style="text-align: center;">Drop-Lens Category Fixtures</p>	<p style="text-align: center;">Acceptable</p> <p style="text-align: center;">Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night</p>  <p style="text-align: center;">Full Cutoff Fixtures</p>  <p style="text-align: center;">Fully Shielded Wallpack & Wall Mount Fixtures</p>  <p style="text-align: center;">Fully Shielded Fixtures</p>  <p style="text-align: center;">Full Cutoff Streetlight</p>  <p style="text-align: center;">Fully Shielded Barn Light</p> <p style="text-align: center;">Fully Shielded Walkway Bollards</p>  <p style="text-align: center;">Fully Shielded Decorative Fixtures</p> <p style="text-align: center;">Fully Shielded "Period" Style Fixtures</p>  <p style="text-align: center;">Shielded / Properly-aimed PAR Floodlights</p> <p style="text-align: center;">Flush Mounted or Side Shielded Under Canopy Fixtures</p>
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Example of Unacceptable Up-lighting and Acceptable Down-lighting



(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XIII**Subdivisions**

Sec. 16-13-10	Purpose
Sec. 16-13-20	Application for subdivisions
Sec. 16-13-30	General procedures
Sec. 16-13-40	Exceptions; waiver
Sec. 16-13-50	Recording procedures
Sec. 16-13-60	Prohibitions

Sec. 16-13-10. Purpose.

Pursuant to the authority conferred by Article 20 of Title 29, C.R.S., Article 23 of Title 31, C.R.S., and Article 67 of Title 24, C.R.S., this Article is enacted for the purpose of promoting the health, safety, convenience and general welfare of the citizens of the Town. In promoting the general purposes of this Chapter, the specific intent of this Section is to:

- (A) Establish standards of subdivision design which will encourage the development of sound, economical and stable neighborhoods; ensure a healthy living environment; and protect the natural environment.
- (B) Provide for lots of adequate size, configuration and appropriate design for the intended uses.
- (C) Encourage subdivision design, flexibility and imagination.
- (D) Provide for streets and walkways of appropriate capacity and construction with adequate measures to ensure safe movement of pedestrian and vehicular traffic.
- (E) Ensure the provision of efficient, adequate and economical utilities, services and improvements.
- (F) Provide for the coordination of subdivision development with requirements for schools, parks, recreation areas and other community facilities, and to ensure the provision of such facilities.
- (G) Ensure the desirable development of the community through the adherence to accepted principles of land use, intensity of development, distribution of growth, preservation of natural amenities and other elements of the Town's development plans.
- (H) Ensure conformance of land subdivision plans with the public improvement plans of the Town, the County, and the State and other public agencies.
- (I) Provide for adequate right-of-way for traffic and utilities.
- (J) Secure equitable handling of all subdivision plans by providing due process and uniform procedures and standards.
- (K) Prevent flood damage to persons and properties and minimize expenditures for flood control.

(L) Restrict building on flood lands, shore-lands, areas covered by poor soils, or in areas otherwise poorly suited for building or construction.

(M) Prevent loss or injury from landslides, expansive soils and other geological hazards.

(N) Improve land survey monuments and records by establishing standards for surveys and plats.

(O) Safeguard the interest of the public and to protect against fraud and deceptive practices.

(P) Regulate such other matters as the Board of Trustees may deem necessary in order to protect the best interests of the public.

(Q) Conform and comply when required with state statutes authorizing municipal regulation of subdivisions.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-13-20. Application for subdivisions.

For purposes of this Chapter, an applicant filing an official subdivision application form shall be either the owner of the subject parcel or an authorized agent of the owner, inclusive of a prospective purchaser of the subject parcel.

(A) Without limiting an applicant's right to file additional material, the applicant shall submit a subdivision application form provided by the Town Clerk. An application shall not be considered officially filed until the application form and supporting materials are deemed complete, the appropriate application fee is paid, and record of such payment is affixed to the application form.

(B) All final plats of subdivision or land within the Town shall be filed and recorded by the County Clerk and Recorder only after having been approved by the Board of Trustees with such approval entered in writing on the plat and signed by the Mayor and attested to by the Town Clerk.

(C) No building shall be erected on any lot, nor shall a building permit be issued for a building, unless the street giving access to the lot upon which said building is proposed to be placed shall have been dedicated and approved by the Board of Trustees as part of a legal subdivision. However, a building permit may be issued for a residential lot not abutting a publicly dedicated street when private access is approved by the Board of Trustees and is provided by plat, reservation, deed, covenant or contract, and provisions satisfactory to the Town are made for maintaining the access and keeping it in good repair on a year-round basis.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-13-30. General procedures.

Except as hereinafter provided, the following procedures shall apply to all applications filed under the provisions of this Chapter. Additional subdivision requirements are found in resubdivision, planned unit development, condominium, and time-share estates:

(A) Pre-application conference: In order to properly evaluate an area proposed for subdivision, the applicant or his or her agent shall meet with Town staff (planning, building and public works) at a pre-application conference. Such conference shall be held for the purpose of discussing concepts, feasibility, regulations and procedures regarding the proposed subdivision.

(B) Official application form: All applications for subdivision must be submitted to the Town Clerk on a form provided therefor by the Town. The official application form shall be a detailed comprehensive form which includes, but is not limited to, the following:

(C) Name, address and telephone number of the applicant, engineer and/or property owners of the subject property, which shall contain a written statement that the owner or owners have no objection to the proposed subdivision. Such statements shall include the verified signature of said owners.

(D) A proposed subdivision plat showing the legal boundary of the subject property and all abutting properties; adjacent and included public rights-of-way and easements of record; drainageways and one-hundred year flood plains affecting the subject property; a boundary survey certified by a registered land surveyor; and a location map showing all streets, schools, parks and other public facilities lying within a one-half-mile radius of the boundaries of the subject property.

(E) Other materials as specified in the official application form to provide the necessary information relative to the subject property to enable thorough and accurate analysis of the request.

(F) The responsibility to provide all required information, forms and statements at the time the application is filed is upon the applicant. Failure to provide such information, forms and statements shall cause the application to be rejected and returned to the applicant.

(G) Required copies of application: Upon submission and acceptance of the official application form and unless otherwise directed by the Town Clerk, the applicant shall, within three (3) calendar days of such acceptance, provide ten (10) copies of the completed application, including all required information, forms and statements, or such lesser or greater number of copies as deemed necessary by the Town Clerk for the review of the application.

(H) Application deadline: The applicant shall submit the completed and accepted application at least thirty (30) calendar days prior to the regularly scheduled meeting of the Board of Trustees at which the applicant wishes the proposed subdivision request to be considered. The actual scheduling of the application before the Board of Trustees shall be determined by the Town Clerk based upon the availability of time on the 's agenda.

(I) All subdivision applications shall be reviewed by the Town Planner, Department of Public Works, town consultants and finally reviewed and approved by the Board of Trustees.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-13-40. Exceptions; waiver.

(A) Upon application in writing by the subdivider, and where it can be shown in the case of a particular proposed subdivision that strict compliance with the requirements of this Chapter would result in extraordinary hardship to the subdivider because of unusual topography or other such conditions, the Board of Trustees may grant an exception, modification or waiver to a requirement so that substantial justice may be done and the public interest secured; provided that such exception, modification or waiver will not have the effect of nullifying the purpose and intent of this Chapter.

(B) In granting exceptions, modifications or waivers, the Board of Trustees may require such conditions as will, in its judgment, substantially secure the objectives of the standards and regulations so affected.

(C) In no case shall any exception, modification or waiver be more than is minimally necessary to relieve the hardship/condition giving rise to the exception, modification or waiver, and in no case shall it be in conflict with this Chapter.

(D) Exceptions, modifications or waivers shall be granted only after a noticed public hearing thereon, and hearings on applications for same may be incorporated into and be part of any noticed public hearing conducted on an underlying subdivision application.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-13-50. Recording procedures.

A final plat approved by the Board of Trustees and to which all required signatures have been affixed shall be recorded by the Town Clerk at the applicant's sole expense in the office of the County Clerk and Recorder promptly after receiving authorization. Authorization to record shall be indicated by the signature of the Mayor.

(A) The applicant shall submit any land dedication fees and shall have obtained prior approval of the improvements, plans, letter of credit, subdivider improvements/development agreement and other applicable information specified by this Chapter, and other applicable Town ordinances and resolutions prior to recordation of the final plat.

(B) The applicant shall provide a reproducible Mylar copy of the recorded original final plat, including the County Clerk and Recorder's seal and recording information, to the Town Clerk for use by the Building Official and prior to the issuance of building permits.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-13-60. Prohibitions.

(A) It shall be unlawful for any person or owner, or agent of the owner, of any land located within a subdivision to sell, agree to sell, or offer to sell any land by reference to or by use of a plan or plat of subdivision until such subdivision has received final approval in writing by (as applicable) the Town Administrator and/or the Board of Trustees and a plat is filed in the office of the County Clerk and Recorder; provided, however, that a written agreement to sell or lease, which is expressly conditioned upon full compliance by the seller with the subdivision regulations of the Town prior to the actual sale or lease of the subject lot or parcel, and which expressly recites that the seller's failure to timely and fully comply with the regulations shall entitle the buyer to terminate the agreement and obtain the prompt return of all consideration under said agreement, shall not constitute a violation of this Subsection.

(B) The prohibition of any act in this Chapter, in any amendment thereof and in any rule or regulation adopted hereunder shall include the causing, securing, aiding or abetting of another person to do said act.
(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XIV

Procedures—Major Subdivisions

- Sec. 16-14-10 Preliminary subdivision plan/plat approval
- Sec. 16-14-20 Final subdivision plan/plat approval
- Sec. 16-14-30 Appeals

Sec. 16-14-10. Preliminary subdivision plan/plat approval.

(A) Pre-application conference. No application for preliminary subdivision plan/plat approval may be submitted to the Town without the applicant having first met with Town staff (planning, building and public works) for a pre-application conference as required in Section 16-13-30. Applicants may schedule a time and date with the Town Clerk for the pre-application conference.

(B) Application. After the pre-application conference as required in (A) above, an applicant may file the necessary application and supporting materials, inclusive of a proposed preliminary plat prepared by a registered/licensed engineer or land surveyor, with the Town Clerk, accompanied by the appropriate fee. (One (1) reproducible Mylar of the final plat along with one (1) reproducible Mylar copy of the final plat and three (3) paper prints, shall be required upon final approval of the application by the Board of Trustees.) The applicant must submit the application not less than thirty (30) days prior to any meeting of the Board of Trustees at which the applicant would like to have the application considered. The applicant's failure to provide a fully completed application and/or supply all necessary supporting information or materials will cause the Town Clerk to delay the scheduling of the application before the determining body.

(C) Copies. Unless otherwise directed by the Town Clerk, the applicant shall provide ten (10) copies of all application materials. The Town Clerk may specify a lesser or greater number of copies in order to ensure that a sufficient number of copies are provided to those persons or agencies charged with reviewing the application.

(D) Referral of application. Upon receipt of a complete application and the payment of all required fees (and/or the posting of a deposit by the applicant to pay the costs of the application review), the Town Clerk shall distribute copies of the application and supporting materials to the , Town Planner and, as necessary or appropriate given the nature of the application, the following persons and agencies:

1. Town Clerk file;
2. Town Attorney;
3. Building Official;
4. Public Works Department;
5. Police Department;
6. All proposed public utility providers (e.g., electric, gas, telephone and CATV);

7. Fire Department; and if applicable;
8. Park County Health Department;
9. Ditch or irrigation companies;
10. U.S. Forest Service;
11. Colorado Land Use;
12. Colorado Geologic Survey;
13. Park County School District RE-2;
14. U.S. Army Corps of Engineers;
15. Colorado Department of Transportation; and
16. Such other person or agency as the Town deems appropriate for a full review of the application.

(E) The Town Clerk shall inform each outside agency receiving a request for review and referral comments that it must respond to such referral within thirty (30) days or such other time period as specified in the referral notice, and that a failure to timely respond shall be deemed to mean that the outside agency has no comments or objections to the development or activity proposed in the application. Reasonable extensions of the time period for submitting referral comments may be approved for good cause upon written request by the outside agency to the Town. The Town may retain the services of and refer applications to, in whole or in part, outside professional consultants, inclusive of engineers, surveyors, land use planners and legal professionals, to assist in the processing, review, evaluation, design and approval of the application, the cost of which shall be paid for by the applicant as part of the application/review fee.

(F) Board of Trustees action.

1. The Board of Trustees shall review and consider a request for preliminary subdivision plan and plat approval, along with any referral comments and recommendations from any department or agency, at a noticed public hearing not later than thirty (30) days after the date on which a complete application was filed with the Town, inclusive of the payment of all required fees, unless the Board of Trustees receives a written request by the applicant to extend such time, or the applicant consents to an extension of the time at the request of the Board of Trustees. At the conclusion of the hearing, and in no event later than thirty (30) days thereafter, the Board of Trustees shall issue its findings and approve, disapprove, or conditionally approve the application by written resolution. If disapproved or conditionally approved, the applicant may be allowed to revise his or her application and resubmit it for consideration at a subsequently scheduled and noticed public hearing.

2. The Board of Trustees shall not grant approval of a preliminary subdivision plan/plat application absent substantial compliance of the plan/plat with the Fairplay Comprehensive Plan and the applicable criteria set forth in this Chapter and other applicable sections of the Municipal Code, and without obtaining the comments and approval of the Department of Public Works with respect to the adequacy of the propose subdivision improvements and/or infrastructure and engineering.

3. Approval or conditional approval of a preliminary subdivision plan/plat shall be valid for six (6) months from the date thereof and shall not constitute an acceptance or approval of any subsequent submission regarding the proposed subdivision. A failure by an applicant to submit an application for final subdivision plat approval, either for the entirety or a portion of the subdivision, within six (6) months from the date of the preliminary approval shall cause the preliminary approval to automatically expire; except where, for good cause shown, the Board of Trustees, acting within the original six-month approval period, extends such period; and except where an application for final plat approval is timely submitted for less than all of the land within the proposed subdivision, in which case the preliminary approval for the remaining area shall automatically be extended for one (1) additional six (6) month time period.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-14-20. Final subdivision plan/plat approval.

(A) Pre-application conference. No application for subdivision plan/plat approval may be submitted to the Town without the applicant having first met with Town staff (planning, building and public works) for a pre-application conference as required in Section 16-13-30. Applicants may schedule a time and date with the Town Clerk for the pre-application conference.

(B) Application. Within six (6) months after approval of a preliminary plat for a major subdivision, or within the time period granted by any extension, the subdivision applicant shall file a final plat application with the Town Clerk. The final plat application shall be made on a form supplied by the Town Clerk and be accompanied by all of the documentation and information required by this Chapter, inclusive of a proposed final plat prepared by a registered land surveyor. The application may be submitted for all or a portion of an area within a preliminary subdivision plat approved by the Board of Trustees, and shall conform to all of the terms and conditions of that approval. No application shall be accepted except upon the full payment of all required fees (and/or the posting of a deposit by the applicant to pay the costs of the application review). The applicant must submit the application not less than thirty (30) days prior to any meeting of the Board of Trustees at which the applicant would like to have the application considered. The applicant's failure to provide a fully completed application and/or supply all necessary supporting information or materials will cause the Town Clerk to delay the scheduling of the application before the Board of Trustees.

(C) Copies. Unless otherwise directed by the Town Clerk, the applicant shall provide ten (10) copies of all application materials, inclusive of paper prints of the proposed final plat. The Town Clerk may specify a lesser or greater number of copies in order to ensure that a sufficient number of copies are provided to those persons or agencies charged with reviewing the application.

(D) The staff shall check the final plat for conformance with the approved preliminary plat and any terms or conditions under which the preliminary plat was approved and shall prepare a report on the same which shall identify any terms or conditions that are not in conformance and include a recommendation to the Trustees about whether the application should or should not be approved.

(E) Referral of application. Upon receipt of a complete application and the payment of all required fees (and/or the posting of a deposit by the applicant to pay the costs of the application review), the Town Clerk shall distribute copies of the application and supporting materials to the Board of Trustees, Town Planner and Department of Public Works.

(F) Board of Trustees action.

1. The Board of Trustees shall consider the application for final subdivision plan/plat approval at a noticed public hearing conducted not later than thirty (30) days from the date on which the application was deemed complete and ready for approval by the Town Administrator or her/his designee and the Department of Public Works, or as soon thereafter as can be accommodated on the Board of Trustees' meeting schedule. The hearing may be continued for up to forty (40) days to allow for the gathering and submission of additional information deemed necessary to complete the Board of Trustees' review, inclusive of referring the matter, or any particular item associated therewith, to the Town Planner for additional study and recommendation. At the conclusion of the hearing, and after discussion and deliberation thereon, the Board of Trustees shall vote to approve, approve with conditions or deny the application and final plat, and shall thereafter direct staff to prepare a written resolution with supporting findings reflecting the Board of Trustees' decision for review and approval at the Board of Trustees' next regularly scheduled meeting.

2. The Board of Trustees may approve minor modifications to the approved preliminary plat when all of the following conditions exist:

a. Any rearrangement of lot lines does not substantially alter the general lot and street layout of the approved preliminary plat, and remains compatible with surrounding development;

b. The requested modification is in compliance with the zoning regulations and regulations of this Chapter, and other applicable Town ordinances; and

c. The requested modification does not conflict with established policies of the Department of Public Works or other agency, public and private utilities, school district, recreation and park district.

3. The Board of Trustees may only grant final subdivision plan/plat approval upon finding that the application substantially complies with the Town's comprehensive plan and the applicable criteria set forth in this Chapter, and that the proposed subdivision will not adversely impact the public health, safety and welfare. The burden to demonstrate the application's and plan/plat's compliance with all applicable criteria shall rest with the applicant.

4. Certification (approval): If the Board of Trustees finds that the final plat conforms with the approved preliminary plat and, if any, all terms and conditions of the preliminary plat approval, and the subdivider has fulfilled all requirements of these regulations and the ordinances of the Town, then the Mayor shall certify said plat.

5. Modification or appeal: If the Board of Trustees determines that the final plat is not in compliance with the approved preliminary plat or any terms and conditions under which preliminary approval was granted and/or these regulations, the Board of Trustees shall direct the Town Administrator or her/his designee to give written notification of this determination to the applicant, who may make all necessary changes, additions or corrections. If the applicant does not desire to make the necessary changes, the applicant may appeal the decision as provided in Section 16-14-30.

6. Department of Public Works action. The Department of Public Works shall check the final plat to ensure compliance with these regulations, established policies of the Department of Public Works and other applicable Town ordinances.

7. Certification (approval): If the Department of Public Works finds the final plat and accompanying material is in compliance with accepted engineering principles, these regulations and other applicable Town ordinances, the Department of Public Works shall certify said plat.

8. Modification or appeal: If the Department of Public Works determines that the affidavits, offers of dedication, survey data or other requirements necessary to ensure compliance with these regulations and accepted engineering principles are inadequate, the Department of Public Works shall give written notice of this determination to the applicant, who may make all necessary changes, additions or corrections. If the applicant does not desire to make the necessary changes, the applicant may appeal the decision as provided in Section 16-14-30.

9. Approval of final plats: If the Town Administrator or her/his designee and Department of Public Works certify that a final plat is in compliance with the approved preliminary plat, accepted engineering principles and the ordinances of the Town, and the plat is approved as to form by the Town Attorney, said final plat Mylar original(s) shall be forwarded to the Mayor for signature.

10. The Board of Trustees may only grant final subdivision plan/plat approval upon written finding that the application substantially complies with the Town's comprehensive plan and the applicable criteria set forth in this Chapter, and that the proposed subdivision will not adversely impact the public health, safety and welfare. The burden to demonstrate the application's and plan/plat's compliance with all applicable criteria shall rest with the applicant.

11. The Mayor and Director of Public Works shall execute the approved final subdivision plat within ten (10) working days after the Board of Trustees has awarded final approval and the applicant has submitted the plat to the Town, along with any and all other documents and evidence, if necessary, demonstrating that all applicable conditions of approval for the subdivision have been satisfied, including the execution of a development or subdivision improvements agreement and the full payment of all fees. No person shall sell, transfer, convey, lease or rent, or negotiate to sell, transfer, convey, lease or rent, any lot or other property within the subdivision until the final subdivision plat has been duly recorded in the office of the Park County Clerk and Recorder.

12. The Mayor and Director of Public Works shall sign a reproducible Mylar original of the final subdivision plat and two (2) prints or copies thereof. One (1) fully executed copy or print will be returned to the applicant and the Town Clerk shall retain the other.

(G) It shall be the responsibility of the Town Clerk to file the approved plat with the Park County Clerk and Recorder's Office within ten (10) days of the date of the last signature thereon. Simultaneously with the filing of the final plat, the Town Clerk shall also record any development or subdivision improvements agreement and any agreement for dedications, together with such other legal documents as may be required by the Town Attorney to be recorded. The applicant shall bear the cost of all recordation fees. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-14-30. Appeals.

(A) An applicant may appeal a decision of the Town Administrator and/or Director of Public Works denying a preliminary or final subdivision application to the Board of Trustees by filing a written notice of appeal with the Town Clerk not more than fifteen (15) days from the date of the decision being appealed from. Such notice shall specify in plain language the grounds for the appeal and shall be accompanied by any

required filing fee and a copy of the decision being appealed. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule the matter for a public hearing before the Board of Trustees to be conducted not more than forty-five (45) days from the date the notice of appeal was received. Notice of the public hearing shall conform to the requirements of Article IV of this Chapter. Absent good and just cause, the failure of an appellant to attend the public hearing on his or her appeal shall constitute an abandonment of the appeal and no further proceedings shall be had thereon.

(B) All hearings on appeal shall be based on the record of the proceedings before the Town Administrator and/or Director of Public Works and the appellant shall carry the burden of persuasion with regard to all issues on appeal. The concurring vote of a majority of the membership of the Board of Trustees shall be required to reverse a decision of the Town Administrator or Public Works Director. The Board of Trustees shall evaluate a decision of the Town Administrator and Director of Public Works under an abuse of discretion standard, taking into consideration the requirements and criteria applicable to subdivision applications. Decisions of the Board of Trustees shall be entered not more than thirty (30) days from the conclusion of the hearing and shall be reduced to writing, a copy of which shall be promptly mailed to the appellant.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XV

Procedures—Minor Subdivisions

- Sec. 16-15-10 Eligibility for minor subdivision processing
- Sec. 16-15-20 Minor subdivision preliminary and final subdivision plan/plat approval
- Sec. 16-15-30 Town Administrator's or Board of Trustee action; final approval
- Sec. 16-15-40 Appeals

Sec. 16-15-10. Eligibility for minor subdivision processing.

(A) A subdivision of land which complies with all of the following requirements as herein defined shall be processed within the provisions of this Article:

1. The proposed subdivision plan/plat shall contain four (4) or fewer lots;
2. All lots must abut an existing street that satisfies all minimum municipal street standards;
3. The proposed subdivision plan/plat does not require or involve the installation or extension of a new water or sewer main or the installation of public improvements beyond curb, gutter and sidewalk;
4. The proposed subdivision plan/plat shall meet the minimum requirements of this Chapter; and
5. The subdivider shall not request any variance from the requirements of this Chapter or other applicable Town ordinances and resolutions during the subdivision process.

(B) Any proposed subdivision which does not comply with all of the requirements as specified in Subsection (A) above shall be considered a major subdivision and must be processed in compliance with Article XIV of this Chapter.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-15-20. Minor subdivision preliminary and final subdivision plan/plat approval.

(A) Pre-application conference. No application for minor subdivision plan/plat approval may be submitted to the Town without the applicant having first met with Town staff (planning, building and public works) for a pre-application conference as required in Section 16-13-30. Applicants may schedule a time and date with the Town Clerk for the pre-application conference.

(B) Application. After the pre-application conference as required in (a) above, an applicant may file the necessary application and supporting materials, inclusive of a proposed final plat prepared by a registered land surveyor, with the Town Clerk, accompanied by the appropriate fee. Minor Subdivision submittals shall conform to the requirements of a subdivision Final Plat. The proposed final plat need not be placed on Mylar at the time of application. (However, one (1) reproducible Mylar of the final plat along with one (1) reproducible Mylar copy of the final plat and two (2) paper prints shall be required upon final approval of the application by the Town Administrator.) The applicant must submit a complete application not less than thirty (30) days prior to consideration of the minor subdivision by the Town Administrator. The applicant's failure to provide a fully completed application and/or supply all necessary supporting information or materials will cause the Town Clerk to suspend consideration of the application.

(C) Copies. Unless otherwise directed by the Town Clerk, the applicant shall provide ten (10) copies of all application materials. The Town Clerk may specify a lesser or greater number of copies in order to ensure that a sufficient number of copies are provided to those persons or agencies charged with reviewing the application.

(D) Referral of application. Upon receipt of a complete application and the payment of all required fees (and/or the posting of a deposit by the applicant to pay the costs of the application review), the Town Clerk shall distribute copies of the application and supporting materials to the Town Planner and Department of Public Works and, as may be necessary or appropriate given the nature of the application, the following persons and agencies:

1. Town Clerk;
2. Town Attorney;
3. Building Official;
4. Public Works;
5. Fire Department;
6. Colorado Department of Transportation;
7. Such other person or agency as the Town deems appropriate for a full review of the application.

(E) The Town Clerk shall inform each outside agency receiving a request for review and referral comments that it must respond to such referral within twenty (20) days or such other time period as specified in the referral notice, and that a failure to timely respond shall be deemed to mean that the outside agency has no comments or objections to the development or activity proposed in the application. Reasonable extensions in the time period for submitting referral comments may be approved for good cause upon written request by the outside agency to the Town Administrator. The Town may retain the services of and refer applications to, in whole or in part, outside professional consultants, inclusive of engineers, surveyors, land use planners and legal professionals, to assist in the processing, review, evaluation, design and approval of the application, the cost of which shall be paid for by the applicant as part of the application/review fee.

(F) Town Administrator action.

1. The Town Administrator shall review and consider a request for preliminary minor subdivision plan/plat approval, along with any referral comments and recommendations from any department or agency, at a noticed public hearing not later than thirty (30) days after the date on which a complete application was filed with the Town, inclusive of the payment of all required fees, unless the Town Administrator receives a written request by the applicant to extend such time, or the applicant consents to an extension of the time at the request of the Town Administrator. At the conclusion of the hearing, and in no event later than ten (10) days thereafter, the Town Administrator shall issue written findings and approve, disapprove or conditionally approve the application by written resolution. If disapproved, the applicant may appeal the decision of the Town Administrator to the Board of Trustees at a subsequently scheduled and noticed public hearing. The Town Administrator in her/his sole discretion

may refer the application to the Board of Trustees for a decision if the application in the opinion of the Town Administrator receives written objections from adjoining property owners, or due to character of the application.

2. The Town Administrator shall not grant preliminary approval of a minor subdivision plan/plat application absent substantial compliance of the plan/plat with the Town's comprehensive plan and the applicable criteria set forth in this Chapter, without receiving input from referral agencies, without obtaining the comments and approval of the Department of Public Works with respect to the adequacy of the existing streets and water and sanitary sewer systems to service the proposed development.

3. Approval or conditional approval of a preliminary minor subdivision plan/plat shall be valid for six (6) months from the date thereof and shall not constitute an acceptance or approval of any subsequent submission regarding the proposed subdivision. A failure by an applicant to submit an application for final minor subdivision plat approval to the Town Administrator within six (6) months from the date of the preliminary approval shall cause the preliminary approval to automatically expire; except where, for good cause shown, the Town Administrator, acting within the original six-month approval period, extends such period, in which case the preliminary approval shall be extended for a maximum of one additional six (6) month period.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-15-30. Town administrator's or board of trustee action; final approval.

(A) The Town Administrator shall approve, approve with conditions, deny or at her/his sole discretion refer to the Board of Trustees, an application for final minor subdivision plan/plat and the proposed final subdivision plat after public notice is made in conformance with Article IV and not sooner than thirty (30) days from the date on which a completed application for final approval is submitted by the applicant to the Town Clerk. If the Town Administrator does not refer the application to the Board of Trustees and no objections are received after the public notice has been made in conformance with Article IV, the Town Administrator shall approve, approve with conditions or deny the application. In the event that objections are received, the application shall be scheduled before the Board of Trustees for a public hearing in conformance with Article IV. At the conclusion of the hearing, and after discussion and deliberation thereon, the Board of Trustees shall vote to approve, approve with conditions or deny the application and final plat, and shall thereafter direct staff to prepare a written resolution with supporting findings reflecting the Board's decision for review and approval at its next regularly scheduled meeting.

(B) The Town Administrator or the Board of Trustees may only grant final minor subdivision plan/plat approval upon finding that the application substantially complies with the Town's comprehensive plan and the applicable criteria set forth in this Chapter, and that the proposed subdivision will not adversely impact the public health, safety and welfare. The burden to demonstrate the application's and plan/plat's compliance with all applicable criteria shall rest with the applicant.

(C) The Town Administrator or in the case of Board of Trustee approval, the Mayor and Director of Public Works shall execute the approved final minor subdivision plat within a reasonable time after final approval of the plat and the applicant has submitted same to the Town, along with any and all other documents and evidence, if necessary, demonstrating that all applicable conditions of approval for the subdivision have been satisfied, including the execution of any development or subdivision improvements

agreement and the full payment of all fees. No person shall sell, transfer, convey, lease or rent, or negotiate to sell, transfer, convey, lease or rent, any lot or other property within the subdivision until the final subdivision plat has been duly recorded in the office of the Park County Clerk and Recorder.

(D) The Town Administrator or in the case of Board of Trustee approval, the Mayor and Director of Public Works shall sign a reproducible Mylar original of the final minor subdivision plat and two (2) prints or copies thereof. One (1) copy or print will be returned to the applicant and the Town Clerk shall retain the other.

(E) It shall be the responsibility of the Town Clerk to file the approved plat with the Park County Clerk and Recorder's Office within ten (10) days of the date of the last signature thereon. Simultaneously with the filing of the final plat, the Town Clerk shall also record the development or subdivision improvements agreement, if any, and any agreement for dedications, together with such other legal documents as may be required by the Town Attorney to be recorded. The applicant shall bear the cost of all recordation fees. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-15-40. Appeals.

(A) An applicant may appeal a decision of the Town Administrator denying a final minor subdivision plan/plat to the Board of Trustees by filing a written notice of appeal with the Town Clerk not more than ten (10) days from the date of the Town Administrator's written decision. Such written notice shall specify in plain language the grounds for the appeal and shall be accompanied by any required filing fee and a copy of the Town Administrator's decision being appealed. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule the matter for a hearing before the Board of Trustees to be conducted not more than thirty (30) days from the date the notice of appeal was received. Notice of the public hearing shall conform to the requirements of Article IV of this Chapter. Absent good and just cause, the failure of an appellant to attend the hearing on his or her appeal shall constitute an abandonment of the appeal and no further proceedings shall be had thereon.

(B) All hearings on appeal shall be based on the written decision of the Town Administrator and the appellant shall carry the burden of persuasion with regard to all issues on appeal. The concurring vote of a majority of the membership of the Board of Trustees shall be required to reverse a decision of the Town Administrator. The Board of Trustees shall evaluate a decision of the Town Administrator under an abuse of discretion standard, taking into consideration the requirements and criteria applicable to preliminary subdivision applications. Decisions of the Board of Trustees shall be entered not more than thirty (30) days from the conclusion of the hearing and shall be reduced to writing, a copy of which shall be promptly mailed to the appellant. (Ord. 2015-3, §1, 1-4-2016)

ARTICLE XVI**Subdivision Plat Details**

Sec. 16-16-10	Plat specifications
Sec. 16-16-20	Final plat submittal requirements
Sec. 16-16-30	Improvements
Sec. 16-16-40	Subdivision improvements/development agreements
Sec. 16-16-50	Final plat certificates and statements; accompanying documents
Sec. 16-16-60	Phasing of subdivision plats
Sec. 16-16-70	Suspension and invalidation of final plat

Sec. 16-16-10. Plat specifications.

In addition to the common submittal requirements in Article III, the following specifications shall apply to subdivision submittals.

(A) Plat preparation: The applicant shall cause the preparation of a subdivision plat on the subject property by a registered land surveyor. The subdivision plat shall comply with the detailed application form, the provisions of these regulations, the ordinances of the Town and State law. The subdivision plat may be comprised of multiple pages/sheets.

(B) Plat size: The size of all final plats shall be twenty-four (24) inches by thirty-six (36) inches.

(C) Plat requirements: Without limiting an applicant's right to file additional materials, the following application and subdivision plat details shall apply to all applications for subdivisions:

1. Name of proposed subdivision.
2. Name, address and telephone number of the applicant and legal property owners of subsurface mineral estates, including mineral lessees, if any.
3. Evidence of a title and any related supporting materials as needed.
4. Metes and bounds legal description, including monumentation certified by a registered land surveyor, and the total number of acres to be subdivided.
5. Survey notes of subdivision perimeter survey and copies of all monuments required pursuant to Section 38-53-103, C.R.S.
6. North point with written and graphic indication of the scale.
7. Vicinity map showing the subject site, streets, street names, schools, parks, railroads, public transit facilities, other identifying features of the area and any other public facilities within one-half (1/2) mile from the proposed subdivision.
8. Geologic investigation reports regarding area suitability for the proposed development.

