

Unified Development Code

Town of Buena Vista, Colorado

Consolidated Draft – PUBLIC DRAFT

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Table of Contents

Article 16.01: General Provisions	1
Section 1.1 Title and Effective Date	1
1.1.1. Title	1
1.1.2. Effective Date.....	1
Section 1.2 Purpose and Intent	1
1.2.1. Purpose	1
1.2.2. Intent.....	1
Section 1.3 Authority	2
Section 1.4 Applicability and Jurisdiction	2
1.4.1. General Applicability.....	2
1.4.2. Compliance Required	2
1.4.3. Application to Governmental Agencies.....	3
1.4.4. Conflicts with Other Ordinances	3
1.4.5. Private Covenants.....	3
1.4.6. Emergency Powers.....	3
Section 1.5 Nonconformities	3
1.5.1. Generally.....	3
1.5.2. Nonconforming Uses	4
1.5.3. Nonconforming Structures	5
1.5.4. Nonconforming Lots.....	5
1.5.5. Nonconforming Site Features.....	6
1.5.6. Nonconforming Signs.....	7
Section 1.6 Enforcement.....	7
1.6.1. Purpose	7
1.6.2. Enforcement Officers and Authorization.....	7
1.6.3. Continuation of Prior Enforcement Actions.....	8
1.6.4. Violations.....	8
1.6.5. Penalties and Remedies	8
Section 1.7 Severability	9
Section 1.8 Transition from Prior Regulations.....	9
1.8.1. Prior Building Permits.....	9
1.8.2. Prior Violations.....	10
1.8.3. Prior Nonconformities	10
1.8.4. Development Approvals.....	10
1.8.5. Pending Applications.....	10
Article 16.02: Zoning Districts	11
Section 2.1 Districts Established	11
2.1.1. Base Zoning Districts.....	11
2.1.2. Overlay Districts.....	12
2.1.3. Planned Unit Developments.....	12
2.1.4. Zoning Map.....	12
Section 2.2 Residential Districts.....	13
2.2.1. General Purposes of All Residential Districts	13
2.2.2. Low-Density Residential District (R-1).....	14
2.2.3. General Residential District (R-2).....	14
2.2.4. High-Density Residential District (R-3).....	15
2.2.5. Manufactured Home Park District (M-H).....	16
Section 2.3 Mixed-Use and Commercial Districts	17

2.3.1. General Purposes of All Mixed-Use and Commercial Districts.....	17
2.3.2. Mixed-Use One District (MU-1)	18
2.3.3. Mixed-Use Two District (MU-2)	19
2.3.4. Mixed-Use Main Street District (MU-MS).....	20
2.3.5. Highway Commercial District (HC)	20
Section 2.4 Other Nonresidential Districts.....	21
2.4.1. General Purposes of Other Nonresidential Districts.....	21
2.4.2. Light Industrial District (I-1).....	22
2.4.3. Open Space/Recreation District (OSR).....	22
2.4.4. Airport District (AP).....	23
Section 2.5 Overlay Districts.....	24
2.5.1. Old Town Overlay District (OTO)	24
2.5.2. Airport Protection Overlay District (APO)	24
Section 2.6 Planned Unit Development.....	27
2.6.1. Purpose	27
2.6.2. Applicability.....	27
2.6.3. PUD Standards.....	28
Section 2.7 Summary Tables of Dimensional Standards.....	30
2.7.1. Residential Districts	30
2.7.2. Mixed-Use and Commercial Districts.....	31
2.7.3. Other Nonresidential Districts.....	32
Section 2.8 Measurements and Exceptions.....	33
2.8.1. Lot Size	33
2.8.2. Setbacks.....	33
2.8.3. Building Height.....	37
2.8.4. Summary of Permitted Encroachments	38
Article 16.03: Use Regulations.....	41
Section 3.1 Table of Allowed Uses	41
3.1.1. Table Abbreviations.....	41
3.1.2. Table Organization	42
3.1.3. Classification of New and Unlisted Uses	42
3.1.4. Table of Allowed Uses.....	42
Section 3.2 Use-Specific Standards.....	46
3.2.1. Residential Uses.....	46
3.2.2. Public, Institutional, and Civic Uses.....	50
3.2.3. Commercial Uses.....	50
3.2.4. Industrial Uses.....	53
Section 3.3 Accessory Uses and Structures	66
3.3.1. Purpose	67
3.3.2. Approval of Accessory Uses and Structures.....	67
3.3.3. General Standards for all Accessory Uses and Structures.....	67
3.3.4. Standards for Specific Accessory Uses and Structures	67
Section 3.4 Temporary Uses and Structures	71
3.4.1. Purpose	71
3.4.2. Approval of Temporary Uses and Structures.....	71
3.4.3. General Standards for All Temporary Uses and Structures	71
3.4.4. Standards for Specific Temporary Uses and Structures	72
Article 16.04: Development and Design Standards	75
Section 4.1 Stormwater Drainage and Erosion Control.....	75
4.1.1. Purpose	75
4.1.2. Applicability.....	75
4.1.3. Site Drainage.....	75

