

CHAPTER 16

Zoning

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ARTICLE I

General Provisions

Sec. 16-1. Purpose.

The zoning regulations and districts, as herein set forth which have been made in accordance with the comprehensive plan of the Town, are designed to encourage the most appropriate use of land throughout the Town and to ensure a logical growth of the various physical elements of the Town; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to improve housing standards; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements and in general, to promote health, safety and general welfare. (Ord. 161 Art. I §1, 1983)

Sec. 16-2. Rules of interpretation.

(a) The particular controls the general.

(b) A *building* or *structure* includes any part thereof. A *building* or *other structure* includes all other structures of every kind, regardless of similarity to buildings. (Ord. 161 Art. I §2, 1983; Ord. 195 §1, 1993)

Sec. 16-3. Definitions.

The words and terms of this Chapter shall be construed as defined in the Town Building Code, except as herein otherwise defined:

(1) *Accessory building* means a subordinate building or a portion of the principal building, usually located on the same lot, the use of which is customarily incidental to that of the principal building or use of the premises. Dwellings or living quarters are not included.

(2) *Alley line* means a dividing line between a lot and a contiguous alley.

(3) *Building* means any structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, which:

- a. Is permanently affixed to the land;
- b. Has one (1) or more floors and a roof; and
- c. Is bounded by either open space or lot lines of a lot.

(4) *Building height* means the vertical distance from the average of the finished ground level at the center of all walls of a building, to the highest point of the roof surface, excepting gabled roofs, which are measured at midpoint, exclusive of chimney, ventilators, pipes and similar apparatus.

(5) *Boarding house* means a building other than a hotel where, for compensation, meals, or lodging and meals, are provided for five (5) but not more than fifteen (15) persons.

(6) *Dwelling* means a building used as a residence, intended to be occupied by not more than one (1) family, containing not less than a living room, bedroom, kitchen and bathroom equipped with a toilet and a bathtub or shower, all connected to sewer.

(7) *Dwelling, multifamily* means a building or portion thereof designed for or occupied exclusively by two (2) or more families, living independently of each other, and separated by a common wall.

(8) *Family* means an individual living alone, or any number of persons living together as a single household, who are related by blood, marriage or adoption, or two (2) unrelated persons. A bona fide employee of the family who resides in the dwelling unit and whose live-in status is required by the nature of his or her employment shall be considered a member of the family, but this exemption shall allow only one (1) employee per dwelling unit.

(9) *Floor area* means the area of the floor within surrounding walls of a building or portion thereof, exclusive of basements, open balconies, garages or other enclosed automobile parking areas.

(10) *Frontage* means all property abutting upon one (1) side of a street between two (2) intersecting streets.

(11) *Hotel* means a building occupied as the more or less temporary abode of individuals who are lodged for hire, with or without meals, and in which there are more than ten (10) sleeping rooms and no provision made for cooking in any individual room.

(12) *Lot* means a parcel of land occupied or intended for occupancy by one (1) principal building together with its accessory buildings, including the open space required herein, and having its principal frontage upon a street or upon an officially approved place.

(13) *Lot, corner* means a lot situated at the junction of and fronting on two (2) or more intersecting streets. The shorter street frontage shall be considered the front line.

(14) *Lot, double frontage* means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.

(15) *Lot, reversed frontage* means a corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.

(16) *Lot line, front* means the property line dividing a lot from a street.

(17) *Lot line, rear* means the line opposite the front lot line.

(18) *Lot line, side* means any lot lines other than front lot line or rear lot line.

(19) *Mobile home* means a transportable, single-family dwelling unit, suitable for year-round occupancy that contains the same water supply, waste disposal and electrical conveniences as immobile housing; that has no foundation other than wheels or removable jacks for conveyance on highways; and that may be transported to a site as one (1) or more modules, but the term does not include "travel trailers," "campers," "camper buses," or "motor homes" or modular homes designed to be placed on a foundation.

(20) *Mobile home park* means any area licensed, developed and improved in accordance with Article XVII of this Chapter for occupancy by mobile homes.

(20.1) *Mixed use* means the development of a lot, tract or parcel of land, building or structure with two (2) or more different uses, including but not limited to residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.

(20.2) *Mixed use building* describes a structure that serves more than one (1) purpose, such as a first-floor retail storefront with apartments on the second and third floors.

(21) *Nonconforming building* means any legally existing building which does not conform to the minimum area of lot, minimum yard regulations, height or other special conditions of the district in which such *nonconforming building* is located.

(22) *Nonconforming use* means any legally existing use, whether within a building or on a tract of land, which does not conform to the use regulations of the district in which such nonconforming use is located.

(23) *Place* means an open unoccupied space not less than thirty (30) feet wide, permanently reserved for purposes of access to abutting property.

(24) *Setback* means the minimum horizontal distance between the property line and front line of the building or any projection thereof, excluding steps and unenclosed porches.

(25) *Story* means that portion of a building included between the surface of a floor above ground level and the surface of the floor next above the first floor, or if there be no floor above it, then the space between such first floor and the ceiling next above it.

(26) *Street* means a public thoroughfare twenty-eight (28) feet or more in width.

(27) *Street line* means a dividing line between a lot and a contiguous street.

(28) *Structure* means anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

(29) *Underground structure* means any building designed to be built partially or wholly underground, which is intended to be used for dwelling purposes and not serve as a cellar, substructure or foundation for a building.

(30) *Yard* means an open space on the same lot with a building, unobstructed from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining

the width of a side yard, or the depth of a front or rear yard, the minimum horizontal distance between the lot line and main building shall be used.

(31) *Yard, front* means a yard extending across the full width of the lot and measured between the front lot line and the front wall of the building.

(32) *Yard, rear* means a yard unoccupied, except for an accessory building as hereinafter permitted, extending across the full width of the lot between the rear line of the building and the alley line, or the rear line of the lot where no alley is platted.

(33) *Yard, side* means a yard between the building and side line of the lot and extending from the front yard to the rear yard. (Ord. 161 Art. I §3, 1983; Ord. 166 §1, 1985; Ord. 2012-006 §1)

Secs. 16-4—16-20. Reserved.

ARTICLE II

Administration and Enforcement

Sec. 16-21. Board of Adjustment.

(a) A Board of Adjustment is hereby established. The word *Board* when used in this Section, shall be construed to mean the Board of Adjustment. The Board shall consist of five (5) members to be appointed by the Mayor with the approval of the Board of Trustees, each to be appointed for a term of three (3) years, and until their successors shall be duly appointed, two (2) members shall be appointed for a term of three (3) years, two (2) members shall be appointed for a term of two (2) years and one (1) member for a term of one (1) year.

(b) Meetings. Meetings of the Board shall be held at the call of the chairman or at such other times as the Board may determine. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings showing the action of the Board and the vote of each member upon each question considered. The presence of four (4) members shall be necessary to constitute a quorum.

(c) Appeals. Appeals to the Board may be taken within thirty (30) days by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the Building Inspector. A notice of appeal shall be filed with the officer from whom the appeal was taken and with the Board, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal was taken certifies to the Board after the notice of appeal shall be filed with him or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a District Court on application, on notice to the officer from whom the appeal is taken and on due cause shown. The Board shall have such powers and duties as are now or hereafter provided by statute for Board of Adjustment. The Board may determine and vary the application of the regulations of this Chapter in harmony with their general purpose and intent. (Ord. 161 Art. II §1, 1983)

Sec. 16-22. Amendments.

The regulations herein and the boundaries of districts may from time to time be amended, supplemented, changed, modified or repealed by the Board of Trustees, in accordance with the provisions of law. (Ord. 161 Art. II §2, 1983)

Sec. 16-23. Enforcement.

(a) It shall be the duty of the Building Inspector to enforce the provisions of this Chapter and to enforce such rules, regulations and decisions as shall be adopted by the Board of Adjustment.

(b) Plats and permits. No building shall be erected before a building permit is issued, nor shall a building be erected until plans for the proposed building have been presented to and approved by the Planning Commission. If all codes and regulations are met, plans for structural alterations may be submitted to and approved by the Town Administrator or Town Clerk and Building Inspector. All applications for building permits shall be accompanied by a plat, in triplicate, drawn to scale, showing the dimensions of the lot to be built upon, and the size and location of the building to be erected and such other information as may be necessary to provide for the enforcement of the Chapter. A careful record of such application and plat shall be kept in the office of the Planning Commission.

(c) Certificate of occupancy. No land or building shall hereafter be changed in use, nor shall any building hereafter erected or structurally altered be occupied or used until a certificate of occupancy shall have been issued by the Building Inspector. A certificate of occupancy for a new building or alteration of an existing building shall be applied for with the application for a building permit and shall be issued within five (5) days after the erection or alteration of such building shall have been completed in conformity with the provisions of this Chapter. A certificate of occupancy for the use of a vacant land plot shall be applied for before any such land shall be occupied or used and such certificate shall be issued within five (5) days after the application has been made, provided that such use conforms with the regulations of this Chapter. A record of all certificates shall be kept on file in the office of the Building Inspector and copies shall be furnished on request, to such persons having a proprietary or tenancy interest in the building or land affected. No fee shall be charged for a certificate of occupancy.

(d) Violation and penalty. Any person who violates or refuses to comply with any provisions of this Chapter shall be subject to a fine as set forth in Section 1-72 of this Code. It shall be the duty of the Building Inspector to enforce the provisions of this Chapter and to bring to the attention of the proper enforcement officers of the Town any violations thereof, and when required for the proper enforcement of this Chapter, it shall be the duty of the Building Inspector to make and file with the Chief of Police a written complaint against any such violator. (Ord. 161 Art. II §3, 1983)

Secs. 16-24—16-40. Reserved.

ARTICLE III

Zoning Districts

Sec. 16-41. Establishing zoning districts.

For the purposes of this Chapter, the Town is divided into ten (10) classes of zoning districts, to be known as follows:

- A Residence District
- A1 Residence District
- B Residence District
- C Business District
- C1 Highway Business District
- D Industrial District
- E Estates District
- MHP Mobile Home Park District
- S Shopping Center District
- PUD Planned Unit Development District

(Ord. 161 Art. III §1, 1983)

Sec. 16-42. District boundaries.

The boundaries of the zoning districts are shown upon the official map designated Zoning District Map, and all future changes of zoning districts shall be reflected on the zoning district map, as may from time to time be revised, updated or redrafted. The official zoning district map adopted and to be used for present reference shall be that map bearing the most recent date of publication that has been signed by the Town Clerk and the Mayor. District boundaries shall be on section lines, lot lines, the center lines of highways, streets, alleys, railroad rights-of-way or such lines extended; municipal corporation lines; natural boundary lines, such as streams; or other lines to be determined by the use of scales shown on the map.

(1) Interpretation of boundary lines; zoning district boundaries. In the event uncertainty is deemed to exist on the zoning district map, district boundaries shall be on section lines, lot lines, the centerlines of highways, streets, alleys, railroad rights-of-way or such lines extended; municipal corporation lines; natural boundary lines, such as streams; or other lines to be determined by the use of scales shown on the map.

(2) Amendment upon zoning or modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official map to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance

amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

(3) Cost for amending zoning. Any person who proposes zoning for property being annexed or proposes modifying existing zoning shall bear the entire cost of amending the official zoning map, including all notification costs. The Town shall provide applicants with a copy of the current fee schedule and fee agreement form.

(4) Public inspection; storage of original. The official zoning district map shall be available and on display at the Town Hall during normal business hours. In addition, one (1) original duplicate copy of the current official map, and all prior official maps having been adopted, shall be held under lock and in a secure place by the Town Clerk, who shall act as custodian thereof, and the map shall not be amended, changed, updated or otherwise modified or let out of direct control of the Town Clerk for any reason whatsoever. The secured map is to be released for inspection only upon authorization of the Town Clerk. (Ord. 2008-001 §1)

Sec. 16-43. Application.

(a) In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, comfort, prosperity and general welfare.

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

(1) No building, structure or land shall be used or occupied, and no building, structure or part thereof shall be erected, changed, constructed, moved or structurally altered, unless in conformity with all of the regulations herein specified for the zone in which it is located.

(2) No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Article, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building unless specific exception therefor is stated in this Article. Exceptions may be granted by the Board of Adjustment for infill development.

(3) No yard or lot existing or approved at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein; nor shall the lot area per family be reduced except in conformity with the regulations hereby established for the district in which such building or land is located. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.

(4) Any use not permitted in a zone, either specifically or by interpretation by the Board of Trustees per Section 16-44 of this Article, is hereby specifically prohibited from that zone.

(5) The Town may withhold building permits, occupancy certificates, final inspection certificates and any other certificates or permits provided for by any building code or other law, if a violation of this Article exists with respect to the land to which the permit or certificate pertains,

or such a violation would exist upon the exercise of the privilege granted by the permit or certificate.

(6) No building shall hereafter be changed to a residential, business, commercial or industrial use, nor shall any new structure, building or land be occupied for a residential, business, commercial or industrial use unless the owner has first obtained a certificate of occupancy from the Building Inspector. Provided that the use is in conformance with the provisions of this Article, a certificate of occupancy shall be issued within a reasonable time after written notification that the building is ready for occupancy.

(7) The fact that land is zoned pursuant to this Article does not excuse compliance with Town subdivision regulations and community design and development standards.

(c) Conflict with other provisions of law. Whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.

(d) Conflict with private covenants or deeds. In case of a conflict between this Code and any private restrictions imposed by covenant or deed, the responsibility of the Town shall be limited to the enforcement of this Code. When provisions within this Code are more restrictive than those imposed by covenant or deed, or when any such private instruments are silent on matters contained within this Code, the provisions of this Code shall rule.

(e) Zoning of annexed territory.

(1) Zoning of land during annexation may be done in accordance with the procedure and notice requirements of this Section. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.

(2) Any area annexed shall be brought under the provisions of this Section and the map thereunder within ninety (90) days from the effective date of the annexation ordinance, despite any legal review that may be made challenging the annexation. During such ninety-day period, or such portion thereof as is required to zone the territory, the Town shall refuse to issue any building permit for any portion or all of the newly annexed area.

(f) Administrative official. The Town Clerk shall administer this Article, with the assistance from other Town employees. The Town Clerk is referred to as the "administrative official" in this Article. The function of administering this Article shall include, but not necessarily be limited to, reviewing proposed construction projects and other proposed land use activities to determine compliance with this Article; interpreting words, phrases and concepts contained herein; obtaining factual material needed for making decisions which this Article requires to be made; and performing other duties specifically or impliedly delegated to the administration official by other sections of this Article. (Ord. 2008-001 §1)

Sec. 16-44. General application of uses.