9. Tables of soil-type interpretations, as prepared for the preliminary plan submission based on the National Cooperative Soils Survey, United States Department of Agriculture, Soil Conservation Service, and provided by the Soil Conservation District.
10. Existing and proposed contours at two-foot intervals, width and direction of flow of all watercourses and any area inundated by the one-hundred-year frequency flood.
11. The plat shall show all adjacent and included right-of-way locations, dimensions of proposed streets with delineation of proposed right-of-way dedication, names of existing and proposed streets; the proposed lot layouts, lot dimensions, lot areas and lot and block numbers; adjacent and included pedestrian ways; and all approximate locations of all building setback lines within and immediately adjacent to the subdivision.
12. The names, locations and property lines of adjacent subdivisions and the owners' names, locations and property lines of abutting unplatted tracts and public lands.
13. The existing uses on the property proposed for subdividing and all abutting property; and the building outline of all permanent structures located on the subject property which are to be retained.
14. The location, size, type and, where applicable, grades of all adjacent and included existing utilities and easements, and all new utilities and easements proposed for the subject property, including fire hydrant locations and postal facilities.
15. Designation of existing zoning on the subject property and abutting properties.
16. Completed and signed application form for rezoning, if required, for the development of the subdivision.
17. The substance of all covenants, grants of easements or restrictions to be imposed upon the use of the land, buildings and structures.
18. The location of bridges, culverts, catch basins and all other provisions for collecting and discharging surface and subsurface drainage.
19. The location, area and dimensions of all parcels to be reserved for the common use of all property owners in the proposed subdivision and/or land to be dedicated for public parks, open space, schools or other public uses.
20. The function, ownership and manner of maintenance of common open space not otherwise reserved or dedicated for public use.
21. The total number of proposed off-street parking spaces, excluding those associated with single-family residential zones.
22. The total number of square feet of proposed nonresidential floor space.
23. An engineer's estimate of total number of gallons per day of sewage.

24. The estimated construction cost, proposed method of financing and construction schedule of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities and such other utilities as may be required of the developer by the Town.

25. An engineer's estimate of the total number of gallons per day of water system requirements where a distribution system is proposed.

26. Where a public water system is proposed, the plan must show:

27. The location of water, and a preliminary plan of the distribution system.

28. Adequate evidence that a water supply, that is sufficient in terms of quality, quantity and dependability, will be available to ensure an adequate supply of water for the type of subdivision proposed.

29. If water is to be supplied by an existing public purveyor, a statement from the purveyor stating:

a. Willingness to extend.

b. The quantity of water to be furnished.

c. Existing commitments to be served.

d. The quantity of water available to the purveyor.

e. The feasibility of extending the service into the subdivision.

f. If wastewater treatment is to be accomplished by an existing public facility:

g. The contract for service.

h. An engineer's report showing:

i. The existing capacity over and above commitments or ability to expand so as to create capacity.

ii. A study showing the feasibility of extending services into the subdivision.

iii. It shall be the responsibility of the subdivider to provide the appropriate utility companies with preliminary and final plats and any such plat revisions that in any way affect the type of design of the systems to be installed.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-16-20. Final plat submittal requirements.

(A) Materials required to accompany final subdivision plat application. Following the approval of the preliminary plat, but not more than six (6) months after such approval, unless an extension of time is granted, the subdivider shall submit to the Town Clerk a sufficient number of copies of the proposed final plat and supporting materials to allow review of same by the Director of Public Works, Building Official, and other reviewing agencies.

1. In the event a preliminary plat covers only a portion of the applicant's entire holding, a sketch of the prospective street system for the entire tract shall accompany said plan. Filing fees will not be paid on the additional area until such time that a subdivision plat is submitted for such area.

2. Drainage:

a. If any drainageway exists within the proposed subdivision or adjacent to said subdivision that would be affected by any additional runoff caused by the development of the proposed subdivision, the applicant shall provide a drainage plan. Such plan shall incorporate existing and future upstream development and drainageway modifications, the impact of the proposed subdivision with respect to increased runoff contribution and drainageway modification, means to minimize the additional runoff and increased flow rates, and consider immediate and future downstream implications. Such plat shall show the existing topography by dashed lines, and the approximate proposed grading shall be indicated by solid lines within the proposed subdivision.

b. Should it be determined that a preliminary drainage plan is not required, the applicant shall provide a grading plan of the proposed subdivision which shall show the existing topography by dashed lines, and the approximate proposed grading shall be indicated by solid lines.

c. For a drainageway easement where a subdivision is traversed by a watercourse, stream or drainageway, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction of both will be adequate for drainage proposes. Parallel streets, parkways, walkways, culverts, bridges or storm sewers may be required in connection with such drainage easement.

3. All subdivision plans shall provide dedication of easements sufficient to allow the efficient installation and placement of all utilities as needed by the development now and in the foreseeable future.

4. Public utility installations shall be located so as to permit multiple installations within the easements to avoid cross-connections, minimize trenching and adequately separate incompatible systems.

5. Easements for utility service lines shall follow rear and side lot lines whenever practical and shall have a minimum width of ten (10) feet. The center line of any easement shall not coincide with a property line, and wherever possible the easement shall lie entirely on one (1) side of the property line. Where front line easements are required, a minimum of fifteen (15) feet shall be allocated as a utility easement, and shall not be less than fifteen (15) feet in width extending throughout the peripheral area of the development.

6. The location and width of all utility easements shall be subject to the approval of the Director of Public Works and of the utilities using the easement. The subdivider shall be responsible for complying with the requirements, including any construction or installation charges, of the servicing utilities for the installation of such facilities.

7. Underground placement of utilities shall be required in all subdivisions. Water and sewer lines must be buried at a minimum of nine and one-half feet (9.5') with cover to prevent freezing at or above eight thousand (8,000) feet. Electrical lines are to be buried at a minimum of forty-two (42) inches for primary and thirty (30) inches for secondary lines measured from the bottom of the conduit.

8. All residential, commercial and industrial uses which have human occupancy shall be connected to the Fairplay sewer system. The design and installation of all sewer mains, laterals and house connections must be in conformance with the Uniform Building Code and rules and regulations of the Fairplay Sanitation District. All sewer mains and laterals shall be installed in easements and/or dedicated rights-of-way.

9. All residential, commercial and industrial uses which have human occupancy shall be connected to the Town's municipal water system. The water distribution system of the subdivision shall contain mains of sufficient size and have sufficient number of outlets to furnish an adequate water supply for each lot or parcel in the subdivision, and to provide adequate riser protection. The Northwest Fire Protection District will review plans to ensure adequate fire protection. Design of water distribution systems shall be done by a licensed engineer and be in conformance with the Town requirements.

10. Any new building construction or other site alteration shall minimize the removal from the lot of trees with a trunk diameter of four (4) inches or more.

(B) Required accompanying data: The final plat shall be accompanied by the following data:

1. A certified statement by the subdivider to the effect that all supplemental information furnished with the preliminary plat is embodied in the final plat or, if this is not the case, revised supplemental data of the same scope and format as required for the preliminary plat is being furnished with the final plat.

2. Utility location plan.

3. Three (3) copies of all the protective covenants or restrictions placed on the subdivision, one (1) copy of which shall be filed with the plat.

4. Engineering plans, descriptions and cost estimates for streets, drainage facilities, utility systems, bridges and for other improvements proposed to be installed by the subdivider.

5. A check for the total amount of all fees owing the Town.

6. Warranty deed to the Town conveying to the Town all public lands other than streets shown on the plat if not otherwise dedicated on the plat.

7. Payment for any other fees applicable to the subdivision.

8. Proof that the subdivider has a right to subdivide certain real property. Evidence shall include ownership and encumbrance reports and written approval by mortgagors, or other persons or corporations having interest in said property, agreeing with proposed subdivision.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-16-30. Improvements.

(A) Documents to accompany final plats:

1. Not less than three (3) copies of an improvements plan which shall include, as applicable, profiles, grades, specifications, estimated construction costs, time schedule and other necessary information for the construction and installation of all improvements.

2. If there is evidence of unsuitable surface and/or subsurface soil conditions, the applicant shall provide a report, prepared by a licensed engineering geologist, which examines slope, stability and erosion characteristics, water table elevations, swelling pressure potential, bedrock depth or other geological characteristics necessary to ensure that all hazards and special precautions have been identified.

3. If the proposed subdivision is five (5) acres or larger, and there is evidence of sand, gravel, quarry aggregate or other mineral deposits underlying the subject property, the applicant shall provide a report, prepared by a licensed engineering geologist, which shall show the thickness and quality of such deposits, map the limits of the deposits, and other required information to determine the commercial value of such deposit, in accordance with state law, Section 34-1-130(4), C.R.S.

4. One (1) copy of the computed closure sheets for the entire subdivision.

5. Development assurance for common open space:

a. Adequate assurance may be required to ensure that any common open space and/or facilities will be provided as shown on the approved subdivision plat. Such assurance may be in the form of a bond, corporate surety or other financial guarantee approved as to form by the Town Attorney. The financial assurance, if required, shall be in the amount of one hundred twenty-five percent (125%) of the estimated engineering, materials and construction costs at the projected time of installation. If the required improvements are not complete by the projected time of completion, the Town shall review the amount of the financial assurance covering the incomplete improvements and may require that the amount of the assurance be revised in accordance with the then current costs of engineering, materials and construction.

b. If development is proposed to occur in phases, assurances that common open spaces and/or facilities will be provided as shown on the approved subdivision plat shall stipulate that such open space and/or facilities will be completed in the same proportion as that particular phase is of the entire development.

c. The requirements of this Subsection are deemed separate, distinct from and are not met by the requirements for collateral to secure construction of public improvements as provided hereinabove.

(B) Required improvements:

1. Unless specifically authorized, the following improvements shall be addressed in the subdivision improvements agreement or contract:

- a. Road grading and surfacing.
- b. Curbs, gutters and driveways.
- c. Sidewalks.
- d. Sanitary sewer mains as applicable and sanitary sewer laterals and house connections and payment of fees.
- e. Separate bicycle paths.
- f. Water distribution system, and fire-fighting resources, including fire hydrants, where applicable, water meters and house connections; this includes payment to the Town for the appropriate portion of any water lines built through the property by the Town as determined by the staff.
- g. Storm sewers or storm drainage system, as required.
- h. Street signs at all street intersections and other places, as required, and address numbers for all buildings; such signs and address numbers to be acceptable to the Town of Fairplay.
- i. Landscaping plan, including street trees and irrigation distribution system in conformance with the landscaping regulations specified in Article XXV.
- j. Street trees.
- k. Permanent reference monuments and monument boxes.
- l. Exterior lighting plan including street lighting in conformance with the lighting regulations specified in Article XXVI.
- m. Underground electric and communication utility lines and services, and all street lighting devices.
- n. Adequate parking facilities.
- o. Other facilities as may be specified or required in these regulations by the Town Administrator or her/his designee or Board of Trustees.
- p. No improvements shall be made until all required plans, profiles and specifications for such improvements have been submitted and approved by the designated Town official.

(C) Acceptance of streets, roads, water system and other public improvements:

1. Preliminary acceptance:

a. Upon completion of street or road, water system or other improvements, the subdivider shall notify the Town in writing and request inspection. The Director of Public Works or other designated inspector shall inspect such improvement and shall notify the subdivider in writing of nonacceptance or preliminary acceptance. If an improvement is not acceptable, the reasons for nonacceptance shall be stated and corrective measures shall be outlined in a letter of notification.

b. Until such time that the developer has received written acceptance for full maintenance of a public improvement by the Town, the developer shall be responsible for all maintenance and repairs of such improvement.

c. The Town shall not be required to inspect or accept street or water system improvements for maintenance from November through May since construction and operational deficiencies cannot usually be determined or corrected during this period due to weather.

d. The Town may require continued surety by the subdivider for any work to be done.

2. Final acceptance:

a. One (1) year following the issuance of a certificate of preliminary acceptance, the Public Works Director or other designated inspector shall inspect a public improvement for final acceptance.

b. The Town shall notify the subdivider in writing of nonacceptance or final acceptance. If an improvement is not acceptable, the reasons for nonacceptance shall be outlined in the letter of notification. If an improvement is found to be acceptable, the Town shall release the guarantee for the improvement and assume full maintenance responsibility for same as provided in Paragraph (3) below.

3. Certificate of completion: Except as may be otherwise provided in any subdivision agreement, the Town shall not accept responsibility for the operation or maintenance of improvements until completion of the improvements and final acceptance thereof by the Town. The Town will not accept any improvements, nor release or reduce the amount of any security posted by the subdivider, until the Town has certified that the required improvements have been satisfactorily completed and the subdivider's engineer or surveyor has provided detailed "as-built" drawings and/or surveys illustrating locations, dimensions, materials and other information required by the Town, and that the quality, grade, siting, alignment and all other aspects of the improvements are in accordance with construction plans for the subdivision. Additionally, the subdivider must affirm by delivery of an opinion of title or other documentation deemed acceptable by the Town that the improvements have been completed, are ready for acceptance by the Town and are free and clear of any and all liens and encumbrances. Upon written application by the subdivider for a certificate of completion, and provided that all payments and other performance agreed to be made and performed by the subdivider have been made and completed, the Town shall issue a certificate of completion. Upon issuance of a certificate of completion, all improvements specified in the certificate shall be deemed to be approved and accepted by the Town, whereupon the specific improvements shall be owned, operated and maintained by the Town.

4. Maintenance of improvements: A subdivider/developer shall maintain all subdivision improvements and infrastructure, except for the removal of snow from streets, sidewalks or other public rights-of-way, until final acceptance of the improvements for maintenance by the Town. Prior to final acceptance, the Town, upon reasonable notice to the subdivider/developer, may undertake emergency repairs to any improvement or infrastructure as deemed necessary by the Town, and charge the reasonable costs thereof to the subdivider/developer. The Town may make demand and draw upon security posted by the subdivider/developer for any improvement or infrastructure in order to recover its costs in maintaining or repairing same.

5. Deferral or waiver of required improvements:

a. The Town may defer or waive at the time of final subdivision plat approval, subject to appropriate conditions, the provision of any or all subdivision improvements as the Town may deem necessary due to inadequate or non-existent connecting or supporting facilities or systems, or for other just cause. Decisions to waive or defer otherwise required subdivision improvements may only be made by the Board of Trustees on the record at a public hearing or meeting, and must be supported by expressed findings and reasons.

b. Whenever it is deemed necessary to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the subdivider shall pay to the Town its estimated proportionate share of the costs of the future improvements prior to the execution of the final subdivision plat, or execute a separate subdivision improvements agreement secured by a letter of credit or other financial instrument acceptable to the Town guaranteeing completion of the deferred improvements upon demand of the Town.

6. Issuance of building permits or certificates of occupancy: No building permit or certificate of occupancy shall be processed or issued by the Town for any lot(s) or building(s) within a subdivision prior to the complete and satisfactory installation of all subdivision improvements or infrastructure required to serve such lot(s) or building(s), and the payment of any and all subdivision fees then due to the Town by the subdivider/developer.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-16-40. Subdivision improvements/development agreements.

(A) Completion of improvements. All applicants granted a subdivision approval requiring or involving public improvements and/or infrastructure shall timely, fully and satisfactorily construct or install all such public or other required improvements and infrastructure as a condition of final subdivision development approval. All improvements and infrastructure intended for public use shall be dedicated and/or transferred to the Town free of all liens and encumbrances. A failure by an applicant to complete, dedicate and/or transfer subdivision improvements and infrastructure as required herein may result in the suspension or withdraw of approval and authorization for the subdivision.

(B) Subdivision improvements agreement and guarantee.

1. Agreement. No final subdivision plat shall be executed by the Town and no building permits shall be processed or issued for any lot or property within a subdivision involving or requiring the installation of public or other subdivision improvements absent the preparation and execution of a written subdivi-

sion improvements agreement (or development agreement) which shall be recorded simultaneously with the final subdivision plat. Such agreement shall, at a minimum, set forth construction specifications for required subdivision improvements, a construction and completion schedule, provide for security and guarantees concerning the timely and satisfactory completion of the improvements, and identify the terms and conditions for the acceptance of the improvements by the Town. The agreement shall also include a requirement that all improvements be maintained by and/or at the cost of the subdivider for a period of one (1) year following preliminary acceptance, and that the subdivider will warrant all improvements to be free from defects (inclusive of materials, design and construction) for a period of one (1) year following preliminary acceptance.

2. Covenants to run. A subdivision improvements agreement (or development agreement) shall run with the land and bind all successors, heirs and assignees of the subdivider.

3. Security. All subdivision agreements (or development agreements providing for the installation of subdivision improvements) shall include a requirement for the posting of adequate financial security to insure the timely, complete and satisfactory construction or installation of all subdivision improvements and infrastructure as called for in the agreement. Security shall be in an amount not less than one hundred twenty-five percent (125%) of the estimated cost of completion of all improvements or infrastructure and may be provided by letter of credit, cash escrow, performance bond, or other financial instrument as approved by the Town within its sole discretion.

a. Letter of credit. If an applicant posts a letter of credit as security, it shall: (1) be irrevocable; (2) be for a term, inclusive of renewals, sufficient to cover the completion, maintenance and warranty periods as required in this Section; and (3) require only that the Town present the letter of credit with a demand and an affidavit signed by the Mayor attesting to the Town's right to draw funds under the letter of credit.

b. Cash escrow. If an applicant posts a cash escrow, the escrow instructions shall provide that: (1) the subdivider will have no right to a return of any of the funds except as provided in this Section and (2) that the escrow agent shall have a legal duty to deliver the funds to the Town whenever the Mayor presents an affidavit to the agent attesting to the Town's right to receive funds, whether or not the subdivider protests that right.

c. Reduction of security. Upon preliminary acceptance of a subdivision improvement or infrastructure, the Town shall release all but twenty-five percent (25%) of the amount of financial security posted to secure the successful and timely completion of same, so long as the subdivider/developer is not in default of any provision of the subdivision improvements (or development) agreement. The residual twenty-five percent (25%) retained by the Town shall act as security for the subdivider/developer's guarantee that the subdivision improvements and infrastructure remain free of defect during the applicable warranty period. The subdivider/developer may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial security to that security as originally posted with and/or retained by the Town.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-16-50. Final plat certificates and statements; accompanying documents.

All plats shall have the following certificates and statements unless otherwise authorized by the Town Attorney:

1. Certification of approvals and signature blocks for the following:

- a. The Town Administrator Certificate (Minor Subdivisions) by the Town Administrator;
- b. The Board of Trustees Certificate by the Mayor (where applicable);
- c. Attestation and Acceptance Certificate by the Town Clerk;
- d. Clerk and Recorder Certificate for Park County;
- e. Landowner Ownership and Dedication Certificate(s);
- f. Title Company/Attorney Title Certificate;
- g. Surveyor's Certificate; and
- h. Mortgagee's or Lien Holder Certificate (when applicable).

2. Certificates substantially complying in form with the following shall, at a minimum, be included on the final map/plat when applicable.

Land Dedication and Owner's Certificate

KNOW ALL PERSONS BY THESE PRESENTS:

That _____, being the owner or owners of the following described real property situate in the Town of Fairplay, County of Park and State of Colorado, to wit:

(Legal Description)

has laid out, subdivided and platted the same into lots, tracts, streets, and easements as shown herein under the name and style of _____ [insert name of subdivision], and by these presents does hereby set apart and dedicate to the Town of Fairplay for public use all of the streets, alleys and other public ways and places as shown hereon, and hereby dedicates those portions of land labeled as utility easements for the installation and maintenance of public utilities as shown hereon. [and/or other purposes, as appropriate to the subject plat].

Executed the ____ day of _____, _____.

Owner's or Owners' Name(s)

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, _____ by _____ [printed name(s) of owner(s)]. [If by natural persons, here insert name; if by persons acting in a representative official capacity, or as attorney-in-fact, then insert the name and said capacity of said person and reference document establishing such capacity; if by officer of a corporation, then insert the name of said officer as the president or vice president of such corporation, naming it; if by a general partner of a partnership, then insert the name of said person as a general partner].

Witness my hand and official seal.

(SEAL) _____

Notary Public

My commission expires: _____

Title Company Certificate:

_____ does hereby certify that we have examined the title to all lands shown hereon and all lands herein dedicated by virtue of the plat, and title to all such lands is in the above-named Owner(s) free and clear of all liens, taxes and encumbrances, except as follows:

[necessary descriptions when applicable]

Dated this ____ day of _____, ____.

Agent/Officer

Title: _____

(Notary certification)

Mortgagee's Certificate

(if applicable)

_____, as beneficiary of a deed of trust [or identify other mortgage instrument or agreement creating security interest] which constitutes a lien upon the declarant's property, recorded at Reception No. _____ and/or Book _____, Page _____, Park County Clerk and Recorder, hereby consents to the dedication of land to streets, alleys, roads and other public areas as designated on this plat, and hereby forever releases said lands from the lien created by said instrument.

(print name of beneficiary)

(signature)

(print title)

Date: _____

Address: _____

(Notary certification)

Surveyor's Certificate:

I, _____, being a registered land surveyor in the State of Colorado, do hereby certify that this plat of _____ was prepared by me and under my supervision, that both this plat and the survey are true and accurate to the best of my knowledge and belief, and that the monuments were placed pursuant to Sec. 38-51-105, C.R.S.

Dated this ____ day of _____, ____.

[Surveyor's name/Registration No.]

Town Administrator Certificate:

This plat is approved* this _____ day of _____, _____.

TOWN OF FAIRPLAY

TOWN ADMINISTRATOR

Fairplay Director of Public Works Certificate:

This plat is approved* this _____ day of _____, _____.

TOWN OF FAIRPLAY

DIRECTOR OF PUBLIC WORKS

Fairplay Board of Trustees Certificate:

This plat is approved* this _____ day of _____, _____.

TOWN OF FAIRPLAY

Mayor

ATTEST:

Town Clerk

(Seal)

*This approval does not guarantee that the type of soil, geologic hazard, drainage or flooding conditions of any lot shown hereon are such that a building permit may be issued. This approval is also with the understanding that all expenses involving necessary improvements for all utility service, paving, grading, landscaping, curbs, gutters, street lights, street signs, and sidewalks shall be financed by others and not the Town of Fairplay. Notice is further hereby given that acceptance of this platted subdivision by the Town of Fairplay does not automatically constitute an acceptance of the roads, rights-of-way and other public improvements shown hereon for maintenance by said Town. Until such roads and rights-of-way and improvements meet Town specifications and are specifically inspected and accepted by the Town, the maintenance, construction, and all other matters pertaining to or affecting said roads, rights-of-way and improvements are the sole responsibility of the subdivider and owners of the land embraced within this subdivision.

Town Clerk's Certificate:

STATE OF COLORADO)
) ss
COUNTY OF PARK)

I hereby certify that this instrument was filed in my office at _____ o'clock ____ .M., _____, and is duly recorded.

Town Clerk
(Seal)

Clerk and Recorder's Certificate:

STATE OF COLORADO)
) ss.
COUNTY OF PARK)

I hereby certify that this plat was accepted for filing and recorded in the office of the Park County Clerk and Recorder on the _____ day of _____, _____, under Reception No. _____, and/or Book _____, Page _____, at _____ o'clock.

Park County Clerk and Recorder
(Seal)

- 3. Other documents required at the time of submission of the final plat shall be:
 - a. Draft engineering plans and specifications for all public infrastructure and facilities, e.g., water and sewer systems, streets/paving, drainage, curb, gutter and sidewalk.
 - b. Utility and Ditch Company service agreements/written commitments when applicable.
 - c. A draft subdivision improvements/development agreement prepared in substantial compliance with such format as adopted by the Town, inclusive of financial security agreements or specimens and all terms and conditions, if any, of subdivision approval established by the Board of Trustees. (The submission of the draft agreement can be delayed at the applicant's discretion until after the public hearing on the proposed final plat.)

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-16-60. Phasing of subdivision plats.

Prior to granting final approval of a subdivision plat, the Board of Trustees may permit the plat to be divided into two (2) or more phases or sections and impose such conditions upon the filing of the phases and

sections as it may deem necessary to assure the orderly development of the plat. The Board of Trustees may also require that the subdivision improvement agreement and performance guarantees applicable to the subdivision be in such amount(s) as is commensurate with the phase or phases of the plat to be filed, and may defer the remaining amount of the security until the remaining phases of the plat are offered for filing. The developer may also file irrevocable offers to dedicate streets and public improvements in the sections offered to be filed and defer filing offers of dedication for the remaining phases until those phases, subject to any conditions imposed by the Board of Trustees, shall be granted concurrently with the final approval of the plat. If phasing is approved, the approved subdivision plat showing the approved phase shall be filed with the County Clerk and Recorder's office. Unless otherwise approved by the Board of Trustees, phases must contain at least twenty-five percent (25%) of the total number of lots contained in the approved plat. The approval of all remaining phases not initially filed with the Clerk and Recorder's office shall automatically expire unless such phases have been approved and recorded, and all fees, instruments and offers of dedication have been submitted, along with a subdivision improvement agreement, security and performance bonds, if any, within three (3) years of the date of final subdivision approval of the subdivision plat. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-16-70. Suspension and invalidation of final plat.

If the Town suspends final plat approval for any subdivision plat under these regulations, it shall record a document with the Park County Clerk and Recorder's office declaring that final approval for the subdivision is suspended and that the further sale, conveyance or development of property within the subdivision is prohibited; except that this prohibition shall not apply to innocent third persons or parties who have acquired property from the subdivider in good faith, unless the person or party acquiring property has done so as joint or common owner with the subdivider. Similarly, if any court of competent jurisdiction invalidates final plat approval for any subdivision, the municipality shall record a document with the Park County Clerk and Recorder's office declaring that the final plat for the subdivision is no longer valid and that further subdivision activity is prohibited. (Ord. 2015-3, §1, 1-4-2016)

ARTICLE XVII**Design Standards**

- Sec. 16-17-10 General requirements
- Sec. 16-17-20 Graphic presentation
- Sec. 16-17-30 Street standards
- Sec. 16-17-40 Storm drainage
- Sec. 16-17-50 Utilities
- Sec. 16-17-60 Waivers and modifications

Sec. 16-17-10. General requirements.

The planning, layout and design of subdivisions are of the utmost concern. The residents must have available to them within the area safe and convenient movement to points of destination or collection. Modes of travel to achieve this objective should not conflict with each other or abutting land uses. Lots and blocks should provide desirable settings for the buildings that are to be constructed, make use of natural contours, and protect views, and afford privacy for the residents and protection from adverse noise and vehicular traffic. Natural features and vegetation of the area must be preserved when possible. Schools, parks, churches and other community facilities should be planned for as an integral part of the area.

1. Names of subdivisions: The name of a subdivision shall not duplicate or closely duplicate that of any existing subdivision within the County area.

2. Uninhabitable land: The land which is deemed to be uninhabitable because of the flooding, inadequate drainage or excessive grades shall not be subdivided for any use which may increase danger to health, life or property or aggravate flood or other hazards. Such lands within a subdivision may be set aside for approved uses which will remedy the condition or conditions.

3. Regulatory considerations: When designing a subdivision, full compliance with the Zoning Regulations of the Town shall be required with particular attention to the zoning district in which the proposed subdivision is located.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-17-20. Graphic presentation.

(A) Blocks:

1. The lengths, widths and shapes of blocks shall be determined with due regard to:

- a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
- b. Zoning requirements as to lot sizes and dimensions;
- c. Needs for convenient and emergency access, circulation and traffic safety; and
- d. Limitations and opportunities of topography.

2. Pedestrian access shall be required to provide links to neighborhood schools, playgrounds, shopping centers and other community facilities where such facilities exist within a reasonable walking distance of the subdivision.

(B) Lots:

1. The lot size, width, depth, shape and orientation shall be appropriate for the type of development and use contemplated.

2. Residential lot dimensions shall conform to the minimum requirements of the Zoning Code.

3. Depth and width of properties shall be adequate to provide for the necessary private service and parking facilities required by the type of use and development contemplated.

4. Normally, the average lot depth shall not exceed twice the lot width at the building line.

5. Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both roads.

6. All lot lines shall be at right angles to the center line of an abutting street, or to a tangent of the arc of the center line of a curved street. If after subdividing the existing remnants of land, the remaining land shall be included in proposed or existing lot areas.

7. Each lot shall be provided with a minimum frontage on an approved public or private street as specified in the Zoning Code. The feasibility of a suitable driveway from the adjacent street to a usable building area on each site must be demonstrated for each lot.

8. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from arterials and limited access facilities or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet in width and across which there shall be no vehicular right of access may be required along the rear property line of lots abutting such traffic artery or other disadvantageous use.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-17-30. Street standards.

(A) Street systems: Street systems are to be laid out, designed and constructed in accordance with standards specified by the Department of Public Works. The following standards are only minimums and are designed to provide general guidelines to the subdivider.

(B) Street names: Streets that are extensions of, or obviously in alignment with, existing named streets shall bear the names of the existing streets. Street names shall be subject to the approval of the Board of Trustees.

(C) Street layout:

1. Layout shall be considered in relation to existing and planned future streets, topographical conditions and soil conditions, particularly considering drainage and erosion factors, to public convenience and safety, to aesthetics and in their appropriate relation to the proposed use of the land to be served.

2. When any part of a collector, arterial or limited access facility, indicated as such on the transportation plan of the Town, passes through a proposed subdivision, such part shall be dedicated in the location and at the width indicated on the plan.
3. The dedication of a half street shall not be accepted unless:
 - a. The subdivider obtains for the Town a dedication from the abutting landowner of the other one-half ($\frac{1}{2}$) of the street; and
 - b. The subdivider obtains from the said abutting landowner an agreement in a form satisfactory to the Town Attorney which guarantees the cost of the improvements and construction of the same on the half street within a time suitable to the Department of Public Works; and
 - c. The subdivider guarantees the construction of the improvements on the half street which he or she is dedicating; or
 - d. Any other similar arrangement recommended by the Department of Public Works and approved by the Board of Trustees.
4. Right angle intersections shall be used whenever practicable.
5. Intersecting collector and local streets shall not empty into the same side of an arterial street at intervals of less than eight hundred (800) feet.
6. Local and collector street shall be laid out so that their use by major through traffic will be discouraged.
7. When a subdivision abuts and controls access to public lands or existing streets, access shall be provided in the form required by the public agency involved. When a subdivision abuts private lands, the Town may require the developer to provide access thereto.
8. Reserve strips controlling access to public streets shall be prohibited except where their ownership is given to the public agency having jurisdiction and where agreed to by that public agency. In general, reserve strips in the form of one-foot outlets are required to control access on perimeter and stub streets.
9. Alleys open at both ends may be required in commercial and industrial districts.
10. Where railroad crossings are proposed or affected, provisions for grade separations, buffer strips and safety protection devices shall be provided by the applicant as required. Obtaining approval from the affected railroad company and the Colorado Public Utilities where applicable shall be the applicant's responsibility.
11. Streets which are stub streets designated to provide future connection with adjacent unplatted land shall be provided with a temporary turnaround at the stub end.
12. Culs-de-sac shall not exceed four hundred (400) feet in length and shall have a turnaround with a minimum radius of fifty (50) feet at the closed end. In the event the cul-de-sac drains into the closed end, storm sewers or other drainage structure shall be required to dispose of storm water satisfactorily.

13. Street curb intersections shall be rounded by a tangential arc with a minimum radius of twenty (20) feet for a single-family local residential streets and culs-de-sac, and thirty (30) feet for intersections including multifamily residential, business, industrial, collector and arterial streets. Corresponding radii for property lines shall be rounded by a tangential arc having the same center as the arc of the curb intersections.

14. All changes in street bearing shall be connected with curves tangent to the bearing at both ends. There shall be a tangent of at least one hundred (100) feet in length measured at the center line at both ends.

15. When a subdivision abuts or contains an existing or proposed freeway or major arterial, restriction of access may require the platting of a frontage road and/or visual screen planting easement.

16. Where vertical curbs with separated sidewalks are required, the planting area or that unpaved portion of the right-of-way between the curb and the sidewalk shall be landscaped and maintained by the abutting property owners. Landscaping shall normally be limited to sodding or seeding, except that trees, shrubs or other plant materials may be used subject to the Town approval of the location and species of planting materials to be installed.

17. Private streets: The use of private streets will be limited and is permitted only upon approval of the plan by the Board of Trustees. Private streets shall be confined to closed loops and dead-end streets not to be used for the convenience or safety of the general public.

(D) Design criteria:

1. All streets constructed within the Town limits must be constructed to meet current fire and building code specifications as adopted by the Town.

2. In the Residential (R) Zoning District, the developer must construct streets with a minimum of thirty-two-foot-wide paved surface, two (2) feet, seven (7) inches on each side of pavement, with concrete curb and gutter and a six-foot-five-inch area between the curb and the edge of the street right-of-way, with a four-foot sidewalk on both sides of the street, or a concrete drain pan on each side of the paved street with a drive-over sidewalk within the six-foot-five-inch area on each side of the street.

3. The street must be constructed with a minimum of six (6) inches of road base compacted to ninety-eight percent (98%) beneath the asphalt surface. Said compaction test must be performed by a licensed geotechnician and be paid for by the developer. Said asphalt surface must be a minimum of three (3) inches thick.

4. If the Department of Public Works requests a core test of the asphalt, said test shall be performed at the expense of the contractor or the developer, as per the development agreement.

5. In all zoning districts other than Residential (R), the developer must construct streets with a minimum of forty-two-foot-wide paved surface, two (2) feet, seven (7) inches on each side of pavement, with concrete curb and gutter and a six-foot-five-inch area between the curb and the edge of the street right-of-way with a four-foot sidewalk on both sides of the street, or a concrete drain pan on each side of the paved street with a drive-over sidewalk within the six-foot-five-inch area on each side of the street.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-17-40. Storm drainage.

(A) Land within an adopted one-hundred-year flood plain zone or land which is subject to inundation by a one-hundred-year flood shall not be platted for occupancy unless the flooding condition is alleviated in conformance with the Town Flood Plain Management Regulations.