4.1.4. Grading and Erosion Control.....	76
Section 4.2 Access and Circulation.....	76
4.2.1. Purpose	77
4.2.2. Applicability.....	77
4.2.3. Driveways and Access.....	77
4.2.4. Streets and Vehicular Circulation.....	77
4.2.5. Pedestrian Circulation.....	77
Section 4.3 Off-Street Parking and Loading.....	78
4.3.1. Purpose	78
4.3.2. Applicability and Exemptions	79
4.3.3. Computation of Parking and Loading Requirements.....	79
4.3.4. Required Off-Street Parking.....	79
4.3.5. Parking Alternatives.....	82
4.3.6. Parking Area Layout and Design	84
4.3.7. Off-Street Loading.....	85
4.3.8. Stacking.....	86
Section 4.4 Landscaping, Screening, and Fencing.....	86
4.4.1. Purpose	86
4.4.2. Applicability.....	86
4.4.3. Minimum Landscaping Required.....	87
4.4.4. General Requirements for Landscaping.....	87
4.4.5. Installation and Maintenance.....	89
4.4.6. Screening and Fencing.....	90
Section 4.5 Site and Building Design Standards.....	95
4.5.1. Purpose	95
4.5.2. Residential Site and Building Design Standards.....	96
4.5.3. Nonresidential Site and Building Design Standards	100
4.5.4. Design Standards in the Airport (AP) District.....	103
Section 4.6 Exterior Lighting.....	104
4.6.1. Purpose	104
4.6.2. Applicability.....	104
4.6.3. Standards Applicable to All Development.....	105
4.6.4. Parking Area Lighting.....	105
4.6.5. Building Lighting.....	106
4.6.6. Street Lighting	106
Section 4.7 Signs	107
4.7.1. Purpose	107
4.7.2. Applicability.....	108
4.7.3. Prohibited Signs	110
4.7.4. Nonconforming Signs.....	112
4.7.5. Sign Standards.....	113
4.7.6. Sign Review and Approval Procedures	122
4.7.7. Savings and Severability.....	126
Article 16.05: Subdivision	129
Section 5.1 General Provisions.....	129
5.1.1. Purpose	129
5.1.2. Applicability.....	129
5.1.3. Compliance with Other Applicable Requirements.....	129
Section 5.2 Subdivision Design Standards.....	129
5.2.1. Minimal Standards.....	129
5.2.2. Suitability of Land for Subdivision	130
5.2.3. Lot and Block Design.....	130
5.2.4. Public Facilities and Services.....	131
5.2.5. Street Design.....	132