(a) Uses designated as permitted uses are allowed in a zone district as a matter of right. Uses classified as conditional uses are permitted upon the Board of Trustees' approval of a conditional use permit, pursuant to the procedures and standards set forth in Section 16.3.7 of the Land Use Code.

(b) The administrative official shall make the initial determination as to the land use descriptions contained in this Article that best identify an actual land use or proposed land use.

(c) Unspecified uses. Notwithstanding the foregoing, land uses not otherwise identified in this Code may be proposed for development. In order to provide for such uses, the classification of any new or unlisted land use shall be made by the Board of Trustees to determine if the use can be reasonably interpreted to fit into a similar use category described in this Code. The Board of Trustees will determine if such unspecified use shall be considered a use by right, accessory use or conditional use within any particular zone district. Unless such determination is made, the use is not permitted. An applicant shall make a request for such determination in writing and submit it to the Town Clerk. (Ord. 2008-001 §2)

Sec. 16-45. Conditional uses in the B Residence District.

An office may be a conditional use in a residential district and art studios, galleries, child care centers, open air farmers markets (open not more than two [2] days per week), home occupations, churches, group homes, boarding houses, long-term care centers and bed and breakfasts may be conditional uses in multi-family residential districts if approval is given by the Board of Trustees, pursuant to the procedures and review criteria set forth in Section 16.3.7 of the Land Use Code and if the use complies with the additional review criteria below.

(1) The neighborhood is in transition or has been in transition and the proposed office is adjacent to commercially zoned (C or C1) property. (This Section applies only to proposed offices, farmers' markets, bed and breakfasts and galleries in the B Residence District).

(2) All potential impacts to the neighborhood, including but not limited to: noise, traffic, parking, lighting, deliveries, hours of operation and visual impacts have been satisfactorily mitigated.

(3) The building's architecture fits with the architecture and character of the neighborhood.

The site complies with the Community Design and Development Principles set forth in Article 2 of the Kersey Land Use Code, including all landscaping, buffering and screening requirements. (Ord. 2008-001 §2)

Secs. 16-46—16-60. Reserved.

ARTICLE IV

A Residence District

Sec. 16-61. Use.

In the A Residence District, the following uses shall be permitted:

(1) One-family dwelling. The floor area of such dwelling shall be no less than nine hundred (900) square feet.

(2) Churches, schools and colleges.

(3) Libraries, museums, parks, playgrounds, community buildings, fire stations and any other buildings owned or controlled by the Town.

(4) Accessory buildings customarily incidental to any of the above uses, including one (1) detached private garage. Such garage may be in addition to an attached garage. No more than one (1) detached accessory building shall be allowed on any lot.

(5) Home occupation. A home occupation shall be allowed as a permitted accessory use provided that all of the following conditions are met:

a. Such use shall be conducted entirely within a dwelling and carried on by the inhabitants living there, or such use shall be conducted entirely within an accessory building located on the premises with the dwelling in which the persons carrying on the occupation live;

b. Such use shall be clearly incidental and secondary to the use of the dwelling and shall not change the character thereof;

c. If the occupation is located in the dwelling, the total area used for such purposes shall not exceed twenty percent (20%) of the floor area of the dwelling, except where the home occupation is a licensed board and care home or a day care home which meets the applicable state requirements.

d. There shall be no exterior advertising or use of any signs except for one (1) unlighted sign not larger than two (2) square feet;

e. There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation;

f. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line;

g. Home occupations shall provide additional off-street parking area adequate to accommodate all needs created by the home occupation;

h. Express permission for the home occupation shall be obtained from the Town before a home occupation is commenced. The home occupation may be granted by the Town Administrator only if the criteria set forth in this Subsection (5) are met and the home occupation would not change or threaten to change the residential character of the neighborhood, considering the nature of the proposed home occupation itself and the presence of pre-existing home occupations in the neighborhood.

i. A home occupation shall not be interpreted to include the following: animal hospital, nursing homes, restaurants, automotive repair garages, kennels, barber shops or beauty shops.

j. All home occupations shall obtain a Town business license prior to commencing the home occupation. The application fee for a home occupation permit shall be the fee as set forth in the Kersey centralized fee resolution as may from time to time be adopted by the Board of Trustees.

k. If a home occupation request is denied by the Town Administrator, the applicant may appeal such denial to the Board of Trustees. The appeal shall be filed with the Town Clerk within fifteen (15) days after the denial by the Town Administrator, and the appeal shall be acted on by the Board of Trustees within sixty (60) days after denial. (Ord. 161 Art. IV §1, 1983; Ord. 2000-6 §1; Ord. 2001-07 §1)

Sec. 16-62. Height.

No building hereafter erected or structurally altered shall exceed thirty-five (35) feet or two and one-half (2½) stories; nor be less than one (1) story above ground unless classified as an underground structure as defined herein. (Ord. 161 Art. IV §1, 1983)

Sec. 16-63. Yard.

There shall be a front yard of not less than twenty-five (25) feet, a rear yard of not less than thirty (30) feet and a side yard of not less than fifteen (15) feet on each side of a building. No overhang shall come closer than three (3) feet from the edge of the property. Driveways shall be at least five (5) feet from the edge of the property. Where forty percent (40%) or more of the frontage in the block is built up with buildings having an average front yard depth with a variation of not more than six (6) feet, no building hereafter erected or structurally altered shall project beyond the average front line of buildings so established. Accessory buildings shall be set back five (5) feet from alley lines. Provisions shall be made for trash receptacles on private property. (Ord. 161 Art. IV §1, 1983)

Sec. 16-64. Lot area.

Each one-family dwelling hereafter erected shall be located on a lot having an area of not less than nine thousand (9,000) square feet. (Ord. 161 Art. IV §1, 1983)

Secs. 16-65—16-80. Reserved.

ARTICLE V

A1 Residence District

Sec. 16-81. Use.

In the A1 Residence District, the following uses shall be permitted: any use permitted in the A Residence District. (Ord. 161 Art. IV §2, 1983)

Sec. 16-82. Height.

No building hereafter erected or structurally altered shall exceed thirty-five (35) feet or two and one-half (2½) stories; nor be less than one (1) story above ground unless classified as an underground structure as defined herein. (Ord. 161 Art. IV §2, 1983)

Sec. 16-83. Yard.

There shall be a front yard of not less than twenty-five (25) feet, a rear yard of not less than twenty-five (25) feet and two (2) side yards which total not less than fifteen (15) feet. One (1) side yard may have as little as five (5) feet, provided that structures or houses shall be not less than fifteen (15) feet from any other structure on an adjoining lot. No overhang shall come closer than three (3) feet from the edge of the property. On corner lots, the side yard shall be at least fifteen (15) feet from the side of the property which borders a street but is not the front of the structure or the address street of the structure. Driveways shall be at least five (5) feet from the edge of the property line. Where forty percent (40%) or more of the frontage in the block is built up with buildings having an average front yard depth with a variation of not more than six (6) feet, no building hereafter erected or structurally altered shall project beyond the average front line of buildings so established. Accessory buildings shall be set back five (5) feet from alley lines. Provisions shall be made for trash receptacles on private property. (Ord. 161 Art. IV §2, 1983; Ord. 2-97 §1, 1997)

Sec. 16-84. Lot area.

Each one-family dwelling hereafter erected shall be located on a lot having an area of not less than seven thousand five hundred (7,500) square feet. (Ord. 161 Art. IV §2, 1983)

Secs. 16-85—16-100. Reserved.

ARTICLE VI

B Residence District

Sec. 16-101. Use.

In the B Residence District, the following uses shall be permitted:

- (1) Any use permitted in the A or A1 Residence Districts, subject to a minimum floor area for one-family dwellings of eight hundred (800) square feet per dwelling.

(2) Multifamily dwelling. For every multifamily dwelling, there shall be at least eight hundred (800) square feet of floor area per family.

(3) Philanthropic institutions, hospitals and sanitariums. (Ord. 161 Art. IV §3, 1983)

Sec. 16-102. Height.

No building hereafter erected or structurally altered shall exceed thirty-five (35) feet or two and one-half (2½) stories; nor be less than one (1) story above ground unless classified as an underground structure as defined herein. (Ord. 161 Art. IV §3, 1983)

Sec. 16-103. Yard.

All yard regulations shall be the same as in the A-1 District, except that the rear yard shall be thirty (30) feet from the rear line of the principal building to the alley line or rear lot line. (Ord. 161 Art. IV §3, 1983; Ord. 2-97 §2, 1997)

Sec. 16-104. Lot area.

Each one-family dwelling hereafter erected shall be located on a lot having an area of not less than seven thousand five hundred (7,500) square feet. The minimum lot area for a multifamily dwelling shall be the equivalent of three (3) times the total floor area of the building, but not less than nine thousand (9,000) square feet per multifamily dwelling. (Ord. 161 Art. IV §3, 1983)

Secs. 16-105—16-120. Reserved.

ARTICLE VII

C Business District

Sec. 16-121. Use.

In the C Business District, the following uses shall be permitted:

- (1) Automotive parking areas;
- (2) Banks;
- (3) Gasoline service stations;
- (4) Offices;
- (5) Personal service shops;
- (6) Specialty shops;
- (7) Places of amusement or recreation;

- (8) Places for the service of food or beverages;
- (9) Places of assembly;
- (10) Studios;
- (11) Theaters;
- (12) Medical and dental clinics;
- (13) Membership clubs;
- (14) Motels and hotels;
- (15) Professional offices;
- (16) Undertaking establishments;
- (17) Laundries;
- (18) Bakeries;
- (19) Automotive repair shops; and
- (20) Any retail or wholesale business not of an industrial or manufacturing nature, which is compatible with existing businesses. (Ord. 161 Art. V §1, 1983)

Sec. 16-122. Height.

No building hereafter erected or structurally altered shall exceed forty (40) feet and three (3) stories in height. (Ord. 161 Art. V §1, 1983)

Sec. 16-123. Yard.

For business buildings, a side yard may be required by the Planning Commission under appropriate circumstances, but it is not mandatory. (Ord. 161 Art. V §1, 1983)

Sec. 16-124. Setback.

Where all the frontage on one (1) side of a street between two (2) intersecting streets is zoned as a business district, a setback for parking shall be required. Where the frontage on one (1) side of a street between two (2) intersecting streets is zoned partly as residence and partly as business, the setback requirements of the B Residence District shall apply to the entire frontage. (Ord. 161 Art. V §1, 1983)

Sec. 16-125. Uses permitted by special review.

Mixed use – commercial and residential. (Ord. 2012-O06 §2)

Secs. 16-126—16-140. Reserved.

ARTICLE VIII

C1 Business District

Sec. 16-141. Use.

In the C1 Business District, the following uses shall be permitted:

- (1) Automotive parking areas;
- (2) Gasoline service stations;
- (3) Places for the service of food or beverages;
- (4) Places of amusement or recreation;
- (5) Automotive sale and repair shops; and
- (6) Any retail or wholesale business not of an industrial or manufacturing nature, which is compatible with existing businesses. (Ord. 161 Art. V §2, 1983)

Sec. 16-142. Height.

No building hereafter erected or structurally altered shall exceed forty (40) feet and three (3) stories in height. (Ord. 161 Art. V §2, 1983)

Sec. 16-143. Yard.

For business buildings, no side yard shall be required, but if provided, shall not be less than five (5) feet. (Ord. 161 Art. V §2, 1983)

Sec. 16-144. Special conditions.

A minimum setback of fifteen (15) feet from streets and alleys shall be required. Off-street parking shall be required, equivalent to five (5) spaces per one thousand (1,000) square feet of floor area. (Ord. 161 Art. V §2, 1983)

Secs. 16-145—16-160. Reserved.

ARTICLE IX

D Industrial District

Sec. 16-161. Use.

In the D Industrial District, the following uses shall be permitted:

- (1) Light industry or light manufacturing operations;
- (2) Veterinary hospitals;
- (3) Storage warehouses;
- (4) Plumbing shops;
- (5) Machine shops;
- (6) Ice and cold storage plants;
- (7) Frozen food lockers;
- (8) Dairy processing and distribution plants;
- (9) Cleaning and dyeing establishments;
- (10) Cabinet making and carpenter shops;
- (11) Builder supply yards; sale of concrete products and cement, and lumberyards;
- (12) Bottling works;
- (13) Slaughterhouses;
- (14) Breaking plants; and
- (15) Meat or food freezing and locker plants.
- (16) The bulk storage of nonflammable, nonhazardous liquid upon such conditions as may be required by the Board of Trustees. (Ord. 161 Art. VI §1, 1983; Ord. 3-1995 §1)

Sec. 16-162. Height.

No building hereafter erected or structurally altered shall exceed forty (40) feet and three (3) stories in height. (Ord. 161 Art. VI §1, 1983)

Sec. 16-163. Yard.

A front yard of thirty (30) feet, a rear yard of twenty (20) feet and side yards of thirty (30) feet each side will be required for industrial uses. (Ord. 161 Art. VI §1, 1983)

Sec. 16-164. Lot area.

Minimum lot area shall be the equivalent of two (2) times the total floor area of the building. (Ord. 161 Art. VI §1, 1983)

Sec. 16-165. Special conditions.

(a) Any person who shall, within the Town, keep or maintain any slaughterhouse or place for the slaughtering of animals, or shall slaughter any animal within the Town, or shall operate a breaking plant, or shall keep and maintain any stable, pig sty or other structure or place for the keeping of any animal or fowl shall not keep any such animal or fowl on his or her premises for a period of time longer than thirty-six (36) hours, and shall keep such animals and operate such business in such a manner as to be in no way prejudicial to the public health, and shall exercise all reasonable diligence to control flies and other insects. No more than one hundred (100) animals may be processed at either a slaughterhouse or breaking plant during any twenty-four-hour period.

(b) All sewer connections, made in an industrial zone, shall be made under the direction of the Building Inspector, and no such connection shall be made without his or her approval and permission. Any person who fails to comply with this Section shall be guilty of a nuisance, and upon notice from the Board of Trustees, shall remove or abate such nuisance within twenty-four (24) hours, and upon failure to do so, shall be deemed guilty of making and keeping a nuisance and shall be punished in accordance with Section 16-23(d) of this Chapter.

(c) Off-street parking shall be required, equivalent to one (1) space per two (2) employees.

(d) All industrial uses shall conform to applicable state and federal standards for the regulation of air and water quality. (Ord. 161 Art. VI §1, 1983)

Secs. 16-166—16-180. Reserved.

ARTICLE X

E Estates District

Sec. 16-181. Use.

In the E Estates District, the following uses shall be permitted: any use permitted in the A Residence District, subject to a minimum floor area for one-family dwellings of one thousand four hundred (1,400) square feet per dwelling. (Ord. 161 Art. VII §1, 1983)

Sec. 16-182. Height.