(B) Historical flow patterns and runoff amounts are to be maintained in such a manner that would preserve the natural character of the area and prevent property damage of the type generally attributed to runoff rate and velocity increases, diversions, concentrations and/or unplanned ponding of storm runoff.

(C) The runoff rate from a one-hundred-year frequency storm before and after anticipated development of the drainage basin involved shall be used in determining the provisions that must be made to satisfy the requirements of Subsection (B) above. Where the historical amounts of runoff cannot be maintained by detention storage or other devices, suitable channelization with erosion protection and/or outfall storm sewer leading to a suitable discharge point must be provided.

(D) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement for maintenance purposes and for the purpose of excluding improvements of the type that would interfere with runoff. The minimum requirements for such easements shall be based on a one-hundred-year frequency flood but shall not be less than twenty (20) feet in width.

(E) When a subdivision is traversed by water supply ditches or canals, the engineering requirements of the ditch owner may be specified with a certificate of clearance from the appropriate official of the ditch company to the effect that all work required by the Department of Public Works as a condition of plat approval has been satisfactorily performed may be required prior to acceptance of any public improvements or the issuing of building permits within the subdivision.

(F) All storm sewers and drainage facilities such as gutters, catch basins, bridges and culverts shall be installed and the land graded for adequate drainage as shown on plans submitted and approved and shall be inspected and checked for adequacy by the Department of Public Works.

(G) Erosion and sediment control: In addition to permanent provisions, temporary erosion and sediment control measures are also required during construction operations.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-17-50. Utilities.

(A) General criteria:

1. Telephone, electric, gas and other similar utility lines and services shall be placed underground unless otherwise authorized by the Board of Trustees. Transformers, switching boxes, terminal boxes, metering, roadway lighting, signal devices, gas regulators, compressor stations or other similar facilities necessary and appurtenant to underground facilities may be placed above ground. Utility lines may be placed either within public road rights-of-way within the subdivision in accordance with adopted encroachment requirements or within easements or rights-of-way provided for the particular facilities in accordance with the approved improvements plan.

2. The subdivider shall be responsible for all construction or installation charges including those required by the agency serving utilities, except those installed at the expense of the utility company involved.

(B) Easements: New easements shall be planned so as to be free from conflicting legal encumbrances, to avoid unnecessary removal of trees or excessive excavations, and to be free from obstructions. The developer is encouraged, in lieu of mechanically providing easements on each and every lot line, to propose a layout based upon a plan for providing the necessary utilities in order to reduce the number and complexity of easements. Such a proposal is subject to approval by the utility agencies involved and by the Town. Easements are to be retained or, if nonexistent, provided for all existing utilities that are to remain.

(C) Availability of service: The subdivider must present assurances from authorized representatives of all major suppliers of utilities to the proposed subdivision that said utilities are available and will be supplied to the project.

(D) Water and sewer mains:

1. In order to provide for the orderly construction of public improvements as areas are built and developed, and to avoid intermittent sections so improved or unimproved, and to promote the public health, safety and welfare, all water and sewer mains shall be installed and improved in accordance with the specifications of the Town.

2. All water and sewer mains shall be laid to the grades shown on the water and sewer profile and cross-section plans submitted and approved and shall be inspected and checked for accuracy by the Department of Public Works.

(E) Survey monuments: Permanent plat boundary monuments shall be set at locations approved by the Department of Public Works.

(F) Fire protection: Fire hydrants are to be provided in all developments served by central system and are to be separated by no more than five hundred (500) feet.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-17-60. Waivers and modifications.

(A) Upon written request by a subdivider, the Board of Trustees may waive or modify the requirements of these regulations utilizing the following evaluation criteria:

1. The granting of the waiver or change will not be detrimental to the health, safety, convenience and general welfare of the citizens of the Town; and
2. The waiver or change shall not in any manner vary the provisions of the Zoning Code; and
3. The waiver or change will be consistent with the goals and policies of the applicable neighborhood policy plan and the Comprehensive Plan of the Town; and
4. The waiver or change shall not be injurious to the permitted usage of adjacent property; or

5. The waiver or change will allow conformance with existing improvements; or

6. The waiver or change will improve the design, character and quality of the new development by facilitating more efficient and economic provision of streets and utilities; and by preserving natural and scenic features of the particular site.

(B) Waivers or modifications authorized hereunder shall bind the development of the specific property regardless of any change in ownership of the property.

(C) Waivers or modifications authorized hereunder shall be indicated in written or graphic form on the final plat prior to recording the approved final plat in the office of the County Clerk and Recorder.

(D) No waiver or modification may be considered or granted for minor subdivisions.
(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XVIII**Land Dedication**

Sec. 16-18-10	Policy
Sec. 16-18-20	Requirements
Sec. 16-18-30	Use of fees and dedicated land
Sec. 16-18-40	Payment of fees
Sec. 16-18-50	Applicability of requirements
Sec. 16-18-60	Deferral of construction
Sec. 16-18-70	Revision of cash fees

Sec. 16-18-10. Policy.

The Board of Trustees does hereby declare that it shall be a matter of formal public policy that the standard of parks and/or open space for new residential subdivisions, or resubdivisions which result in an increase in density, shall be one and one-half (1.5) acres of parks and/or open space for each one hundred (100) residents of the Town.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-18-20. Requirements.

(A) Except as provided in this Article, the subdivision or platting of all lands within the limits of the Town on the effective date hereof, or thereafter annexed, shall be required to provide a cash payment or land dedication for parks/open space or public facilities as follows:

1. Parks/open space fee for residential:
2. Single-family—five hundred dollars (\$500.00) per unit.
3. Multiple-family—three hundred fifty dollars (\$350.00) per unit.

(B) Public facilities fee for nonresidential: Except as provided in Subsection (E) below, land used for commercial, office or industrial purposes shall pay a public facilities fee equivalent to eight percent (8%) of the then-current market land value. The market value may be established by a sales transaction for the subject property or an appraisal made by a certified real estate appraiser; provided, however, that such sales transaction or appraisal was completed not more than twelve (12) months prior to approval of the final subdivision plat.

(C) Land dedication: The Board of Trustees may, at its option, require the dedication of land with a current appraised value equal to the required cash fee; the Board of Trustees may elect to accept a specific proposal for land dedication from the subdivider; or the Board of Trustees may accept a combination of cash and land equivalent to the total cash fee required. Land accepted in lieu of cash shall be in a location and of a physical character acceptable to the Town. The Board of Trustees shall apply the following standard in making its determination regarding the acceptance of land in lieu of the required cash payment:

(D) Special consideration will be given to the following characteristics of the specific site proposed for dedication:

1. Location;

2. Size and shape of proposed site;
3. Accessibility; and
4. Topography.

(E) Credit for off-site improvements: When commercial, office or industrial subdivisions are required to provide off-site improvements, and such required improvements have a service capacity in excess of the demand generated by the subdivision on the capacity of the improvement, the value of any excess capacity may be credited against the public facilities fee set forth in Subsection (B) above.

1. Limitations. Off-site improvements which are the minimum required to serve the subdivisions specified in the subdivision regulations and/or the design standards of the Department of Public works, shall not be eligible for credit. A request for credit, as provided herein, may be made only in conjunction with filing the application for approval of a final subdivision plat for a major subdivision, or a preliminary and final subdivision plat for a minor subdivision.

2. Application for credit for off-site improvements. Application for credit, as provided herein, shall include:

- a. A written statement requesting such credit, specifying the amount of credit being sought, and signed by the subdivider or designated agent thereof.

- b. A report which provides specific data on the improvements for which credit is sought including, but not limited to, the following:

- i. Description of the improvements for which credit is being sought.

- ii. Specifications of the improvements as required by the Town.

- iii. Specifications of the demands generated by the subdivision.

- iv. Documentation of the basis for which such improvements are required to exceed the demands generated by the subdivision.

- v. A statement which, based on the data provided in the report, supports the credit being sought.

(F) Written statements from the appropriate affected agencies including, but not limited to, the Department of Public Works and State Department of Transportation which stipulate that the data used in the request for credit is reasonable and accurate.

1. Award of credit:

- a. The Board of Trustees shall review the information required herein; the report and recommendation of the Town Administrative staff and affected agencies, together with any further evidence and testimony which may be presented at the meeting to consider the matter, which shall serve as the basis for their determination. The Board of Trustees may, based on the evidence:

- i. Grant the requested credit in full;

ii. Find that the evidence does not support the full amount of credit requested and grant a lesser amount that the Board of Trustees determines the evidence does support;

iii. Find that the evidence does not support granting any credit, and deny the request.

b. Under no circumstances shall the Board of Trustees grant credit for off-site improvements greater than either:

i. The amount of credit requested by the applicant; or

ii. The amount payable to the Town under Subsection (2) above.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-18-30. Use of fees and dedicated land.

All cash fees and dedicated land shall be used for public parks/open space or other public purposes and shall be primarily directed for the particular benefit of the prospective residents of the subdivision or development to which the fee or land is attributable, but shall not exclude the use by the general public.

(A) Parks/open space fee for residential: The parks and open space fee shall be used for the purchase of public parks and/or open space within a reasonable distance of the subdivision from which such fee has been paid, if such land is available and is determined to be suitable for the intended use when consideration is given to the standard set forth in Subsection 16-18-20 above.

(B) Public facilities fee for nonresidential: This fee shall be used to help defer the costs of community facilities and services that are needed to serve a new development. Such fees shall be separately accounted for and shall be used by the Town for such related community facilities and services as directed by the Board of Trustees.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-18-40. Payment of fees.

Fees shall be due and payable to the Town prior to recording the plat. Such fees are considered to be the minimum required. Any increase in dwelling unit density over that proposed and approved for construction in conjunction with approval of a final plat, unified development plan, planned unit development plan, planned industrial park plan or other plan shall be subject to payment as provided in Section 16-18-30 above. Such additional fee shall be due and payable at the then-applicable rate, prior to the issuance of building permits.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-18-50. Applicability of requirements.

(A) Newly annexed land; residential: Except as provided in Section 16-18-40 above and Subsection (C) below, newly annexed land which has been subdivided prior to the time of annexation for residential use shall not be subject to the provisions of this Article.

(B) Newly annexed land; nonresidential: Newly annexed land which has been subdivided prior to the time of annexation for commercial, office or industrial use shall not be subject to the provisions of this Article except as provided in Subsection (C) below.

(C) Resubdivision: Any resubdivision of an existing subdivision, or part thereof, which results in a higher density or intensity of use, regardless of any previous exemption from the provisions of this Article, shall at the time of resubdivision become subject to these provisions.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-18-60. Deferral of construction.

Any land exempted from the provisions of this Article under Section 16-18-40 above shall become subject to these provisions if the Board of Trustees determines one (1) of the following:

1. That no obvious effort has been made to develop or install the required improvements on the land subdivided prior to annexation within one (1) year from the effective date of such annexation; or

2. That, on land which was subdivided within the time requirement of Subsection 16-18-50(B) above, no effort has been made to physically develop the land or install the required improvements within one (1) year from the date the subdivision plat was recorded.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-18-70. Revision of cash fees.

The Board of Trustees, at its annual budget meeting(s) of the calendar year, shall review and, if deemed appropriate, revise the cash fees herein provided. A failure or oversight by the Board of Trustees to review a fee shall not result in the invalidity or cancellation of the fee.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XIX**Land Reservation**

Sec. 16-19-10	Purpose
Sec. 16-19-20	Time limitation
Sec. 16-19-30	Compensation
Sec. 16-19-40	Use of land
Sec. 16-19-50	Denial of plat

Sec. 16-19-10. Purpose.

Because of unique requirements for sites for community facilities, the Town retains the right to reserve lands for new public facilities and streets at sites designated for such purposes. Such reservation may be for future public buildings, schools sites, open space, parks or streets above the classification of collector. These lands will be reserved for eventual purchase by the appropriate public body in the event that the projected need for public facilities on these sites becomes a reality.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-19-20. Time limitation.

Lands may be reserved under the provisions of this Article for a period of no longer than three (3) years after the approval of a final plat which includes the affected property. Within this three-year period, the public body for whom the land is reserved must make a commitment for purchase or all rights to the reserved properties shall revert to the land owner.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-19-30. Compensation.

The acquisition of reserved land shall be based upon the fair market value as determined by not less than two (2) independent appraisals at the time of acceptance of the final plat by the Town. Taxes on reserved lands during the period of reservation shall be paid by the agency for whom the land is reserved; if such taxes are not paid by the appropriate agency, the reservation shall cease.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-19-40. Use of land.

During the period of reservation, lands may be used by the land owner for any purpose not incompatible with the proposed public use and the existing zoning on the property.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-19-50. Denial of plat.

The subdivider shall be required to designate reserved lands on all plats as land reserved for public purchase. Failure to so designate such lands shall be a basis for denial of the final plat.
(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XX

Subdivision Exemption

- Sec. 16-20-10 Purpose
- Sec. 16-20-20 Lot line adjustment
- Sec. 16-20-30 Lot line elimination
- Sec. 16-20-40 Duplex conversion subdivision
- Sec. 16-20-50 Exemption procedures

Sec. 16-20-10. Purpose.

Notwithstanding any other requirement to the contrary, the land development or adjustment activities contained in this Article shall be exempt from the full subdivision processes and procedures set forth in this Chapter.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-20-20. Lot line adjustment.

An adjustment of a lot line between two (2) contiguous lots if all of the following conditions have been met.

(A) The requested adjustment is necessary to correct a survey or engineering error in a recorded plat, or to allow an insubstantial boundary change between adjacent lots or parcels to relieve hardship or practical necessity, or to allow a transfer of land from a larger conforming lot to a smaller non-conforming lot so as to make both lots conforming, or to allow a boundary change between lots or parcels that is not intended or will result in an avoidance of the purposes of this Chapter.

(B) All owners whose lot line(s) or boundary line(s) are subject to the adjustment shall join in the lot line adjustment application.

(C) No new development shall be allowed on the lots absent review and approval under the provisions of this Chapter.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-20-30. Lot line elimination.

The elimination of lot lines to merge not more than two (2) conforming lots, or to merge two (2) or more non-conforming lots, but not more than are necessary to create a single conforming lot within the applicable zoning district, if all of the following conditions have been met:

(A) The lots to be consolidated are under one (1) and the same ownership.

(B) The consolidated lot resulting from the elimination of the lot line(s) will not exceed any lot size maximum or other regulation established for the zone district in which the lot is situated.

(C) The proposed elimination of the lot line(s) is not intended or will result in an avoidance of the purposes this Chapter.

(D) Except for the construction or enlargement of a single-family or duplex residence and/or an accessory building when allowed by right under the applicable zoning district regulations, no development shall be permitted on a consolidated lot in a residential zone district absent prior review and approval of the proposed development under the provisions of this Chapter.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-20-40. Duplex conversion subdivision.

The division of a single lot on which an existing duplex dwelling is located, or is to be constructed, into two (2) separate lots if all of the following conditions have been met.

(A) The duplex is allowed by right in the underlying zone district and is to be divided along a Code-compliant fire-resistant common wall into two (2) separate single-family dwelling units on separate lots of conforming size in the zone district, or on lots not less than four thousand five hundred (4,500) square feet in size if the minimum lot size for the zone district cannot be obtained.

(B) Each of the dwelling units is served by its own separate utility service lines and meters, inclusive of water, sewer, electricity and natural gas.

(C) A common-wall maintenance agreement shall be established and recorded to run with the land comprising the proposed duplex lots.

(D) Except for the original primary structure(s) comprising the dwelling units and any common and/or side-by-side or connected garages or driveway(s), all new structures, or the expansion of any existing structures, on the two (2) new duplex lots shall be subject to the setback requirements for the underlying zone district in which the lots are located.

(E) The proposed duplex lots shall be the same size, or approximately the same, and each lot shall have its own direct access to a street.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-20-50. Exemption procedures.

Land development activities eligible for exemption from normal subdivision standards and processes shall be subject to the following procedures:

(A) All applicants for a subdivision exemption shall meet with the Town Planner and/or Building Official to discuss exemption procedures prior to the submission of an application.

(B) All applicants shall submit a complete application, accompanied by any required fee, and a professionally prepared draft subdivision exemption plat substantially conforming in all respects to the applicable requirements of Article XVI of this Chapter and illustrating all proposed adjusted lot lines and lots. The applicant shall provide no less than an original and two (2) copies of the proposed subdivision exemption plat unless otherwise specified by the Town Clerk.

(C) All applications for a subdivision exemption shall be initially reviewed by the Town Planner and Building Official who shall forward a recommendation to the Town Administrator. The Town Administrator shall approve or deny the application within thirty (30) days without need for notice or hearing. Appeals from a decision of the Town Administrator shall be to the Board of Trustees in accordance with the procedures set forth in Subsection (E) below.

(D) Upon approval of an application, the Town Administrator shall sign a reproducible Mylar original of the final subdivision exemption plat substantially conforming in all applicable respects to the requirements of Article XVI Subdivision Plat Details of this Chapter, and two (2) duplicate paper prints of the Mylar. One paper print shall be returned to the applicant. The Town Clerk shall file the approved plat with the County Clerk and Recorder as soon as reasonably possible, with the cost thereof to be borne by the applicant.

(E) An applicant may appeal a decision of the Town Administrator denying a subdivision exemption approval to the Board of Trustees by filing a written notice of appeal with the Town Clerk not more than ten (10) days from the date of the Town Administrator's written decision. Such written notice shall specify in plain language the grounds for the appeal and shall be accompanied by any required filing fee and a copy of the Town Administrator's decision being appealed. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule the matter for a hearing before the Board of Trustees to be conducted not more than thirty (30) days from the date the notice of appeal was received. All appeals shall be heard by the Board of Trustees de novo and shall be conducted at a public meeting within thirty (30) days from the filing of the appeal, or as soon thereafter as can be accommodated. The Town Clerk shall both (1) notify the appellant by certified mail, return receipt requested, of the date the appeal shall be heard and (2) publish notice thereof. Notice of the public hearing shall conform to the requirements of Article IV of this Chapter. The decision of the Board of Trustees on appeal may be issued orally, but shall thereafter be reduced to writing within a reasonable period of time after the conclusion of the hearing and mailed to the appellant. Absent good and just cause, the failure of an appellant to attend the hearing on his or her appeal shall constitute an abandonment of the appeal and no further proceedings shall be had thereon.

(F) Aggregation and consolidation of lots for subdivision purposes. Any application seeking to simultaneously merge or aggregate two or more lots or parcels and then subdivide same for the purpose of creating two (2) or more new conforming lots shall be reviewed and approved under the procedures and standards utilized for establishing a minor or major subdivision, as the case may be, depending upon the total number of new lots sought to be created.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XXI**Nonconforming development**

- Sec. 16-21-10 Purpose
- Sec. 16-21-20 Nonconforming use
- Sec. 16-21-30 Nonconforming buildings and structures
- Sec. 16-21-40 Nonconforming lots or parcels

Sec. 16-21-10. Purpose.

The purpose of this Article is to establish requirements for the reasonable continuation of legally established uses or structures which no longer meet current land use regulations. It is also intended to prevent the expansion of nonconforming uses and structures and to provide for the gradual elimination of such nonconformities.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-21-20. Nonconforming use.

(A) Continuanace. The lawful use of land or buildings existing at the time of the passage or amendment of this Chapter which does not conform to the regulations prescribed in this Chapter shall be deemed a nonconforming use. Such use may be continued subject to such regulations as to the maintenance of the premises and conditions of operation as may, in the judgment of the Board of Trustees, be reasonably required for the protection of adjacent or neighboring property.

(B) Discontinuanace. If a nonconforming use is discontinued for a period of six (6) continuous months or more, any future use of said land or building must be in conformance with the provisions of this Chapter.

(C) Limitation. A nonconforming use shall not be expanded or changed to another nonconforming use. The extension of a continuing use to any portion of a building which was arranged or designed for such nonconforming use at the time of the passage of this Chapter, or any amendment thereto, shall not be deemed an expansion of a nonconforming use within the meaning of this Article.

(D) Alteration. No building housing a nonconforming use may be structurally altered to an extent exceeding fifty percent (50%) of the replacement value of the building at the time of alteration, unless the use of said building is changed to a conforming use. Additionally, a nonconforming use, if changed to a conforming use, may not thereafter be changed back to any nonconforming use.

(E) Discontinuanace of particular uses. Nonconforming junkyards, outdoor dismantling establishments or storage yards or areas for motor vehicles not in running order (except those awaiting repair or restoration) shall be discontinued within two (2) years from the date a written order directing the abatement of such use.

(F) Change to lesser usage. A nonconforming use may be changed to a less objectionable use of higher classification but not to a use of lower classification, nor shall a nonconforming use be changed to another use of the same classification, unless the new use shall be deemed by the Board of Trustees, after public notice and hearing, to be no more harmful to the surrounding neighborhood than the existing nonconforming use.

(G) Damage to building. When a building or structure housing a nonconforming use has been damaged by fire or other cause to the extent of more than fifty percent (50%) of its replacement value, the nonconforming use shall be terminated and any repair or rebuilding of the building or structure, and any use housed therein, shall be accomplished in strict conformance with the regulations contained in this Chapter. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-21-30. Nonconforming buildings and structures.

(A) Continuance. A nonconforming building or structure lawfully existing at the time of the passage of this Chapter, or any amendment thereto, may be continued, except as provided in this Article.

(B) A nonconforming building or structure damaged or destroyed to the extent of less than fifty percent (50%) of its value may be repaired or altered but not expanded, and any building, structure or portion thereof declared unsafe by the Building Official may be strengthened or restored to a safe condition; except in the event a nonconforming building or structure is completely destroyed, then any and all reconstruction shall conform to the requirements of this Chapter unless otherwise allowed by the Board of Adjustment pursuant to Article XXII of this Chapter.

(C) A building or structure nonconforming as to height or yard regulations shall not be added to or enlarged in any manner unless such addition or enlargement conforms to all regulations of the zoning district in which it is located.

1. The height limits established herein for any district shall not apply to chimneys, stacks, water towers, radio towers (including antenna), wind generators, grain elevators, windmills, silos, elevators, monuments, domes, spires, belfries, hangars, accessory appurtenances and flag poles.

2. The Board of Adjustment may allow exceptions to yard area and width requirements, provided that such exceptions can be permitted without substantial detriment to the public good and without substantially impairing the intent and the purpose of this Article as embodied in this Chapter and the Zoning Map:

a. Front yard: On a through lot, the front yard requirements of a district in which such lot is located shall apply to each street frontage. Every part of a required front yard shall be open and unobstructed from its lowest point to the sky, except for landscaping, fencing and exempted in Section 16-5-40 in Article V of this Chapter.

b. Side yard: Every part of a required side yard shall be open and unobstructed from its lowest point to the sky, except for landscaping, fencing and exempted in Section 16-5-40 in Article V of this Chapter.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-21-40. Nonconforming lots or parcels.

A nonconforming lot or parcel of land lawfully existing on the effective date of this Chapter, or any amendments thereto, may be utilized for development so long as any use or building occurring or constructed thereon satisfies all zoning and other development requirements applicable to such lot or parcel

(e.g., setbacks, yard and parking). Adjacent nonconforming lots under single or unified ownership may be merged to create a single conforming lot pursuant to the procedures provided for the same in Article XX of this Code.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XXII

Board of Adjustment

- Sec. 16-22-10 Board of Adjustment created
- Sec. 16-22-20 Officers and staff
- Sec. 16-22-30 Rules of proceedings
- Sec. 16-22-40 Cases before Board of Adjustment
- Sec. 16-22-50 Calendar of cases; notice of hearings
- Sec. 16-22-60 Final disposition of cases
- Sec. 16-22-70 Powers of Board of Adjustment
- Sec. 16-22-80 Submittal requirements
- Sec. 16-22-90 Limitations on powers of Board of Adjustment
- Sec. 16-22-100 Appeals to Board of Adjustment
- Sec. 16-22-110 Removal from office

Sec. 16-22-10. Board of Adjustment created.

The Board of adjustment is hereby created and established, the members of which shall be appointed by the Board of Trustees. The Board of Trustees may, if it so elects by resolution, serve as the Board of Adjustment. Should the Board of Trustees elect to appoint a separate Board of Adjustment, the Board of Adjustment shall consist of three (3) regular members and two (2) alternates, each to be appointed for three-year terms, with the initial terms to be staggered so that the term of at least one (1) regular member will expire each year. In the event that the Board of Trustees does not serve as the Board of Adjustment, the Board of Trustees may appoint one (1) or more of its members to serve on the Board of Adjustment. Nothing herein shall be construed as preventing the reappointment of a member. Any vacancy which occurs on the Board of Adjustment shall be filled by an appointment made by the Board of Trustees, which shall select a current alternate member to fill the vacancy if such alternate member is willing to fill the vacancy and serve out the unexpired term of the vacant member position. All members of the Board of Adjustment shall be bona fide residents of the Town and, if any member ceases to reside in town, his or her membership shall immediately terminate. All members of the Board of Adjustment shall serve without compensation. The Board of Adjustment shall hold at least one (1) meeting per month when there is business to be transacted. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-22-20. Officers and staff.

The Board of Adjustment shall, at its first meeting of each year, select a Chairman and a Vice Chairman. The Chairman shall preside at meetings and shall perform all duties customary for the presiding officer of any board or group. The Vice Chairman shall perform the duties of the Chairman in the absence of the Chairman. The Town Clerk shall act as Secretary to the Board of Adjustment and shall keep full and complete minutes and records of all meetings, shall have the custody of all the records of all meetings, shall generally supervise all of the clerical work of the Board of Adjustment and shall perform the duties usually performed by the secretary of a board or group. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-22-30. Rules of proceedings.

- (A) Public notice shall be given of all hearings and all hearings shall be open to the public.

(B) A quorum of the Board of Adjustment shall consist of two (2) members.

(C) The members of the Board of Adjustment shall attend all meetings in person; except that a member may attend by telephone upon an affirmative vote of the Board of Adjustment.

(D) The Chairman, or in his or her absence, the Vice Chairman may administer oaths and compel the attendance of witnesses.

(E) For any hearing on an application for a variance, the applicant shall cause notice of the same in conformance with Article IV of this Chapter.

(F) All evidence and testimony on an application shall be presented publicly. The Board of Adjustment may take notice of facts and shall consider any relevant information which is stated into the record at a hearing.

(G) For each case or matter heard, the Board of Adjustment shall cause a record of its proceedings to be prepared. The record of proceedings shall include all documents and physical evidence considered in the case. The record offered by all witnesses in the case shall be considered by the Board of Adjustment in reaching its decision. The record of proceedings shall be maintained in the office of the Town Clerk and shall be a public record.

(H) If an applicant fails to appear at the hearing, either in person or by his or her agent, or provide a written statement in lieu of his or her appearance, the variance application shall be denied and no reconsideration shall be allowed on the matter for a period of one (1) year except in the case of unforeseen hardship.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-22-40. Cases before Board of Adjustment.

(A) Applications must be complete and explicit. Every application, appeal or petition to the Board of Adjustment shall be made in written form to the Town Clerk and shall include the data required so as to supply all of the information necessary for a clear understanding of the matter sought to be determined. Plans and drawings must be complete and explicit. No application, appeal or petition shall be accepted absent the payment of all required fees.

(B) Any communication purporting to be an application, appeal or petition shall be regarded as mere notice of intention to seek relief until it is made in the form required.

(C) If the application, appeal or petition fails to supply the required data within ten (10) days, the case may be dismissed for lack of prosecution.

(D) When an appeal is filed, the Town Clerk shall forthwith transmit to the Board of Adjustment all papers pertaining to the case.

(E) One (1) copy of every application, appeal or petition to the Board of Adjustment shall be filed with the Town Clerk. The Town Planner may make its views and comments of such application, appeal or petition known to the Board of Adjustment. Said views or comments will be in a written form or in a verbal commentary.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-22-50. Calendar of cases; notice of hearings.

(A) Each case filed in the proper form with the required data shall be numbered serially, regardless of whether it is an application, appeal or petition, and shall be placed on the first available agenda of the Board of Adjustment. Case numbers shall begin anew on January 1 of each year, e.g., 02-1.

(B) As soon as a case receives a calendar number, the applicant or appellant shall be notified of the date when his or her case will be heard, such notice to be by certified or U.S. mail, sent to the address given on the application, appeal or petition, or by hand delivery.

(C) Public notice shall be made in conformance with Article IV of this Chapter.

(D) Any applicant, petitioner or appellant must appear in person or be represented by an agent. Any resident or taxpayer of the Town who desires to oppose or support the application, petition or appeal, or to be heard at such hearing, must appear in person or by agent or by attorney, or must submit his or her information or comments in written form in advance of the hearing.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-22-60. Final disposition of cases.

(A) All decisions of the Board of Adjustment on an application for a variance shall be made by written resolution upon the affirmative vote of a quorum of the Board of Adjustment. The resolution shall set forth the grounds and reasons therefor.

(B) The final disposition of any appeal before the Board of Adjustment shall be in form of a written resolution affirming, reversing or modifying the order, requirement, decision or determination appealed. If a resolution fails to receive a majority of the quorum in favor of the appellant the appeal will be deemed denied and entered upon the record.

(C) No application, petition or appeal dismissed or denied can be considered again except:

1. On a motion to reconsider the vote.

2. On a request for a rehearing.

3. No request to reconsider or to grant a rehearing on an appeal or the denial of a variance will be entertained unless it is made in writing to the Town Clerk prior to the next regularly scheduled meeting of the Board of Adjustment and new evidence is submitted which could not have been, with due diligence, presented at the previous hearing. All reconsiderations or rehearings to be undertaken by the Board of Adjustment must be properly noticed in advance in accordance with the notice provisions set forth in Article IV of this Chapter.

(D) The Board of Adjustment may, on a motion by any member who initially voted on the subject matter, review any decision that is made and may reverse or modify such decision; but no such review shall prejudice the rights of any person who has, in good faith, already acted upon the initial decision subject to review. Any motion to review an earlier decision must be made by not later than the meeting next following

the meeting at which the initial decision was made, and no new information or facts may be considered in determining whether to reverse or modify an initial decision absent advance notice and a public hearing thereon.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-22-70. Powers of Board of Adjustment.

In the exercise of its powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from; may make such order, requirement, decision or determination as ought to be made; and, to that end, shall have all of the powers of the officer or department from whom the appeal is taken. Except as elsewhere provided, and subject to the limitations enumerated herein, the Board of Adjustment shall have and exercise the following powers:

(A) Administrative review: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official in the administration of this Chapter;

(B) Vary terms of this Chapter: The Board of Adjustment may authorize upon application in specific cases such variances from the terms of this Chapter, subject to terms and conditions fixed by the Board of Adjustment, as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Chapter will result in unnecessary hardship. Every variance authorized hereunder shall not be personal to the applicant therefor but shall run with the land. No variance shall be authorized hereunder unless the Board of Adjustment shall find that the following conditions exist:

1. That the variance will not authorize the operation of a use other than those uses specifically enumerated as a primary permitted use for that district in which the property is located and for which the variance is sought;
2. One or more of the following special circumstances or conditions exist with respect to the specific property:
 - a. Exceptional narrowness, shallowness, or shape of the property at the time of the enactment of the regulation in question;
 - b. Exceptional topographic conditions of the property; and
 - c. Other extraordinary and exceptional situations or conditions of the property.
3. The special circumstances and conditions have not resulted from any act of the applicant.
4. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property;
5. That the variance, if granted, is the minimum that will afford relief and is the least modification possible of the provisions of this Chapter which are in question;

6. That the granting of the requested variance would relieve a peculiar, exceptional and undue hardship on the applicant, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning regulations as embodied in this Chapter and the Zoning Map.

7. That the variance, if granted, will not adversely affect the public health, safety and welfare.

(C) Nonconforming uses and buildings: To authorize, subject to terms and conditions fixed by the Board of Adjustment and upon application in specific cases, a variance permitting an increase in either or both the land area or the floor area of a nonconforming structure, or a structure occupied by a nonconforming use, as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstance, literal enforcement of the provisions of this Chapter will result in unnecessary hardship. Every variance authorized hereunder shall not be personal to the applicant therefor, but shall run with the land; but only after the construction of any authorized structure and only for the life of such structure or structures. No variance shall be authorized hereunder unless the Board of Adjustment shall find that the following conditions exist:

1. To allow or disallow the reconstruction, within one (1) year, of a nonconforming building which has been destroyed by fire or other cause to the extent of more than fifty percent (50%) of its replacement value at the time of destruction;

2. That the circumstance aforesaid were not created by the owner of the use;

3. That the variance will not further injure the appropriate use of adjacent conforming property in the same district;

4. Where the boundary line of any district divides property which was in a single ownership on the effective date of this Chapter, or any amendment thereto, and continued in single ownership to the time of the application, the Board of Adjustment may permit the use authorized by this Chapter on the less restricted portion of such property to an extent determined reasonable by the Board of Adjustment.

(D) Application for variance: All applications for a variance hereunder shall be filed with the Town Clerk on a form approved by the Town. All variances must be at the request of or with the written permission of the property owner. The Board of Trustees may establish a variance fee schedule. If such fee is established, the applicant for a variance request must pay the applicable fee at the time of the submission of the application.

1. No application for a variance from the procedures prescribed by this Chapter shall be heard by the Board of Adjustment except in a specific case or appeal from an order, requirement, decision or determination made by the Building Official or other officer charged with enforcing the provisions of this Chapter.

2. No application seeking a variance and involving an appeal shall be entertained unless the application is filed within ten (10) days after the date of the action sought to be challenged or appealed.

3. As soon as any application is completed by the filing of the necessary data, the Board of Adjustment shall fix a reasonable time for the hearing and give due notice thereof in conformance with Article IV of this Chapter.

4. At the time of the hearing, the applicant shall state his or her case, then the opposition shall be heard and the applicant shall have the opportunity to reply.

5. No application that has been dismissed or denied can be entertained in a case where the applicant, by filing of new plans, has obtained a new decision from the Building Official.

6. No application, appeal or petition previously denied and pertaining to the same requests will be accepted for consideration by the Board of Adjustment within one (1) year from the date of denial of the prior application.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-22-80. Submittal requirements.

(A) In addition to the common submittal requirements in Article III, the following submittal items are required.

1. A narrative which describes in detail the proposed variance (use additional sheets as necessary and include reference(s) to applicable section(s) of the municipal code);

2. Explain how the proposed variance is the minimum needed to make possible the reasonable use of the subject land, building or structure;

3. Describe and justify how the proposed variance is necessary to relieve a hardship or practical difficulty imposed by the strict application of the subject regulation(s);

4. Explain how the variance is not a request to permit a use of land, building or structure that is not permitted by right or by special use permit in the applicable zone district;

5. Describe in detail the extraordinary or exceptional conditions pertaining to the particular structure, place or property in question that are not applicable to other lands or structures in the same district;

6. Identify how the requested variance will be in harmony with the purpose and intent of this Chapter and will not adversely impact adjacent properties, the neighborhood or the general welfare of the Town of Fairplay;

7. Explain how the extraordinary and exceptional circumstances pertaining to the variance ARE NOT the result of the actions of the applicant;

8. Other information in support of the variance request.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-22-90. Limitations on powers of Board of Adjustment.

(A) Concurring vote required. The concurring vote of the majority of the quorum present of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance over which it has been granted the jurisdiction of review.

(B) Powers strictly construed. Nothing herein contained shall be construed to empower the Board of Adjustment to change the terms of this Chapter, to effect changes in the Zoning Map or to add to the specific uses permitted in any district.

(C) The powers of the Board of Adjustment shall be so construed that this Chapter and the Zoning Map are strictly enforced.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-22-100. Appeals to Board of Adjustment.

(A) Appeals to the Board of Adjustment may be made by any aggrieved person or by any officer, department or board of the Town, or affected by the decision of the Building Official or other enforcement officer in administering these regulations. Such appeal shall be filed within ten (10) days after the date of the final decision of the Building Official by filing with the Building Official and the Board of Adjustment a written notice of appeal specifying the grounds thereof and by paying a filing fee at the time notice is filed.

(B) Appeals to the Board of Adjustment shall be publicly noticed in conformance with Article IV or this Chapter.

(C) The concurring vote of a majority of the quorum of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Building Official or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variance herein. An appeal may be taken from any final action of the Building Official to the Board of Adjustment by any person aggrieved, or by an officer, department or Board of the Town.

(D) Proper and timely filing of an appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal, that by reason of the facts stated in the certificate, such stay would cause imminent peril to life or property.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-22-110. Removal from office.

Members of the Board of Adjustment may be removed by the Board of Trustees for inefficiency, neglect of duty, excessive absenteeism or malfeasance in office.
(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XXIII

Resubdivision, Condominiumization, Time Share and PUD Development

- Sec. 16-23-10 Parcel resubdivision
- Sec. 16-23-20 Appeals
- Sec. 16-23-30 Resubdivision or duplex conversion resulting in party-wall
- Sec. 16-23-40 Condominiumization
- Sec. 16-23-50 Planned unit development
- Sec. 16-23-60 Time share development

Sec. 16-23-10. Parcel resubdivision.

(A) Any resubdivision of a lot, tract or other parcel of land which has previously been subdivided is subjected to all provisions of this Chapter and all other rules and regulations which may apply to the original subdivision of land, except where such resubdivision is specifically exempted therefrom upon application to and approval by the Board of Trustees. Resubdivisions that do not require any public improvements may have the requirement for a Subdivision Improvement Agreement (SIA) waived upon a determination by the staff that it is unnecessary.

(B) All resubdivisions shall comply with the procedures in Section 16-14-20 of this Chapter.

(C) A resubdivision final plat will be reviewed by the Town Planner at the pre-application conference.

(D) The final plat will be reviewed by the Town Administrator or at her/his sole discretion, the application may be referred to the Board of Trustees for final approval or disapproval after the required public notice pursuant to Article IV of this Chapter.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-23-20. Appeals.

An applicant may appeal a decision of the Town Administrator denying a resubdivision to the Board of Trustees by filing a written notice of appeal with the Town Clerk not more than ten (10) days from the date of the Town Administrator's written decision. Such written notice shall specify in plain language the grounds for the appeal and shall be accompanied by any required filing fee and a copy of the Town Administrator's decision being appealed. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule the matter for a hearing before the Board of Trustees to be conducted not more than thirty (30) days from the date the notice of appeal was received. Notice of the public hearing shall conform to the requirements of Article IV of this Chapter. Absent good and just cause, the failure of an appellant to attend the hearing on his or her appeal shall constitute an abandonment of the appeal and no further proceedings shall be had thereon.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-23-30. Resubdivision or duplex conversion resulting in party-wall.

In addition to the general procedures required in this Article, a party-wall agreement shall contain but not be limited to the following:

1. Identification of parties.

2. Identification of party-wall.
3. Provisions for repair and maintenance.
4. Restrictions, if any, pertaining to structural changes to the party-wall.
5. Easements for repairs to the party-wall.
6. Restrictive liens.
7. Utility easements (if needed).
8. Any other documentation as may be reasonably required.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-23-40. Condominiumization.

(A) All proposed condominium projects and the condominiumization of existing property shall comply with the general procedures in Section 16-14-20 or 16-15-20 of this Chapter as the same are applicable.

(B) A subdivider proposing a condominium conversion shall provide a condominium conversion inspection report to the Building Official on the condition of the building illustrating the building's and all individual unit's compliance with all building and fire code regulations. The subdivider shall also make the building and individual units available for inspection by the Building Official if the Building Official deems such inspection is necessary to confirm compliance of the building and/or units with the Town's building and fire safety regulations. A fee will be required to cover the cost of the inspection.

(C) Final plat: In addition to the applicable provisions in Section 16-14-20 or 16-15-20, respectively, for final condominiumization approval, the following is needed:

1. A map showing all common areas and usages of the building and grounds, and plans for the interior division of the building showing horizontal and vertical boundaries of all units.
2. A copy of the declarations applicable to the condominium project, as defined in the Colorado Common Interest Ownership Act, C.R.S., §§ 38-33.3-101, et seq.
3. A copy of the condominium corporation bylaws. The bylaws shall contain the information required by the Colorado Common Interest Ownership Act. All condominium projects shall comply with these requirements.
4. A management plan which states:
 - a. The responsible party for managing the common area, lodging reservation, etc.
 - b. Provisions for selecting, appointing and securing management.
 - c. Responsibilities and duties of the managing entity.

d. The responsible party for coordinating the use and rental unit occupancy of those units that are used for short-term lodging.

5. A maintenance plan which states:

a. The responsible entity for repair and maintenance of common areas.

b. What will be included in the maintenance program including, but not limited to, provisions for snow removal, trash removal, maintenance of pools, hot tubs, common areas and other amenities.

c. The mechanism used to fund the management and maintenance activities of the development.

(D) Approval: No partial or final map shall be approved until all applicable requirements have been met. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-23-50. Planned unit development.

(A) Any application to subdivide or resubdivide land may simultaneously seek treatment and designation of the proposed subdivision as a PUD. If PUD designation is sought, then the subdivision application must incorporate and comply with the PUD application processes and approval criteria contained in Article IX of this Chapter in addition to satisfying the application requirements contained in this Chapter. Whenever PUD and subdivision application procedures or requirements overlap or are in conflict, such procedures or requirements shall not be applied cumulatively, but in a manner to avoid redundancies and to process the application in an expeditious fashion. Application fees with respect to residential PUD/subdivisions shall be calculated utilizing proposed lots, or units where multiple residential buildings/single-family units are proposed to be constructed on a single lot or parcel.

(B) If, following detailed review of the proposed plans as they relate to the approval criteria for a PUD, the Board of Trustees finds that the interests of the Town concerning good design, environmental amenity and efficiency of public services would be enhanced thereby, the Board of Trustees may waive one (1) or more of the subdivision regulations (excepting the requirements for installation of improvements), or may establish additional conditions to be met by the development plan.

(C) In approving such a PUD/subdivision development plan, the Board of Trustees shall be assured that the development provides and dedicates adequate open spaces and improvements for circulation, parking, recreation and service needs of the tract when fully developed, and that adequate covenants, financial and legal guarantees are provided as will assure that the plan will be followed and achieved. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-23-60. Time share development.

In addition to the procedures contained in Section 16-14-20 or 16-15-20 of this Chapter, the applicant shall provide the following additional information and documentation to the Town at the time of application for time share development or conversion.

(A) Final plat: A plat showing all common areas and usages of the building and grounds and plans for the interior division of the building showing horizontal and vertical boundaries of all units. This is not required if there has not been a change or addition to the original plat for the property.

(B) A statement fully and accurately disclosing:

1. The name of the developer and the principal address of the developer and the units offered in the statement.
2. A general description of the time share units including, without limitation, the developer's schedule of commencement and completion of all buildings, units and amenities.
3. As to all units offered by the developer in the same project:
 - a. The types and number of units.
 - b. Identification of units that are time share units.
 - c. The maximum number of the developer's units that may become time share units.
 - d. A statement of the maximum number of time shares that may be created, or that there is no maximum.
 - e. The number of proportion of time shares the developer intends to market in blocks to investors.

(C) Time share development shall provide a management plan which states:

1. The responsible entity for managing the common areas, lodging, reservation, etc.
2. Provisions for selecting, appointing and securing management.
3. Responsibilities and duties of the management entity.
4. The responsible party for coordinating the use and rental unit occupancy of those units that are used for short term lodging.

(D) A maintenance plan which states:

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

(E) Prior to the approval of a time share development proposal, the applicant shall submit to the Town an affidavit that he or she has complied with Sections 38-33-111 and 112, C.R.S., or their successor statutes.

(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XXIV

Vested Property Rights

- Sec. 16-24-10 Purpose
- Sec. 16-24-20 Designation of site specific development plan for vesting of property rights
- Sec. 16-24-30 Conditional approval of site specific development plan
- Sec. 16-24-40 Limitations; exceptions
- Sec. 16-24-50 Public hearing and notice required
- Sec. 16-24-60 Effective date of approval; duration of vested property rights
- Sec. 16-24-70 Document language
- Sec. 16-24-80 Published notice of approved site specific development plan and vested property right
- Sec. 16-24-90 Referendum and judicial review

Sec. 16-24-10. Purpose.

The purpose of this Article is to provide procedures necessary to implement the provisions of Article 68 of Title 24 of C.R.S., and to exercise local municipal control over the creation and enforcement of vested property rights to the maximum extent allowed by law. In the event Article 68 of Title 24 of C.R.S. should be repealed or declared invalid or unconstitutional by a court of competent jurisdiction, this Article shall be deemed to be repealed and the provisions hereof shall no longer be effective.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-24-20. Designation of site specific development plan for vesting of property rights.

The following site specific development plans will create and cause property rights to vest as provided for in this Article:

(A) A properly and fully executed final subdivision plat.

(B) A properly and fully executed final PUD plat.

(C) A properly and fully executed subdivision agreement, PUD agreement or other development agreement providing for vested rights.

(D) A written land development agreement or authorization not otherwise identified in this Article which specifically provides for or incorporates a vested property right, and which was approved by the Board of Trustees following notice and public hearing.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-24-30. Conditional approval of site specific development plan.

The Board of Trustees may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Failure to abide by such terms and conditions shall result in the forfeiture of any vested property rights.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-24-40. Limitations; exceptions.

(A) Nothing in this Article is intended to or shall create a vested property right beyond such right as defined in Article 68 of Title 24 of C.R.S. Once established in conformity with this Article; however, a vested property right shall preclude any zoning or land use action by the Town, inclusive of a citizen-initiated measure, which would alter, impair, prevent, diminish or impose a moratorium on the development or use of property as authorized by an approved site specific development plan, except:

1. With the consent of the development applicant;

2. Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the subject property which could not reasonably have been discovered at the time of the development or vested rights approval, and which if left uncorrected would pose a serious threat to public health, safety and welfare; or

3. To the extent compensation is paid as provided for in Article 68 of Title 24 of C.R.S.

(B) Notwithstanding the foregoing, the establishment of a vested property right shall not preclude the application to any land use or development of ordinances or regulations which are general in nature and applicable to all property subject to these subdivision regulations, including, but not limited to, fee assessments, water and sewer tap rationing and building, fire, plumbing and mechanical codes. Moreover, the vesting of a site specific development plan shall not exempt such plan from inspections, reviews or approvals deemed necessary by the Town to ensure compliance with the terms and conditions of the original development plan approval.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-24-50. Public hearing and notice required.

The approval of a site specific development plan creating vested property rights shall require a public hearing preceded by public notice in conformance with Article IV of this Chapter. Such hearing and notice may be combined with any other public hearing and notice otherwise required under this Chapter. If not combined with another notice, notice of a public hearing on the vesting of a property right shall be given in conformance with Article IV of this Chapter.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-24-60. Effective date of approval; duration of vested property rights.

(A) A site specific development plan and vested property right shall only be deemed established upon the final action of the reviewing body or official designated under this Chapter with authority to grant final development approvals. The effective date of a site specific development plan and vested property right shall be the date on which a final plat, final development plan, development agreement or other applicable document memorializing a development approval and vested right as specified in this Article has been duly executed. A site specific development plan which has received final approval subject to conditions to be satisfactorily performed at some future date shall result in a vested property right unless there is a failure to abide by such conditions, in which event the vested property right shall be forfeited. In the event of amendments to a site specific development plan, the effective vesting date of any amendment shall be the date of the approval of the original plan unless otherwise specifically provided in the action or document approving and memorializing the amendment.

(B) A site specific development plan that has been vested as provided under this Article shall remain vested for three (3) years from the plan's effective date. A longer initial vesting period, or an extension in the vesting period, may be granted upon a finding that a longer or extended vesting period will serve the public interest and welfare in view of all pertinent circumstances, including, but not limited to, the size and phasing of any given development, economic cycles or market conditions.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-24-70. Document language.

(A) Each map, plat or other document constituting or memorializing a vested site specific development plan shall contain the following language:

1. Approval of this plan shall create a vested property right pursuant to Article 68 of Title 24, Colorado Revised Statutes, as amended, subject to the terms and limitations as contained in the Fairplay Municipal Code.

(B) A failure to include this statement shall not invalidate the creation of the vested property right.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-24-80. Published notice of approved site specific development plan and vested property right.

(A) As soon as reasonably practicable following final approval of a vested site specific development plan, but in no event later than fourteen (14) days following final approval, notice of the same shall be published in conformance with Article IV of this Chapter generally advising the public of the approval and identifying the property subject thereto. Such notice shall be substantially in the following form:

1. Notice is hereby given to the general public of the approval of a site specific development plan and the creation of a vested property right pursuant to Title 24, Article 68, Colorado Revised Statutes, and the Fairplay Municipal Code pertaining to the following described project and/or property:

2. (Description of property)

(B) The property shall be generally described in the notice and identify the ordinance or resolution granting such approval. The costs of publishing such notice shall be borne by the applicant.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-24-90. Referendum and judicial review.

A vested site specific development plan shall be subject to all rights of referendum and judicial review, except that the thirty-day time period in which to exercise such rights shall not begin to run until the publication of the notice of approval as provided for in this Article.
(Ord. 2015-3, §1, 1-4-2016)

ARTICLE XXV**Signs**

Sec. 16-25-10	Purpose
Sec. 16-25-20	General provisions, restrictions and prohibitions
Sec. 16-25-30	Sign area calculations
Sec. 16-25-40	Sign permits and administration
Sec. 16-25-50	Application for a sign permit
Sec. 16-25-60	Sign permit review criteria
Sec. 16-25-70	Appeals
Sec. 16-25-80	Variances
Sec. 16-25-90	Exempt signs
Sec. 16-25-100	Prohibited signs
Sec. 16-25-110	Removal of signs
Sec. 16-25-120	Enforcement, and penalties
Sec. 16-25-130	Measurement of sign area and height
Sec. 16-25-140	Sign design
Sec. 16-25-150	Sign installation and maintenance
Sec. 16-25-160	Creative signs
Sec. 16-25-170	Sign matrices
Sec. 16-25-180	Definitions

Sec. 16-25-10. Purpose.

The regulation of signs is important because of the reliance of Fairplay on the tourist industry arising from the natural and scenic beauty of the area. This sign code is intended to create a more aesthetically pleasing environment for both visitors and residents by preventing the over-concentration, improper placement and bulk of signs and creating a comprehensive and balanced system of visual communication. At the same time, these sign regulations are intended to protect public health and safety and to maintain the value of surrounding properties. To accomplish these purposes, it is the intent of these regulations to:

(A) Recognize that signs are a necessary means of visual communication for the convenience of the public and to provide flexibility within the sign review/approval process to allow for unique circumstances and creativity.

(B) 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.

(C) 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.

(D) 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.

(E) Conserve energy by supporting use of lighting elements that utilize light emitting diodes (LED), florescent bulbs and other low energy consuming lighting devices, thereby reducing energy demands.

(F) Promote conservation of energy by reducing or eliminating the over-lighting of signs and use of inefficient lighting systems.

(G) Support use of materials in structures that include recycled products and other materials that are designed for longevity and that minimize environmental impacts.

(H) Ensure signs are well designed and contribute in a positive way to the Town of Fairplay's visual environment, express local character, and help develop a distinctive image for the Town.

(I) Encourage signs which are responsive to the aesthetics and character of their particular location, adjacent buildings and uses, and the surrounding neighborhood.

(J) Ensure signs are compatible and integrated with a building's architectural design and with other signs on and near the property.

(K) Prevent unnecessary or excessive competition between signs in the Town.

(L) Ensure signs are appropriate for where they are located.

(M) Provide mechanisms for bringing nonconforming signs into compliance with these regulations as a result of changing use, abandonment or other legal mechanisms.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-20. General provisions, restrictions and prohibitions.

Except as otherwise specifically provided in this code, or as may be allowed by a duly issued variance, the following provisions apply in all zones and for all signs:

(A) No sign shall be displayed or permitted which visually obstructs or interferes with the line of sight at the intersection of streets, alleys or driveways.

(B) No sign shall be allowed which advertises activities that are illegal under federal, state, county or Town laws.

(C) No sign shall be painted on retaining walls, rocks or natural features, nor shall any sign be erected or painted on any vegetation, pole or existing sign.

(D) If any provision of this code conflicts with any other municipal regulation governing signs, the more restrictive shall control.

(E) Any sign not specifically authorized in this code is prohibited in all districts.

(F) Signs may be erected, altered and maintained only for a permitted use in the district in which the signs are located, and all signs shall be located on the same lot as the permitted use and shall be clearly incidental, customary and commonly associated with the operation of the permitted use.

(G) With the exception of misleading information and profanity, the Town does not intend by any provision of this code to regulate the content of any sign.

(H) Off-premises signs are prohibited.

(I) All lighted signs not associated with a business, such as but not limited to a school, church, etc., must be turned off no later than 10:00 p.m. each day.

(J) All temporary signs must be applied for and approved by the Town Administrator or his/her designee, whether a fee is charged for the sign or not, and the applicant must supply the date when the sign will be erected and also the date it will be removed on said application.

(K) All signs, including temporary signs, must be maintained in good condition at all times or they will be subject to removal from their permitted location until necessary maintenance is completed on them.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-30. Sign area calculations.

(A) Awning, banner, bulletin board, canopy, changeable copy, creative, directional, identification, incidental, marquee, nameplate, portable, suspended, or similar two-dimensional signs.

1. The area of the sign face within a continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures shall be counted in calculating sign area.

(B) Free-standing and monument signs.

1. Signs composed of one (1) or two (2) individual sign faces: The area of the single largest sign face (if the sign faces are different sizes) shall be counted in calculating sign area by using the following formula. The area enclosing the perimeter shall be summed to determine total sign area. The perimeter of measurable area shall not include embellishments such as pole covers, framing, decorative roofing, etc., provided that there is not written advertising copy on such embellishments.

2. Signs composed of more than two (2) sign faces: The area enclosing the entire perimeter of each sign face shall be calculated and shall be summed with all other sign faces and divided by one-half (1/2) to determine total sign area. The perimeter of measurable area shall not include embellishments such as pole covers, framing, decorative roofing, etc., provided that there is not written advertising copy on such embellishments.

(C) Projecting signs.

1. The area of the single largest sign face (if the sign faces are different sizes) within a continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures shall be counted in calculating sign area.

(D) Wall signs.

1. The area of the sign face free of architectural details on the facade of a building or part of a building within a continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures shall be counted in calculating sign area.

(E) Other signs.

1. Other signs that do not fall into any single sign area calculation category due to geometry, design or other characteristics shall be calculated using one (1) or more of the most applicable aforementioned methodologies and based upon the more restrictive area calculation method as determined by town staff. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-40. Sign permits and administration.

(A) 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 repair any permanent or temporary sign, except signs that are exempt as set forth in Section 16-25-90 (Exempt Signs). In multi-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 the copy or graphics on an existing lawful sign shall not require a permit, provided the change does not result in a violation of this Chapter.

1. Temporary signs and banners. The Town may approve temporary sign permits subject to the following:

2. The banner or temporary sign shall be securely attached to the wall of the establishment, freestanding signs or properly designed and structurally sound poles or posts on private property;

3. One (1) banner or temporary sign per street frontage per establishment shall be permitted unless more than one (1) business occupies the same building. In that case, each business may be allowed to display a banner or temporary sign. However, the other limitations of this Section shall not be increased by the number of businesses at a location.

4. Prior to display the staff must affix a weatherproof semi-permanent temporary sign permit approval sticker to each banner or temporary sign to document approval and timeframe for display. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-50 Application for a sign permit.

(A) Sign permit application requirements. Applications for sign permits shall be made in writing on forms furnished by staff. The application shall contain:

1. The location by street number and the legal description of the property upon which the proposed sign structure is to be located;

2. Names and addresses of the property owner, applicant (if different from the property owner), sign contractor and erectors;
3. Evidence of a current contractor's license may be required at the sole discretion of the Town Administrator depending on the nature of the sign;
4. Legible accurately scaled plan which includes the specific location of the sign and setbacks to adjacent property lines and buildings;
5. A detailed accurately scaled drawing indicating the dimensions, materials, and colors of the proposed sign structure. A certification by a structural engineer may be required by staff for a freestanding or projecting sign;
6. A graphic drawing or photograph of the sign;
7. A description of the lighting to be used including a listing of the energy conservation measures incorporated in sign (light fixture type(s), materials used etc.), fixture specifications, bulb type, wattage and placement;
8. Proof of premises liability insurance covering freestanding, projecting and wall signs;
9. Payment of a nonrefundable sign permit fee as established by the current fee schedule. The applicant shall pay all costs billed by the Town of Fairplay relative to the review of the application including review fees by outside consultants. Approved sign permit applications shall expire six (6) months from the date of issuance if installation of the sign has not been completed. A single six (6) month extension may be granted administratively upon completion of an extension application including a written narrative by the applicant explaining the basis for the extension request and payment of an extension application fee.

(B) Sign permit application review of completion. Within five (5) business days of the date of submission of an application, the Town Administrator or his/her designee shall determine whether the application is complete. If the application is deemed incomplete the Administrator shall give written notice of the deficiency to the applicant. The applicant shall have five (5) business days (or such other additional time as Administrator may grant in his or her sole discretion) to correct the deficiency or the Administrator may deny the application for failure to achieve completeness.

(C) Review and approval. When the application has been determined to be complete, the Administrator or his or her designee shall review the sign permit in accordance with the established review criteria. Within five (5) business days of the determination of completeness the Administrator must issue a written decision on the application. The Administrator may approve, approve with conditions or deny the sign permit. Upon approval of the sign permit, the sign permit and any building permits required for the sign must be obtained by the applicant prior to construction. Electrical permits, if required, shall be obtained from the state electrical inspector and evidence of an approved permit shall be provided to the Town prior to construction. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-60. Sign permit review criteria.

(A) The following review criteria will be used by the Town of Fairplay staff to evaluate all sign permit applications:

1. Sign meets the requirements of this Article;
2. Sign conforms to the requirements of all applicable codes including, but not limited to, building and electrical codes;
3. Sign conforms to the applicable zoning requirements, including but not limited to, size, height, material and location for the zone district in which it is located;
4. Sign would not create visual obstructions which adversely impact public safety and/or that otherwise interfere with pedestrian or vehicular safety;
5. Sign would not detract from the character of an architectural, historic, or scenic area;
6. Sign would not be located so as to have a negative impact on adjacent residential property including, but not limited to, impacts from excessive lighting, shading of or impairment of solar access, visibility of or from public rights-of-way and similar adverse impacts;
7. Sign would not impair pedestrian access of a street or area; and
8. Sign would not add to an over-proliferation of signs on a particular property or area.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-70. Appeals.

(A) An applicant may file an appeal of the Administrator's decision on a sign permit application to the Board of Trustees for any of the reasons set forth below. Sign application appeals to the Board of Trustees shall be filed with the Town Clerk no later than ten (10) calendar days after the date of action by the Administrator. The following items constitute a basis upon which an applicant may file an appeal. Notice of appeal shall be in writing and shall state specifically any action appealed from and the grounds for such appeal.

(B) Failure of the Administrator to provide a written response concerning completion of an application within five (5) calendar days of the Town's receipt of the sign permit application.

(C) Any written decision rendered by the Administrator concerning a permit or an interpretation of this Article.

(D) The action being appealed shall be held in abeyance pending the decision of the Board of Trustees. The appeal shall be heard by the Board of Trustees at the next available Board of Trustees meeting, as determined by the Town Clerk. The Board of Trustees shall review the decision of the Administrator under

the same criteria applied by the Administrator. The Board of Trustees is not bound by the findings and determinations of the Town Administrator, but may give such findings deference as determined by Board of Trustees.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-80. Variances.

Any variance requested in association with a sign shall be processed pursuant to the provisions of Article XXII of the Fairplay Municipal Code.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-90. Exempt signs.

(A) The following types of signs are exempt from permit requirements of this Article and may be placed in any zone district subject to the provisions of this Article. Such signs shall otherwise be in conformance with all applicable requirements contained in this Article. All such signs (except government signs) shall be located outside of public street right-of-way. Signs shall not interfere with traffic signs or the sight distance triangle at intersections. Evidence of owner's permission to install sign may be required. All other signs shall be allowed only with permit and upon proof of compliance with this Article.

1. Non-illuminated signs not to exceed two (2) square feet in area.

2. Non-illuminated building identification historical marker signs not exceeding four (4) square feet, constructed of metal, wood 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 staff.

3. Temporary signs provided that:

a. Such signs are removed within thirty (30) days after installation.

b. Signs in conjunction with any residential use shall not exceed eight (8) square feet each.

c. Temporary signs shall be oriented to public or private streets.

d. Such signs shall not be illuminated.

e. Such signs shall only be installed on the private property on which the activity that is the subject of the sign is located.

4. Non-illuminated or indirectly illuminated incidental sign signs limited to one (1) such sign for each use, not to exceed four (4) square feet or eight (8) square feet in total area. Such signs may be attached to the building, as projecting or wall signs, suspended from a canopy or included as an integral part of a freestanding sign or placed in window.

5. Temporary holiday decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, state, local or religious holiday or celebration; provided that such signs shall be displayed for not more than sixty (60) days in any one (1) year; and may be of any type, number, area, height, location, illumination or animation.

6. On-premises directional or instructional signs not exceeding four (4) square feet in area apiece.

7. Window signs affixed, painted on or otherwise attached to glass.

8. Flags, crests or banners that do not exceed thirty (30) square feet.

9. Temporary or permanent signs erected by the Town of Fairplay.

10. Public information signs which identify restrooms, public telephones or provide instructions as required by law or necessity, provided the sign does not exceed two (2) square feet in area or as approved by staff and is non-illuminated, internally illuminated or indirectly illuminated. (This category shall be interpreted to include such signs as "no smoking," "restrooms," "no solicitors," "self-service" and similar informational signs.)

11. Regulatory signs erected on private property, such as "no trespassing" signs, which do not exceed two (2) square feet per face or four (4) square feet in total surface area and limited to four (4) such signs per property.

12. A single temporary portable sandwich board sign not exceeding four (4) square feet and no more than eighteen (18) inches wide placed in front of the business and only during business hours on sidewalk in a manner that does not present a risk to public safety, accessibility (including handicap) or visibility.

13. Scoreboards. Scoreboards for athletic fields.

14. Displays of string lights, provided to comply with the following standards.

a. They are steady burning, clear, non-colored bulb lights. No blinking, flashing, intermittent changes in intensity or rotating shall be permitted.

b. They are no greater in intensity than five (5) watts.

c. They shall not be placed on or used to outline signs, sign supports, awnings and/or canopies.

d. They shall not be assembled or arranged to convey messages, words, commercial advertisements, slogans and/or logos.

e. They shall not create a safety hazard with respect to placement, location of electrical cords or connection to power supply.

f. They shall be placed only on private property.

g. They shall be maintained and repaired so that no individual light bulb is inoperative. In the event the bulbs are not maintained or repaired, the string lights may be removed at the expense of the owner after giving notice to the owner pursuant to this Article.

26. 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 there are no structural changes, changes to sign area, change in illumination or other modifications.

27. Signs displaying time and temperature devices provided they are not related to a product.

28. Signs for the control of traffic or other regulatory purposes including signs for the control of parking on private property, and official messages erected by, or on the authority of, a public officer in the performance of his/her duty.

29. All "vacancy" and "no vacancy" signs, where they are non-illuminated, internally illuminated, indirectly illuminated or directly illuminated signs; provided that the area of the sign does not exceed two and one-half (2½) 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.

30. Motor vehicle for sale signs provided there is only one (1) sign per vehicle, the sign does not exceed two (2) square feet, and the vehicles are located on private property.

31. Signs displayed on trucks, buses, trailers or other vehicles which are regularly 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 for periods that do not exceed thirty (30) days.

32. A sign permit shall not be required for vending machine signs.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-100. Prohibited signs.

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

1. Animated signs or signs that flash, rotate, blink or moving signs, signs with moving, rotating or flashing lights or signs that create the illusion of movement, except for time and temperature devices.

2. Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic, or traffic-control devices including any sign that obstructs clear vision in any direction from any street intersection or driveway.

3. Mechanical or electrical appurtenances, such as "revolving beacons," that are designed to attract attention.

4. Off-premises signs.

5. 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.
6. Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign.
7. Portable signs or signs not permanently affixed or attached to the ground or to any structure, except as permitted by this Article.
8. Searchlights.
9. 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.
10. Inflatable freestanding signs or tethered balloons or other inflatable figures or devices installed with the primary purpose of attracting attention.
11. Stationery or portable electronic message boards except governmental signs.
12. Wind signs designed or installed to be activated by movement of the atmosphere.
13. Any sign (together with its supporting structure) now or hereafter existing which, ninety (90) 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 Building Official 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).
14. Any sign or sign structure which:
 - a. Is structurally unsafe;
 - b. Constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;
 - c. Is not kept in good repair; or
 - d. Is capable of causing electrical shocks.
15. Any sign or sign structure which:
 - a. 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;
 - b. Uses any words, phrases, symbols or characters implying the existence of danger or the need for stopping or maneuvering a motor vehicle;

c. Creates in any other way an unsafe distraction for motor vehicle operators or obstructs the view of motor vehicle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-110. Removal of signs.

(A) Whenever a business, industry, service or other use is discontinued, the sign(s) pertaining to the use shall be removed by the person or entity owning or having possession over the property within ninety (90) days after the discontinuance of such use.

(B) The Town of Fairplay may cause the removal of illegal signs in the public right-of-way or on property that is otherwise abandoned that has been placed there without first complying with the requirements of this Article.

(C) Signs removed by the Town or its designee in compliance with this Article shall be stored by the Town of Fairplay for thirty (30) days, during which they may be recovered by the owner only upon payment to the Town of Fairplay for costs of removal and storage. If not recovered within the thirty (30)-day period, the sign and supporting structure shall be declared abandoned and title shall vest with the Town of Fairplay. The costs of removal and storage, up to thirty (30) days, may be billed to the owner. If not paid, the applicable costs may be imposed as a tax lien against the property.

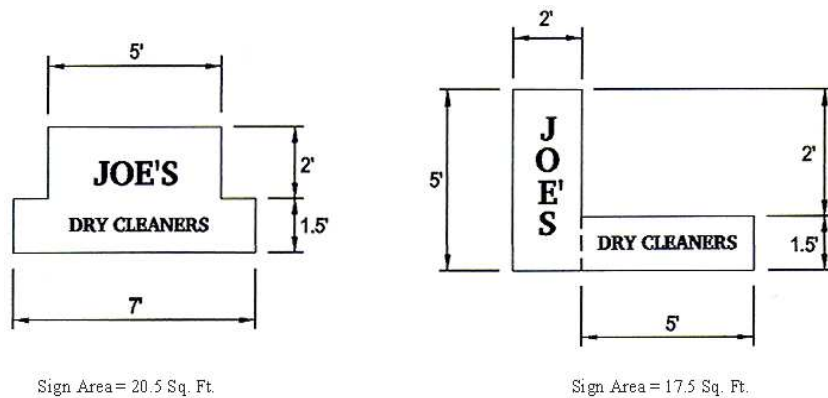
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-120. Enforcement, and penalties.