No building hereafter erected or structurally altered shall exceed thirty-five (35) feet or two and one-half (2½) stories high; nor be less than one (1) story above ground. (Ord. 161 Art. VII §1, 1983)

Sec. 16-183. Yard.

There shall be a front yard of not less than forty (40) feet, a rear yard of not less than thirty (30) feet and side yards of not less than thirty (30) feet each. No overhang shall come closer than three (3) feet from the edge of the property. Driveways shall be at least five (5) feet from the edge of the property line. Accessory buildings shall be set back five (5) feet from alley lines. No part of a fence shall extend into a front yard. Provisions shall be made for trash receptacles on private property. (Ord. 161 Art. VII §1, 1983)

Sec. 16-184. Lot area.

The minimum lot area per one-family dwelling shall be one (1) acre. (Ord. 161 Art. VII §1, 1983)

Sec. 16-185. Special conditions.

The keeping of livestock shall be permitted, but only to the extent of two (2) horses per lot. (Ord. 161 Art. VII §1, 1983)

Secs. 16-186—16-200. Reserved.

ARTICLE XI

MHP Mobile Home Park District

Sec. 16-201. Use.

In the MHP District, the following uses shall be permitted:

- (1) Any use permitted in the A Residence District;
- (2) Mobile home parks constructed and established in accordance with Article XVII of this Chapter, as the same may be amended from time to time. (Ord. 161 Art. VIII §1, 1983)

Sec. 16-202. Special conditions.

Mobile home parks shall not be established in any zoning district other than the MHP Mobile Home Park District, and then only if established in strict conformity to Article XVII of this Chapter. (Ord. 161 Art. VIII §1, 1983)

Secs. 16-203—16-220. Reserved.

ARTICLE XII

S Shopping Center District

Sec. 16-221. Use.

In the S Shopping Center District, the following uses shall be permitted:

- (1) Any use permitted in the B Residence District;
- (2) Subject to the special approval hereinafter provided for, the following additional uses (hereinafter referred to as *shopping center uses*), may be located in the S Shopping Center District:
 - a. Medical and dental offices, clinics and laboratories;
 - b. Personal service establishments such as barber shops, beauty parlors, shoe repair shops, florists, jewelry shops, gift and card shops, laundry and dry cleaning outlets and other personal service shops of a similar nature;
 - c. Office and financial establishments such as banks, savings and loan and finance companies, real estate and other business offices, professional offices and other financial and office establishments of a similar nature;
 - d. Retail business establishments such as grocery stores and supermarkets, drug stores, wearing apparel shops and outlets, hardware and variety stores, music and record shops, restaurants and other retail units of a similar nature, but not including automobile repair or mechanical shops or garages, unless accessory to principal retail uses, and not including gasoline service stations. (Ord. 161 Art. IX §1, 1983)

Sec. 16-222. Height.

No building hereafter erected or structurally altered, containing shopping center uses, shall exceed forty (40) feet or three (3) stories, nor be less than one (1) story above ground. (Ord. 161 Art. IX §1, 1983)

Sec. 16-223. Lot area.

No area within an S Shopping Center District shall be utilized for shopping center uses unless said area is in common ownership and consists of at least twenty-five thousand (25,000) square feet. In addition, the lot area shall be at least three (3) times the total floor area of all buildings located or to be located in the area. (Ord. 161 Art. IX §1, 1983)

Sec. 16-224. Special conditions and special approval.

No shopping center uses shall be permitted in an S Shopping Center District unless and until the procedures for approval set forth below have been followed, resulting in a determination by the Board of Trustees that the following special conditions exist or will exist with respect to the total area in common ownership, desired to be developed as a shopping center:

- (1) All buildings are or will be located at least thirty (30) feet from the outside boundaries of any residence district;
- (2) All buildings are or will be set back at least twenty-five (25) feet from each street; and
- (3) Off-street parking spaces are or will be provided for at the rate of at least three (3) parking spaces for each one thousand two hundred fifty (1,250) square feet of building floor area. (Ord. 161 Art. IX §1, 1983)

Sec. 16-225. Procedures.

Any person desiring to make any shopping center uses of property in an S Shopping Center District shall follow the procedures set forth in this paragraph. If the special approval provided for herein is once given and if the area involved remains entirely undeveloped for a period of six (6) months or more following the granting of such special approval by the Board of Trustees, then no such shopping center uses shall be made until after special approval is again granted by the Board of Trustees following recompliance with the requirements of this paragraph. Any person to whom this paragraph is applicable shall submit a development plan to the Planning Commission in written form. Such plan shall demonstrate that such person own the area in question; shall include a survey by a registered land surveyor of the entire area, including the proposed location and dimensions of buildings, parking spaces and landscaped area; shall show the total square footage of the area; shall show the total square footage of all buildings; shall show an architect's schedule; and shall contain such additional information as may be requested by the Planning Commission. If all the foregoing information is submitted and if it shows compliance with the special conditions set forth above, the Planning Commission shall approve such development plan. However, the Planning Commission may condition its approval upon the owner's agreement to alter the plan insofar as building sizes and locations, parking facilities, landscape plantings, and other matters which the Planning Commission determines must be changed in order to provide for the public welfare and safety. If the development plan is approved by the Planning Commission or conditionally approved, the Board of Trustees shall then review the action of the Planning Commission and shall provide by resolution for approval of shopping center uses in the area involved. The resolution shall condition such approval on the area being actually developed in accordance with the development plan. The resolution may contain such other conditions, including all or any of those recommended by the Planning Commission, as the Board of Trustees deems necessary for the public welfare. (Ord. 161 Art. IX §1, 1983)

Secs. 16-226—16-240. Reserved.

ARTICLE XIII

Planned Unit Development District

Sec. 16-241. Statement of intent.

(a) The planned unit development (hereinafter called PUD) provisions contained herein are intended to provide for the planning and development of substantial tracts of land, suitable in location and character for the uses proposed, as unified and integrated entities in accordance with detailed development plans.

(b) Such planned unit developments are to be permitted as amendments to the Zoning District Map upon approval of a specific development proposal which complies with the requirements and standards set forth in this Chapter.

(c) The regulations contained herein, which are based on sound comprehensive planning principles, are adopted to unify planning and development, and are intended to accomplish the purposes of public control to the same extent as do zoning and other regulations applicable to conventional lot-by-lot development, while simplifying, integrating and coordinating land development controls and providing the necessary flexibility to encourage design innovation and creative community development.

(d) Specifically, the planned unit development provisions are intended to further the following objectives:

(1) To provide flexibility in land planning and development, resulting in amenable relationships between buildings and ancillary uses, and permitting more intensive use of land where well-related open space and recreational facilities are integrated into overall design.

(2) To encourage unity and diversity in land development resulting in convenient and harmonious groupings of uses, structures and common facilities, varied type, design and layout of housing and other buildings; and appropriate relationships of open spaces to intended uses and structures.

(3) To encourage unified and planned development of a site without customary subdivision into single lots and without specific application of the district regulations as provided for individual lots, subject to the regulations set forth herein.

(4) To provide for and encourage the preservation and enhancement of desirable natural landscape and other features unique to a development site.

(5) To provide reasonable standards and criteria by which the specific proposals for a PUD can be evaluated.

(6) To provide a procedure which can relate the design and layout of unified residential, commercial or industrial developments to the particular site and demand for such development in a manner consistent with the preservation of property values within established residential areas. (Ord. 161 Art. X §1, 1983)

Sec. 16-242. General locational and planning requirements.

(a) Relation to major transportation system. Planned unit development districts shall be so located with respect to major streets and highways or other transportation facilities as to be directly accessible without creating traffic on minor streets in residential areas outside such districts.

(b) Relation to public utilities and community facilities. Planned unit development districts shall be so located in relation to public utilities and community facilities and services, either existing or to be available by the time development reaches the stage where they will be required, that such facilities can be provided at reasonable cost and with reasonable efficiency.

(c) Relation to general pattern of urban development. Planned unit development districts shall be planned and located in general compliance with the comprehensive plan and shall relate to the major elements of the urban pattern, including housing, commercial facilities and principal places of employment, by physical proximity of major streets so as to provide for the convenience and amenity of residents of the community, and reduce general traffic congestion by a close relationship between origins and destinations. (Ord. 161 Art. X §1, 1983)

Sec. 16-243. Physical character of the site.

The site shall be suitable for the development proposed without hazards to structures, occupants or any property from probability of flooding on the site or on adjacent lands, erosion or deposition of eroded material on adjacent lands, subsidence of the soils or other dangerous conditions. Soil, groundwater level, drainage and topography shall be appropriate to both kind and pattern of use intended. (Ord. 161 Art. X §1, 1983)

Sec. 16-244. Site planning; external relationships.

(a) Vehicular access. Entrances and exits for vehicles shall be designed to encourage smooth traffic flow with minimum hazards to passing traffic, or to traffic entering or leaving the development. Merging or turnout lanes may be required where anticipated traffic flows from or to the planned unit development indicate the need for such lanes. In no case shall streets within a planned unit development district connect to streets outside the district in such a way as to encourage use of any minor streets for through traffic.

(b) Perimeter setback and screening. If topographical or other barriers do not provide adequate buffer between the planned development and adjacent uses, structures on the perimeter of the planned unit development shall be set back a distance equal to the minimum setback requirement of the adjoining district, or shall be permanently screened by fences, walls or plantings as required to sufficiently protect the privacy and amenity of adjacent uses, to protect the planned unit development from potentially adverse external influences, such as a major street or highway, and as necessary to make transition from adjoining districts. (Ord. 161 Art. X §1, 1983)

Sec. 16-245. Modifications of subdivision regulations.

(a) The improvements required under Article VI of Chapter 17, including streets, storm drainage, sanitary sewerage and potable water systems, shall be provided in each planned unit development.

(b) The requirements and standards for the construction of streets and utilities set forth in Article V of Chapter 17 shall be subject to modification where the plan and program for a PUD make adequate provision for vehicular and pedestrian access and circulation, recreation, utility and service needs of the tract when fully developed and occupied, and which also provide such covenants, easements or other legal documents and provisions as will assure conformity to and successful implementation of the plan. (Ord. 161 Art. X §1, 1983)

Sec. 16-246. Procedure.

(a) Preapplication procedure.

(1) Prior to filing of application for amendment to establish PUD districts, the developer shall submit to the Planning Commission an outline development plan and data as specified in Section 17-61 of this Code, plus the following information:

- a. Evidence of unified control of the entire area proposed for development.
- b. A tentative schedule of development.
- c. Evidence of financial capability to complete the development as proposed.
- d. This procedure shall not require fee or formal application for amendment.

(2) The Planning Commission shall study the material received to determine its general acceptability and compliance with the comprehensive plan and the objectives of this Chapter.

(3) Following such study the Planning Commission shall hold a conference with the applicant within thirty (30) days of receipt of all materials to discuss desirable changes in the outline development plan.

(b) Consideration of preliminary development plan.

(1) On reaching conclusions informally as recommended in Subsection (a) above, regarding the acceptability of the plan or program as presented in the outline development plan, the developer may make formal application for amendment to establish a PUD district.

(2) The application for amendment to establish a PUD district shall be filed with the Planning Commission. Application forms are available from the Town. The applicant shall be responsible for payment for all actual costs incurred by the Town for giving public notices, review and processing of the application.

(3) Material to be submitted with the application shall include the following:

a. A preliminary development plan containing the information specified in Section 17-62 of this Code, with such modification and additions as required, including identification of building sites when used instead of lots, common open space not dedicated for public use and other matters as appropriate to planned unit developments generally or to the specific PUD. Specifically, the preliminary development plan shall indicate subareas for phased development, if any, major off-street parking and loading areas, locations and use of structures in relation to building site lines, open space areas in relation to the use for which they are intended, and other information as required to establish a clear pattern of the relationship between structures, uses, circulation and open space.

b. Indication as to order and timing development and accompanying improvements.

c. Proposals for improvement and continuing maintenance and management of any private streets or ways or common open space not offered or accepted for dedication for general public use.

d. Drainage plan indicating how storm water runoff in excess of historic rates will be handled without adversely impacting downstream properties.

e. Other written and graphic materials that may be reasonably requested by the Planning Commission.

(4) The Planning Commission shall review the preliminary development plan and consult with other agencies as necessary to determine compliance with the requirements and standards of this Chapter and with the outline development plan originally submitted by the applicant.

(5) The Planning Commission shall hold a public hearing on the proposal as required by law for making zoning changes. The public hearing shall be held not less than fifteen (15) days nor more than forty-five (45) days after receipt of all application materials.

(6) As soon as possible after such public hearing, the Planning Commission shall forward its recommendation to the Board of Trustees indicating approval, approval with specific conditions or disapproval, and its reasons therefor.

(7) If, after a public hearing as required by law for making zoning changes, held not less than fifteen (15) days nor more than forty-five (45) days after receipt of the Planning Commission recommendation, the Board of Trustees grants the application for amendment, such amendment shall relate to the preliminary development plan, and shall include any conditions or modifications deemed necessary to bring such plan into full accordance with the requirements and intent of this Chapter. Rezoning shall be effective upon adoption of an ordinance approving the preliminary development plan.

(c) Procedure following amendment.

(1) Before any building permit may be issued in the PUD, a final development plan and report shall be submitted and approved by the Board of Trustees. The final development plan and report shall be submitted to the Town at least fifteen (15) days prior to a regularly scheduled Board of Trustees meeting and shall be considered by the Board of Trustees within forty-five (45) days of submittal. Such plan shall be in accordance with the preliminary development plan as approved by the Board of Trustees with such modifications as attached by the Board of Trustees in its zoning amendment.

(2) The final development plan and supplementary material shall include the following:

a. A map and report containing the information required in Section 17-63 of this Code, with modifications and additions as appropriate to planned unit developments generally and to the specific PUD proposal.

b. Detailed plans for individual buildings or groups of buildings, including the following:

1. Site plans for the building sites, indicating relationship to adjoining areas.

2. Floor plans of buildings, indicating horizontal dimensions, uses of space and floor areas.

3. Elevations of the buildings involved, indicating height and first habitable floor elevation.

4. Site plans indicating the provision of adequate, paved, lighted, off-street parking for the uses proposed.

c. Land areas, floor areas and required open space areas as necessary to make determination as to compliance with requirements for land use intensity.

d. All agreements, covenants, contracts and deed restrictions in a form acceptable to the Town. Specifically, there shall be included a subdivision improvements agreement which provides the mechanism whereby the applicant, his or her successors, heirs and assigns guarantee to make the subdivision improvements required by the Town according to an acceptable time schedule. The subdivision improvements agreement shall further specify the terms of ensuring the quality, performance and maintenance of said subdivision improvements. Said subdivision improvements shall include, but not be limited to, streets, drainage structures and improvements, utilities, landscaping and traffic control devices.

e. Dedication statements for any public land not designated on the plat.

f. If the use is nonresidential, the number of employees and the type of activity shall be specified.

g. If the use is residential, the type of units and number of each unit to be built shall be specified.

h. A complete listing of all landscaping materials including scientific and common names, quantity, size at planting, size at maturity and a symbol or label to identify materials on the site plan.

i. The location and dimensions of all existing and proposed traffic controls, trash disposal areas and enclosures, electric transformers, landscaping materials shown at mature sizes and the maintenance system for landscaping.

j. Other written and graphic materials as may reasonably be required by the Board of Trustees.