(A) The provisions of this Article shall be enforced by the Administrator in conformance with Article II of this Chapter.

(B) Violations of this Article shall be subject to the penalties of the Town of Fairplay Municipal Code. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-130 Measurement of sign area and height.



SIGN AREA MEASUREMENT

(A) 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.

(B) Sign support. Supporting framework or bracing that is clearly incidental to the display itself and does not include logos, advertising text or similar commercial messages shall not be computed as sign area.

(C) 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 (2) feet at any point.

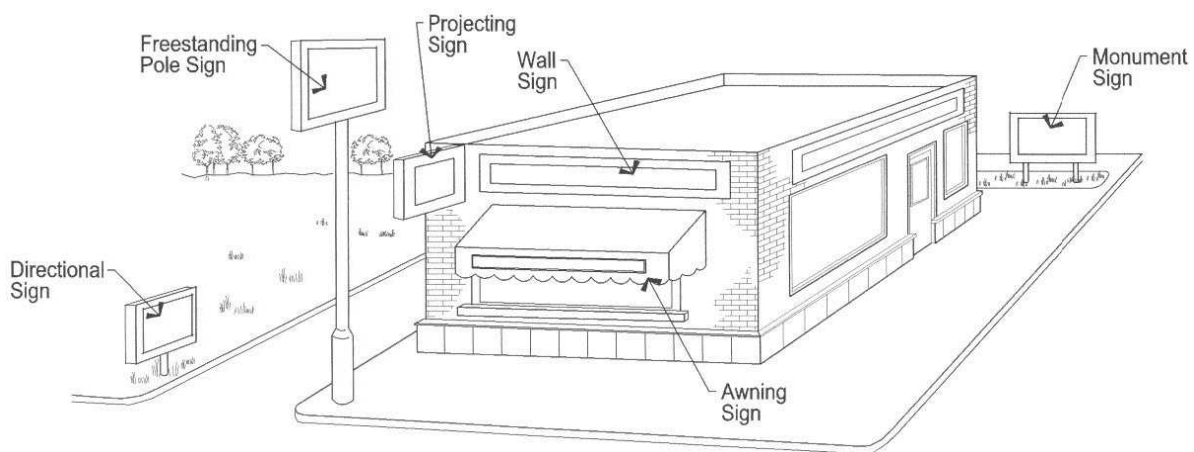
(D) Three-dimensional signs. Where a sign consists of one (1) or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture), the sign area shall be measured as their maximum projection upon a vertical plane. Signs with three-dimensional objects that exceed a projection of six (6) inches from the sign face may be approved in compliance with Section 16-25-160 (Creative Signs).

(E) Wall signs. The area of a rectangle or geometric shape that most closely outlines the sign face or letters of the sign shall be the calculated sign area.

(F) Sign height. The height of a sign shall be measured from the highest point of a sign, excluding decorative embellishment, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less. When berms are used in conjunction with signage, the height of the sign shall be measured from the mean elevation of the fronting street.

(G) In addition to the aforementioned measurement requirements the following standards apply to the following specific types of signs

1. Awning sign which is painted, stitched, sewn or stained onto the exterior of an awning and which is a movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.



SIGNS

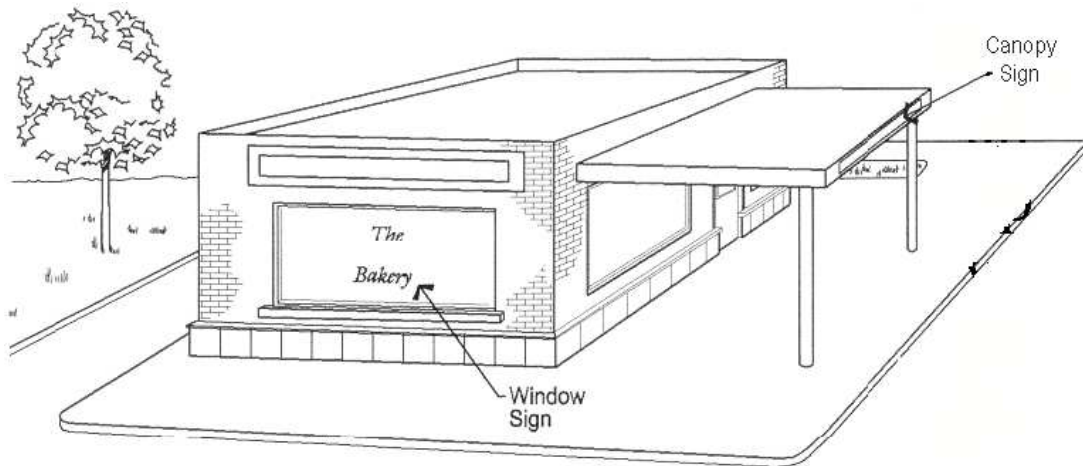
a. Location. Signs may be placed only on awnings that are located on first- and second-story building frontages, including those fronting a parking lot or pedestrian way. No awning sign shall project beyond, above or below the face of an awning and no part of the sign shall extend beyond the property boundary.

b. Maximum area and height. Sign area shall comply with the requirements established by 16-25-170 Sign Matrices. No structural element of an awning shall be located less than eight (8) feet above finished grade. Awnings on which awning signs are mounted may extend over a public right-of-way no more than seven (7) feet from the face of a supporting building but in no case shall extend over a roadway or parking area. No awning, with or without signage, shall extend above the roof line of any building.

c. 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.

d. Required maintenance. Awnings shall be regularly cleaned and kept free of dust and visible defects.

2. 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.



SIGNS

a. Maximum area and height. Sign area shall comply with the requirements established by 16-25-170 Sign Matrices. 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 (12) 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 (8) feet above grade and shall be deemed to be flush wall signs.

b. Required maintenance. Canopies shall be regularly cleaned and kept free of dust and visible defects.

3. Freestanding 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.

a. Location. The sign may be located only on a site frontage adjoining a public street. No freestanding sign in any zone district can be erected so as to encroach on adjoining property or right-of-way. All portions of the sign shall be located inside the property boundaries of the lot on which it is located.

b. Maximum area and height. The sign shall comply with the height and area requirements established in Section 16-25-140 Sign Matrices.

c. Sign mounting. The sign shall be mounted on one (1) or more posts or have a solid monument-type base. Posts shall not have a diameter greater than twelve (12) inches. Pole bases shall be protected by concrete or a similar sturdy structure to prevent damage. Pole base structures may be used as landscaping planters.

d. Pole signs. Pole signs should not be so large as to obscure the patterns of front facades and yards.

4. 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.

a. Location. The sign may be located only along a site frontage adjoining a public street.

b. Maximum area and height. The sign shall comply with the height and area requirements established in Section 16-25-140 Sign Matrices.

c. 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 traffic safety sight distance areas. Project monument signs shall contain only the name and address of the project which it identifies.

d. 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 (20) square feet of sign area equals forty (40) square feet of landscaped area. The Board of Trustees 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.

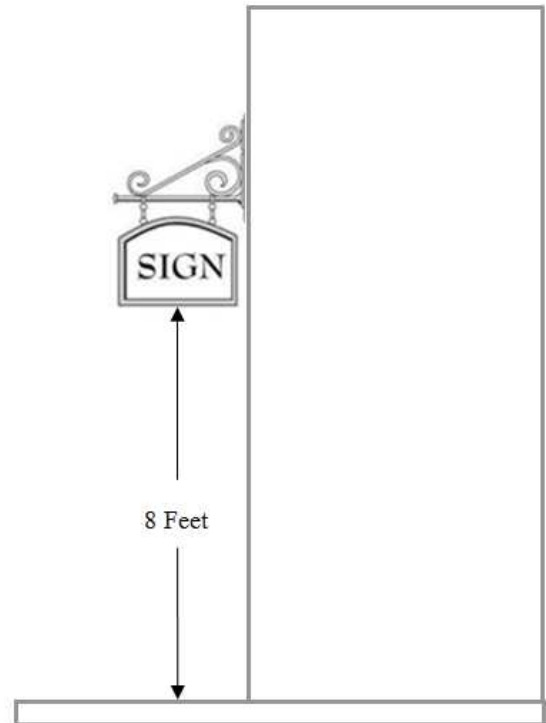
5. Projecting signs. A projecting sign is any sign supported by a building wall and projecting therefrom at least twelve (12) inches or more horizontally beyond the surface of the building to which the sign is attached, but shall not extend more than four (4) feet from the building face.

a. 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. Projecting signs shall generally align with other projecting signs in the block to create a "canopy line" that gives scale to the sidewalk.

b. Maximum area and height. Projecting signs shall not be higher than the wall from which the sign projects if attached to a single story building, or the height of the bottom of any second story window if attached to a multi-story building. Projecting signs must have eight (8) feet clearance, and may not extend more than four (4) feet from the building wall except where the sign is an integral part of an approved canopy or awning. The size of projecting signs is limited to three (3) feet wide and six (6) square feet.

c. Sign structure. Sign supports and brackets shall be compatible with the design and scale of the sign.

d. Quantity. The number of projecting signs is limited to one (1) per business.



6. Time and/or temperature sign which is displayed for a limited period of time and capable of being viewed from any public right-of-way, parking area or neighboring property.

a. Maximum area. Time and/or temperature signs which do not exceed ten (10) square feet shall not be required to be included in the allowable sign area permitted in 16-25-170 Sign Matrices; 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.

b. 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.

c. Maintenance. It shall be the responsibility of the owner of such signs to maintain such signs and ensure that they are kept accurate. If these conditions are not met, the sign shall be repaired or removed.

7. Wall 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.

a. 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 (25) feet above grade level nor shall it extend above the building eave.

b. Maximum area and height. Wall signs shall not be higher than the eave line of the principal building. The sign shall comply with the height and area requirements established in Section 16-25-17 Sign Matrices.

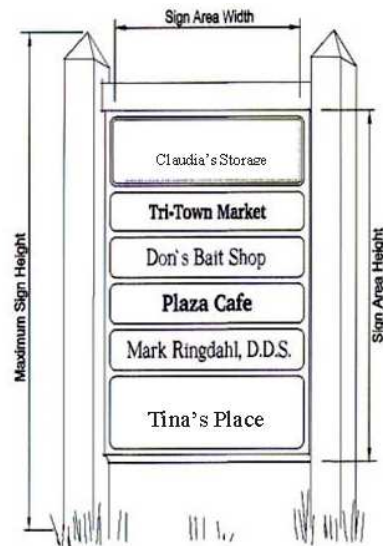
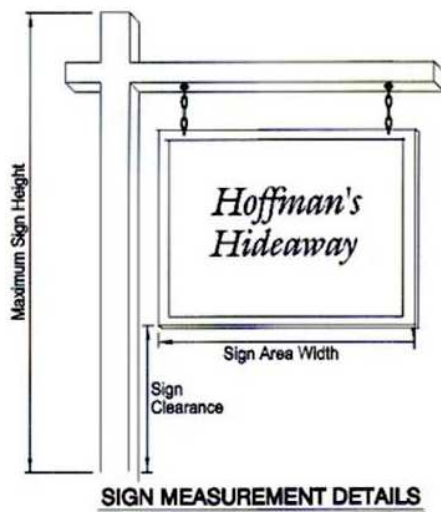
c. Projection from wall. No sign part, including cut-out letters may project from the surface upon which it is attached more than required for construction purposes and in no case more than twelve (12) inches.

8. Window sign that is painted on, applied or attached to a window or that can be read through the window from the public right-of-way, placed at or below the second floor level.

a. Maximum area. When a sign is displayed in a window and is visible beyond the boundaries of the lot upon which the sign is displayed, the total area of such sign shall not exceed twenty-five percent (25%) of the window or door area at the ground floor level; and twenty-five percent (25%) of the total allowable sign area for the premises.

b. Lighting. All illuminated window signs shall be included in the total allowable sign area for the premises.

c. Temporary window signs. Temporary signs or posters displayed for periods not exceeding fourteen (14) days shall be exempt from limitations for window signs.



(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-140. Sign design.

(A) Design compatibility.

1. Creative sign design is encouraged. Signs shall make a positive contribution to the general appearance of the street and commercial area in which they are located. A well-designed sign can be a major asset to a building. The Town of Fairplay encourages imaginative and innovative sign design. The creative sign application procedure (Section 16-25-160) is specifically designed for artistic and unusual signs that might not fit the standard sign regulations and categories.

2. 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 compatible in scale and proportion to the building facade upon which they are mounted.

3. Sign location and placement shall conform to the following standards.

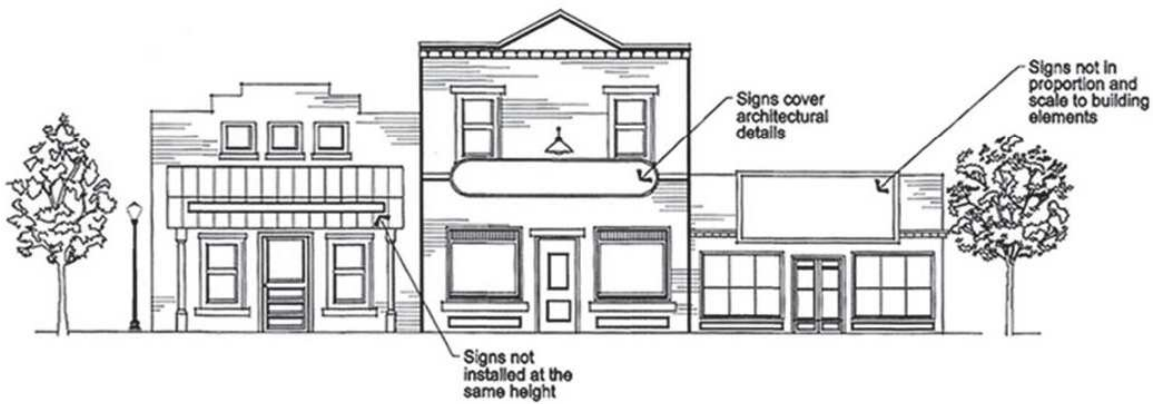
a. Signs shall not visually overpower nor obscure architectural features.

b. Signs shall be carefully coordinated with the architectural design, overall color scheme and landscaping. Signs shall be designed to complement or enhance the other signs for a building.

c. Whenever possible, signs located on buildings with the same block-face shall be placed at the same height, in order to create a unified sign band. Wall signs may be located at the first floor level only for retail uses.

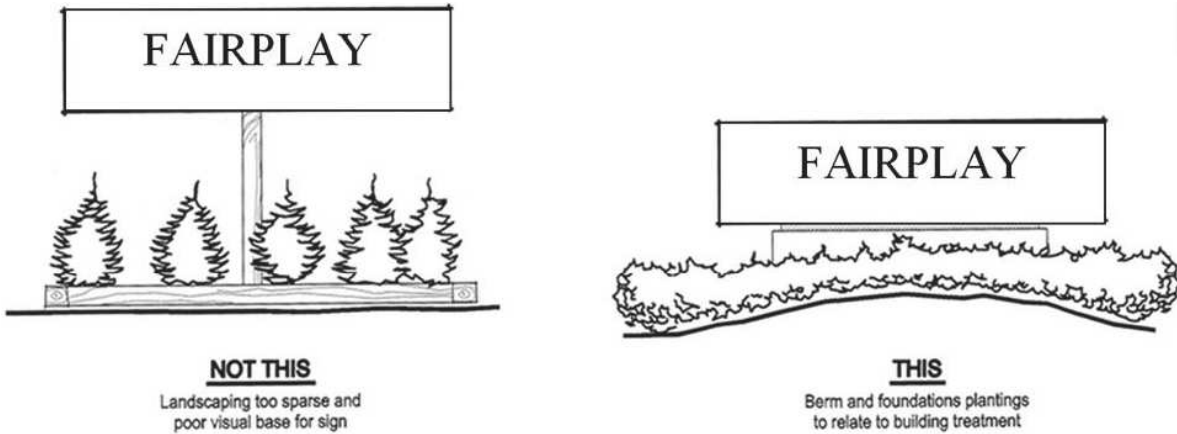


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d. Monument signs should be located in a planter setting within a landscaped area at the primary entries to residential, commercial and industrial subdivisions to provide an overall project identity.



e. Pedestrian-oriented signs are encouraged. It is desirable to include a pedestrian-oriented sign as one (1) 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 on a sidewalk or location adjacent to the business.

f. 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 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 any required sight distance triangle.

4. 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.

5. Signs adjacent residential neighborhoods shall be designed and located so that they have little or no impact on residential areas. Small-scale signs are encouraged.



REDUCE SIGN IMPACT

6. 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. Substantial contrast between the color and the material of the background and the letters or symbols will 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.

8. Colors or color combinations that interfere with legibility of the sign copy or that interfere with viewer identification of other signs shall be avoided.

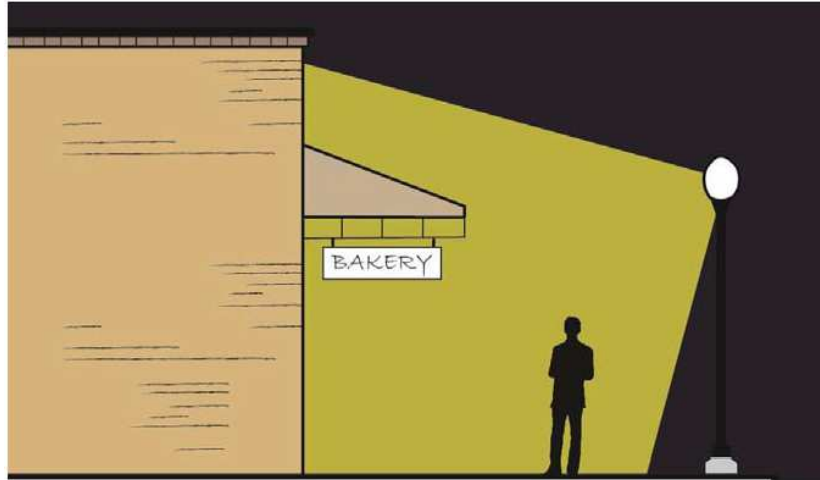
9. Signs shall be constructed of durable, high quality architectural materials. The sign package must use materials, colors and designs that are compatible with the building facade. Sign materials must be of proven durability. Treated wood, manufactured composite products with ingredients that use recycled materials, painted/treated/patina metal, stone, brick and stucco are the preferred materials for signs.

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

- a. The speed at which they are viewed;
- b. Distance from the edge of the right-of-way;
- c. The context and surroundings in which they are seen; and
- d. The design, colors and contrast of the sign copy and sign face.
- e. 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.

11. Unnecessary lighting is to be avoided.

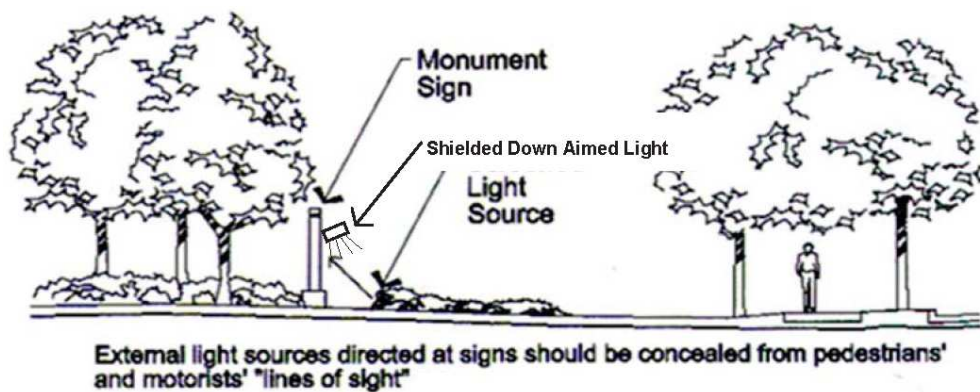
Use of Existing Illumination



12. Sign illumination shall complement, not overpower, the overall composition of the site.

13. All lighted signs incorporating a direct light source shall be designed to direct lighting to illuminate only the face of the sign. External light sources aimed at a sign shall be concealed from pedestrians' and motorists' lines of sight.

14. Signs must be illuminated in a way that does not cause lighting trespass, illumination of adjacent properties, over-lighting or glare onto the street and adjacent properties. Signs shall be lighted only to the minimum level for nighttime readability.



15. 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.

16. Flashing, moving, blinking, chasing or other animation effects shall be prohibited on all signs except time and temperature signs.

17. Neon tubing is an acceptable method of sign illumination for window signs in commercial districts.

18. The use of individually cut, back-lit letter signs is encouraged.

19. The use of solar electric lighting devices to illuminate signs is encouraged (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-150. Sign installation and maintenance.

(A) Projecting signs shall be mounted so they generally align with others in the block.

(B) Owners of 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 of Fairplay, in which the Town of Fairplay is named as an "other or named insured."

(C) 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 so they do not constitute a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

(D) 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.

(E) 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.

(F) The Town of Fairplay 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. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-160. Creative signs.

(A) Purpose. This Section establishes standards and procedures for the design, review and approval of creative signs. The purposes of this creative sign program are to:

1. Encourage signs of unique design, and that exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and
2. Provide a process for the application of sign regulations in ways that will allow creatively designed signs that make a positive visual contribution to the overall image of the Town of Fairplay, while mitigating the impacts of large or unusually designed signs.

(B) Applicability. An applicant may request approval of a Sign Permit under the creative sign program to authorize on-site signs that employ standards that differ from the other provisions of this Article but comply with the provisions of this Section.

(C) Approval authority. A sign permit application for a creative sign shall be subject to approval by the Board of Trustees.

(D) Application requirements. A sign permit application for a creative sign shall include all information and materials required by the Town of Fairplay, and the filing fee based on the same fee schedule as a building permit.

(E) Design criteria. In approving an application for a creative sign, the Board of Trustees shall ensure that a proposed sign meets the following design criteria:

1. The sign shall constitute a substantial aesthetic improvement to the site and shall have a positive visual impact on the surrounding area;
2. The sign shall be of unique design, and exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit;
3. The sign shall provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale, and proportion.
4. The sign shall contain at least one (1) of the following elements:
 - a. Classic historic design style;
 - b. Creative image reflecting current or historic character of the Town of Fairplay.
 - c. Symbols or imagery relating to the entertainment or design industry; or
 - d. Inventive representation of the use, name or logo of the structure or business.
5. The following architectural shall be incorporated in the sign design:
 - a. Utilize and/or enhance the architectural elements of the building.
 - b. Be placed in a logical location in relation to the overall composition of the building's façade.
 - c. Not cover any key architectural features/details of the façade.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-170. Sign matrices.

The following section of these regulations corresponds to the following zone districts identified on the Fairplay Zone District Map.

1. Residential Districts.

2. Commercial District.
3. Civic Center District.
4. Town Center, Transitional and Multi-use Districts.
5. Parks District.
6. Light Industrial District.

This section includes a series of sign matrices that address permitted, exempt or prohibited signs, sign area, sign illumination and sign height. These tables are intended to assist the user in understanding the type, size, illumination and height of various signs in each zone district. This information is intended to be used in conjunction with the Fairplay Zone District Map and other sections of these regulations.

■—Prohibited, P—Permitted E—Exempt Sign Type	Residential Districts	Commercial District	Civic Center	Town Center, Transitional & Multi-Use Districts	Parks District	Light Industrial District
	Awning Sign	■	P	P	P	P
Banner	■	P	P	P	P	P
Bulletin Board	E	E	E	E	E	E
Canopy Sign	■	P	P	P	■	P
Changeable Copy Sign	■	P	P	■	■	P
Creative Sign	■	P	P	P	P	P
Directional Sign	E	E	E	E	E	E
Government Sign	E	E	E	E	E	E
Grand Opening Sign (Banner)	■	P	■	P	P	P
Historic sign	P	P	P	P	P	P
Identification Sign	P	P	P	P	P	P
Incidental Sign	■	P	P	P	P	P
Informational Sign	■	E	E	E	E	E
Marquee Sign	■	P	P	P	?	P
Monument Sign (Subdivision Only)	P	P	P	?	P	P
Nameplate	E	E	E	E	E	E
Off-Premises Sign	■	■	■	■	■	■
Painted Wall Sign	■	P	P	P	P	P
Pole Sign—Freestanding Sign	■	P	■	■	■	P
Portable Sign	■	P	■	P	P	■
Projecting Sign	P	P	P	P	P	P
Roof Sign	■	■	■	■	■	■
Subdivision Identification Sign	P	P	■	■	■	■
Suspended Sign	P	P	P	P	P	P
Temporary Sign	P	P	P	P	P	P
Class A banner:						
Class B banner:						
Wall Sign	P	P	P	P	P	P
Window Sign	■	P	P	P	■	P

Sign Area Matrix <i>Sign Type</i>	Residential Districts sq. ft.	Commercial District sq. ft.	Civic Center sq. ft.	Town Center, Transitional & Multi-Use Districts sq. ft.	Parks District sq. ft.	Light Industrial District sq. ft.
Awning Sign	0	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)	15	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)
Banner	0	60	60	60	60	60
Bulletin Board	15	15	15	15	15	15
Canopy Sign	0	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)	0	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)
Changeable Copy Sign	0	15	15	0	0	15
Creative Sign	0	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)	32	Sum of all signs on a given wall shall not exceed 5% of the side of the wall area, but shall not exceed 150 ft. ² (a)
Directional Sign	4	4	4	4	4	4
Government Sign	Exempt	Exempt	Exempt	Exempt	Exempt	Exempt
Grand Opening Sign (Banner)	0	32	0	32	32	32
Historic sign	4	4	4	4	4	4
Identification Sign	2	2	2	2	2	2
Incidental Sign	0	8	8	8	8	8
Informational Sign	0	4	4	4	4	4
Marquee Sign	0	See "Wall Sign"	See "Wall Sign"	See "Wall Sign"	0	See "Wall Sign"
Monument Sign	64(b)	120(c)	120(c)	0	120(c)	120(c)
Nameplate	2	2	2	2	2	2
Painted Wall Sign	0	See "Wall Sign"	See "Wall Sign"	See "Wall Sign"	32	See "Wall Sign"
Pole Sign—Freestanding Sign	0	128(d)	0	0	0	128(d)
Portable Sign	0	4	0	4	4	0
Projecting Sign	6(f)	6	6	6(f)	6	6
Roof Sign	0	0	0	0	0	0

<i>Sign Type</i>	Sign Area Matrix	Residential Districts sq. ft.	Commercial District sq. ft.	Civic Center sq. ft.	Town Center, Transitional & Multi-Use Districts sq. ft.	Parks District sq. ft.	Light Industrial District sq. ft.
Subdivision Identification Sign		64(b)	0	0	0	0	0
Suspended Sign		6(f)	6(e)	6(e)	6(e)	0	6(e)
Temporary Sign	20' See Sign Code Text	See Sign Code Text	See Sign Code Text	See Sign Code Text	See Sign Code Text	See Sign Code Text	See Sign Code Text
Class A banner:							
Class B banner:							
Wall Sign		6(f)	6(e)	6(e)	6(e)	6(e)	6(e)
Window Sign	0	0	25% window area (g)(h)	25% window area (g)(h)	25% window area (g)(h)	0	25% window area (g)(h)

- (a) Allowed in place of a wall sign and one (1) per individual building tenant.
- (b) Downward and direct illumination only; when placed on subdivision entry features, only the sign face shall be used to calculate the sign area.
- (c) Minimum horizontal distance between signs on the same property is seventy-five (75) feet.
- (d) In place of project monument sign; not allowed on local or collector streets. Minimum horizontal distance between signs on the same property is seventy-five (75) feet.
- (e) One (1) per individual tenant building frontage. The sum of all wall signs on a given wall shall not exceed five (5) percent of the wall area, but shall not exceed one hundred fifty (150) square feet; cannot be more than twenty-five (25) feet above grade level or higher than the eave line of the principal building; first floor level only for retail uses.
- (f) One (1) per street frontage, all signs may be no higher than the eave line of the principal building; may be lighted (shielded light source) and include name and address of facility only. Home occupation, child care center and bed and breakfast only.
- (g) Illuminated window signs shall be included in the total allowable sign area for the premises.
- (h) Temporary signs or posters displayed for periods not exceeding fourteen (14) days announcing or advertising events sponsored by noncommercial organizations shall be exempt from limitations for window signs.

Sign Illumination Matrix <i>Sign Type</i>	Residential Districts - Allowed: Y/N Exempt: E	Commercial District - Allowed: Y/N Exempt: E	Civic Center - Allowed: Y/N Exempt: E	Town Center, Transitional & Multi-Use Districts - Allowed: Y/N Exempt: E	Parks District - Allowed: Y/N Exempt: E	Light Industrial District - Allowed: Y/N Exempt: E
Awning Sign	N	N	N	N	N	N
Banner	N	N	N	N	N	N
Bulletin Board	N	Y	Y	Y	Y	Y
Canopy Sign	N	Y	Y	Y	N	Y
Changeable Copy Sign	N	Y	Y	N	N	Y
Creative Sign	N	Y	Y	Y	Y	Y
Directional Sign	N	N	N	N	N	N
Government Sign	E	E	E	E	E	E
Grand Opening Sign (Banner)	N	N	N	N	N	N
Historic sign	N	Y	Y	Y	Y	Y
Identification Sign	N	N	N	N	N	N
Incidental Sign	N	N	N	N	N	N
Informational Sign	N	N	N	N	N	N
Marquee Sign	N	Y	Y	Y	N	Y
Monument Sign	Y(a)	Y	Y	N	Y	Y
Nameplate	N	Y	Y	Y	Y	Y
Painted Wall Sign	N	Y	Y	Y	Y	Y
Pole Sign—Freestanding Sign	N	Y(a)	N	N	N	Y(a)
Portable Sign	N	N	N	N	N	N
Projecting Sign	N	Y	Y	Y	Y	Y
Roof Sign	N	N	N	N	N	N
Subdivision Identification Sign	N	N	N	N	N	N
Suspended Sign	Y(a)	Y	Y	Y	N	Y
Temporary Sign	N	N	N	N	N	N
Class A banner:						
Class B banner:						
Wall Sign	Y(a)	Y	Y	Y	Y	Y
Window Sign	N	Y(b)	Y(b)	Y(b)	N	Y(b)

(a) Downward aimed direct light source only; may not be illuminated between 10:00 p.m. and 7:00 a.m. if within five hundred (500) feet of existing residential uses.

(b) Illuminated window signs shall be included in the total allowable sign area for the premises.

Sign Height Matrix Sign Type	Residential Districts - Max. Height (feet) Exempt: E	Commercial District - Max. Height (feet) Exempt: E	Civic Center - Max. Height (feet) Exempt: E	Town Center, Transitional & Multi-Use Districts - Max. Height (feet) Exempt: E	Parks District - Max. Height (feet) Exempt: E	Light Industrial District - Max. Height (feet) Exempt: E
Awning Sign	0	(a)	(a)	(a)	(a)	(a)
Banner	0	(a)	(a)	(a)	(a)	(a)
Bulletin Board	6	6	6	6	6	6
Canopy Sign	0	(a)	(a)	(a)	0	(a)
Changeable Copy Sign	0	(a)	(a)	0	0	(a)
Creative Sign	0	4	4	4	4	4
Directional Sign	4	4	4	4	4	4
Government Sign	E	E	E	E	E	E
Historic sign	6	6	6	6	6	6
Identification Sign	6(a)	6(a)	6(a)	6(a)	6(a)	6(a)
Incidental Sign	0	6(a)	6(a)	6(a)	6(a)	6(a)
Informational Sign	0	6(a)	6(a)	6(a)	6(a)	6(a)
Marquee Sign	0	(a)	(a)	(a)	0	(a)
Monument Sign	5	6	6	0	6	6
Nameplate	E	6(a)	6(a)	6(a)	6(a)	6(a)
Painted Wall Sign	0	(a)	(a)	(a)	(a)	(a)
Pole Sign—Freestanding Sign	0	25	0	0	0	25
Portable Sign	0	4	0	4	4	4
Projecting Sign	6	(b)	(b)	(b)	(b)	(b)
Roof Sign	0	0	0	0	0	0
Subdivision Identification Sign	5	5	0	0	0	0
Suspended Sign	6	(b)	(b)	(b)	(b)	(b)
Temporary Sign	6	6	6	6	6	6
Class A banner:						
Class B banner:						
Wall Sign	6(a)	(c)	(c)	(c)	0	(c)
Window Sign	0	(d)	(d)	(d)	0	(d)

- (a) May be no higher than the eave line of the principal building.
- (b) Minimum height above sidewalk or grade eight (8) feet. Shall not be higher than the eave from which the sign projects if attached to a single story building or fifteen (15) feet above grade whichever is less or the height of the bottom of any second story window if attached to a multi-story building.
- (c) Cannot be twenty-five (25) above grade level or higher than the eave line of the principal building; first floor level only for retail uses
- (d) Window signs visible beyond the boundaries of the lot upon which the sign is displayed shall not exceed twenty-five (25) percent of the window or door area at the ground floor level; and twenty-five (25) percent of the total allowable sign area for the premises.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-25-180. Definitions.

Animated sign means any sign or exterior graphic display device, or any part thereof, which changes physical position by movement or rotation.

Awning, canopy or marquee sign means a sign that is mounted or painted on or attached to an awning, canopy or marquee.

Architectural detail means any projection, relief, cornice, column, change of building material, window, or door opening on any building.

Art means things that have form and beauty, including paintings, sculptures or drawings.

Attention-getting device means any flag, streamer, spinner, pennant, costumed character, light, balloon, continuous string of pennants, flags, fringe or similar devices or ornamentation used primarily for the purpose of attracting attention for promotion or advertising a business or commercial activity which is visible by the general public from any public right-of-way or public area.

Back-lit: See internal lighting.

Banner means a long strip of cloth or similar material securely affixed to a pole, wire or rope which is located outdoors and which has lettering on it as an advertisement, greeting or similar message.

Billboard means a large stationary outdoor advertising device having the capacity of being visible from a state highway.

Building frontage means the lineal measured width of a building facing a street. In the case of a corner lot, the building frontage may be either of the street frontages, but not both, at the option of the property owner.

Building identification sign means a wall sign, a freestanding sign or copy painted on a building that states the name of the building, but does not advertise any business or product.

Bulletin Board means a type of changeable copy sign located on a premises used for temporary posting of bulletins, notices, events, meetings, but is not used to display commercial messages relating to products or services that are offered on the premises. Bulletin boards may be open or enclosed, and/or protected by glass, Plexiglas or a similar clear protective cover.

Business identification sign means any sign identifying the name of the business.

Business lot frontage means the lineal measured width of the lot, measured parallel to the street, on which the business resides. In the case of a corner lot, the building frontage may be either of the street frontages, but not both, at the option of the property owner.

Business hours sign means any sign displaying operating hours of a business.

Civic event means any type of race, parade, show, competition, entertainment or community activity to which the general public is invited, either expressly or by implication.

Changeable copy means copy that is changed manually in the field or changes automatically at intervals of more than once every one hundred eighty (180) seconds.

Class A banner means a banner, the primary purpose of which is to inform the public about a civic event.

Class B banner means a banner, the primary purpose of which is to inform the public about a temporary activity such as community/social events, entertainment or special limited sales.

Clearance means the smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.

Code means the Town of Fairplay Municipal Code (FMC).

Community information board means a sign used to publicize community-wide events.

Construction sign means a temporary sign erected on the premises on which construction is taking place during the period of such construction.

Convention means an assembly, often periodical, of members or delegates of a bona fide political, social, professional or religious group or organization.

Copy means any graphic, letter, numeral, symbol, insignia, text sample, model, device or combination thereof that is primarily intended to advertise, identify or notify.

Decorative sign means a mural or historically significant logo painted on a building.

Directional sign means a sign with a symbol indicating direction of travel and may be found, for example, at the exit or entrance of a premises that has two (2) or more driveways or adjacent to a street off of the right-of-way.

Directory sign means a sign that serves as a common or collective identification of two (2) or more uses on the same property and which may contain a directory to the uses as an integral part thereof or may serve as a general identification for such developments as shopping centers, industrial parks and similar uses.

Electric sign means any sign containing electrical wiring, but not including signs illuminated by an exterior light source.

External illumination means illumination of a sign that is affected by an artificial source of light not contained within the sign itself.

Façade means the entire building front including the parapet and any other architectural details which faces and is parallel to or nearly parallel to a public or private street. There can be only one (1) building façade for each street upon which a building faces.

Face means the area of a sign on which the advertising message or graphics are placed.

Flashing sign means any directly or indirectly illuminated sign, either stationary or animated, which exhibits changing natural or artificial light or color effects by any means whatsoever.

Freestanding sign means any sign independent of buildings and consisting of self-supporting elements.

Garagelyard sale sign means any sign advertising a garage sale, yard sale or any other temporary sale at a residence.

Government sign means any temporary or permanent sign erected and maintained by the Town, County, State of Colorado, federal government, or other duly organized and constituted governmental or quasi-governmental entity.

Graphics means the presentation of information, logos, or symbols in the form of diagrams and illustrations instead of as words or numbers.

Ground sign means a sign supported by one (1) or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building. It includes a pole sign, freestanding sign and a monument sign.

Hanging sign: See projecting sign.

Height means the vertical distance measured from the highest point of the sign to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

Highway sign means a building or business identification sign or subdivision entrance sign which is displayed adjacent to a street where the posted speed limit is greater than thirty-five (35) m.p.h.

Historic Center means the Town of Fairplay Town Center District as described in Article V and Article VIII of this Chapter.

Historic place sign means any sign indicating the historical significance of a site or structure.

Historic sign means any sign that has historic significance as determined by the Board of Trustees.

Information sign means a sign used to dedicate or provide information or direction with respect to permitted uses on the property, including but not limited to signs indicating the hours of operation and such signs as "no smoking," "open," "closed," "restrooms," "no solicitors," "deliveries in rear," current credit card signs, trade association emblems and the like.

Indirect lighting means a source of external illumination located a distance away from the sign, which lights the sign, but which is itself not visible to persons viewing the sign from any street, sidewalk or adjacent property.

Internal lighting means a light source supplied to the internal portion of a sign illuminating the surface of the sign.

Master sign plan means a sign plan of any multiple-use office or commercial building which includes the number, size, description and location of all signs located, or to be located, in or upon such property.

Marquee means a permanent structure other than a roof, awning, or canopy which is attached to, supported by, and projecting from a building. Marquees are often, but not always, designed to accept the placement of changeable copy, typically for the purpose of announcing current or upcoming events at the premises.

Menu display box means a freestanding or wall sign enclosed in glass for the express purpose of displaying menus. This shall include menus displayed flat against the interior of a window.

Monument sign means a ground sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole.

Moving sign means a sign that moves or that simulates motion.

Movement means physical redirection or revolution up or down, around, or sideways that completes a cycle of change at set intervals.

Multiple store fronts means several businesses in the same building with the same lot frontage.

Neon tube illumination means a source of light for signs supplied by a tube filled with neon or other inert gas and which is bent to form letters, symbols, or other shapes.

Nonconforming sign means any sign lawfully established prior to the initial enactment of or amendment to the regulations contained in this code, which does not conform to the requirements presently in effect.

Obsolete sign means any sign that is obsolete in terms of identifying a business, service, attraction or event that no longer exists or applies.

Off-premises sign means any sign placed other than on the parcel of land or premises wherein or upon which the business or activity in reference is located.

Official sign means any sign required by law or authorized for public or quasi-public institutions to meet the needs of public information, health, safety and welfare.

On-premises sign means a sign that advertises or directs attention to a business, product, service or activity that is available on the premises where the sign is located.

"Open" and "closed" sign means any sign indicating that a business is open or closed.

Outline lighting means strings of lights or lighting tubes that outline windows, the shape of the building or are used to decorate trees. Outline lighting arranged in the shape of a product being sold or to spell out a commercial message is a sign rather than a festive decoration and is not allowed. Outline lights include those that blink randomly, but exclude lights that simulate motion or flash on and off all at once.

Parking sign means any sign indicating parking or directing vehicular traffic into a parking area.

Parapet means the extension of a false front or wall above a roofline.

Permanent sign means any sign made of a durable material affixed, lettered, attached to or upon a fixed, non-movable supporting structure.

Portable sign means a sign designed to be transported and not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building including, but not limited to, menu and sandwich board signs.

Projecting sign means a sign other than a wall sign which projects eight (8) inches or more from, and is supported by, a wall of a building or structure.

Reflective surface means any material or device that has the effect of intensifying reflected light, including but not limited to Scotchlite, Day-Glo, glass beads and luminous paint.

Residential nameplate means a type of sign allowed for the sole purpose of identifying the inhabitants of a residential structure, the house name or identifying the address of the residence. The sign may not contain any form of advertising.

Roof sign means any sign erected upon or over the roof or parapet of any building.

Sandwich board sign means a temporary sign that is constructed with two (2) pieces of material, connected at the top, which pieces form a triangular shape and are self-supporting, also known as an "A-frame" sign.

Separate frontage means a second building frontage, parallel and adjacent to a public right-of-way and on the opposite side of a building's primary frontage, which includes a public entrance.

Sign means any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure or object on any land or on any other structure or produced by painting, posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface. Displayed merchandise shall not be considered a sign.

Sign area or surface area means the surface area that describes the largest square, rectangle, triangle, parallelogram, polygon or sphere that includes the face of the sign, frame, artwork and any spacing between letters, figures and designs, but not including any incidental decoration or the bracing or structure of the sign.

Sign illumination device means any fixture or mechanism used to shine light onto a sign or to make a sign luminous.

Sign owner means the person entitled to possession of such sign; the owner, occupant or agent of the property where the sign is located; or any person deriving a benefit from the sign.

Sign permit means a permit issued for the erection, construction, enlargement, alteration, moving or conversion of any sign and issued pursuant to the Building Code and the Fairplay Municipal Code.

Sign structure means any supports, upright braces or framework of a sign.

Size means the total area of the face used to display a sign, not including its supporting poles or structures. If a sign has two (2) faces that are parallel, not more than twelve (12) inches apart and supported by the same poles or structures, the size of the sign is one-half ($\frac{1}{2}$) the area of the two (2) faces. Spherical sign area shall be the entire surface of the sphere. The total area of multi-faced signs (more than two (2) faces) shall be one-half ($\frac{1}{2}$) the area of the two (2) smallest faces plus the total area of all faces greater than the two (2) smallest.

Statuary sign means any sign that is a modeled or sculptured likeness of a living creature or inanimate object.

Subdivision identification sign means a sign used to identify the name and entryway to a subdivision.

Suspended sign means a sign that is suspended from the underside of a horizontal plane surface of a building or structure such as a canopy, porch ceiling or portico and is typically used as a pedestrian scale sign.

Temporary sign means a non-permanent sign to be displayed for an individual time period of thirty (30) days or less.

Two-sided sign means any sign with two (2) identically sized faces no greater than twelve (12) inches apart or connected so as not to exceed a forty-five-degree angle.

Wall sign means a sign painted on or attached directly to an exterior wall of a building or that which is dependent upon a building for support, with the exposed face of the sign located in a place substantially parallel to the exterior building wall to which the sign is attached or which supports the sign.

Window sign means any permanent sign applied to, attached to or located within twelve (12) inches of the interior of a window that can be seen through the window from the exterior of the structure. (Ord. 2015-3, §1, 1-4-2016)

ARTICLE XXVI

Definitions and Rules of Word Usage

Sec. 16-26-10 Word usage

Sec. 16-26-20 Definitions

Sec. 16-26-10. Word usage.

(A) For the purpose of these regulations, certain numbers, abbreviations, terms, words, and phrases used herein shall be used, interpreted, and defined as set forth in this Article.

(B) Whenever any words and phrases used herein are defined in the State laws regulating the creation and function of various planning agencies, such definition shall apply to such words and phrases used herein, except when the context requires otherwise.

(C) For the purpose of these regulations, certain words and phrases used herein shall be interpreted as follows:

1. The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other legal entity.
2. The masculine includes the feminine.
3. The present tense includes the past and future tense; the singular number includes the plural.
4. The word "shall" is a mandatory requirement; the word "may" is a permissive requirement; and the word "should" is a preferred requirement.
5. The words "used" or "occupied" include the words "intended, arranged, or designed to be used or occupied."
6. The word "lot" includes the words "plot, parcel, and tract."

(D) All other words not defined shall be defined according to the 2011 (or newer) edition of Webster's New Collegiate Dictionary.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-26-20. Definitions.

For the purpose of this UDC, certain words and terms are defined as follows:

A

Accessory building or structure is a building or structure that is located on the same parcel as the principal structure and the use of which is customarily associated with, incidental and subordinate to, the principal structure. Accessory structures should constitute a minimal investment, may not be used for human

habitation except as otherwise prescribed by the regulations relating to quarters for immediate relatives and resident domestic employees, and be designed to have minimal impact on adjoining properties. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, hay sheds, and lean-tos.

Accessory dwelling unit (ADU) is an attached or detached dwelling unit that is accessory and subordinate in size and character to a principal building situated on the same lot or parcel.

Accessory use means a secondary use on a property that is incidental and subordinate to a primary use located on the same property, and which does not alter or change the character of the premises.

Accessory structure means a structure or building customarily and commonly associated with and clearly subordinate to a lawfully existing Principal Building located on the same lot. An accessory structure is not permitted on a lot unless a principal building is in existence and in use on the same lot. Truck trailers and shipping containers shall not be used as accessory structures. Industrial shipping containers are not a permitted accessory structure in any zone district.

Adjacent property means any property abutting upon or tangent to any lot line of the subject property, disregarding intervening public streets and alleys.

Administrator means the Town Administrator or his/her designee who administers and enforces the provisions of the Unified Development Code or Building Codes.

Alley means a public or private right-of-way designed to serve as a secondary access by motor vehicles to the side or rear of a lot or building whose principal frontage is on a public street or some other principal right-of-way.

Antenna array or wireless telecommunications antenna array means one or more rods, panels, discs, or similar devices used for the transmission or receptions of radio frequency signals, which may include omni-directional antennas (whip), direction antennas (panel), and parabolic antennas but excluding any support structure.

Antique vehicle means a motor vehicle valued principally because of its early date of manufacture or historic character or design, and which if not operable is substantially intact. A junked vehicle shall not qualify as an antique vehicle.

Applicant means the owner, owners, or legal representative of land who makes application to the Town of Fairplay. Written consent shall be required from the legal owner of the premises.

Architectural detail means any projection, relief, cornice, column, change of building material, window, or door opening on any building.

Architectural projection means any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building, including arcades, roof overhangs, mansards, unenclosed exterior balconies, marquees, canopies, pilasters, fascias and the like, but not including signs.

Art galleries and museums means public or semipublic uses whose primary use is to enhance the appreciation of its visitors for past and present cultural practices and events, through the use of exhibits, tours, demonstrations, audiovisual technologies, and similar communications media.

Assisted living facility means a residential facility where limited health care is provided including assistance with daily activities such as dressing, grooming and bathing, and/or taking medicines are provided for the aged or any other reasonably independent person in need of nursing care. These facilities do not contain equipment for surgical care or treatment of disease or injury and are not primarily designed for patients with mental illness, alcohol, or drug addiction. Assisted living facilities have private rooms that are not shared by non-related persons.

Automated teller machine (ATM) means an electronically operated device used to conduct financial transactions on site by means of direct computerized access.

Automotive fuel station means any land, building, structure, or premises used for the retail sale of motor vehicle fuels, oils, or accessories.

Automotive rental means any land, building, structure, or premises used for the rental of motor vehicles on a temporary basis, and including any incidental storage thereof.

Automotive repair/body shop means any land, building, structure, or premises used for the general repair of automobiles including but not limited to engine rebuilding or reconditioning of motor vehicles; engine steam cleaning; transmission welding or rebuilding and installation; collision service such as body, frame and fender straightening and repair; and painting of motor vehicle after a collision, fire damage, water damage, or other natural disaster or for the purpose of restoration. Automobile repair/body shop may also include automotive service, as defined.

Automotive sales means any land, building, structure, or premises used for the sale or lease of new or used motor vehicles. Automotive sales may include automotive repair and automotive service. See also automotive repair and automotive service.

Automotive service means any land, building, structure, or premises used for the routine maintenance of automobiles and limited servicing of automobiles including but not limited to the sale and installation of oil, lubricants, filters, batteries, tires, brakes, belts, and other similar activities or for installing or repairing parts and accessories but not to include the activities of automobile repair/body shop as defined.

Average daily traffic (ADT) means the estimated daily average number of vehicular travelers on a street in a twenty-four-hour period.

Awning means a movable shelter supported entirely from the exterior wall of a building and of a type which can be retracted, folded or collapsed against the face of the supporting building.

B

Bicycle way means a public pathway or land designed to be used exclusively by bicycle traffic and clearly separated from roadways and pedestrian ways.

Block means a unit of land within a subdivision, generally bounded by public or private right-of-way (other than alleys) and normally comprised of one or more lots.

Board means the Board of Trustees.

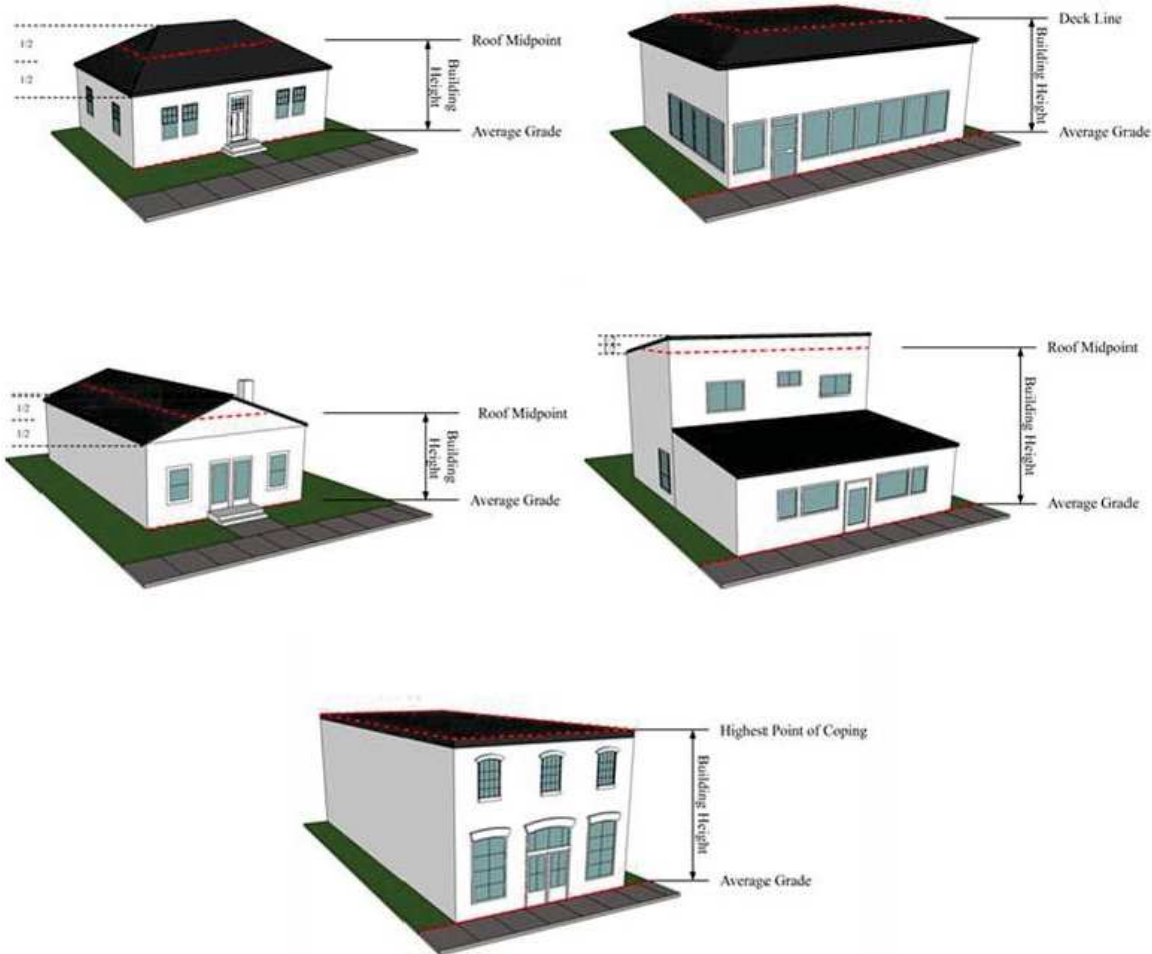
Board of Adjustment. In the absence of a separate Board of Adjustment, the Board of Trustees will serve in that capacity.

Bar, tavern or lounge means premises used primarily for the sale and dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principle use.

Basement means that portion of the building that is underground but having at least half its clear height below the average grade of the adjoining ground.

Bed and breakfast establishment means an owner-occupied dwelling unit providing overnight accommodations and breakfast to the public for compensation for ten (10) or more days in a 12-month period.

Block means a unit of land within a subdivision, generally bounded by public or private right-of-way (other than alleys) and normally comprised of one or more lots.



Brewpub means a commercial use which brews ales, beers, meads, and/or similar beverages on-site and serves those beverages on-site.

Building means any structure designed, built, and used for the shelter, protection, or enclosure of persons, animals, or property, and which is permanently affixed to the land. A building is also a structure.

Building envelope means the setback lines or other defined area that establishes an area on a lot in which a building and related activities can occur.

Building frontage means the length of an outside building wall on a dedicated public or private street.

Building height means the distance measured on a vertical plane from the average historic or preconstruction grade of the building's site coverage, or from the post-construction grade at the perimeter walls of a building or structure, whichever is lower, to (1) the highest point of the coping of a flat roof; (2) the highest point along the ridge or deck line of a mansard roof; or (3) to the midpoint of the highest gable of a pitched, shed or hipped roof measured from the highest associated eave. Chimneys, antennae, flag poles, bell towers, spires, steeples, vents or other roof or building appurtenances extending from the surface of a roof shall not be measured in calculating building height; however, such appurtenances shall not extend more than ten (10) feet above the building height absent a duly approved variance, except for mechanical equipment, which may not extend more than five (5) feet above the building height.

Building official means that person or office designated by the Board of Trustees to carry out the duties of the Building Inspection Department.

Building, principal means a building in which is conducted the main or principal use of the lot in which said building is situated.

Building separation means the least distance between the walls of two (2) structures regardless of whether they are located on the same lot or parcel.

C

Camper coach means an item of mounted equipment, which, when temporarily or permanently mounted on a motor vehicle, adapts such vehicle for use as sleeping and/or temporary living accommodations.

Camper trailer means a non-motorized vehicle having an overall length of less than twenty-six (26) feet and which is designed to be drawn by a motor vehicle over public highways and commonly and generally used for temporary living and/or sleeping accommodations.

Car wash means a building or portion thereof containing facilities for washing one (1) or more automobiles simultaneously, using production line methods such as a chain conveyor, blower, steam cleaning device, or other mechanical devices, or providing space, water, equipment, or soap for the complete or partial cleaning of such automobiles, whether by operator or by customer.

Child day care home means a residential dwelling, whether licensed by the State or not, regularly providing, for a fee, less than twenty-four-hour care for two (2) or more children under the age of eighteen (18) years who are not related to the operator of the day care home. For purposes of this definition, regularly means more than one (1) time per week.

Church means a place of worship, a church, Sunday school, synagogue, temple, mosque or any other such building or buildings used as a house of worship or religious gathering. Said buildings may include such kitchen and lavatory facilities as may be needed to serve their purpose as a public gathering place. Places of worship are expressly not to be designed for nor used as sleeping quarters.

Commission means the Planning Commission. In the absence of a Planning Commission, the Board of Trustees shall serve in that capacity.

Club or lodge, private means an association organized and operated on a non-profit basis for persons who are bona fide members paying dues, which association owns or leases premises, the use of which premises is restricted to such members and their guests, and which manages the affairs of such association by and through a board of directors, executive committee or similar body chosen by the members. Food, meals, and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. This includes fraternities and sororities.

Co-location means a space on an existing or proposed telecommunication tower that can be used for the installation and/or mounting of antennas or radio or cellular communication equipment that operates on a different frequency from the initial user.

Compatible means a structure, planned development, and/or use that is capable of existing together in harmony with its surrounding structures, planned developments, and/or uses forming a homogeneous mixture that neither separates from nor alters its surroundings causing attention to be drawn to the proposed structure, planned unit development, and /or use.

Comprehensive Plan means the plan known as the Town of Fairplay Comprehensive Plan adopted by the Board of Trustees, pursuant to CRS Section 31-23-201, et seq., and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

Condominium means a type of real estate comprised of individual ownership of air space unit together with an interest in common elements and the underlying land. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Cul-de-sac means a short street having one (1) end open to traffic and being terminated at the other end by a vehicular turnaround.

Curb means a concrete boundary marking the edge of a street or other paved area and providing for a change in grade between the street surface and the adjacent unpaved portions of the street right-of-way.

D

Dead-end street means a street leaving only one (1) outlet for vehicular traffic which does not meet the standards or definition of cul-de-sac.

Dedication means the transfer of land or monies in lieu of land by the owner to the Town for some public use. Acceptance of dedication does not necessarily constitute acceptance of maintenance by the Town, unless specifically agreed to in writing.

Density means the total number of dwelling units on any lot or other parcel of land planned for residential development, or total number of buildings on any lot or other parcel of land.

Developer means the owner or his legal representative of land proposed to be subdivided.

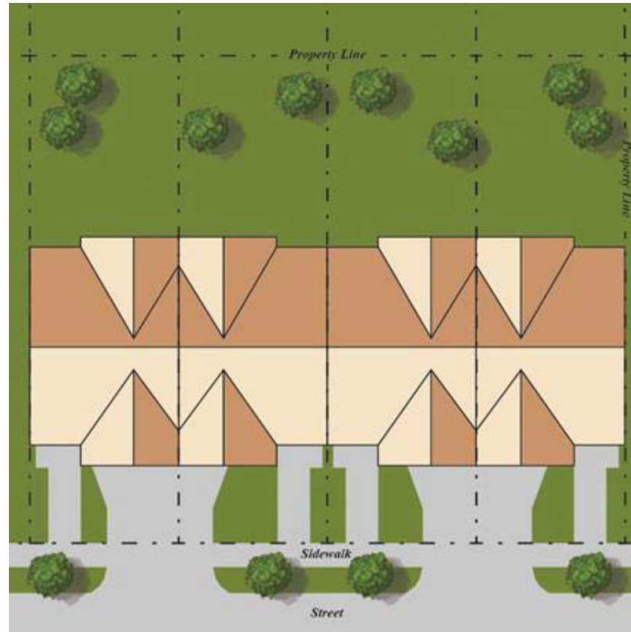
Development agreement means a written instrument setting forth the terms and conditions under which a subdivision or other land development project will be implemented and addressing such items as subdivision infrastructure/improvements, public dedications, construction schedules, financial security, vesting and any other matter required under the Town's subdivision regulations or as deemed necessary by the Town.

Drainage easement means an interest in land or right necessary to control drainage. Development on such easement shall be restricted to uses which would not interfere with the flow of the water or act as a barrier for debris.

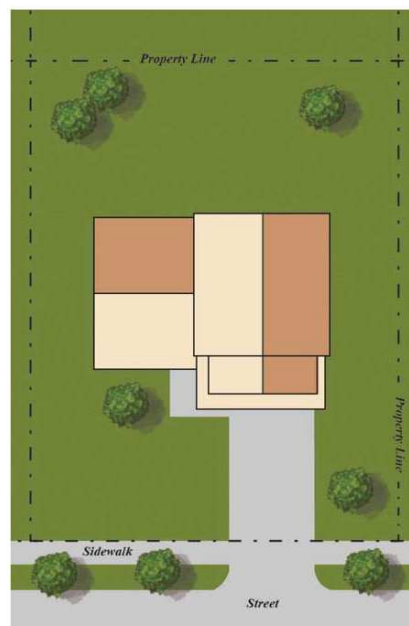
Drive-thru service means an opening or openings in the wall of a building or structure designed and intended to be used to provide for sales and/or service to patrons, who remain in their vehicles, of products that are used or consumed off-site.

Dwelling unit means one (1) or more rooms connected together but structurally divided from all other rooms in the same structure and constituting a separate independent housekeeping unit for permanent residential occupancy by human beings, with facilities for sleeping, cooking and eating. For purposes of computing comparable dwelling unit bulk requirements, every two (2) beds in any boarding and rooming house or dormitory shall be considered to be one (1) dwelling unit. Every eight (8) beds in any orphanage, rest home, convalescent home, nursing home or retirement home shall be considered to be one (1) dwelling unit.

Dwelling, multiple-family means a detached structure divided into three (3) or more separate, independent dwelling units, each unit housing one (1) family living together as a single housekeeping unit, but not including motels, hotels or similar commercial facilities.



Dwelling, single-family means a detached principal dwelling, including manufactured housing other than a mobile home, designed for or used as a dwelling exclusively by one (1) family.



Dwelling, two-family means a building, including manufactured housing, having one (1) or more walls in common with another dwelling unit, or constructed in an over-under configuration, used by two (2) families living independently of each other in separate dwellings, and includes duplexes.



E

Easement means an interest in land or a right to use the land of another for a special purpose not inconsistent with the general property rights retained by the owner.

Elevation (building) means a scaled-drawing of any side of a building or structure.

F

Façade means the main exterior of a building usually characterized by elaboration of stylistic details and containing an entrance.

Family means an individual or two (2) or more persons related by blood, marriage, guardianship, or legal adoption living together as a single housekeeping unit within a dwelling unit, plus no more than two (2) domestic servants. A family may also consist of not more than three (3) unrelated persons.

Family child care home means a residential dwelling, whether licensed by the State or not, providing twenty-four-hour temporary care for a fee in a family environment for children under the age of eighteen (18) years who are not related to the owner or operator of the dwelling and where total occupancy exceeds six (6) persons, but excluding foster care homes.

Fence means a freestanding structure made of metal, masonry, composition, or wood, or any combination thereof, resting on or partially buried in the ground, rising above ground level designed and constructed for enclosure, confinement, protection, or screening.

Fence, open means a fence that is a minimum of sixty (60) percent transparent as viewed from the outside of the fence. This type of fence includes but is not limited to chain-link or vinyl-link without slats, split-rail or post and rail, picket, and wrought-iron.

Fence, solid/vision block means a fence that is a minimum of fifty percent (50%) opaque as viewed from the outside of the fence. This type of fence includes but is not limited to wooden or vinyl shadowbox, stockade, concave, dog-ear cut, convex, panel and/or masonry materials such as brick or stone.

Fill means any act by which earth, sand, gravel, rock, or any other material is placed, pushed, dumped, pulled, transported, or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefrom. Fill is also the difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade. Fill is also the material that is placed on a surface to raise the elevation or replace stripped material.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) means a map or maps prepared under the National Flood Insurance Program by the Federal Emergency Management Agency (FEMA).

Floodplain means the relatively flat or lowland area adjoining a river, stream, watercourse, lake or other body of surface water which has been or may be covered temporarily by flood water. For administrative purposes, the flood plain may be defined as the area that would be inundated by the base flood as delineated by the Federal Insurance and Hazard Mitigation Agency, or other recognized source.

Floor area means the area within the outside walls of a building measured on a horizontal plane, but excluding vent shafts, stairwells and other uninhabitable areas or spaces.

Floodway means the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

Floodway fringe means those portions of the Flood Hazard Areas lying outside the Floodway as shown on the FIRM map(s).

Floor area, gross means the sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior walls. It includes the total of all space on all floors of a building, except for porches, garages, or space in a basement or cellar when said basement or cellar space is used for storage or other such incidental uses. The gross floor area is generally applied in residential use.

Floor area ratio (FAR) means the net floor area of the building divided by the area of the lot(s) on which such building is located.

Foster care home means a residential dwelling that is certified by the County Department of Human Services or a child placement agency for child care in a place of residence of a family or person for the purpose of providing twenty-four-hour family care for a child under the age of eighteen (18) years who is not related to the head of such home, except in the case of relative care.

Foundation, permanent means a structural support system for transporting loads from a structure to the earth at a depth below the frost line without exceeding the safe bearing capacity of the supporting soil.

G

Gallery/museum means a privately-operated facility or area for the acquisition, preservation, study, exhibition, or sale of works of artistic, historic, or scientific value.

Garage, private means an accessory building detached from, or an accessory portion attached to, a main building designed for the shelter or storage of motor vehicles.

Garage, public means a garage, other than a private garage, used for the housing or care of motor vehicles, or where such vehicles are repaired or kept for remuneration, hire or sale.

Garage sale (rummage, neighborhood, estate and other similar activities) means the sale or offering for sale to the general public of personal property on any portion of a lot in any zoning district, either within or outside of a structure on a temporary basis. It includes a single-individual, a group of individuals, and/or a sale conducted by a religious, school, or not-for-profit organization.

General advertising device means any letter, words, symbols, pictures, trademarks, lights (beacon, flashing, rotating, etc.), loudspeaker, noisemaker or other descriptive matter which is placed on any object for the purpose of identifying, promoting, selling or advertising a product or service.

Golf course means any land, building, or structure used for the play or practice of golf and the incidental preparation therefore. This definition may include a driving range accessory to the golf course, but a driving range as a primary use shall not constitute a golf course.

Government offices means an office use owned or operated by a unit of government, except for fire and police stations, post offices, libraries, or other government-owned or operated uses elsewhere specified in the Table of Uses. This definition also shall not include offices that are accessory to the primary use of a lot or structure, such as parks or utility plants.

Grade means the level of the ground.

Grade, average means the mean elevation of the land measured at the front setback line between the side lot lines.

Grade, existing means the level or elevation of the ground that exists or existed prior to man-made alterations, such as grading, grubbing, filling or excavation.

Grade, finished means the elevation of the finished surface of the ground adjoining the building or structure after final grading and normal settlement.

Grading plan means a drawing(s) indicating the existing vertical elevation of the ground prior to any excavation, filling, or other construction activity and the resulting vertical elevation of the ground surface after man-made alterations have been completed.

Ground floor level means that level of a structure which is not more than three (3) feet above or three (3) below grade. It is generally the first floor of living area.

Group home means a home where a small number of unrelated people in need of care, support, or supervision can live together, such as those who are sixty (60) or more years of age or developmentally disabled.

Guyed tower means a telecommunications tower that is supported, in whole or in part, by guy wires and ground anchors.

H

Hardscape means the non-living elements used in landscape such as decorative walls, ledges, fountains, sculptures, stone paths, etc.

Hardship means the exceptional burden that would result from failure to grant a requested variance, which may be caused by atypical, unusual, and peculiar factors or features of the property involved. Mere economic or financial hardship alone is not enough to claim a hardship. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot qualify as a hardship.

Height, sign means the vertical distance measured from the highest point of the sign to the finished grade of the ground immediately beneath the sign. For those instances when the sign is constructed on an artificially constructed earthen berm, the sign height shall be measured from the highest point of the sign to the base of the earthen berm.

Highway, state means a road designated, in the manner provided by law, as a state highway, right-of-way or parcel of real property owned by the State, or a governmental subdivision thereof, as a part of a projected road to be constructed and designated as a state highway in the future.