(3) The Board of Trustees may authorize the submittal of the final development plan in phases. Each phase may constitute only that portion of the approved preliminary development plan that the developer proposes to develop at that time.

(4) Following review and approval of the final development plan the Town shall record the approved PUD plan with the County Clerk and Recorder, issue building permits and certificates of occupancy for structures and uses within the PUD within the requirements of the subdivision improvements agreement.

(5) The final development plan as approved by the Board of Trustees shall be binding and shall not be changed during the construction of the PUD except upon application to the appropriate agency under the following procedure:

a. Minor changes in location, siting, bulk or size of structures or improvements may be authorized by the Board of Trustees if required by circumstances not foreseen at the time the final plan was approved.

b. All other changes in use, arrangements of blocks or streets, or significant changes in the provision of required open spaces must be made by the Board of Trustees under the procedure provided by this Chapter in Subsection (b) above for amendment of the zoning map. (Ord. 161 Art. X §1, 1983)

Secs. 16-247—16-260. Reserved.

ARTICLE XIV

Supplemental Regulations

Sec. 16-261. Nonconforming uses and buildings.

(a) Continuation of use. A nonconforming use may be continued and a nonconforming building may continue to be occupied, except as both are provided for in this Section.

(b) Change of use. A nonconforming use may be changed to any conforming use. Any change of a nonconforming use, other than to a conforming use, shall be submitted to the Planning Commission which, after review, shall make a recommendation of approval, approval with conditions or denial of the proposed change of use to the Board of Trustees. In considering a proposed change of use, the Planning Commission shall make a finding as to whether or not the change of use will adversely affect the surrounding property. For the purpose of review, the Planning Commission shall consider the following criteria:

- (1) The nature and purpose of the existing nonconforming use.
- (2) The difference in quality and character of the proposed use.
- (3) The difference in the degree of use of the proposed use, including but not limited to hours of operation and parking requirements.
- (4) The overall impact of the proposed use on the surrounding property.

(c) Certificate of nonconforming use. Upon approval of a change of use of a nonconforming use, other than to a conforming use, or upon approval of an enlargement or extension of a building containing a nonconforming use, the Board of Trustees shall issue a certificate of nonconforming use. The certificate of nonconforming use shall state specifically wherein the nonconforming use differs from the provision of this Chapter and under what conditions the change of use other than to a conforming use or enlargement or extension of a building containing a nonconforming use was

approved. Failure to meet any such conditions shall be cause for the Board of Trustees to revoke the certificate of nonconforming use, under the provisions as set forth in Section 16-23(c) of this Chapter.

(d) Abandonment of use. If active and continuous operations are not carried on in a nonconforming use during a continuous period of one (1) year, the building, other structure or tract of land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing.

(e) Restoration. A nonconforming building or a building containing a nonconforming use which has been damaged by fire or other causes may be restored to its original condition, provided that such work is started within six (6) months of such calamity and completed within one (1) year of the time the restoration is commenced.

(f) Enlargement of a building containing a nonconforming use. A proposal for the enlargement or extension of a building containing a nonconforming use shall be submitted to the Planning Commission which, after review, shall make a recommendation of approval, approval with conditions or denial of the proposed enlargement or extension of a building containing a nonconforming use to the Board of Trustees. In considering a proposed enlargement or extension of a building containing a nonconforming use, the Planning Commission shall make a finding as to whether or not the proposed enlargement or extension will adversely affect the surrounding property. For the purpose of review, the Planning Commission shall consider the following criteria:

- (1) The nature and purpose of the proposed expansion.
- (2) The size of the proposed expansion.
- (3) The difference in the degree of use of the nonconforming use as a result of the proposed expansion.
- (4) The overall impact of the proposed expansion on the surrounding property.

(g) Alteration of a nonconforming building. A nonconforming building may be structurally altered, repaired or enlarged in any way permitted by these regulations.

(h) Structural changes. Any building or other structure containing a nonconforming use or any nonconforming building or portion thereof declared unsafe by the Building Inspector may be strengthened or restored to a safe condition. (Ord. 161 Art. XI §1, 1983)

Sec. 16-262. General provisions and exceptions.

The district regulations set forth in this Section qualify or supplement, as the case may be, the district regulations appearing elsewhere herein.

- (1) Where a lot in separate ownership has a smaller area than the minimum herein required, and was of record on the effective date hereof, such a lot may be occupied by a one-family dwelling and the usual accessory buildings; provided, however that the yard requirements shall not be reduced except by the Board of Adjustment hereinafter provided;

(2) No part of a yard required for a building for the purpose of complying with the provisions of this Chapter shall be included as a yard for another building;

(3) On double frontage lots, no buildings shall project beyond the front line of buildings of either of the abutting streets;

(4) In a residence district, an accessory building not exceeding sixteen (16) feet in height or the height of the principal building, whichever is less, is permitted, provided that it does not occupy more than thirty percent (30%) of a required rear yard. On corner lots, no accessory building shall be located any closer to a street than the main building on the same lot. In the case of reverse frontage lots, no accessory building shall be located closer to the side street than the front line of buildings located on the lots to the rear of the reverse frontage lot. In all cases other than reverse frontage lots, detached accessory buildings shall not be located within sixty (60) feet of the front lot line;

(5) On corner lots in a residence district where the frontage has been reversed, the side yard on the street side of the lot shall be the same as the front yard required on the lots at the rear of the corner lot;

(6) The height regulations shall not apply to restrict the height of chimneys, stacks, elevators, cooling towers, water towers, radio towers, scenery lifts, monuments, observation towers, domes, spires, belfries, cupolas, solar collectors and necessary mechanical appurtenances. A parapet wall not exceeding four (4) feet in height may be erected above the height limit in any business district;

(7) Every part of a required yard shall be open from its lowest point to the sky, except for the ordinary projections of sills, courses, chimneys, flues, cornices, eaves and ornamental features, provided that no such projection shall extend into a minimum side yard. Fire escapes, fireproof outside stairways and balconies opening upon fire towers may project in a side yard not more than three (3) feet or into a rear yard not more than five (5) feet. An open unenclosed one-story porch or terrace may project into a front yard not more than ten (10) feet;

(8) No fence, wall or shrubbery shall be erected, maintained, planted or permitted to remain on any lot which unreasonably obstructs or interferes with traffic visibility, as determined by the Chief of Police, on any curve or at any street intersection; and

(9) The use of passive solar building design, active solar hot water heating and active solar space conditioning shall be permitted in all zoning districts. New construction should be designed and sited to provide for future solar energy device installation and to minimize shading of properties to the north which have existing systems in place, so as to protect investments in solar equipment. Existing systems should be sited to minimize shading problems from adjacent properties. The selection and placement of vegetation should be done so as to minimize shading on existing solar equipment, as well as to minimize impacts on the potential for future solar energy equipment installation. (Ord. 161 Art. XI §2, 1983; Ord. 173 §1, 1986)

Sec. 16-263. Fences, walls and hedges.

(a) Fences, walls and hedges shall only be constructed after obtaining a building permit from the proper Town authority and shall be constructed in conformance with regulations contained in this Code.

(b) Fences, walls and hedges may be placed in appropriate locations in order to provide screening and enclosures. Fences and walls shall be constructed of materials which are visually pleasing and compatible with the surrounding improvements. Height changes, offset angles and the use of complementary materials may be used to create variety in fences and walls.

(c) Fences shall be permitted in the interior side or rear yards, provided that the fence does not extend beyond the front line of the principal building or structure; in the case of corner lots, does not extend beyond the front or street side line of the building or structure and does not exceed a height of six (6) feet. On reverse frontage lots, fences shall be permitted, provided that the fence is set back a minimum of three (3) feet from the bank (back) of the sidewalk and does not exceed a height of three (3) feet.

(d) Decorative or ornamental fences shall be permitted in the front yard, provided that the following conditions are met:

(1) The maximum height allowable is three (3) feet.

(2) The fence must meet all sight distance regulations as set forth in Section 16-264.

(3) Visibility through fences shall not be less than fifty percent (50%).

(4) No total enclosure or gates will be allowed.

(5) Minimum setback from the bank or back of the sidewalk shall be three (3) feet. This includes setback sidewalks.

(6) No chain link fence will be allowed in the front yard. For purposes of this Section, the *front yard* as defined in Section 16-3(31) shall exclude any porch, deck or veranda. The front wall shall be a load-bearing primary wall.

(e) Fences shall only be constructed in accordance with the provisions of this Section and shall be constructed as follows:

(1) No fences shall be constructed in whole or in any part of concertina, razor wire, barbed wire, tin, wood scraps, mill scraps or slabs, or any unsightly material.

(2) No electrically charged fences will be allowed.

(3) All fencing shall be constructed of brick, wood pickets, vinyl, wrought iron, decorative concrete block, chain link (in rear yards only) or other material normally used for fencing and shall be constructed to conceal or integrate all structural members of the fence into the architectural design of the fence. All other materials and construction methods shall be subject to

review and approval by the Planning Commission and all such alternative materials shall only be approved if such materials comply with this Chapter, blend into the neighborhood and are not unsightly or dangerous in any manner.

(4) All fences shall be maintained in good structural condition and in good repair at all times. Such maintenance shall include, but is not limited to, the replacement of any broken or missing portions of the fences. Areas adjacent to fences, walls and hedges shall be maintained in a clean, sanitary and inoffensive condition, free and clear of all obnoxious substances, rubbish and weeds.

(f) Fences, walls and hedges shall not be located in any public right-of-way without the written consent of the Board of Trustees, and the Board of Trustees may withdraw such consent at any time upon sixty (60) days' notice, and upon such withdrawal with consent, the fence, wall or hedge must be removed at the landowner's cost.

(g) The following types of fences will only be permitted upon showing of a need for the designated type of fence:

(1) Chain link will be allowed in the front lot in a business or industrial zone, upon establishing a need for such a fence for reasons of security or protection of outdoor storage and approval from the Planning Commission. A six-foot chain link fence shall be permitted, provided that such fence is set back a minimum of eight (8) feet from the bank or back of the sidewalk, or if no sidewalk, then eight (8) feet from where the sidewalk should be if one were in place;

(2) Barbed wire fencing in business or industrial areas may be allowed, provided that no more than three (3) strands of barbed wire are added to the height of a fence, and provided that the lowest strand of barbed wire is maintained at least six and one-half (6½) feet above the adjoining grade.

(h) This Section shall apply to all fences constructed after the effective date of the ordinance codified herein. Any fence existing prior to the effective date of the ordinance codified herein shall be allowed to remain as constructed. If any nonconforming fence is removed or rebuilt, the new construction must comply with this Section.

(i) No fence shall be constructed after the effective date of the ordinance codified herein unless a building permit has previously been issued authorizing the construction of such fence. The proposed building permit shall be reviewed by the Town Administrator or Building Official, and if such official is satisfied that the proposed fence complies with this Section, then a building permit may issue without a building permit fee or further review. (Ord. 2001-02 §1)

Sec. 16-264. Sight distance/clear vision.

(a) Purpose: The purpose of the sight distance regulation is to provide for the preservation and promotion of the public health, welfare and safety of the inhabitants of the Town by establishing minimum standards for the unobstructed cross-visibility at intersections of two (2) public rights-of-way.

(b) Definitions.

Flowline means the transition between the gutter and the face of the curb within a public road right-of-way. For a cross or valley pan, it is the center of the pan. Where no curb exists, the *flowline* will be considered the edge of pavement or roadway of the outside traveled lane.

Sight distance obstruction – public nuisance means any object or objects that interfere with the ability of a motor vehicle operator or pedestrians to adequately view traffic or control devices for the purpose of safe and proper use of public rights-of-way; such objects shall include but not be limited to walls, fences, hedges, shrubs, trees, signs, benches, vehicles and other such objects extending more than three (3) feet above flowline. A *sight distance obstruction* is hereby declared by the Board of Trustees to be a safety hazard and thereby a public nuisance.

(c) Exemptions. Exempted shall be permanent buildings, suitable for human occupancy, for which a valid building permit had been issued prior to the effective date of the ordinance codified herein.

(1) The clear vision zone of a corner lot is a triangle formed by combining the lines of sight for both left and right directions along the intersecting streets or streets and alleys. Clear vision zones shall be free from any sight distance obstruction.

(2) Trees in existence on the effective date of the ordinance codified herein are exempted. No trees shall be planted in any clear vision zone hereinafter described after the effective date of the ordinance codified herein.

(d) Setbacks. The following chart shall be used to establish clear vision zone setbacks:

Clear Vision Zone Setbacks			
<i>Type of Street</i>	<i>Speed of Major Street</i>	<i>Y Distance (in feet)</i>	<i>X Distance (in feet)</i>
Arterial	30-50 + mph	Right 75, left 150	8
Collector	30-35 mph	Right 75, left 120	8
Local	25-30 mph	Right 60, left 100	8

(1) The distances in the clear vision zone setback chart are typical distances to be used under normal conditions and may be modified by the Board of Trustees in order to protect the public safety and welfare in the event that exceptional sight conditions necessitate such a modification.

(2) At the intersection of a street and alley, minimum clear vision distance shall be a triangle measuring thirty (30) feet along each curb or edge of roadway from the point of intersection, the third side being a diagonal line connecting the first two (2) lines. (Ord. 2001-02 §2)

Sec. 16-265. Accessory buildings and storage and utility sheds.

(a) The following terms as used in this Section shall have the following meanings:

Accessory building or structure means a building or structure which measures greater than one hundred twenty (120) square feet, which is located upon the same lot as the principal building or

structure to which it is associated, which is incidental to and customarily found in connection with such principal building or structure, and which is not to be used for human habitation.

Storage/utility shed means a detached structure which is used to store tools and equipment such as but not limited to lawn mowers, bicycles, garden tools and similar chattel related to the primary permitted use which is located on the same lot. *Storage /utility sheds* are limited to one hundred twenty (120) square feet. The extended roof area will be allowed a twelve-inch overhang on all sides.

(b) Each principal building may have one (1) attached garage which shall be considered part of the principal building.

(c) All accessory buildings and storage/ utility sheds shall comply with all setback requirements for the zone in which such structure is located.

(1) All accessory buildings or storage/ utility sheds combined shall not occupy more than thirty percent (30%) of the rear yard of the lot upon which structures are located.

(2) No accessory building or storage/ utility shed shall exceed the height of the principal building.

(3) No lot shall be allowed to have more than one (1) accessory building.

(4) No lot shall be allowed to have more than one (1) storage/utility shed.

(5) All accessory buildings or structures and storage/utility sheds shall be built according to the requirements of the applicable building code.

(d) All buildings or structures in existence on the effective date of the ordinance codified herein shall not be affected by this Section. All structures, buildings, fences, trees or other potential obstructions built, erected or placed after the effective date of the ordinance codified herein shall comply with the provisions hereof. (Ord. 2001-02 §3)

Sec. 16-266. Water plant investment fees.

(a) The plant investment fee for a five-eighths-inch water tap within the boundaries of the Town shall be as set forth in the Town's fee schedule.

(b) The plant investment fee for a five-eighths-inch water tap outside the boundaries of the Town shall be eight thousand six hundred dollars as set forth in the Town's fee schedule.

(c) The plant investment fee for any user desiring a tap in excess of a five-eighths-inch tap shall be determined by separate contract between the Town and the water user. (Ord. 95-2 §2, 1995; Ord. 10-98 §2, 1998)

Sec. 16-267. Waste water treatment system plant investment fees.

(a) The waste water treatment system plant investment fee for any structure having a five-eighths-inch water tap within the boundaries of the Town shall be as set forth in the Town's fee schedule.

(b) The waste water treatment system plant investment fee for any user outside the boundaries of the Town shall be as set forth in the Town's fee schedule for structures having a five-eighths-inch water tap.

(c) Any person desiring to obtain a waste water treatment tap which is to be used in a structure having a water tap in excess of five-eighths ($\frac{5}{8}$) of an inch shall pay such plant investment fee as may be determined by contract between the Town and the user. (Ord. 95-2 §3, 1995)

Sec. 16-268. Compliance.

In addition to the fees set forth in Sections 16-266 and 16-267 above, any person purchasing a water or waste water treatment tap shall abide by all the conditions set forth in Chapter 13 of this Code and shall pay such other fees as may be set forth in this Code or in any fee schedule adopted by the Board of Trustees. (Ord. 95-2 §4, 1995)

Secs. 16-269—16-280. Reserved.

ARTICLE XV

Uses by Special Review

Sec. 16-281. Intent and applicability.

(a) Uses by special review are uses which have been determined by the Town to be more intense or to have the potential of a greater impact when compared with the uses allowed by right in the particular zoning district. Therefore, uses by special review require additional consideration to ensure that they are designed, constructed and operated in a manner that is compatible with the existing and planned land uses for the neighborhood. The additional consideration given uses by special review is designed to protect the health, safety, convenience and general welfare of present and future residents of the Town.

(b) The Board of Trustees may approve the establishment of a use by special review through granting a special review permit. All requests for special review permit shall be reviewed by the Planning Commission. The Planning Commission shall provide a recommendation to the Board of Trustees for its consideration.

(c) Any person filing an application for a special review permit shall comply with the procedures and regulations as set forth in this Article. Any expansion or enlargement of a use by special review shall be treated as a new use and shall require a new application under the terms of this Article.

(d) Ordinary repairs and maintenance may be performed upon structures associated with a use by special review so long as such actions do not have the effect of expanding or enlarging the use.

(e) If the use by special review is discontinued for a period of one (1) year, it shall be considered abandoned. It shall be necessary to follow the application and approval procedures of this Article in order to reestablish the abandoned use by special review.

(f) Applications for special review permits shall be completed according to the requirements set forth in Section 16-287 of this Chapter. The complete application, supporting documents and application fees shall be submitted to the Town Clerk. Fees for filing an application for use by special review shall be as set forth in the Town's fee schedule. (Ord. 189 §I, 1990)

Sec. 16-282. Duties of the Town Clerk.

(a) The Town Clerk shall be responsible for processing all applications for special review permits in the incorporated area of the Town. The Town Clerk shall also be responsible for determining that all application submittal requirements are met prior to initiating any official action as listed below.

(b) Upon determination that the application and associated materials submitted are complete, the Town Clerk shall:

(1) Set a Planning Commission public hearing to take place not more than forty-five (45) days after the complete application has been submitted.

(2) Give notice of the public hearing for the special review permit to those persons listed in the application as owners of property located within one hundred (100) feet of the parcel under consideration, and to those persons listed in the application as owners and lessees of the mineral estate on or under the subject property. The notice shall be mailed first class, not less than ten (10) days preceding the hearing date. Such notice is not required by state statute but is provided as a courtesy to surrounding property owners. Inadvertent errors in the list of surrounding property owners or list of mineral estate interest holders, even if such errors result in the failure of a neighbor to receive a notice, shall not create a jurisdictional defect in the hearing process.

(3) Arrange for the applicant to post a sign on the property under consideration for a special review permit. The sign shall be posted by the applicant, who shall certify as such, at least ten (10) days prior to the hearing. The sign shall contain the following information and be at least two (2) feet by two (2) feet:

- a. Special review permit request number.
- b. Date and place of the public hearing.
- c. Location and phone number of the office where additional information may be obtained.
- d. Proposed use.

(4) Arrange for legal notice of said hearing to be published once in a newspaper of general circulation in the Town. The date of publication shall be at least ten (10) days prior to the public hearing.

(5) Refer the application to any agencies or individuals that may be able to provide the Town with technical assistance concerning the various aspects of the proposed use by special review. The reviews and comments solicited by the Town are intended to provide the Town with information concerning the use by special review. The Planning Commission and Board of Trustees may consider all such reviews and comments and may solicit additional information if such information is deemed necessary. The reviews and comments submitted by the referral agency are recommendations to the Town. The authority and responsibility for making the decision to approve or deny the requested special review permit rests with the Board of Trustees.

(6) Prepare staff comments for use by the Planning Commission addressing all aspects of the proposed use by special review, its conformance with the comprehensive plan, sound land use planning practices, comments received from agencies or individuals to which the application was referred, and standards contained in this Article. (Ord. 189 §I, 1990)

Sec. 16-283. Duties of the Planning Commission.

(a) The Planning Commission shall hold a public hearing to consider the application for the special review permit. The Planning Commission shall provide recommendations to the Board of Trustees concerning the disposition of the requested permit. The Planning Commission shall recommend approval of the special review permit unless it finds that the applicant has not met one (1) or more of the standards or conditions set forth in this Article. The applicant has the burden of proof to show that the standards and conditions of this Article have been met. The applicant shall demonstrate:

- (1) That the proposal is consistent with the comprehensive plan.
- (2) That the proposal is consistent with the intent of the zoning district in which the use is proposed to be located.
- (3) That the uses which would be permitted will be compatible with the existing surrounding land uses.
- (4) That the uses which would be permitted will be compatible with future development of the surrounding area as permitted by the existing zoning and with the future development as projected by the comprehensive plan.
- (5) That there is adequate provision for the protection of the health, safety and welfare of the inhabitants of the neighborhood and the Town.

(b) The secretary of the Planning Commission shall forward the official recommendation of the Planning Commission to the Board of Trustees. The official recommendation shall include the information contained in the official record and the case file. The information shall be forwarded to the Board of Trustees within ten (10) days of its having been made.

(c) If the Planning Commission recommendation is conditioned upon the applicant submitting specific items prior to publication of the notice for hearing by the Board of Trustees, then the ten-day period shall commence upon submission of the items by the applicant. (Ord. 189 §I, 1990)

Sec. 16-284. Duties of the Board of Trustees.

(a) Upon receipt of the Planning Commission recommendation, the Board of Trustees or its authorized representative shall:

(1) Set a Board of Trustees public hearing to take place not more than forty-five (45) days after receipt of the Planning Commission recommendation.

(2) Arrange for legal notice of said hearing to be published once in a newspaper of general circulation in the Town. The date of publication shall be at least ten (10) days before the public hearing.

(3) Give notice of the public hearing on the special review permit to those persons listed in the application as owners of property located within one hundred (100) feet of the property under consideration, and to those persons listed in the application as owners and lessees of the mineral estate on or under the subject property. The notice shall be mailed, first class, not less than ten (10) days prior to the scheduled hearing. Such notice is not required by state statute, but is provided as a courtesy to surrounding property owners. Inadvertent errors in the list of surrounding property owners or list of mineral estate interest holders, even if such error results in the failure of a surrounding property owner to receive notice, shall not create a jurisdictional defect in the hearing process.

(4) Arrange for the applicant to post a sign on the property under consideration for a special review permit. The sign shall be posted by the applicant, who shall certify as such, at least ten (10) days prior to the hearing. The sign shall contain the following information and be at least two (2) feet by two (2) feet:

a. Special review permit request number.

b. Date and place of the public hearing.

c. Location and phone number of the public office where additional information may be obtained.

d. Proposed use.

(b) The Board of Trustees shall hold a public hearing to consider the application and take final action thereon. In making a decision on the proposed use by special review, the Board of Trustees shall consider only the facts presented at the public hearing. Such facts shall include the recommendation of the Planning Commission, the official record, the Town Clerk's case file, the application and the testimony presented at the hearing. The Board of Trustees shall approve the request for special review permit unless it finds that the applicant has not met one (1) or more of the conditions and standards contained in this Article. The applicant has the burden of proof to show that

the standards and conditions of this Article have been met. The applicant shall demonstrate compliance with the provisions of Subsections 16-283(a)(1) through (5) above.

(c) Upon the Board of Trustees' final decision, a resolution setting forth the decision shall be drafted and signed. A record of such action and a copy of the resolution will be kept in the files of the Town Clerk.

(d) If the special review permit is approved, the Board of Trustees shall arrange to record the special review permit plan map in the office of the County Clerk and Recorder. (Ord. 189 §I, 1990)

Sec. 16-285. Design standards for uses by special review.

An applicant for a special review permit shall demonstrate compliance with the following design standards and shall continue to meet these standards if the special review permit is approved:

(1) Adequate water service in terms of quality, quantity and dependability is available to the site to serve the uses permitted.

(2) Adequate sewer service is available to the site to serve the uses permitted.

(3) If soil conditions on the site are such that they present moderate or severe limitations to the construction of structures or facilities proposed for the site, the applicant has demonstrated how such limitations can and will be mitigated.

(4) Uses by special review shall comply with the following storm water management standards:

a. Storm water detention facilities shall be provided on site which are designed to contain the storm water runoff from the fully developed site from a one-hundred-year storm.

b. The drainage facilities shall be designed to release all the detained water at a quantity and rate not to exceed the quantity and rate of a five-year storm falling on the undeveloped site.

(5) All parking and vehicle storage areas shall be provided on site; parking shall not be permitted within the public right-of-way. An adequate parking area shall be provided to meet the parking needs of employees, company vehicles, visitors and customers.

(6) Adequate fire protection measures shall be available on the site, or to the site, for the structures and uses permitted.

(7) The use shall comply with all setback and offset requirements for the zone district.

(8) Access to the site shall be provided in a safe manner; ingress and egress shall not present a safety hazard to the traveling public or to the vehicle accessing the property. Acceleration and deceleration lanes may be required to mitigate potential traffic hazards for uses which generate high traffic volumes and/or large numbers of slow accelerating vehicles.

(9) Buffering or screening of the proposed use from adjacent properties may be required to enhance or improve the aspects of compatibility. Buffering or screening may be accomplished through a combination of berming, landscaping and fencing. (Ord. 189 §I, 1990)

Sec. 16-286. Operation standards for uses by special review.

(a) An applicant for a special review permit must demonstrate conformance to the following operation standards in the special review permit application to the extent that such standards are affected by location, layout and design of the proposed use by special review prior to construction and operation. Once operational, the operation of the uses permitted shall conform to these standards.

(b) The operation of the uses shall comply with the noise standards enumerated in Section 25-12-101, C.R.S., or noise ordinance of the Town, whichever is more stringent.

(c) The operation of the uses shall comply with the air quality standards promulgated by the Colorado Air Quality Control Commission or other such standards as set by the Board of Trustees.

(d) The operation of the uses shall comply with the water quality standards promulgated by the Colorado Water Quality Control Commission or other such standards as set by the Board of Trustees.

(e) The uses shall comply with the following lighting standards:

(1) Sources of light, including light from high temperature processes such as combustion or welding, shall be shielded so that light rays will not shine directly onto adjacent properties where such would cause a nuisance or interfere with the use on the adjacent properties; and

(2) Neither direct nor reflected light from any light source may create a traffic hazard to operators of motor vehicles on public or private streets; no colored lights may be used which may be confused with traffic control devices.

(f) The uses shall not emit heat so as to raise the ambient air temperature more than five degrees Fahrenheit (5°F) at or beyond the lot line.

(g) Property shall be maintained in such a manner that grasses and weeds are not permitted to grow taller than ten (10) inches. In no event shall the property owner allow the growth of noxious weeds on the site. (Ord. 189 §I, 1990)

Sec. 16-287. Application requirements; use by special review.

(a) The purpose of the application is to give the applicant an opportunity to demonstrate through written and graphic information how the proposal complies with the standards of this Article. The following information shall be submitted as part of the application:

(1) A statement which explains that the proposal is consistent with the comprehensive plan.

(2) A statement which explains that the proposal is consistent with the intent of the zoning district in which the use is proposed to be located.

(3) A statement which explains that the uses which would be permitted will be compatible with the existing surrounding land uses.

(4) A statement which explains that the uses which would be permitted, will be compatible with the future development of the surrounding area, as permitted by the existing zone districts and with future development, as proposed by the comprehensive plan.

(5) A statement which explains there is adequate provision for the protection of the health, safety and welfare of the inhabitants of the neighborhood and the Town.

(b) The following general information shall be submitted:

(1) Name, address and telephone number of the applicants.

(2) Name and address of the fee owners of the property proposed for the use by special review if different from above.

(3) Legal description of the property under consideration.

(4) Total area of the parcel under consideration.

(5) Existing land use of the parcel under consideration.

(6) Existing land use of all properties adjacent to said parcel.

(7) Present zone district.

(8) Signatures of the applicant and fee owners or their authorized legal agent.

(9) A certified list of the names, addresses and the corresponding Parcel Identification Number assigned by the County Assessor of the owners of property (the surface estate) within one hundred (100) feet of the property subject to the application. The source of the list shall be the records of the County Assessor, or an ownership update from a title company or attorney, derived from such records, or from the records of the County Clerk and Recorder. If the list was assembled from the records of the County Assessor, the applicant shall certify that the list was assembled within thirty (30) days of the application submission date.

(10) A certified list of the names and addresses of mineral owners and lessees on or under the parcel of land being considered. The source of such list shall be from the records of the County Clerk and Recorder, or from an ownership update from a title company or attorney, derived from such records.