Home business means use of a single-family residential structure which does not meet the definition of a home occupation, but complies with the requirements of this Chapter. A home business would consist of uses allowed in the applicable zone district which may include commercial activities, services and/or similar uses and typically would be more intense than a home occupation, due to factors such as intensity of use, sales, services and/or clients coming to the business.

Home occupation means a business conducted entirely within a dwelling, or within an accessory building attached to or associated with a dwelling, and carried on by a full-time resident thereof and which is clearly incidental and secondary to the primary use of the dwelling for dwelling purposes and which complies with the standards set forth in the UDC; and excepting what are commonly known as garage sales or rummage sales conducted on an occasional basis (Garage sales shall not exceed four (4) sales of three (3) consecutive days each per calendar year, or one sale per calendar year lasting no more than fourteen (14) consecutive days.)

I

Improvements means, without limitation, street grading, paving and curbing, fire hydrants, public and private utilities, storm sewers and drains, pedestrian and bicycle ways, crosswalks, street shade trees and landscaping, common open space and such other improvements as may be designated by the Town.

Improvements agreement guarantee means financial security which secures the timely and/or satisfactory construction or installation of improvements necessary or required to serve a subdivision, including performance bonds, escrow agreements or other similar collateral or surety agreements.

Illumination means an artificial light source incorporated internally or externally for the purposes of illuminating the sign.

Illumination, bare bulb means a light source which consists of light bulbs with a twenty (20) watt maximum wattage for each bulb.

Illumination, flood means a light source which shines directly upon the object which it is intended to illuminate.

Illumination, halo-lit means individually mounted opaque, internally backlit letters that illuminate the wall or surface to which they are attached.

Illumination, indirect means a light source which does not directly shine upon the object which it is illuminating.

Illumination, internal means a light source that is concealed or contained within the object which it is intended to illuminate and becomes visible in darkness through a translucent surface.

Impervious surface means a surface that does not allow water to be absorbed or percolate into the ground. Such surface include areas covered by buildings, porches, decks, patios, terraces, swimming pools, stoops, tennis courts and also includes surfaces constructed of asphalt, concrete, gravel composite, brick, stone, tile, or any other paving material used for parking, driveways, and walkways.

Improvement means any alteration to the land or other physical constructions associated with subdivision and building site development.

Improvement, public means any drainage ditch, roadway, sidewalk, tree, lawn, off-street parking area, main, or other facility for which the local or state government may ultimately assume the responsibility for maintenance and/or operation, or which may affect an improvement for which local or state government responsibility is established.

Individual sewage disposal system means a septic tank, seepage tile, sewage disposal system, or any other approved sewage treatment device designed for use in a limited area.

J

Jail or correctional facility means the use of land for the confinement or safe custody of persons as a result of a legal process and may include attendance centers established for persons sentenced to serve periods of community service.

Junk means manufactured materials that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, such as scrap metal and alloys, scrap paper products, rags, used cloth, plastic,

rope, rubber, tinfoil, bottles, old and used machinery of any type, used tools, appliances, fixtures, utensils, lumber, boxes or crates (fabricated of any material), pipe fittings, conduit or conduit fittings, automobiles in non-operative condition, tires, etc., and bones.

Junked vehicle means a motor vehicle that is in a state of disrepair or disassembly and/or is inoperable or exhibits signs of physical deterioration, including rust or the loss of exterior paint and parts, or is damaged to the extent that it has value only for parts, salvage or junk, and includes wrecked vehicles.

Junkyard means an open area where any waste, junk or used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metal, paper, rags, rubber tires and bottles. Junk yard also includes an auto-wrecking yard for the storage or keeping of one (1) or more inoperative motor vehicles (except where otherwise specifically permitted), but does not include uses established entirely with enclosed buildings.

K

Kennel means any building, structure or open space devoted in its entirety or in part to the raising, boarding or harboring of four (4) or more adult dogs and/or four (4) or more adult cats.

Kennel, private means a place for keeping three (3) or less dogs, cats, or other small animals for personal use and enjoyment which are primarily kept indoors at a residence as domestic pets and is subordinate to the primary use.

Kiosk means a small structure, typically located within a pedestrian walkway or similar circulation area, and intended for use as a key, magazine or similar type of small shop or for use as display space for posters, notices, exhibits, etc.

L

Laboratory means a building or portion of a building devoted to the experimental study in science or the testing and analysis of chemicals, drugs, minerals, etc.

Land-use map, future (FLUM) means the map in the Fairplay Comprehensive Plan that identifies future land-use designations in and around the Town of Fairplay and is used for determining zoning and other land-use designations for property.

Landscaping means the improvements of an area with trees, shrubs, grasses and other vegetation and/or ornamental objects. Landscaping may include flowerbeds, berms, fountains, and other similar and man-made objects designed and arranged to create an aesthetically pleasing effect.

Landscape area means areas on or adjacent to a lot or right-of-way or the perimeter of a development that are identified for application of landscaping regulations. Landscape areas include street tree plantings, parking lots including islands and perimeter, foundation planting areas, building base landscaping areas, peripheral buffer yard areas and retention/detention pond areas.

Landscape buffer yard means an area adjacent to the front, side, and rear property lines of a development, measured perpendicularly from and parallel to adjacent property lines and/or right-of-way lines, intended to

provide attractive spaces to reduce the impacts of proposed uses on adjacent properties and rights-of-way, or to maintain natural features. Buffers help to maintain existing trees and natural vegetation; to block or reduce noise, glare, or other emissions; and to maintain privacy.

Landscape island means a landscape area defined by a curb or edge of pavement and surrounded on all sides by pavement.

Landscape materials means trees, shrubs, grasses, plants, decorative fences, walls, berms, irrigation systems, flower beds, ground cover, and edging. Non-living elements such as artificial trees, gravel, wood etc., are not considered landscape material.

Lattice tower means a guyed or self-supporting three (3) or four (4) sided, open, steel frame structure used to support telecommunications equipment.

Letter of credit means an irrevocable letter of credit, issued by a bank on behalf of a developer, subdivider, owner, or their designated representative, providing a cash surety to a governmental body, guaranteeing the completion of physical improvements according to the approved plans and specifications, within a prescribed time.

Light source means a source from which light emanates either directly from a bulb or indirectly from a reflective enclosure, lens, or diffuser. Light level meters are used to measure such intensities and are calibrated in foot candles or Lux.

Livestock means domestic animals of types customarily raised or kept on farms or ranches for profit or other productive purposes.

Loading space, off-street means space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.

Logo means the official emblem or insignia of an organization, corporation, or institution.

Lot area means the area of any lot exclusive of street, highway, alley, road, or other rights-of-way, the area of the horizontal plane of the lot bounded by the vertical plans of the front, side, and rear lot lines. Easements are considered to be part of the lot area.

Lot coverage means that portion of a lot covered or permitted to be covered by structures, including accessory structures, also known as building coverage.

Lot line, front means that boundary line of a lot which parallels a street and towards which the principal structures on such lot face or are proposed to face; the common boundary line between an interior lot (other than a through lot) and a street; the common boundary line between a corner lot (other than a through lot) and that street toward which the principal or usual entrance to the main building situate on such lot more nearly faces; or the common boundary line between a through lot and any adjacent street.

Lot line, rear means that boundary line of a lot which is opposite the front line or, in the case of an irregular lot, that boundary line which is determined by the Town from the orientation of existing structures in the vicinity to be the rear lot line.

Lot line, side means that boundary line of a lot which is neither a front nor a rear lot line.

Lot means a basic land development unit which has fixed boundaries, is not divided by any public street or alley, and is used or intended to be used by one (1) or more principal permitted uses. Lot also means parcel of land occupied or designed to be occupied by a main building and the accessory buildings or uses customarily incidental to such main building, including the open spaces required by this Chapter, and such open spaces as are arranged and designed to be used in connection with such buildings. A lot may or may not be the land shown as a lot on a duly recorded plat.

Lot depth means the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

Lot frontage means the front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yards" in this Section.

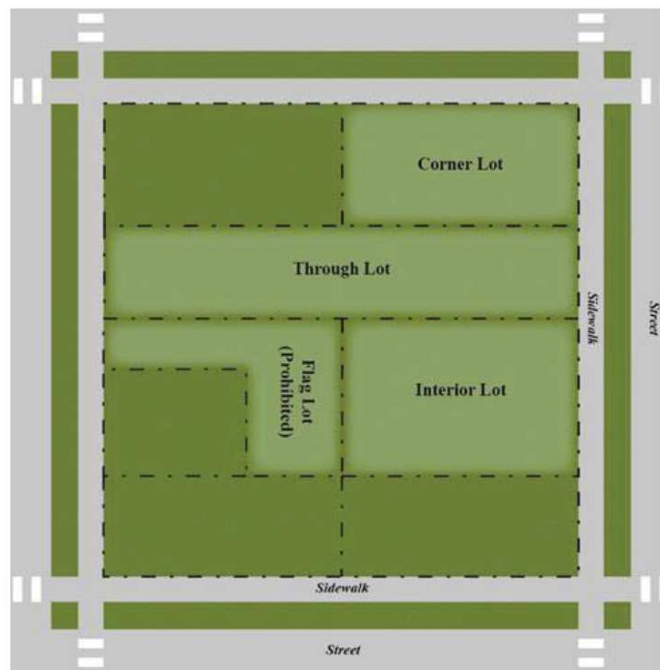
Lot line adjustment means a division made for the purpose of adjusting a boundary line(s), which does not create any additional lot; cause any lot to contain insufficient area, dimensions or building setbacks, or reduce the overall area in a subdivision plat devoted to open space and which is not inconsistent with any restrictions or conditions of approval for the recorded plat, and does not have a common boundary and does not circumvent the subdivision procedures.

Lot of record means a lot which is part of an approved recorded subdivision, which has been filed with the Park County Clerk and Recorder's Office. For purposes of this Chapter, the term legally described lot shall be synonymous with the term lot of record.

Lot width means the shortest distance between any two (2) lot lines of a lot which are intersected by the same front lot line.



Lot, corner means a lot of which at least two (2) intersecting sides each abut upon a street.



Lot, interior means a lot other than a corner lot.

Lumen means a unit used to measure the amount of light emitted by lamps.

Luminaire means the complete lighting system including the lamp and fixture.

Lux means the unit of luminance in the International System of Units (SI) equal to one (1) lumen per square meter.

M

Major automotive repair means those automotive repairs which include, but are not limited to, the removal or replacement of major component parts including, but not limited to, motors, axles, transmissions, drive shafts and radiators. For purposes of this Chapter, all body work shall be classified as major automotive repair.

Machinery and equipment repair means an establishment providing repair for heavy machinery or equipment, such as farm or construction equipment.

Major subdivision means all those subdivisions which do not meet the requirements of a minor subdivision as herein defined.

Manufacture means all operations required to produce the material named.

Manufacture, basic means the first operation or operations which transform a material from its raw state to a form suitable for fabrication.

Manufactured housing means a structure which is certified under the National Manufacture Housing Construction Standards Act of 1974 and was issued an insignia of approval by the U.S. Department of Housing and Urban Development and has not been altered in violation of applicable codes and was manufactured after June 15, 1976.

Minor automotive repair means for purposes of this Chapter, minor automotive repairs are those repairs including, but not limited to, chassis and axle lubrication; changing motor oil and oil filter; replacement of spark plugs and distributor points; changing or repairing tires; replacement of brake shoes, shock absorbers, and exhaust systems; carburetor repair; and other similar adjustments, repairs and replacements necessary for general automotive maintenance which do not involve the removal or replacement of major component parts or body work.

Minor subdivision means the subdivision of land into four (4) or fewer lots, all which abut an existing street, and which does not involve or require the installation or extension of a new water or sewer main or the installation of other public improvements beyond curb, sidewalk and gutter.

Mobile home means a vehicle or similar portable structure not certified under the National Manufactured Housing Construction Standards Act of 1974 which is used for temporary or permanent living purposes, is connected to water and sanitation facilities in compliance with the Plumbing Code, can be used for human occupancy on a continuous basis and does not fall within the definition of manufactured housing.

Mobile home park means land or property utilized for or intended for the use of renting occupancy spaces for one (1) or more mobile homes.

Monopole means a telecommunication tower consisting of a single-pole constructed without guy wires and ground anchors.

Monument means any permanent marker either of stone, concrete, galvanized iron pipe, or iron or steel rods, used to identify the boundary lines of any tract, parcel, lot, or street lines.

Motel means a building in which lodging is offered with or without meals principally to transient guests and that provides each unit with individual entrances from the outdoors.

Motor home means a motorized vehicle designed to provide temporary living quarters and which is built into, as an integral part of or a permanent attachment to, a motor vehicle chassis or van, but does not include mobile homes.

N

Natural drainage means drainage channels, routes, and ways formed over time in the surface topography of the earth prior to any modifications or improvements made by unnatural causes and/or human intervention.

Natural features means the physical characteristics of a property or area that are not man-made, such as soil types, geology, slopes, vegetation, and drainage patterns.

Nonconforming lot is any lot or parcel of land which was lawfully created or in existence under previous regulations, but which no longer conforms to or satisfies the current dimensional or other requirements for a lot in the zone district in which it is located.

Nonconforming structure means any structure which was lawfully in existence, erected or altered in conformity with the Town's zoning and building regulations on the date of its construction, but which structure does not comply with all of the current provisions of the zoning and building regulations established for structures in the district in which the structure is located.

Nonconforming use means any use which was lawfully established or operated in accordance with the provisions of the Town's zoning regulations at the time it was first established, but which is no longer in conformity with the use regulations currently governing the zone district in which the use is located.

Nursery, plant materials, primary means land, buildings, structures, or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening and landscaping.

Nursery, plant materials, accessory means land, buildings, or structures for the use of offering live trees, shrubs, or plants for retail sale on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building, and/or structure.

O

Off-street loading space means an off-street space or area, either within a structure or without a structure on the same lot, provided and maintained solely for loading and unloading of materials and merchandise and having direct and unobstructed access to a street or alley.

Off-street parking space means a reasonably level off-street area or space, either enclosed or open and if open, surfaced to an extent to permit the reasonable use thereof under all weather conditions and used exclusively for the temporary storage or parking of motor vehicles and having direct and unobstructed access to a street or alley.

Office means a use that provides professional, administrative, or business related services. This definition also includes welfare and charitable services. Production, distribution, or the retail or wholesale of goods are not included.

Office, medical means an establishment for the care, diagnosis, and treatment of sick, ailing, infirm, or injured persons, and those who are in need of medical and surgical attention, but which building does not provide board, room or regular hospital care and services. This definition shall include clinics as well as the offices of medical doctors, physicians, dentists, or other health care practitioners.

Open space means a parcel or area of land or water which is designated for recreation (inclusive of trails and trail access), resource protection or buffering, which will provide visual and spatial relief from the mass of buildings or development in the vicinity, and which may, without limitation, include pocket or passive parks, pools or fountains, plazas and areas maintained in their natural and undisturbed state. Areas set aside for public facilities, driveways, parking lots or other areas intended for vehicular traffic shall not qualify as open space. Open space may incorporate accessory structures such as playground equipment, shelters and picnic facilities and similar structures.

Outdoor sale and/or display means the placement and availability for purchase of products temporarily placed outside of a building or structure, including but not limited to garden supplies, clothing, toys, play equipment, agricultural products, building materials, landscape materials, and bagged salt.

Overhang means the horizontal distance that the roof projects beyond the story immediately below.

Overlay district means an area that is superimposed upon another district which supersedes, modifies, or supplements the underlying district regulations.

Owner means a person, firm, corporation or other legal entity recorded as such on the records of the County Clerk and Recorder, including a duly authorized agent or attorney, purchaser, devisee, fiduciary or person having a vested or contingent interest in the property in question.

P

Parapet means a low solid protective wall along the edge of a roof or balcony.

Park, public means a public space designed and set aside exclusively for diversion, recreation, or amusement; characterized by large amounts of open space. While the majority of park activities take place out of doors, accessory buildings and structures such as swimming pools, tennis courts, picnic shelters, or playground equipment may also be permitted.

Park, private means an area, restricted as to use by a particular group that is set aside for passive and/or active recreational opportunities and is of a non-commercial character.

Parking garage means a structure or portion thereof composed of one (1) or more levels or floors used exclusively for the parking or storage of motor vehicles.

Parking lot, commercial means an open area for the parking of passenger vehicles and on which servicing, repair, dismantling or storage of automobiles which are for sale or which are to be repaired, in a manner accessory to a sales or repair garage, is prohibited.

Parking lot, public means an un-enclosed area for off-street parking which is owned and/or operated by the City, County, or other unit of government; or which is operated for the general public and not for patrons of a particular use.

Parking, off-street means an area appropriate in size to accommodate the required parking for the applicable land use(s), together with driveways and maneuvering room; located totally out of public right-of-way.

Party wall means a wall starting from the foundation and extending continuously through all stories to or above the roof, which separates one (1) building unit from another and is in joint use by each building unit.

Pedestrian way means a public or private pathway or sidewalk designed to be used by pedestrian traffic.

Perennials means a plant that has a life-cycle lasting more than two (2) years and survives during the winter by an underground root system.

Permanent monument means an object or physical structure permanently placed on or in the ground to mark a corner, including those expressly placed for surveying reference.

Permit, building means a written instrument granting an applicant permission to construct, erect, repair or alter buildings or other structures in accordance with the Town zoning and building regulations at the time of application for such permit.

Permitted use means a use by right which is specifically authorized in a particular zoning district.

Personal services means any enterprise conducted for gain which primarily is engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include shoe repair, barber and beauty shops, tailor shops, nail shops, individual personal trainer, and similar activities.

Planned unit development (PUD) means an area of land controlled by one (1) or more land owners that is to be developed under a unified site plan and which may include dwelling units, commercial, educational, recreational or other nonresidential uses, public and private open spaces or any combination of the above, and in which lot size, dimensional requirements, type of use, density, lot coverage, open space or other regular zoning or subdivision regulations may be varied as part of the ongoing development of the land. A PUD permits the planning of a project and the calculation of density over an entire development rather than on an individual lot-by-lot basis. A Planned Unit Development is an overlay zoning district allowable under Section 24-67-101, et seq., C.R.S., in all zoning districts.

Plat means one (1) or more related documents prepared in accordance with the requirements of this Chapter showing the surveyed dimensions and legal description of a parcel of land, the reassemblage of parcels, or the subdivision or resubdivision of land into lots, blocks, tracts, easements and rights-of-way.

1. Final plat means a map and supporting materials prepared in accordance with these regulations as an instrument for recording real estate interests with the County Clerk and Recorder.
2. Preliminary plat means the maps and specified supporting materials of a proposed subdivision prepared in accordance with these regulations to permit evaluation of the proposal prior to the detailed engineering, design and preparation of the final plat.

Porch, unenclosed means a porch which is open to the atmosphere on at least two (2) sides.

Portable storage pods means a portable streamlined enclosure or detachable container that is delivered on-site for the packing of temporary storage needs and is removed to a secure Storage Center (indoor warehouse) for storage of the enclosure/container. The actual pods shall remain on-site for a maximum of thirty (30) days per calendar year.

Premises means a general term meaning part or all of any lot, or part or all of any building, or structure, or group of buildings or structures located thereon.

Principal building means the building in which the primary use of the lot is conducted.

Principal use means the main purpose for which a parcel of land or a structure is used as distinguished from an accessory use of land or structure. For purposes of this Chapter, the term primary use shall be deemed synonymous with the term principal use, and shall be determined by one (1) or more of the following:

1. Any use which physically occupies a majority of a parcel of land and/or a structure.
2. Any use which constitutes a majority of the activity conducted on a premises in relative terms of, for example, sales or rental volume of materials or services offered; prominence of on-site display or advertisement of materials or services offered; type of materials or services offered; amount of stock or inventory; hours of operation devoted to a particular sales or service activity; occupation of inhabitants or employees; and/or the purpose or attraction of the occupation.

Printing and publishing means an establishment that provides printing, publishing, duplicating, or collating services using photocopy, blueprint, off-set printing, or related equipment.

Prohibited use means a use indicated as prohibited for a certain district in the Table of Uses.

Public hearing means a meeting of the Board of Trustees, or other duly constituted board or, for the purpose of hearing comments, testimony, recommendations and other responses from an applicant/appellant, the Town staff, interested parties and the general public concerning a land development application or other land use matter under the terms of this Chapter, such meeting being preceded by a published, posted and/or mailed notice.

Public meeting means a regularly or specially scheduled meeting of the Board of Trustees or other duly constituted board, or held for the purpose of conducting business.

Public service facility means buildings, power plants, substations, water treatment plants, pumping stations, sewage disposal or pumping plants; lift stations, transmission or distribution systems; collection or disposal systems; and other similar structures used by a public utility or railroad, whether publicly or privately owned, or by a municipal or other governmental agency to furnish electrical, gas, rail transport, transportation, communications, water, and sewer services. Such facilities may include the specific facilities listed above as well as poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms, police call boxes, traffic signals, hydrants, and similar accessories needed to provide such services for consumption by the general public.

Public uses means public parks, schools, fire and police stations, libraries, museums, gardens and parks and town halls, county courthouses, utility complexes, fairgrounds, and administrative and cultural buildings and structures, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

Public utility means any person, firm, or corporation duly authorized to furnish electricity, gas, steam, telephone, telegraph, water, or sewerage systems to the public.

Q

Quarries and other excavation activities mean a place where rock, ore, stone, sand, and similar materials are excavated for sale or for off-tract use.

Quasi-public use means places of worship, private and parochial schools, colleges, hospitals, cemeteries, and other facilities of an educational, religious, charitable, philanthropic, or no-profit nature. Private airports, clubs and lodges, athletic complexes, nursing homes, clinics, country clubs, homes for elderly and children, and other seemingly public uses which are in private ownership shall be considered quasi-public.

R

Recreation, indoor means any indoor athletic activity such as but not limited to indoor swimming pools, track and field events, soccer fields, gymnasiums, or skating rinks (ice or roller).

Recreational vehicle means a camper coach, camper trailer, motor home or trailer coach used for recreational purposes as opposed to permanent residential purposes.

Recreational vehicle park means a defined area owned, operated, controlled or leased by a person or business for the purpose of renting, leasing or otherwise providing parking sites or spaces for two (2) or more recreational vehicles on a temporary short-term basis, and which may include accessory structures directly serving the park, such as caretaker quarters. The term recreational vehicle park does not include mobile home parks and excludes the use of parking sites or spaces by recreational vehicles for long-term residential purposes.

Recycling center means a facility that accepts source-sorted recyclable materials, processes those materials, and makes the materials available for use in their original form.

Research and development means indoor facilities for scientific research; and the design, development, and testing of electrical, electronic, magnetic, optical and mechanical components in advance of product manufacturing, that are not associated with a manufacturing facility on the same site. Includes pharmaceutical, chemical, medical/dental, electrical, and biotechnology research and development.

Restaurant, sit-down means a business establishment within which the primary use is prepared food offered for sale and consumption within the structure or in a designated and permitted outdoor area. May also include carry-out service.

Restaurant, carry-out means a business establishment within which the primary use is prepared food offered for sale in disposable containers and packaged for carryout.

Resubdivision means the changing of any existing lot or lots of any plat previously recorded with the Park Clerk and Recorder. For the purposes of this Chapter, resubdivision shall also include the condominiumization of units of property and the aggregation or reconfiguration of lots for purposes of redevelopment or sale.

Retail sales means a business establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Right-of-way means an area of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses. Rights-of-way intended for any use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which such right-of-way is established.

Riparian area means wooded or vegetative areas along creeks, streams, rivers or designated regulated drains.

Roadway means that portion of a street designated or used for vehicular traffic. This definition shall include the terms road, lane, place, avenue, drive and other similar designations.

Roadside stand means a temporary structure designed or used for the display or sale of agricultural and related products, or novelties and other items of interest, to the motoring public.

Roof line means the highest point on any building where an exterior wall encloses usable floor space, including floor area for housing mechanical equipment. The term roof line also includes the highest point on any parapet wall, provided that said parapet wall extends around the entire perimeter of the building.

Roof means the cover of any structure, including the eaves and similar projections.

Roof graphic means a street graphic that is displayed above the eaves and under the peak.

S

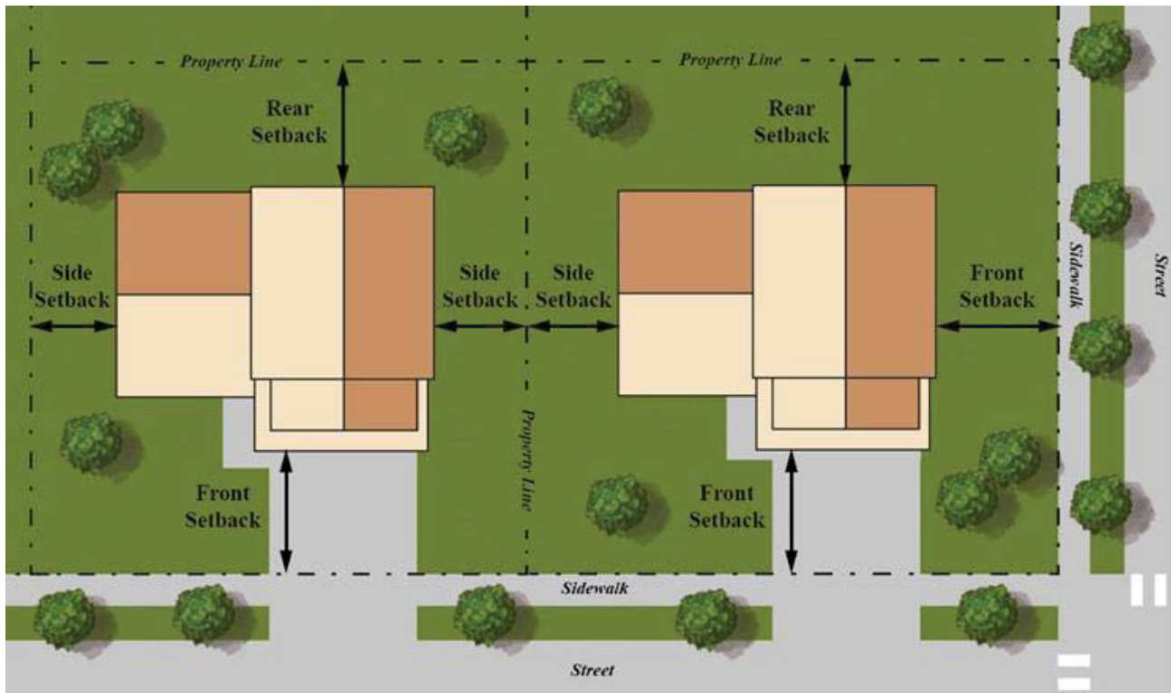
School, elementary, junior or senior high means any public, parochial or private school for grades kindergarten to twelfth that is either accredited by the Colorado Department of Education or recognized by, and in good standing with, the Colorado Department of Education for purposes of compulsory education requirements.

School, trade or business means a school with a curriculum which is focused upon certain skills required in business, trades or the arts, including secretarial skills, instrumental music, dancing, barbering, hairdressing or other technical trades which require knowledge of special machinery.

Screening means a structure erected or vegetation planted which eventually is of sufficient height and density for concealing an area or materials from view.

Services means an establishment providing recurrently needed services, as opposed to products, to the general public for personal or household use, including finance, real estate and insurance, barber and beauty shops, personal service, health, and social services.

Setback line, front means a line parallel with a front lot line of a lot tangent to the part of a building situated on such lot (other than an open fire escape or stairway, a chimney or a one-story unenclosed porch) which is closest to such lot line and intersecting two (2) other lot lines of such lot.



Setback line, rear means a line parallel with a rear lot line of a lot tangent to that part of a building situated on such lot, which is closest to such rear lot line and intersecting two (2) other lot lines of such lot.

Setback line, side means a line parallel with a side lot line of a lot tangent to that part of a building situated on such lot, which is closest to such side lot line and intersecting two (2) other lot lines of such lot.

Setback means the horizontal distance required by this Chapter to be maintained between a given lot line, front, rear, or side as specified, and the projected lines of any structure (as defined).

Sidewalk means that portion of the road right-of-way which is improved for the use of pedestrian traffic and other non-motorized uses.

Sign means any device (including, but not limited to, letters, words, numerals, figures, emblems, pictures, or any part or combination) used for visual communication intended to attract the attention of the public and visible to the public right-of-way or other properties and convey a message.

Site means a parcel or adjoining parcels under single ownership or single control, considered as a unit for the purposed of development or other use.

Site development plan means a detailed site plan which is required to be submitted prior to the issuance of any non-single-family building permit for new structures to be located in any existing or new district.

Site plan means a drawing of the site, drawn accurately to an engineering scale, showing existing and proposed features of the site including but not limited to buildings and other structures both existing and proposed; setbacks from all buildings/structures to the property lines; location and dimensions of all building lines and easements; widths and lengths of all entrances and exits to and from said property (driveways); location of all adjacent and adjoining streets, service facilities, manholes, ponds, drainage swales, grading and all other improvements sufficient for review.

Site specific development plan means a plan which has obtained final development approval under the standards and procedures as contained in these subdivision regulations, inclusive of public notice and public hearing, and which describes with reasonable certainty the type and intensity of use for a specific parcel of property, and includes all terms and conditions of approval. A sketch plan, preliminary plan, variance, license, zoning, map, exemption, easement, permit, certificate of appropriateness or waiver shall not constitute a site specific development plan, but may be incorporated into and become part of a site specific development plan.

Special event means any temporary event or activity to which the public is invited, that is intended to, or likely to, attract more than two hundred (200) people and may require a temporary closure or restriction of any public right-of-way.

Sports and recreation parks, indoor means the use of land for commercial indoor athletic activities located entirely within an enclosed building such as but not limited to those activities of outdoor sports and recreation parks and other recreational uses such as paintball facility, truck pulls, demolition derby, equestrian events, and rodeos.

Sports and recreation parks, outdoor means the use of land for commercial athletic activities not located entirely within an enclosed building such as but not limited to baseball/softball diamonds, golf driving range, miniature golf, sled or toboggan runs, soccer fields, football fields, tennis courts, swimming pools, water parks, ice skating rinks, rugby, polo, or track and field events.

Specialized group home means an owner-occupied or for-profit or nonprofit residential facility or shelter, whether or not operated or licensed by the State or other governmental agency, temporarily or permanently housing up to eight (8) resident clients who are not related to the owner or operator of the facility, and which may be staffed by one (1) or more resident staff persons; but excluding family child care homes and halfway houses or other facilities serving persons transitioning from jail or prison, and excluding substance abuse treatment and/or rehabilitation facilities.

Storage, indoor means the keeping of materials, merchandise, stock, supplies, machines, equipment, or manufacturing materials of any nature that are kept in a structure, regardless of how long such materials are kept on the premises.

Storage, outdoor means the keeping of materials, merchandise, stock, supplies, machines, equipment, or manufacturing materials of any nature that are not kept in a structure, regardless of how long such materials are kept on the premises.

Storage shed means a wooden, masonry or sheet metal structure specifically designed and suitable for storage. Metal shipping or storage containers, trailers, recreational vehicles and similar devices or facilities are prohibited for use as storage sheds except in the light industrial zone district. Such devices or facilities may be used in any zone district for temporary construction storage during the duration of construction pursuant to an active building permit. Such devices or facilities may also be used in portions of the commercial zone district located outside the Town center upon issuance of a special use permit specifically authorizing such a device or facility.

Story means the part of a building between the surface of a floor and the ceiling immediately above; or if there is a floor above, the portion of a building between the surface of any floor and the surface of the floor next above.

Street means a dedicated public right-of-way which provides vehicular and pedestrian access to adjacent properties. This definition shall include the terms road, lane, place, avenue, drive and other similar designations.

1. Arterial street means a street which permits the rapid and relatively unimpeded movements of vehicular traffic between communities or major land use elements.
2. Collector street means a street which collects and distributes traffic between local streets and major arterial streets.
3. Local street (multi-family residential, business and industrial area) means a street which provides direct access to adjacent property and is designed in a manner to discourage through traffic movements, and should not intersect major arterial streets.
4. Local street (single-family residential areas) means a street which provides direct access to adjacent property and is designed in a manner to prevent through traffic movements, and does not intersect major arterial streets.
5. Limited access street means a street or highway which provides rapid and unimpeded traffic movement between urban centers. Access is partially or completely controlled with a primary grade separated by interchanges connecting only to major arterial streets.

Street, cul-de-sac means a short local street having one end open to traffic and being permanently terminated by a vehicle-turnaround at the other end.

Street, dead-end means a local street open at one end only and without a special provision for a vehicle turn-around.

Street, private means a local street that is not dedicated or accepted for public use or maintenance which provides vehicular and pedestrian access to more than one (1) property, business, or dwelling unit.

Street, public means a street owned and maintained by a unit of government within an officially dedicated and accepted right-of-way to provide vehicular and pedestrian access.

Street trees means trees growing on public rights-of-way.

Structural alteration means any change in the supporting members of a building such as bearing walls, columns, beams or girders, floor joists or roof joists.

Structure means anything constructed or erected with a fixed location at or above ground level, except poles, driveways, sidewalks, curbs, parking lot dividers, patios, landscaping/garden fixtures or amenities such as gazebos, and decks (less than one (1) foot above grade); or anything constructed, erected or pre-constructed and placed which requires a more or less permanent location on the ground, but not including ditches, canals, dams, reservoirs, pipelines, telephone or telegraph or electric power lines.

Structure, accessory means any structure other than a principal structure.

Structure, principal means a structure which contains or is intended to contain a primary permitted use or uses.