(11) Such additional information as may be reasonably required by the Planning Commission or Board of Trustees in order to determine that the application and proposed use by special review meets the standards of this Article and the comprehensive plan.

(c) A detailed description of the proposed operation and use shall be supplied. Details for the following items, when applicable, are required:

- (1) Type of use for which the application is being made.
- (2) Proximity of the proposed use to residential structures.
- (3) The number of shifts to be worked and the maximum number of employees.
- (4) The maximum number of users, patrons, members, buyers or other visitors that the use by special review facility is designed to accommodate at any one (1) time.
- (5) Types and maximum numbers of animals to be kept on the site any one (1) time.
- (6) Types and numbers of operating and processing equipment to be utilized.
- (7) Type, number and uses of the proposed structures to be erected.
- (8) Type, size, weight and frequency of vehicular traffic and access routes that will be utilized.
- (9) Sewage facilities.
- (10) Size of stockpile, storage or waste areas to be utilized.
- (11) Method and time schedule of removal or disposal of debris, junk and other wastes associated with the proposed use.
- (12) A time table showing the period of time required for the construction of the operation.
- (13) Proposed landscaping plans.
- (14) A description of the proposed fire protection methods.
- (15) Such additional information as may be reasonably required by the Planning Commission and Board of Trustees in order to determine that the proposal meets the requirement of this Chapter and the standards of the comprehensive plan. (Ord. 189 §I, 1990)

Sec. 16-288. Special review permit plan map.

- (a) The map shall be delineated on good quality, reproducible Mylar.
- (b) The dimensions of the map shall be thirty-six (36) inches wide by twenty-four (24) inches high.
- (c) The special review permit plan map shall include certificates for the property owner's signature, the Planning Commission, the Board of Trustees and the Town Clerk. The required content of the certification blocks is available from the Town Clerk.
- (d) The special review permit plan map shall include a vicinity map which presents the following information graphically:

(1) The vicinity map shall be at a scale of one (1) inch equals six hundred (600) feet or other suitable scale when approved by the Town Clerk.

(2) The vicinity map shall delineate all of the required information within a one-quarter-mile radius of the property proposed for the use by special review.

(3) Section, township and range.

(4) Scale and North arrow.

(5) Outline of the perimeter of the parcel proposed for the use by special review.

(6) Locations and names of all roads, irrigation ditches and water features.

(7) Location of all residences, existing and proposed accesses to the property under consideration, and any abutting subdivision outlines and names.

(8) Any other relevant information within a one-quarter-mile radius of the property under consideration that the Planning Commission or Board of Trustees may reasonably require to determine that the proposed use meets the standards of this Article.

(e) The special review permit plan map shall include a plot plan which presents the following information:

(1) The scale of the plot plan shall be one (1) inch equals one hundred (100) feet or at another suitable scale if approved by the Town Clerk.

(2) The plot plan shall outline the boundaries of the parcel being considered for the use by special review.

(3) The plot plan shall include the location and identification of all of the following items which presently exist within a two-hundred-foot radius of the boundaries of the property under consideration, as well as within the area itself; it shall also include the proposed features and structures of the use by special review:

a. All public rights-of-way of record (including names).

b. All existing and proposed structures.

c. All utility easements or rights-of-way for telephone, gas, water and sewer lines.

d. Irrigation ditches.

e. All hydrographic features including streams, ponds, reservoirs, etc. (including names).

f. Topography at two-foot contour intervals or at intervals as determined necessary by the Town Clerk.

g. Location of areas of moderate or severe soil limitations as defined by the Soil Conservation Service or by a soil survey and study prepared by a soils engineer or scientist for the uses and associated structures proposed for the parcel.

h. Location and design of storm water management devices or structures.

i. Complete traffic circulation and parking plan showing locations and sizes.

j. Location, amount, size and type of any proposed landscaping, fencing, walls, berms or other screening.

k. Location of any flood hazard, geologic hazard or mineral resource areas.

l. Such additional information as may be reasonably required by the Town Clerk, Planning Commission or Board of Trustees in order to determine that the proposed use meets the standards of this Article and the policies of the comprehensive plan.

(f) The following supporting documents shall be submitted:

(1) Where an authorized agent signs the application for the fee owners, a letter granting power of attorney to the agent from the owners must be provided.

(2) A copy of the deed or other legal instrument by which the applicant obtained an interest in the property under consideration.

(3) Proof that a water supply will be available which is adequate in terms of quantity, quality and dependability (e.g., a well permit or letter from a water district).

(4) A noise report, unless waived by the Town Clerk, documenting the methods to be utilized to meet the applicable noise standard.

(5) A soil report of the site prepared by the Soil Conservation Service or by a soils engineer or scientist. In those instances when the soil report indicates the existence of moderate or severe soil imitations for the uses proposed, the applicant shall detail the methods to be employed to mitigate the limitations. (Ord. 189 §I, 1990)

Secs. 16-289—16-300. Reserved.

ARTICLE XVI

Oil and Gas Code

Sec. 16-301. Legislative purpose and intent.

(a) It is found, determined and declared that the location and operation (to the extent not regulated by the State) of drilling and producing of oil and natural gas wells within the Town shall be subject to regulation under the Town's police power. The business of drilling, producing, storing and

handling of flammable and explosive liquids and the noxious odors, noise, environmental damages, aesthetic diminution and hazards that emanate from such activity make the regulation of the location of oil and gas wells and the operation thereof necessary and reasonable to promote the public health, safety and general welfare of the inhabitants of the Town.

(b) The legislative intent of this Article is to:

- (1) Recognize that oil and gas wells are a necessary part of energy production;
- (2) Recognize and ensure the rights of mineral interest owners;
- (3) Recognize and ensure the rights of those concerned with the use and development of the surface interest;
- (4) Reduce conflict between the development of the petroleum resource and the surface use and protect the surface users from the hazards of oil and gas development; and
- (5) Protect the community from the hazards of oil and gas well drilling and development of the mineral resource to the extent permitted by state law.

(c) The scope of this Article is, to the extent allowable by law, to regulate the following:

- (1) The construction, drilling, alteration, repair, erection, location and maintenance of any oil or gas well, accessory equipment or structure within the Town in relation to the existing or planned surface development insofar as such regulation is not preempted by state law.
- (2) To require that a use by special review shall be required prior to any individual drilling an oil and gas well.
- (3) To require that the construction of oil and gas wells shall be regulated by these zoning regulations as other construction within the Town. (Ord. 2001-01 §2)

Sec. 16-302. Definitions.

The words, terms and phrases listed below shall have the following meanings:

Act shall mean the Oil and Gas Conservation Act of the State of Colorado.

Assembly building shall mean any building or portion of building or structure used for the regular gathering of fifty (50) or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking or dining, or awaiting transport.

Building unit shall mean a building or structure intended for human occupancy. A dwelling unit, every guest room in a hotel/motel, every five thousand (5,000) square feet of building floor area in commercial facilities and every fifteen thousand (15,000) square feet of building floor area in warehouses or other similar storage facilities is equal to one (1) *building unit*.

Commission or *OGCC* shall mean the Oil and Gas Conservation Commission of the State of Colorado.

Commission or *OGCC forms* shall mean those forms promulgated by the Oil and Gas Conservation Commission of the State of Colorado and as they may from time to time be amended by the Commission.

Day, for the sole purpose of this Article, shall mean a period of twenty-four (24) consecutive hours.

Director, for the sole purpose of this Article, shall mean Director of the Oil and Gas Conservation Commission of the State of Colorado.

Educational facility shall mean any building used for legally allowed educational purposes for more than twelve (12) hours per week for more than six (6) persons. This includes any building or portion of a building used for licensed day care purposes for more than six (6) persons.

Hospital, nursing home and board and care facilities, for the sole purpose of this Article, shall mean buildings used for the licensed care of more than five (5) inpatients or residents.

Inspector, Town shall mean any person designated by the Town Manager or by the Manager's designee who shall have the authority to inspect a well site to determine compliance with this Article and other applicable ordinances of the Town.

Local government designee shall mean the office designated to receive, on behalf of the local government, copies of all documents required to be filed with the local governmental designee pursuant to the rules of the OGCC.

Mineral owner shall mean any person having title or right of ownership in subsurface oil and gas or leasehold interest therein.

Operating plan shall mean a general plan which describes an oil and gas exploration and production facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operation, source of services/infrastructure, any mitigation plans and any other information related to regular functioning of that facility.

Operator shall mean the person designated by the owner or lessee of the mineral rights as the operator and so identified in Oil and Gas Conservation Commission applications.

Production facilities shall mean all storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowlines and other equipment directly associated with oil wells, gas wells or injection wells.

Sidetracking shall mean entering the same wellhead from the surface, but not necessarily following the same well bore, throughout its subsurface extent when deviation from such well bore is necessary to reach the objective depth because of an engineering problem.

Surface owner shall mean any person having title or right of ownership in the surface estate of real property or leasehold interest therein.

Twinning shall mean the drilling of a well adjacent to or near an existing well when the well cannot be drilled to the objective depth or produced due to an engineering problem, such as a collapsed casing or formation damage.

Well shall mean an oil or gas well, a hole drilled for the purpose of producing oil or gas or a well into which fluids are injected.

Wellhead shall mean the mouth of the well at which oil or gas is produced.

Well site shall mean the areas which are directly disturbed during the drilling and subsequent operation, or affected by production facilities directly associated with, any oil well, gas well or injection well. (Ord. 2001-01 §2)

Sec. 16-303. Well locations and setbacks.

In all areas of the Town, except for flowlines, transmission lines and power supply lines, the following shall apply:

(1) At the time of the initial drilling of the well, all wellhead or production tanks shall be located not less than one hundred fifty (150) feet or one and one-half (1½) times the height of the derrick, whichever is greater, from any occupied building, public road, major aboveground utility line or railroad.

(2) At the time of the initial drilling of the well, the wellhead location shall not be less than three hundred fifty (350) feet from any building, educational facility, assembly building, nursing home, board and care facility or any structure used as a place of assembly.

(3) At the time of the installation of production tanks and/or associated on-site production equipment, such tanks shall be located not less than three hundred fifty (350) feet from any building not necessary to the operation of the well.

(4) The distance between any platted public street (whether or not actually in existence), alley, right-of-way or railroad and a wellhead tank battery separator or associated on-site production equipment shall be seventy-five (75) feet and twenty (20) feet from any utility easement.

(5) The well and tank battery shall comply with all applicable federal, state and local laws and regulations when located in a floodway or one-hundred-year floodplain area and in such area shall be anchored as is necessary to prevent flotation, lateral movement or collapse or shall be surrounded by a berm with a top elevation at least one (1) foot above the level of a one-hundred-year flood. Any activity or equipment at a well site within a one-hundred-year floodplain shall comply with the Federal Emergency Management Act and shall not endanger the eligibility of residents of the Town to obtain Federal Flood Insurance. (Ord. 2001-01 §2)

Sec. 16-304. Disposal of drilling mud and waste.

All exploration and production waste, including drilling mud or other drilling fluids, shall be stored, handled, transported, treated, recycled or disposed of in accordance with OGCC regulations to prevent any significant adverse environmental impact on air, water, soil or biological resources. (Ord. 2001-01 §2)

Sec. 16-305. Seismic operations.

All persons shall comply with all Commission rules with respect to seismic operations. Seismic operations shall occur within the Town only between the hours of 7:00 a.m. and 7:00 p.m. In addition, the owner or operator shall provide a notice of intent to conduct seismic exploration at least seven (7) days prior to commencement of the data-recording operations to the Town Manager, Fire Chief or other pertinent authority of the Town. The notice shall include the following:

- (1) OGCC Form 20 as filed with the OGCC, together with all attachments, together with a map showing the proposed seismic lines, at a scale of at least one-half (1/2) inch to the mile;
 - (2) OGCC Form 20A as soon as it is filed with the OGCC;
 - (3) Name and permanent address of the seismic operator; and
 - (4) The name, address and telephone number of the seismic contractor's local representative.
- (Ord. 2001-01 §2)

Sec. 16-306. Access roads.

All roads used to access the tank battery and wellhead shall be constructed to accommodate local emergency vehicle access requirements and be maintained in a reasonable condition according to the following standards:

- (1) Tank battery access roads. Access roads to tank batteries in urbanized or soon to be urbanized areas of the Town shall, at a minimum, be:
 - a. A graded gravel roadway at least twenty (20) feet wide and with a minimum unobstructed overhead clearance of thirteen (13) feet, six (6) inches having a prepared subgrade and an aggregate base course surface a minimum of six (6) inches thick compacted to a minimum density of ninety-five percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures approved by the Public Works Department. The aggregate material, at a minimum, shall meet the requirements for class 6, Aggregate Base Course, as specified in the Colorado Department of Transportation's "Standard Specifications for Road and Bridge Construction," latest edition. This standard may be waived by the Town Manager or proper authority for good cause and if the spirit and intent of this Section is otherwise met.
 - b. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (i.e., roadside swells, irrigation ditches, gulches, rivers, creeks,

etc.) by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval of the Public Works Department.

c. Maintained so as to provide a passable roadway meeting the requirements of Paragraph (1)a above at all times.

d. When compliance with this Section is not required as a result of the oil and gas production facilities being located in a nonurbanized area of the Town, such roadways shall be upgraded as required herein when the area becomes urbanized.

(2) Wellhead access roads. Access roads to wellheads shall, at a minimum, be:

a. A graded dirt roadway at least twenty (20) feet wide and with a minimum unobstructed overhead clearance of thirteen (13) feet, six (6) inches compacted to a minimum density of ninety-five percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures approved by the Public Works Department.

b. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (i.e., roadside swells, gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval of the Public Works Department.

c. Maintained so as to provide a passable roadway meeting the requirements of Paragraph (2)a above at all times.

(3) All tank battery and wellhead access roads which intersect a paved Town street or alley shall be paved to standards determined by the Public Works Director from the existing paved roadway to the edge of the public right-of-way. Such standards shall protect public streets, sidewalks and curb and gutters. No mud or gravel, except minor and nominal amounts, shall be carried onto Town streets or sidewalks. If mud or gravel is carried onto Town streets or sidewalks, the owner or operator shall ensure that the streets are promptly cleaned. With the permission of the Director of Public Works, the owner or operator may make arrangements for the Public Works Department to clean the streets at the sole cost of the owner or operator.

(4) No public facilities, including but not limited to curbs, gutters, pavement, water or sewer lines, etc., shall be damaged by vehicles entering or leaving the site. In the event of damage, the operator shall indemnify the Town for any reasonable repair costs. (Ord. 2001-01 §2)

Sec. 16-307. Environmental requirements, impacts and mitigation.

(a) Operators shall conform to all current Town, county, state and federal regulations and standards concerning air quality, water quality, odor and noise.

(b) All Town sanitation and environmental standards shall be met.

(c) All surface trash, debris, scrap or discarded material connected with the operation of the property shall be removed from the premises or disposed of in a manner prescribed by the OGCC regulations.

(d) Where possible, operators shall provide for the development of multiple reservoirs by drilling on existing pads or by multiple completions or commingling in existing well bores.

(e) Noise impacts and mitigation.

(1) State law and regulations concerning noise abatement (Title 25, Article 12, C.R.S.) shall apply to all operations, together with applicable local government ordinances, rules or regulations.

(2) Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all buildings certified or intended for occupancy.

(f) Special mitigation measures.

(1) Where a well or tank battery does not comply with the required setback or other portions of this Article, or where the well or tank battery is in an area of particular noise sensitivity, such as hospitals, schools, churches and a developed residential subdivision, additional noise mitigation may be required. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:

- a. Nature and proximity of adjacent development (design, location, type);
- b. Prevailing weather patterns, including wind directions;
- c. Vegetative cover on or adjacent to the site; and
- d. Topography.

(2) Based upon the specific site characteristics set forth above, nature of the proposed activity and its proximity to surrounding development and type and intensity of the noise emitted, additional noise abatement measures may be required. The level of required mitigation may increase with the proximity of the well and well site to existing residences and platted subdivision lots and/or the level of noise emitted by the well and well site. One (1) or more of the following additional noise abatement measures may be required:

- a. Acoustically insulated housing or cover enclosing the motor, engine or compressor, or other noise mitigation techniques;
- b. Vegetative screen consisting of trees and shrubs;
- c. Solid wall or fence of acoustically insulating material surrounding all or part of the facility;
- d. Noise management plan identifying and limiting hours of maximum noise emissions, type, frequency and level of noise to be emitted and proposed mitigation measures;

- e. Lowering the level of pumps or tank battery; and
 - f. Requirements for electric motors only.
- (g) Visual impacts and mitigation.
- (1) To the maximum extent practical, and when allowed by the OGCC, wellhead and production facilities shall be located away from prominent natural features such as distinctive rock and land forms, river crossings and other landmarks.
 - (2) To the maximum extent practical, and when allowed by the OGCC, oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting.
 - (3) To the maximum extent practical, the applicant shall use structures of minimal size to satisfy present and future functional requirements.
 - (4) At all times the applicant shall minimize the removal of existing vegetation.
 - (5) To the maximum extent practical, the applicant shall locate wellhead and production facilities at the base of slopes to provide a background of topography and/or natural cover and, where appropriate, shall use low-profile equipment.
 - (6) The applicant shall replace earth adjacent to water crossings at slopes at an angle which ensures stability for the soil type of the site, to minimize erosion.
 - (7) The applicant shall align access roads to follow existing grades and minimize cuts and fills.
 - (8) Facilities shall be painted as follows:
 - a. Uniform, noncontrasting, nonreflective color tones, similar to Munsell Soil Color Coding System.
 - b. Color matched to land, not sky, slightly darker than adjacent landscape.
 - c. Exposed concrete colored to match soil color.
 - (9) Storage tanks and other facilities shall be kept clean and well painted and otherwise properly maintained, so that signs are legible and all flammable material removed from the site.
 - (10) Where a well or tank battery does not comply with the required setback or other portions of this Article, or in areas of increased visual sensitivity determined by the Town, the applicant shall submit a visual mitigation plan which shall include but not be limited to one (1) or more of the following standards:
 - a. Exterior lighting shall be directed away from residential areas or shielded from said areas to eliminate glare.

b. Construction of buildings or other enclosures may be required where facilities create noise and visual impacts which cannot be mitigated because of proximity, density and/or intensity of adjacent residential land use.

(11) One (1) or more of the following landscaping practices may be required, where practical, on a site specific basis:

- a. Establishment and proper maintenance of adequate ground covers, shrubs and trees.
- b. Shaping cuts and fills to appear as natural forms.
- c. Cutting rock areas to create irregular forms.
- d. Designing the facility to utilize natural screens.
- e. Construction of fences or walls, such as woven wood or rock, for use with or instead of landscaping.

(h) Safety impacts and mitigation.

(1) Adequate precautions shall be taken and necessary wellhead safety devices used at all times during drilling, completion, recompletion, reworking, production, repair and maintenance of the well.

(2) Adequate firefighting apparatus and supplies, approved by the Fire Authority or appropriate fire district, shall be maintained on the drilling site at all times during drilling, completion and repair operations. All machinery, equipment and installations on all drilling sites within the Town limits shall conform with such requirements as may be issued by the Fire Authority or appropriate fire district.

(3) Any well located less than three hundred fifty (350) feet from an occupied building or in high density areas shall be equipped with blowout preventers during drilling. (Ord. 2001-01 §2)

Sec. 16-308. Recordation of flowlines.

All flowlines, including transmission and gathering systems as approved by the Town, shall have the legal description of the location recorded with the Weld County Clerk and Recorder within thirty (30) days of completion of construction. Abandonment of any flowlines shall be recorded with the Weld County Clerk and Recorder within thirty (30) days after abandonment. (Ord. 2001-01 §2)

Sec. 16-309. Reclamation.

(a) The operator shall comply with all OGCC rules with respect to site reclamation.

(b) The OGCC Drill Site Reclamation Notice shall be filed with the Town at the same time it is sent to the surface owner. (Ord. 2001-01 §2)

Sec. 16-310. Abandonment and plugging of wells.

(a) The operator shall comply with all OGCC rules with respect to abandonment and plugging of wells.

(b) The operator of a well which is to be abandoned upon the completion of drilling and not be put into production shall notify the Fire Authority not less than two (2) hours prior to commencing plugging operations.

(c) The operator of a formerly producing wells shall notify the Fire Authority not less than two (2) working days prior to removing production equipment or commencing plugging operations.

(d) The operator shall provide copies of all OGCC plugging and abandonment reports to the Town at the same time they are filed with the OGCC.

(e) The operator shall identify the location of a plugged and abandoned well with a permanent concrete monument which extends at least twelve (12) inches above the surface, and shall include the well number and the date of plugging inscribed on the monument. (Ord. 2001-01 §2)

Sec. 16-311. Requirements and procedures.

(a) Building permits shall be obtained as required by the Town's adopted Building Codes and other applicable codes and regulations then in effect.

(b) Within all zone districts, it shall be unlawful for any person to drill a well, reactivate a plugged or abandoned well or perform initial installation of accessory equipment or pumping systems unless a use by special review permit has first been granted by the Town in accordance with the procedures in Article XV of this Chapter and those prescribed herein. Unless otherwise stated in the special review permit, such permit shall allow any twinning, sidetracking, deepening, recompleting or reworking of a well and relocation of accessory equipment or gathering and transmission lines so long as all applicable regulations of this jurisdiction and the State are met. If any twinning, sidetracking, deepening, recompleting or reworking of a well, or relocation of accessory equipment or gathering and transmission lines occurs, then the operator shall submit a revised site plan to the Town depicting any changes from the approved special review permit. After review of the revised site plan, the Town shall issue a notice to proceed as provided in Section 16-314 below.

(c) In recognition of the potential impacts associated with oil and gas drilling and well operation in an urban setting, all wells and accessory equipment and structures may be subject to the inspections by the Town at reasonable times to determine compliance with all applicable regulations, including any applicable Uniform Fire Code, Uniform Building Code as adopted by the Town and any other applicable ordinances and regulations. (Ord. 2001-01 §2)

Sec. 16-312. Site plan application requirements.

(a) An application for use by special review pursuant to this Article and Article XV of this Chapter shall be filed with the Town Clerk prior to commencement of any construction, earth moving or other site work, and such application shall include the following information:

- (1) The Town use by special review form and the applicable fee;
- (2) Copies of OGCC Forms 1, 1A, 2, 2A, 3 and all attachments thereto as submitted to the OGCC. If the following information is not provided on the well location plat, the lease map or other documents submitted with the above forms, then the following information should be provided to the Town:
 - a. The proposed location of production site facilities or well site facilities associated with the well in the event production is established. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within five hundred (500) feet of the well site shall be shown.
 - b. The proposed location of production site facilities or well site facilities associated with the well in the event production is established, if applicable. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within seven hundred (700) feet of the well site shall be shown.
 - c. The location of layout, including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.
 - d. True north arrow, scale and plan legend.
- (3) The following information within a radius of five hundred (500) feet of the proposed well:
 - a. Existing surface improvements.
 - b. Existing utility easements and other rights-of-way of record, if any.
 - c. Existing irrigation or drainage ditches, bodies of water and water courses, including direction of water flow.
 - d. The applicant's drainage and erosion control plans for the well site or production site and the area immediately adjacent to such site, if applicable.
 - e. Location of access roads.
 - f. Well site or production site's existing lease boundaries, well name and number.
 - g. The names of abutting subdivisions or the names of owners of abutting, unplatted property within five hundred (500) feet of the well site or production site.
 - h. A title block showing the scale; date of preparation; and name, address and telephone number of the plan preparer, applicant and operator.
- (4) Copies of the vicinity maps as submitted to the OGCC. In addition, the following information, if not provided in the vicinity map submitted to the OGCC, shall be provided to the Town:

a. Location of existing oil and gas wells as reflected in OGCC records. This information shall be submitted on a map and shall include any and all wells within a one-thousand-foot radius of the proposed location of the well.

b. Location of drill site and access from one (1) or more public roads.

c. Surface and mineral lease ownership within two hundred (200) feet of the wellhead and within four hundred (400) feet of the wellhead in high density areas.

(5) Application requirements for narrative. In addition to the site plans and vicinity maps required in this Section, the application shall include the following:

a. The operator's and surface owner's names and addresses, copies of any required OGCC Form 2 and designation of agent, if applicable.

b. An operating plan.

c. A list of all permits or approvals obtained or yet to be obtained from local, state or federal agencies other than OGCC.

d. An emergency response plan that is mutually acceptable to the operator and the Fire Authority or appropriate fire district that includes a list of local telephone numbers of public and private entities and individuals to be notified in the event of an emergency, the location of the well and provisions for access by emergency response entities.

e. A plan for minimizing negative impacts, including but not limited to noise and vibration levels, air and water quality, odor levels, visual impacts, wildlife impacts, waste disposal and public safety.

f. A fire protection plan that is mutually acceptable to the operator and the Fire Authority or appropriate fire district that includes planned actions for possible emergency events and any other pertinent information. Prior to the application to the Town, a proposed fire protection plan and emergency response plan shall be submitted to and reviewed by the Fire Authority or appropriate fire district.

(b) The process whereby a use by special review request shall be considered by the Town shall follow the procedures set forth in Article XV of this Chapter. (Ord. 2001-01 §2)

Sec. 16-313. Application review criteria.

(a) The Planning Commission and Board of Trustees shall approve an application for use by special review for a well site within sixty (60) days of receipt of a completed application that conforms to the following requirements:

(1) The site plans for a well site application comply with the requirements of Subsections 16-312(a)(1) and (2) above.

(2) The narrative for a well site application complies with the requirements of Subsection 16-312(a)(5) above.

(3) The well location and setbacks comply with Section 16-303 above.

(4) When applicable, compliance with the provisions for mitigation of environmental impacts as required in Section 16-307 above.

(5) When applicable, compliance with the provisions for floodplain or floodway required in Section 16-303 above.

(6) The application is, to the extent practical, consistent with planned surface development.

(7) The use by special review for a well site is in compliance with the use by special review criteria in Article XV of this Chapter. (Ord. 2001-01 §2)

Sec. 16-314. Notice to proceed.

(a) Prior to commencement of construction, drilling, redrilling or enhanced recovery operations for which a use by special review has been previously granted, a "Notice to Proceed" shall be obtained from the Town. A copy of any necessary state or federal permit issued for the operation shall be provided to the Town. (Ord. 2001-01 §2)

Sec. 16-315. Inspections.

(a) The holder or agent of the special review permit shall allow inspections by Town personnel at any reasonable hour. Failure to allow inspections for more than ten (10) days shall result in scheduling a special review permit revocation hearing before the Planning Commission. The Planning Commission's decision on a special review permit revocation based on failure to allow inspections shall be final.

(b) Any operator of any oil and gas well within the Town shall remit to the Town an annual inspection fee to cover the costs which the Town incurs for conducting the inspections of oil and gas wells. The fee shall be determined annually by the Town Manager or his or her designee and shall be based solely on actual costs incurred by the Town for inspections. This fee shall be paid not later than February 1st of the year following that for which the fee is due. Wells which have been plugged and abandoned are exempt from this fee.

(c) The operator shall provide to the Town the following:

(1) As soon as filed with the OGCC, a copy of all Forms 10 and 12, regarding changes in responsible parties.

(2) As soon as they are filed with the OGCC, copies of Forms 18 and 18A, regarding complaints; Forms 19 and 19A regarding spills or release of material; Forms 22 and 22A regarding accidents; and Forms 23 and 23A regarding loss of control of any wells. The operator shall also provide to the Town immediately upon filing with the Commission a copy of Form 27 regarding remediation and Form 32 regarding reclamation. (Ord. 2001-01 §2)

Sec. 16-316. Direct wellhead gas connections prohibited.

Regardless of any lease provision, no royalty owner or other resident shall be permitted to connect a residence or any other building, structure or vehicle to any well within the Town. (Ord. 2001-01 §2)

Sec. 16-317. Reservation for oil and gas production.

If a mineral interest owner and a surface owner agree to set aside any parcel of property for mineral interest development, the Town will cooperate in such set-aside with regard to designating such set-aside as open space or other suitable designation for the purpose of preserving such parcel or parcels for use in mineral development. (Ord. 2001-01 §2)

Sec. 16-318. Violation and enforcement.

(a) It shall be unlawful to construct, drill, install or cause to be constructed or installed any oil and gas facility within the Town unless approval has been granted by the Town pursuant to this Code. The unlawful drilling or re-drilling of any well or the production therefrom shall constitute a public nuisance. The Town shall have the right to abate the nuisance at the sole reasonable expense of the operator of the nuisance by any means, to include but not be limited to:

- (1) Injunctive or other civil remedy.
- (2) A stop work order by the Town Manager.
- (3) Criminal charges.
- (4) Removal of the nuisance by Town personnel or Town contractors.

(b) Any person, firm, corporation or legal entity that constructs, installs or uses, or which causes to be constructed, installed or used, any oil and gas well or well site in violation of any provision of this Article shall be subject to the penalties provided in Section 1-72 of this Code. (Ord. 2001-01 §2)

Sec. 16-319. Revocation.