Structure, historic means any structure listed on the National Register of Historic Places, The Colorado State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects, or a local designation of a structure, site or object.

Structure, temporary means any building or structure which is easily moved, without any foundation or footing, or intended to be used for a limited period of time.

Subdivider means any person, group, corporation or other entity who, as owner or purchaser, or agent of such owner or purchaser, divides or proposes to divide land into lots or other tracts for the purposes of resale or development.

Subdivision means, except as may be permitted under the subdivision exemption procedure provided in this Chapter, the division of a lot or parcel of land into two (2) or more lots and other parcels for the purpose of resale and/or development. This term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land being subdivided. Unless a division of land as specified below is undertaken and/or adopted for the purpose of evading the requirements of this Chapter, the term subdivision shall not apply to any division of land:

1. Which is created by order of any court in this state, or by operation of law, provided that the Town is given timely notice of and an opportunity to participate in such proceeding prior to the entry of the court order and the Town does not file an appropriate pleading within twenty (20) days after receipt of such notice from the court;
2. Which is created by a lien, mortgage, deed of trust or any other security instrument or the foreclosure thereof;
3. Which creates a cemetery lot;

4. Which creates an interest in oil, gas, minerals or water which is severed from the surface ownership of the real property;
5. Which is created by the acquisition of an interest in land in the name of a husband and wife, or other persons, in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this Chapter to be only one interest;
6. Which creates an easement or right-of-way for utility installations, solar access, open space or pedestrian/vehicle travel;
7. Which is created by a contingency contract for the sale of land which is dependent upon the purchaser obtaining approval pursuant to a pending or soon to be filed application under this Chapter to subdivide the land subject to the contract;
8. Which is exempted by the Board of Trustees by written resolution after a public hearing at which it is determined that the subject division of land is not within the intent and purposes of this Chapter.
9. Which is the separation of the whole of an original Town site lot from one (1) or more abutting original Town site lots that are held under one (1) and the same ownership for purposes of conveyance, so long as the resulting lot(s) conforms to the minimum lot size requirements for the zone district in which the lot(s) are situated.

Substantial damage means damage of any origin sustained to a structure whereby the cost of restoring the structure to it's before damage condition would equal or exceed forty percent (40%) of the market value of the structure in the "FH" (Flood Hazard) zoning district and would equal or exceed fifty percent (50%) of the market value of the structure in all other zoning districts before the damage occurred.

Substantial improvement means any alteration, repair, enlargement, or extension of a structure, the cost of which equals or exceeds forty percent (40%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. Such substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural element of the building commences.

Supply yard means a commercial establishment storing and offering for sale building supplies, steel, coal, heavy equipment, feed and grain, and similar goods.

T

Telecommunication tower means any mast, pole, monopole, guyed tower, lattice tower, freestanding tower, or other similar structure designed and primarily used to support antenna arrays.

Tourist court or camp means a building or a group of buildings designed for occupancy by transients.

Towing and recovery yard means a lot or building used for the storage of damaged, wrecked or impounded motor vehicles for a limited period of time, usually awaiting insurance adjustment, transport to a repair shop, or recovery by the owner operator.

Townhouse means one or more single-family dwellings with a minimal front and rear yards and no side yards, arranged side-by-side, separated by common walls between living areas; each having more than one (1) story.

Trailer coach means a non-motorized vehicle having an overall width not exceeding eight (8) feet and an overall length, excluding towing gear and bumpers, of not less than twenty-six (26) feet and not more than forty (40) feet, which is designed and generally and commonly used for occupancy by persons for residential purposes in temporary locations, and which may be drawn over public highways by a motor vehicle and is licensed as a vehicle.

Trailer means a vehicle without motive power, designed for the accommodation of people or goods, constructed with integral wheels to make it mobile and/or towable by a motor vehicle. Trailers may include mobile homes and travel campers.

Trash receptacle enclosure means an enclosure for trash containers, recycling containers, garbage containers, building material containers or other large metal containers.

Travel camper means a living unit designated for temporary occupancy, attaining a length less than thirty-six (36) feet and being equipped for use with wheels for being towed, with its own motive power (commonly called motor home), or mounted on a motorized vehicle for purposes of recreational use by highway transportation. The term travel camper shall also include facilities referred to as campers, camp trailers or travel trailers.

U

Unified Development Code means a document comprised of zoning, subdivision, parking, landscaping, lighting and similar requirements for the Town of Fairplay.

Use means the purpose for which land or a structure thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Use, temporary means short term or seasonal uses which may be associated with construction projects or which intend to sell or promote specific merchandise or products and shall include but not be limited to residential model homes, sales offices operated from a temporary structure, non-commercial batching plants, temporary building or yard for construction materials, parking lot for a special event; bazaars, carnivals and similar temporary uses; outdoor seasonal sales, parking of recreational vehicles that exceeds the fourteen (14) days, garage sales, and any uses deemed appropriate by the Town Administrator or his/her designee.

V

Variance means a modification of the strict terms of the relevant regulations of this Chapter where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Chapter would result in unnecessary and undue hardship, serious practical difficulties.

Vegetative screen means a visual barrier of vegetation with dense foliage used to block aesthetically intrusive land uses from view.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

Veterinary hospital means a place where animals or pets of all types are given medical or surgical treatment. Use as a kennel shall be limited to short-term boarding, shall only be incidental to such hospital use and need not be enclosed within the main building.

Vicinity map means a small inset map located on the plan showing the location of a proposed subdivision or use to nearby developments, landmarks, community facilities, and services within the general area.

Vision corner clearance means the distance from an intersection of a public or private street to the nearest access connection, measured from the closest edge of the access connection pavement (tangent point) to the closest edge of the street pavement (tangent point) or the back of curb whichever is greater. The triangular space is determined by a diagonal line connecting two (2) points measured fifteen (15) feet equidistant from the edge of pavement of two (2) local streets or a local street with an access connection or twenty-five (25) feet from the edge of pavement of a local street or an access connection with a collector, arterial or any combinations thereof.

W

Wall, retaining means a wall used or intended to be used to resist the lateral displacement of earth.

Watercourse means a lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Warehousing, indoor means the safekeeping of property, either for later use or for resale, within enclosed buildings.

Warehousing, outdoor means the safekeeping of property, either for later use or for resale that is not within an enclosed building.

Wireless telecommunications service facility means an unmanned facility that transmits and/or receives electromagnetic waves, commonly consisting of an antenna array, connection cables, a support structure or tower to achieve the necessary elevation, and an equipment facility to house accessory equipment which may include cabinets, pedestals, shelters, and similar protective structures. It may include antenna array on buildings or structures of sufficient height.

X

Xeriscaping means an approach to landscaping that minimizes outdoor water use while maintaining soil integrity through the use of native, drought-tolerant plants.

Y

Yard means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.



Yard, front means that portion of a lot lying between a public street and the nearest front setback line of such lot.

Yard, rear means that portion of a lot lying between the rear lot line and the rear setback line of such lot.

Yard, side means that portion of a lot lying between a side lot line and the side setback line of such lot.

Z

Zero lot line means a development approach in which a building is sited on one (1) or more lot lines with no yard.

Zoning Map means the Official Town of Fairplay Zoning Map. (Ord. 2015-3 §1, 2016; Ord. 2016-4 §1, 2016)

ARTICLE XXVII**Sexually Oriented Businesses**

- Sec. 16-27-10 General provisions purpose and description
- Sec. 16-27-20 License required
- Sec. 16-27-30 Issuance of a sexually oriented business license
- Sec. 16-27-40 Manager's registration
- Sec. 16-27-50 Employee registration
- Sec. 16-27-60 Inspection
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- Sec. 16-27-80 License suspension or revocation
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Sec. 16-27-10. General provisions purpose and description

The purpose of these regulations is to provide for the regulation and licensing of sexually oriented businesses within the Town in a manner which will protect the property values, neighborhoods and residents from the potential adverse secondary effects of sexually oriented businesses while providing to those who

desire to patronize sexually oriented businesses the opportunity to do so. It is not the intent of this Chapter to suppress any speech activities protected by the First and Fourteenth Amendments of the United States Constitution or Article II, Section 10 Colorado Constitution, but to impose content-neutral regulations, which address the adverse secondary effects of sexually oriented businesses. Nothing in this Chapter is intended to authorize or license anything otherwise prohibited by law.

Sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution. The concern over sexually transmitted diseases is a legitimate health concern of the Town, which demands reasonable regulation of sexually oriented businesses to protect the health and well-being of the citizens, including the patrons of sexually oriented businesses. Licensing of sexually oriented businesses is a legitimate and reasonable means of ensuring that operators of sexually oriented businesses comply with reasonable regulations and that the operators do not knowingly allow their businesses to be used as places of illegal sexual activity or solicitation. There is convincing documented evidence that sexually oriented businesses, because of their nature, have a deleterious effect on both the existing businesses around them and surrounding residential areas causing increased crime and downgrading of property values. The purpose of this Chapter is to control adverse effects from sexually oriented businesses and thereby protect the health, safety and welfare of the citizens; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods and deter the spread of urban blight. This Article is authorized by Section 31-15-401, C.R.S. and other applicable law. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-20. License required.

(A) It shall be unlawful for any person to operate a sexually oriented business without a license issued by the Licensing Officer under the provisions of this Chapter.

1. An application for a license must be made on a form provided by the Town.
2. The application must be accompanied by a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business, and designating the use of each room or other area of the premises.
3. The diagram shall designate those rooms or other areas of the premises where patrons are not permitted.
4. The diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (+/- 6").
5. The diagram shall designate the place at which the license will be conspicuously posted.
6. No alteration in the configuration of the premises or any change in use of any room or area as shown on the diagram may be made without the prior written approval of the Town.
7. The Licensing Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared and that the use of any area or room in the premises has not changed.

(B) The applicant must be qualified according to the provisions of this Article and the premises must be inspected by the Fire Department, Building Official of the Building Department and the Licensing Officer and found to be in compliance with the law.

(C) Contemporaneously with the submission of an application for a license, the applicant shall submit a special use permit indicating that the requirements of Article VI of the Fairplay Municipal Code are met unless the applicant's sexually oriented business is an existing nonconforming use under the provisions of Article XXI of the Fairplay Land Use Regulations. In the event that such permit is subject to appeal, no further action shall be taken upon such application until such appeal is finally adjudicated. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-30. Issuance of a sexually oriented business license.

(A) The sexually oriented business shall be issued a license within thirty (30) days after receipt of an application if the requirements set forth in this Article are met, unless the Licensing Officer finds one (1) or more of the following:

1. An applicant is overdue in payment to the Town of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business.
2. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
3. The premises to be used for the sexually oriented business have not been approved by the Fire Department, the Building Official and the Licensing Officer as being in compliance with applicable laws and ordinances.
4. The applicant has not been issued a special use permit by the Town indicating the requirements of the Fairplay Municipal Code are met and that such permit, if issued, is not subject to appeal or the applicant's sexually oriented business is a legal existing nonconforming use.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(C) The Fire Department and Building Official shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the application by the Licensing Officer. Their certifications shall be promptly presented to the Licensing Officer. The Licensing Officer's inspection shall be completed within thirty (30) days after the receipt of the application.

(D) A denial by the Licensing Officer of the application shall be in accordance with Article. The applicant may appeal the denial in accordance with the provisions of this Article. (Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-40. Manager's registration.

(A) It shall be unlawful for any person to work as a manager of a sexually oriented business without first registering with the Licensing Officer.

(B) The registration of a manager with the Licensing Officer is in lieu of the issuance of a license to a manager.

(C) The Licensing Officer shall register a manager if all of the requirements for a license as set forth in this Article are met.

(D) The manager's registration shall be issued or denied in accordance with the criteria for issuance or denial of a license as set forth in this Article.

(E) The registration may be suspended or revoked for any grounds for the suspension or revocation of a license as set forth in this Article.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-50. Employee registration.

Each licensee will provide to the Licensing Officer the full name, aliases if any, address, telephone number and date of birth of any employee within five (5) days of employment.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-60. Inspection.

(A) The licensee or the licensee's employees shall permit representatives of the Marshal's Department, Mesa County Health Department, Building Official of the Building Department, the Fire Department, Planning Department, Licensing Officer or other Town departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law as provided for in this Article.

(B) Town departments and agencies shall conduct such inspections in a reasonable manner and only as frequently as may be reasonably necessary.

(C) Inspections shall take place during the regular business hours of the sexually oriented business or when any person is on the premises.

(D) It shall be unlawful for the licensee or any employee to refuse to permit such lawful inspection of the premises as provided in this Article.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-70. Expiration of license.

Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in this Article.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-80. License suspension or revocation.

(A) In addition to the grounds set forth for suspension or revocation of a license in this Article, the Licensing Officer shall suspend a license for a period not to exceed six (6) months and may revoke a license if the Licensing Officer determines that a licensee or an employee of a licensee has:

1. Violated or is not in compliance with any section of this Article.
2. Refused to allow an inspection of the sexually oriented business premises as authorized by this Chapter.
3. Knowingly permitted any unlawful act upon the premises.

(B) In determining the action to be taken as provided in this Article, the Licensing Officer shall consider the following aggravating and mitigating circumstances:

1. Whether the licensee has been previously suspended or revoked.
2. Whether the licensee was warned that the conduct involved could lead to a suspension or revocation.
3. Whether the cause for suspension or revocation involves one (1) or several violations.
4. Whether the violation(s) are technical or substantive in nature.
5. The extent to which the licensee, licensee's agents and employees, as opposed to patrons, were involved in the violation(s).
6. The extent to which the licensee or licensee's employees had knowledge of the violation(s).
7. Any corrective or remedial action the licensee has taken to prevent similar violation(s) in the future.
8. Whether the violation(s) involved the commission of a crime, and if so, the degree of felony or misdemeanor involved.
9. The extent to which the violation(s) caused personal injuries or property damages.
10. Whether the licensee has paid damages or made restitution to any person or entity damaged by the violation(s).
11. The extent to which the violations posed a significant risk to the health, safety and welfare of persons on or off of the licensed premises.
12. The length of time over which the violation(s) extended.
13. The extent to which the licensee or licensee's employees realized a financial gain from the violation(s).
14. The number of employees, patrons, or both involved in the violation(s).

15. The nature and extent of enforcement action taken by the Town or any law enforcement to detect the violation(s).

16. The involvement of any persons under twenty-one (21) years of age in the violation(s).

17. The extent to which the licensee or licensee's employees have attempted to cover up the violation(s), destroy evidence or otherwise hinder the investigation and detection of the violation(s).

18. The extent to which the licensee and licensee's employees have acted in good faith.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-90. Mandatory license revocation.

(A) The Licensing Officer shall revoke a license if the Licensing Officer determines that:

1. A license has previously been suspended within the preceding twelve (12) months;
2. A licensee gave false information in the material submitted to the Licensing Officer;
3. A licensee or employee has knowingly allowed possession, use, or sale of a controlled substance as defined in Part 3 of Article 22 of Title 12 C.R.S. on the premises;
4. A licensee or an employee has knowingly allowed prostitution on the premises;
5. A licensee or an employee knowingly operated the sexually oriented business during a period of time when the license was suspended.
6. Excluding conduct within a private room of an adult motel, a licensee or employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur on the premises.

(B) When the Licensing Officer revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented license for one (1) year from the date revocation became effective.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-100. Hours of operation.

(A) It shall be unlawful for a sexually oriented business to be open for business or for the licensee or any employee of a licensee to allow patrons upon the licensed premises from:

1. On any Tuesday through Saturday from 2:00 a.m. until 7:00 a.m.;
2. On any Monday other than a Monday which falls on January 1, from 12:00 a.m. (midnight) until 7:00 a.m.;
3. On any Sunday from 2:00 a.m. until 8:00 a.m.;
4. On any Monday which falls on January 1, from 2:00 a.m. until 7:00 a.m.

(B) This Article shall not apply to those areas of an adult motel, which are private rooms.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-110. Peep booth regulations.

(A) A licensee who has peep booths upon the premises shall comply with all of the following requirements:

1. The diagram accompanying an application for a license shall specify the location of one (1) or more manager's stations.
2. It is the duty of the licensee to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
3. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain film or video reproduction equipment or equipment for showing slides or photographs. If the premises has two (2) or more manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
4. It shall be the duty of the licensee and employees present on the premises to ensure that the view area specified in Subsection (A)(3) above remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated in the application as an area to which patrons will not be permitted.
5. It shall be the duty of the licensee to ensure that all walls shall be maintained without holes or damage.
6. No peep booth may be occupied by more than one (1) person at any time.

(B) It shall be unlawful for any person having a duty under this Article to knowingly fail to fulfill that duty.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-120. Interior lighting regulations.

(A) Excluding a private room of an adult motel, the interior portion of the premises to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place at an illumination of not less than two (2.0) foot-candle as measured at the floor level.

(B) It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-130. Additional regulations—Adult theaters, and adult cabarets.

(A) Any adult cabaret or adult theater shall have one (1) or more separate areas designated in the diagram submitted as part of the application as a stage for the licensee or employees to perform as entertainers. Entertainers shall perform only upon the stage. The stage shall be fixed and immovable. No seating for the audience shall be permitted within three (3) feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three (3) feet of the edge of the stage.

(B) It shall be unlawful for the licensee or for any employee to violate any of the requirements of this Article or to knowingly permit any patron to violate the requirements of this Article.

(C) In any adult theater or adult cabaret that features persons who appear in a state of nudity or live performances, which are characterized by the exposure of specified anatomical areas or by specified sexual activities, the licensee and all employees present on the premises and all patrons must be at least twenty-one (21) years of age.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-140. Conduct for sexually oriented businesses.

(A) No licensee or employee mingling with the patrons, or serving food or drinks, shall be unclothed or in such attire, costume or clothing, so as to expose to view any specified anatomical area.

(B) No licensee or employee shall encourage or knowingly permit any person upon the premises to touch, caress or fondle the breasts, anus or specified anatomical areas of any person.

(C) No licensee or employee shall violate the requirements of this Article.

(D) It shall be unlawful for any licensee or employee to knowingly permit a patron to violate any of the requirements of this Article.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-150. Sexually oriented businesses—Employee tips.

(A) It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in this Article.

(B) A licensee that desires to provide for tips from its patrons shall establish one (1) or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.

(C) A sexually oriented business that provides tip boxes for its patrons as provided in this Article shall post one (1) or more signs to be conspicuously visible to the patrons on the premises in letters at least one (1) inch high to read as follows: "All tips are to be placed in tip box and not handed directly to the entertainer. Any physical contact between the patron and the entertainer is strictly prohibited."

Sec. 16-27-160. Adult motel regulations.

An adult motel that, in addition to the renting of private rooms, operates a sexually oriented business as otherwise defined in this Chapter shall comply with all of the requirements set forth in this Chapter pertaining to that business.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-170. Injunction.

Any person who operates or causes to be operated a sexually oriented business without a license is subject to suit for injunction as well as criminal prosecution.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-180. Prohibited acts—Penalty.

Any person who violates any provision of this Chapter, or who fails to perform an act required by any provision of this Chapter, commits a Class A municipal offense.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-190. Fees.

A business license fee of three hundred fifty dollars (\$350.00) and a manager's registration fee of seventy-five dollars (\$75.00) shall be paid upon submission of an application and annually thereafter upon renewal of the sexually oriented business license.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-200. Sexually oriented business license issuance or denial.

(A) Except as otherwise provided in this Article, the Licensing Officer shall issue a license to an applicant if he finds after investigation:

1. All conditions imposed upon the applicant as prerequisites to the issuance of the said license by the terms of the provisions pertaining to the particular license sought have been met including but not limited to meeting the qualifications of applicants standards set forth in this Article.
2. The required application and license fees have been paid;
3. The use to which the premises are proposed to be put shall conform to the requirements of applicable building, fire, safety and zoning regulations; and
4. All other specific requirements of the terms and provisions relating to the application for the particular license requested for use at the premises specified in the application have been met.

(B) If the Licensing Officer shall not so find he shall thereupon deny such application and notify the applicant of the denial by serving upon the applicant personally a copy of such denial and the reasons supporting such denial or by mailing the same to him by registered or certified mail at the business address shown on the application.

(C) Any applicant aggrieved by any final order of the Licensing Officer after the denial of such application shall have the right to appeal to the Board of Trustees by filing a written appeal, stating the grounds thereof, with the Licensing Officer within ten (10) days following the date of denial of said application.

(D) In the event an appeal is timely filed, it shall be heard at the next regular Board of Trustees meeting occurring at least ten (10) days after said filing with the Licensing Officer. Review by the Board shall be a de novo hearing.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-210. Posting, display of license.

(A) Every license issued by the Town for a business or activity to be conducted at a particular street address shall be posted during the period such license is valid. Such license shall be posted in a conspicuous place and shall be visible from the principal entrance of the business or activity. When such license expires, it shall be removed; no license not in full force and effect shall remain posted.

(B) It shall be the duty of each and every person to whom a license has been issued to exhibit the same upon the request of any peace officer, the Licensing Officer, or other official of the Town.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-220. Licenses for branch establishments.

A license shall be obtained in the same manner prescribed herein for each branch establishment or location of the business as if each such branch establishment or location were a separate business; provided that warehouses and wholesale distributing plants used in connection with and incidental to a business licensed under the provisions of this Article shall not be deemed to be separate places of business or branch establishments.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-230. Transfer of license.

No license shall be transferred from one person to another or from one location to another. Any change of ownership or change of location of a licensed business or activity shall require a new application and license with payment of fees therefor according to the provisions pertaining to the particular kind of license.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-240. Renewal of license.

(A) At any time within thirty (30) days prior to the expiration of his current license, a licensee may make application for a license renewal for the succeeding year and pay the required fees therefor. Unless otherwise provided by this Article, if application is so made and no action or proceeding is pending against the licensee for suspension or revocation of his current license or licenses, he may continue in his business or activity for the succeeding period unless or until his application for license renewal is denied.

(B) In the event a suspension or revocation proceeding is pending when a license renewal is applied for, the business or activity may continue in operation during the pendency of such suspension or revocation proceeding but the application for a license renewal shall not be acted upon until the suspension or revocation proceeding has been completed.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-250. Qualifications of applicants.

(A) The general standards set out in this Article relative to the qualifications of every applicant for a Town sexually oriented business license shall be considered and applied by the Licensing Officer. The applicant shall:

1. Not have a history or prior misconduct, which constitutes evidence that serious criminal conduct, would likely result from the granting of a license issued pursuant to this Article.

2. No obligations to the Town. Not be in default under the provisions of this Article or indebted to or obligated in any manner to the Town.

3. Compliance with all Town Regulations. Present certificates furnished by the appropriate officers or agencies to the effect that the proposed use of any premises is in compliance with all applicable Town regulations including, by way of description and not of limitation, zoning, building and fire codes and the like.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-260. Grounds for suspension or revocation.

(A) The Licensing Officer shall suspend for a period not to exceed six (6) months or revoke any sexually oriented business license issued by the Town if he finds that:

1. The licensee has failed to pay the annual license fee.

2. The licensee has failed to file required reports or to furnish such other information as may be reasonably required by the Licensing Officer or other Town official under the authority vested in him by the terms of the provisions relating to the specific license;

3. The licensee or any agent or employee of such licensee has violated any provisions of this Article pertaining to his license or any regulations or order lawfully made under and within the authority of this Article relating to the license;

4. The licensee or any agent or employee of such licensee has violated any law of the United States, of the State of Colorado or the Town of Fairplay when such violation occurred on the licensed premises, or relates to conduct or activity of any business required to be licensed by this Article.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-270. Hearing procedures.

(A) Upon commencement of suspension or revocation proceedings, the Licensing Officer shall set a time and place for the hearing of the matter.

(B) The Licensing Officer shall give the licensee timely notice of the time and place of the hearing and the violations asserted. Such notice shall be served personally or by mailing by first-class mail to the last address furnished to the Licensing Officer by the licensee, at least ten (10) days, including Saturdays, Sundays and legal holidays prior to the hearing. In lieu of such service, or in addition thereto, a copy of such notice may be affixed to the principal entrance of the licensed premises which shall be deemed to be the principal place of business or main office or may be affixed to some prominent structure on such premises.

(C) In any such action, a public hearing shall be granted at which the licensee shall be afforded an opportunity to be heard, present evidence, cross-examine witnesses, and offer evidence in mitigation of any violations.

(D) All evidence shall be recorded stenographically or by electronic recording device.

(E) In all such proceedings, the Town Attorney shall act on behalf of the Town during the hearing.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-280. Hearings.

The Licensing Officer or his designee shall conduct hearings for suspension or revocation of licenses granted pursuant to this Chapter. The hearing shall be conducted in accordance with the requirements of the Fairplay Municipal Code. The Licensing Officer shall make findings of fact and conclusions concerning the revocation or suspension of a license. The Licensing Officer shall transmit a copy of the final findings of fact and conclusion to the licensee as provided hereafter.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-290. Notice of suspension or revocation.

(A) Upon suspension or revocation of any sexually oriented business license required by this Article, notice of such suspension or revocation shall be given by personally serving the licensee with the order of suspension or revocation or by mailing such order to such person by certified or registered mail at the business address of the licensee as shown on the license or at the address of the designated agent. In lieu of such service, or in addition thereto, a copy of such order may be affixed to the principal entrance of the licensed premises which shall be deemed to be the principal place of business or main office, or may be affixed to some prominent structure on such premises.

(B) The order shall be effective immediately upon service of notice thereof unless the order provides otherwise. Service of such order shall be complete upon mailing or posting.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-300. Effect of suspension or revocation.

Upon the effective date of suspension or revocation of any license required for a business or activity, the licensee of such licensed business or activity shall cease and desist from further operation or activity.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-310. Appeals.

(A) Any person aggrieved by any final order of the Licensing Officer after hearing shall have the right to appeal to the Board of Trustees by filing a written appeal with the Town Clerk within ten (10) days following the effective date of the action or order complained of, and such appeal shall have the effect of staying execution of such final order pending appeal.

1. Contents of appeal. An appeal shall be in writing and shall set out a copy of the order appealed from and shall include a statement of the facts relied upon to contest such order.

2. Hearing.

a. The Town Clerk shall fix a time and place for hearing the appeal which shall be at the next regular meeting of the Board of Trustees occurring not less than ten (10) days following receipt of the notice of appeal or the record on appeal, whichever is later, and shall cause written notice of the same to be served upon the applicant informing him thereof. The Town Clerk shall also give such notice to the Licensing Officer and such Officer may appear and defend the order.

b. Upon appeal to the Board of Trustees of the suspension or revocation, the Board shall review the record, including the transcript of proceedings and evidence before the Licensing Officer, and shall determine whether there is substantial evidence in the record to support the recommendation of the Licensing Officer. If there is substantial evidence in the record to support the recommendation of the Licensing Officer, then the Board shall affirm the decision of the Licensing Officer. If there is not substantial evidence in the record to support the recommendation of the Licensing Officer, then the Board may reverse the recommendation of the Licensing Officer or remand the matter back to the Licensing Officer for further proceedings. No new evidence shall be submitted to the Board unless a majority of the Board determines that such evidence could not have been reasonably presented at the time the matter was heard before the Licensing Officer. If the Board decides to hear new evidence, it may hear the new evidence or remand the matter to the Licensing Officer.

c. The appellant seeking review of the action of the Licensing Officer, at the time of the filing of the notice of appeal, shall pay to the Town the estimated cost for preparing a transcript of the proceedings before the Licensing Officer. The cost of preparing a transcript of testimony before the Licensing Officer shall be charged at rates ordinarily charged by certified court reporters. The cost of preparing the transcript shall be estimated by the Town Clerk. In the event the cost of the transcript is greater than the cost estimated by the Town Clerk, the appellant shall pay this additional cost within ten (10) days after billing by the Town Clerk. In the event that the cost of the transcript is less than the estimated sum paid by the appellant, the Town Clerk shall refund the excess paid within ten (10) days after actual cost of the transcript is determined.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-320. Summary suspension.

When the conduct of any licensee, agent or employee is so inimical to the public health, safety and general welfare as to constitute a nuisance or hazard and thus give rise to an emergency, the Licensing Officer shall have the authority to summarily order the cessation of business and the closure of the premises pending a hearing on the question of whether to suspend or revoke the license. Unless waived by the licensee in writing, the Board of Trustees, within fifteen (15) days after the Licensing Officer has acted, shall conduct a hearing

upon the summary order and the activity giving rise to such order. The order shall state the grounds for its issuance and shall give notice of the hearing and shall be served upon the affected person in the manner prescribed in this Article. At such hearing the licensee shall show cause why the summary suspension should not be made a final order of suspension or revocation.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-330. Board decision; effect of.

(A) The decision of the Board of Trustees in all cases shall be final and conclusive and shall be served upon the licensee by personal service, by registered or certified mail, or by posting as provided in this Article.

(B) A decision of Board of Trustees is reviewable only by the District Court under C.R.C.P. 106(a)(4). There shall be no stay of execution pending a review by the Court except by Court order.
(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-340. Fine in lieu of hearing.

(A) Upon application, stipulation or admission by the licensee, made ten (10) days prior to a scheduled suspension or revocation hearing unless waived by the Licensing Officer, the licensee may request permission to pay a fine in lieu of a hearing. Upon the receipt of the petition, the Licensing Officer or his designee may, in his sole discretion, stay a proposed hearing and cause any investigation to be made which he deems desirable and may, in his sole discretion, grant the petition if he is satisfied:

1. That the public welfare and morals would not be impaired by permitting the licensee to continue operation and that the payment of the fine will achieve the desired disciplinary purposes;
2. That the licensee has not had his license suspended or revoked, nor paid any fine in lieu of suspension during the two (2) years immediately preceding the date of the alleged violations; and
3. That the books and records of the licensee are kept in such a manner that economic loss can be determined with reasonable accuracy therefrom.

(B) The fine accepted shall be the equivalent to twenty percent (20%) of the estimated gross revenues from the sale of such merchandise or services on the dates of the alleged violations; except that the fine shall be not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000.00).

(C) Payment of any fine pursuant to the provisions of Subsection (A) shall be payable in full in the form of cash, certified check or cashier's check made payable to the Town of Fairplay. The proceeds of the payment of the fine shall be paid into the General Fund of the Town.

(D) Upon payment of the fine pursuant to this Article, the Licensing Officer or his designee shall enter his further order permanently staying the suspension or revocation hearing.

(E) The authority of the Licensing Officer or his designee under this Article is limited to:

1. The granting of such stays as are necessary for him to complete his investigation and make his findings; and

2. If he makes such findings, to the granting of an order permanently staying the imposition of the hearing; and

3. The determination of the fine to be imposed.

(F) If the Licensing Officer does not make the findings required in this Article and does not order the hearing permanently stayed, the hearing shall proceed as scheduled.

(G) The determination of the Licensing Officer to deny a fine in lieu of a hearing, or to allow a fine in lieu of a hearing, and the determination of the amount of the fine, shall be final decisions committed to his discretion and not subject to appeal to the Board of Trustees.

(Ord. 2015-3, §1, 1-4-2016)

Sec. 16-27-350. Definitions.

Adult arcade. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore or adult video store. A business having as a substantial and significant portion of its stock and trade, revenues, space or advertising expenditures, resulting from the sale, renting or viewing of one (1) or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, laser disks, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
2. Instruments, devices, or paraphernalia, which are designed for, specified sexual activities.

Cabaret. A nightclub, bar, restaurant or similar business, which regularly features:

1. Persons who appear in a state of nudity; or
2. Live performances which are characterized by the exposure to specified anatomical areas or by specified sexual activities; or
3. Films, motion pictures, video cassettes, slides or other photographic reproductions, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel. A hotel, motel or similar business which offers private rooms to the public and provides patrons live performances or closed-circuit television transmissions, not including pay per view satellite transmissions, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motion picture theater. A business where films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater. A theater, concert hall, auditorium, or similar business which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Employee. Includes any person who is paid directly or indirectly by the licensee for services performed on the premises whether such person would otherwise as a matter of law be classified as an employee, agent, manager, entertainer or independent contractor.

Licensing Officer. The Licensing Officer referred to in this Article is the Town Clerk unless another official has been designated by the Town Administrator or Board of Trustees as the Licensing Officer.

Manager. Any person other than a licensee who is employed by a sexually oriented business to act as a manager or supervisor of the employees, finances or patrons of the business or is otherwise responsible for operation of the business.

Peep booth. A viewing room, other than a private room, of less than one hundred fifty (150) square feet of floor space upon the premises of a sexually oriented business where there is exhibited photographs, films, motion pictures, video cassettes, or other video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

Person. An individual, proprietorship, partnership, corporation, association or other legal entity.

Private room. A room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.

Sexual encounter establishment. A business or commercial establishment, which as one of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas, when one (1) or more of the persons exposes any specified anatomical area.

Sexually oriented business. An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or other similar business and includes:

1. The opening or commencement of any sexually oriented business as a new business.
2. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business.
3. The addition of any sexually oriented business to any other existing sexually oriented business.
4. The relocation of any sexually oriented business; or
5. The continuation of a sexually oriented business in existence on the effective date of this Chapter.

Specified anatomical areas. Are defined as:

1. Less than completely and opaquely covered: human genitals, pubic region, buttocks and female breast below a point above the top of the areola.
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified sexual activities. Acts, simulated acts, exhibitions, representations, depictions or descriptions of:

1. Human genitals in a state of sexual stimulation or arousal.
2. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
3. Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.
4. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function.
5. Flagellation, mutilation or torture for purposes of sexual arousal, gratification, or abuse.

Stage. A raised floor or platform at least three (3) feet above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least thirty-six (36) square feet in area. (Ord. 2015-3, §1, 1-4-2016)