The violation or breach of any of the terms or conditions of this Article, or the ceasing to exist of any of the conditions precedent listed in this Article, or the breach of any of the terms or conditions or any use by special review pursuant hereto shall be grounds for the revocation of any use by special review permitted under this Article. Such revocation shall take place only upon a hearing by the Board of Trustees. No use by special review shall be revoked until competent evidence has been presented to the Board of Trustees showing a violation of the conditions set forth in this Article. No revocation shall take place without five (5) days' notice of the hearing on such proposed revocation and notice of the reasons for the proposed revocation. The hearing on revocation shall be an informal hearing without the strict application of the Rules of Evidence and such hearing may be conducted by a hearing officer appointed by the Board of Trustees. (Ord. 2001-01 §2)

Sec. 16-320. Termination of use by special review.

When a use by special review shall be issued, the same shall be suspended and become inoperative without any action on the part of the Town unless within one hundred eighty (180) days from the date of issuance, actual drilling of the well shall have commenced. The cessation of the production of oil or gas from the well after production shall have commenced for a period of three hundred sixty (360) days, shall operate to suspend the use by special review, and the well shall be considered as abandoned for purposes of this Section. An extension of time may be granted, for good cause shown, by the Board of Trustees, but no other extensions shall be granted. An extension may be granted in the case of failure to commence drilling, for a period of time not to exceed three hundred sixty (360) days from the initial date of issuance; or, in the case of cessation of production, for a period of time not to exceed one hundred eighty (180) days from the date of cessation. A deadline for completion of the projection for which a use by special review is approved may be established at the time such permit is granted. (Ord. 2001-01 §2)

ARTICLE XVII

Mobile Home Parks

Sec. 16-321. Locations within the Town where mobile homes may be placed.

(a) Except as provided in Subsection (b) below, it shall be unlawful for any person to place or park either temporarily or permanently, or permit the placing or the parking either temporarily or permanently, of any mobile home at any location within the Town except within the confines of a licensed mobile home park.

(b) This Section shall not apply to temporary construction offices at a construction site. (Ord. 166 §2, 1985)

Sec. 16-322. License required for mobile home parks.

No person shall develop or attempt to develop or operate any area for use as a mobile home park until he or she has applied for a license and the Board of Trustees has approved such application. A renewal of a license may be approved by the appropriate administrative official. (Ord. 166 §3, 1985)

Sec. 16-323. Application for license.

(a) Any person may apply for a mobile home park license by completing a written application blank from the Town Clerk and by providing the information and other documentation to show compliance with this Article.

(b) The application shall include at least the following:

- (1) Name and address of the applicant;
- (2) Location and legal description of the mobile home park;

(3) A complete plan of the park including showing the location of streets, water lines, sewer lines, fire hydrants and all other items generally required by the Town for development of a subdivision;

(4) A set of legal documents showing ownership of the property to be developed as a mobile home park.

(c) The property must be located entirely within a zoning district which allows mobile home parks.

(d) The property, either because of its natural condition or because of existing or planned alterations, such as grading or the installation of storm sewers, must be capable of being properly and rapidly drained so as to eliminate standing water. These facts regarding drainage must be established by a written report issued by a licensed engineer.

(e) A plot plan, prepared by a licensed engineer or architect, must be submitted to the Board of Trustees. The plot plan shall show the following information: the location and dimensions within the property sought to be licensed of each individual mobile home space, the location, dimensions and type of surfacing of the streets and sidewalks throughout the total property area; the location and dimensions of the recreation facilities; the location and dimensions and type of construction of the service building; the location and dimensions of the parking area for campers, boats and other such items; the location of water and sewer lines and storm sewers; and the location of utility and light poles for illumination of streets and sidewalks within the property area. The plot plan shall be deemed satisfactory only if it appears therefrom that all of the requirements set forth in Section 16-325 below will be met.

(f) Each application must be accompanied by a fee as set forth in the Town's fee schedule and a deposit of the amount necessary to pay all required building permit fees, sewer tap fees, water tap fees, meter fees, drainage fees and any other fees and costs which are normally assessed by the Town in a subdivision development project.

(g) Prior to approving an application, the Board of Trustees may require evidence that the applicant has or will enter into a contract with some commercially satisfactory person for the removal of trash and garbage from the mobile home park and may further condition the granting of a license on the signing of a valid agreement between the applicant and the Town regarding the delivery of water by the Town to the mobile home park and the payment therefor. (Ord. 166 §4, 1985)

Sec. 16-324. Approval of application.

If it appears from the application form and supporting information and data that the requirements of this Article have been met and that all improvements required by the Town have been made and the same has been certified to the Board of Trustees by the Building Inspector, then the Board of Trustees shall issue the license. However, under proper circumstances, the Board of Trustees may issue a temporary license at such time as at least two and one-half (2.5) acres have been fully developed and completed. The temporary license will entitle the applicant to permit owners or users of mobile homes to occupy only the completed portion of the mobile home park. At the time of issuing a temporary license, the Board of Trustees may set a deadline for the full completion of the entire mobile home park and may issue the temporary license so that it will be in effect only until

such deadline. If any standards or any of the requirements of this Article change between the time of granting a temporary license and the granting of a final license, the applicant hereunder shall be required to conform to the stricter terms. (Ord. 166 §5, 1985)

Sec. 16-325. Required developments and improvements.

A mobile home park shall be developed, improved and operated as follows:

(1) The mobile home park shall be divided into spaces with one (1) space for each mobile home. No mobile home shall be located within the space unless there shall be at least fifteen (15) feet of clearance between the mobile home and all other mobile homes on either side and unless the back-to-back clearance between single-wide or standard mobile homes is at least ten (10) feet and the back-to-back clearance between double-wide mobile homes is at least fifteen (15) feet. No mobile home or appurtenance thereto shall extend beyond any sidewalk in front of the mobile home or beyond the front line of the mobile home space.

(2) All mobile home spaces shall abut upon a driveway or street of not less than thirty (30) feet in width and there shall be unobstructed access to and from each mobile home space to a public street, alley or highway. All driveways shall be paved or hard surfaced.

(3) Sidewalks of not less than three (3) feet in width shall be provided from all mobile home spaces to the service building hereinafter referred to and along all driveways. The sidewalks shall be paved or hard surfaced.

(4) All driveways and sidewalks shall be illuminated at night to provide a minimum illumination at ground level of three (3) ten-foot candles.

(5) Each space shall also provide for off-street parking of at least one (1) motor vehicle.

(6) For any mobile home park there shall be set aside for playground and recreational facilities an area of at least two hundred (200) square feet for each mobile home space. Such area shall include playground equipment including swing sets, a basketball court with concrete pad and such other equipment as may be necessary and desirable to accommodate the needs of the park. This area shall be made available for use only by residents of the mobile home park and their guests and shall be open for such during normal daylight hours.

(7) Each mobile home park shall have a separate area set aside exclusively as a parking area for campers, camper trailers, boats, boat trailers, tractors, trucks and other such vehicles or units, none of which shall be placed within the mobile home spaces.

(8) An adequate supply of water for drinking and domestic purposes shall be supplied to all occupants of the mobile home park at all times. All water connections shall be made to the public water supply of the Town and such supply shall be used exclusively. All water for the mobile home park shall be delivered through a master meter, and the charges to be paid by the licensee to the Town shall be the subject of a formal agreement entered into prior to the licensing of the mobile home park.

(9) All sewage both from the individual mobile home and from the service building shall be collected and delivered to the existing or any future sewage system of the Town.

(10) Garbage and trash shall be hauled from the mobile home park by a commercially responsible person or firm engaged in the business of garbage and trash hauling. (Ord. 166 §6, 1985; Ord. 167 §§2, 4, 1985)

Sec. 16-326. Requirements after licensing.

After a mobile home park has been licensed, the licensee:

(1) Shall not permit any camper, camper trailer, boat, boat trailer, tractor, truck or vehicle other than a car or pick-up truck to be kept in or at a mobile home space.

(2) Shall not permit any building, lean-to or any other structure to be placed upon a mobile home space; provided, however that each mobile home space may be equipped with one (1) carport and a carport may be constructed so as to provide additional space for storage. However, all such carports and built-in storage facilities shall be constructed strictly in accordance with the building code of the Town and only after the issuance of a building permit.

(3) Shall not permit more than one (1) outbuilding located upon the mobile home premises, which outbuilding shall be of a size of ten (10) feet by ten (10) feet or less.

(4) Shall not transfer the mobile home park or any portion thereof to a new owner unless notice of intent to transfer is given to the Town at least sixty (60) days prior to the actual transfer.

(5) Shall pay an annual license renewal fee during the month of December of each year in the amount as set forth in the Town's fee schedule. If any transfer takes place, the new owners shall not be required to pay a new fee at the time of transfer and the old owner shall not be entitled to any fee refund. (Ord. 166 §7, 1985)

Sec. 16-327. Application to existing mobile home parks.

(a) This Article shall apply to any mobile home park in existence on January 1, 1985, as well as to any future mobile home parks constructed or proposed within the Town.

(b) Any mobile home park in existence on January 1, 1985, which does not meet the requirements of this Article shall not be compelled to meet the requirements of this Article and shall not be in violation of the requirements of this Article if the owner of the mobile home park, within ninety (90) days of the effective date of the ordinance codified herein, provides to the Town Clerk a list of the mobile home spaces which do not meet the requirements of this Article. Replacement mobile homes after January 1, 1985, shall also be exempt from this Article, except that any permitted violation of this Article shall never be greater than the violation in existence on January 1, 1985. (Ord. 166 §8, 1985)

Sec. 16-328. Enforcement.

The Building Inspector or the Chief of Police shall be empowered to make investigations to determine whether any person is violating this Article and to initiate such court proceedings as may be necessary to have such violations determined, abated and punished. No court action shall be initiated until the owner or last licensed owner of a mobile home park has been notified in writing of the violation and such notification has been hand-delivered or mailed by regular mail to the owner at least seven (7) days prior to initiation of any court proceedings. (Ord. 166 §9, 1985)

Sec. 16-329. License suspension.

Any municipal official may petition the Board of Trustees to suspend the license of the licensee who is convicted of any violation of this Article or if any violation continues to exist more than twenty (20) days after written notice of the violation in accordance with Section 16-328 above has been mailed or delivered to the owner. No suspension shall be effective until at least seven (7) days after mailing by regular mail with first class postage affixed to the owner or last known address of the licensee. (Ord. 166 §10, 1985)

Sec. 16-330. Notice of intention to suspend license.

The licensee shall be entitled to be heard by the Board of Trustees and to present evidence bearing on the question of whether or not a suspension is warranted pursuant to this Article. Each suspension shall continue in force until the cause of the suspension has been fully corrected and until the Board of Trustees deems a license shall be reinstated, reissued or renewed. A license granted pursuant to this Article may also be suspended by the procedures set forth herein for a violation of any requirements imposed by state law or violation of regulations issued by an agency of the State pertaining to anchoring or tying down mobile homes as a safety precaution. (Ord. 166 §11, 1985)

Sec. 16-331. Uniform codes apply.

The uniform codes of the Town, including building code, fire code, traffic code, plumbing code, electrical code and any other codes adopted by the Town, shall be applicable to a mobile home park. (Ord. 166 §12, 1985)

Sec. 16-332. Penalty and revocation of license.

Any person violating any of the provisions of this Article shall be guilty of a misdemeanor and shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued or permitted, and upon conviction of any such violation, such person shall be punishable by a fine as set forth in Section 1-72 of this Code and a jail sentence of not more than ninety (90) days. (Ord. 166 §13, 1985)

Secs. 16-333—16-350. Reserved.

ARTICLE XVIII

Flood Damage Prevention

Division 1 General

Sec. 16-351. Findings of fact.

(a) The flood hazard areas of the Town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 1999-10 §1.2)

Sec. 16-352. Statement of purpose.

It is the purpose of this Article to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruption;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard;
and
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 1999-10 §1.3)

Sec. 16-353. Methods of reducing flood losses.

In order to accomplish its purposes, this Article includes methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 1999-10 §1.4)

Sec. 16-354. Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of waters, and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

Manufactured home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *manufactured home* does not include a recreational vehicle.

Structure means a walled or roofed building or a manufactured home that is principally above ground.

Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the *start of construction* of the improvement. This term includes

structures which have incurred *substantial damage*, regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

b. Any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*. (Ord. 1999-10 §2)

Sec. 16-355. Lands to which this Article applies.

This Article shall apply to all areas within the jurisdiction of the Town. (Ord. 1999-10 §3.1)

Sec. 16-356. Compliance.

No structure or land shall hereafter be constructed, located, extended or altered without full compliance with the terms of this Article and other applicable regulations. (Ord. 1999-10 §3.2)

Sec. 16-357. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 1999-10 §3.3)

Sec. 16-358. Interpretation.

In the interpretation of this Article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statute. (Ord. 1999-10 §3.4)

Sec. 16-359. Warning and disclaimer of liability.

This Article shall not create liability on the part of the Town, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder. (Ord. 1999-10 §3.5)

Secs. 16-360—16-370. Reserved.

*Division 2
Administration*

Sec. 16-371. Establishment of development permit.

(a) A development permit shall be obtained before construction or development begins within the community.

(b) Application for a development permit shall be made on forms furnished by the Town Clerk and may include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. (Ord. 1999-10 §4.1)

Sec. 16-372. Designation of Town Administrator.

The Town Administrator is hereby appointed to administer and implement this Article by granting or denying development permit applications in accordance with its provisions. (Ord. 1999-10 §4.2)

Sec. 16-373. Duties and responsibilities of Town Administrator.

Duties of the Town Clerk (or Administrator) shall include, but not be limited to:

(1) Review all development permits to determine that the permit requirements of this Article have been satisfied.

(2) Review all development permits to determine that permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(3) Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For the purposes of this Article, *adversely affects* means damage to adjacent properties because of rises in flood states attributed to physical changes of the channel and the adjacent overbank areas.

a. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.

b. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.

c. If the proposed development is a building, then the provisions of this Article shall apply. (Ord. 1999-10 §4.3)

Secs. 16-374—16-390. Reserved.

*Division 3
Miscellaneous*

Sec. 16-391. Provisions for flood hazard reduction.

If a proposed building site is located in a flood-prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall conform to the following standards:

(1) Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and capable of resisting hydrostatic and hydrodynamic loads.

(2) Construction materials and methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage. (Ord. 1999-10 §5.1)

Sec. 16-392. Penalties for violation.

(a) It shall be unlawful for any person, firm, corporation or other entity to violate any of the provisions of this Article.

(b) Any person, firm, corporation or other entity violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and each such person, firm, corporation or entity upon conviction of any violation of this Article shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or be imprisoned for not more than ninety (90) days, or both such fine and imprisonment for each offense.

(c) When any violation of any section of this Article occurs and continues for more than one (1) day, each day such violation occurs or continues shall constitute a separate offense. (Ord. 1999-10 §6.1)

Secs. 16-393—16-410. Reserved.