5.2.6. Sidewalks	133
5.2.7. Alleys and Easements.....	133
5.2.8. Water Distribution.....	133
5.2.9. Sanitary Sewage Collection.....	133
5.2.10. Underground Utilities.....	133
Section 5.3 Land Dedication and Fee-in-Lieu Requirements	134
5.3.1. Open Space, Parks, and Trails Dedication.....	134
5.3.2. Fee Payment in Lieu of Curb, Gutter, or Sidewalk.....	135
5.3.3. Tree Planting Fund.....	136
5.3.4. Contribution for Public School Sites	136
5.3.5. Fee Payment in Lieu of Parking.....	138
Section 5.4 Public Improvements Agreements.....	138
5.4.1. Applicability.....	138
5.4.2. Public Improvements Agreement and Guarantee.....	138
5.4.3. Temporary Improvements.....	140
5.4.4. Special Districts.....	140
5.4.5. Failure to Complete Improvements.....	140
5.4.6. Acceptance of Dedication Offers.....	141
5.4.7. As-Built Plans Required	141
Section 5.5 Cost Recovery.....	141
5.5.1. Purpose	141
5.5.2. Applicability.....	142
5.5.3. Methodology for Recovery of Costs of Public Improvements	142
5.5.4. Town Contribution	145
5.5.5. Inclusion of Recovery Costs in Development Applications.....	145
5.5.6. Recordation and Lien.....	145
5.5.7. Timing of Payment of Recovery Costs	146
5.5.8. Termination of Recoveries.....	146
Article 16.06: Review Procedures	147
Section 6.1 Purpose and Organization	147
6.1.1. Purpose	147
6.1.2. Organization of this Article	147
Section 6.2 Summary of Review Procedures.....	148
Section 6.3 Common Review Procedures	150
6.3.1. Step One: Pre-Application Conference.....	150
6.3.2. Step Two: Application Submittal, Acceptance, Revision, and Withdrawal.....	151
6.3.3. Step Three: Staff Review and Action	153
6.3.4. Step Four: Scheduling and Notice of Public Hearings.....	154
6.3.5. Step Five: Planning and Zoning Commission and/or Board of Trustees Review and Decision	157
6.3.6. Step Six: Post-Decision Actions and Limitations	158
Section 6.4 Zoning and UDC Amendments	159
6.4.1. Rezoning.....	159
6.4.2. Rezoning to a Planned Unit Development (PUD)	162
6.4.3. Unified Development Code Amendment.....	166
Section 6.5 Development Permits.....	167
6.5.1. Site Plan Review.....	167
6.5.2. Special Use Permit	172
6.5.3. Temporary Use Permit.....	174
Section 6.6 Subdivision.....	176
6.6.1. Minor Subdivision	177
6.6.2. Sketch Plan.....	179
6.6.3. Preliminary Plat.....	180
6.6.4. Final Plat.....	183

6.6.5. Condominiumization.....	185
6.6.6. Vacation of Right-of-Way or Easement.....	187
Section 6.7 Adjustments, Vesting, and Appeals	189
6.7.1. Administrative Adjustment.....	189
6.7.2. Variance.....	191
6.7.3. Vested Rights.....	194
6.7.4. Appeal.....	196
Section 6.8 Review and Decision-Making Bodies	199
6.8.1. Purpose	199
6.8.2. Board of Trustees.....	199
6.8.3. Planning and Zoning Commission	199
6.8.4. Board of Adjustment.....	199
6.8.5. Town Administration	200
Article 16.07: Rules of Construction and Definitions.....201	
Section 7.1 General Rules of Construction	201
7.1.1. Meanings and Intent.....	201
7.1.2. Headings, Illustrations, and Text.....	201
7.1.3. Lists and Examples.....	201
7.1.4. Computation of Time.....	201
7.1.5. Public Officials and Agencies.....	201
7.1.6. Mandatory and Discretionary Terms.....	202
7.1.7. Conjunctions.....	202
7.1.8. Tenses, Plurals, and Gender	202
Section 7.2 Definitions.....	203

Article 16.01: General Provisions

Commentary:¹

Article 16.01 includes the general provisions for the purpose and intent of this UDC, how it is administered and enforced, and the applicability and jurisdiction of the UDC. This article also includes a new set of transitional provisions for how applications will be processed during the transition from the current development regulations to the new UDC. Nonconformities were relocated to this article. This is a change from the recommendation in the Assessment Memo and Annotated Outline, which suggested a separate article for nonconformities. We felt that the content was better suited here. The enforcement regulations were significantly expanded from current regulations, and these new provisions should be coordinated with any upcoming Town efforts related to code enforcement during the course of this UDC development.

Section 1.1 Title and Effective Date²

1.1.1. Title

These regulations shall officially be known, cited, and referred to as the “Town of Buena Vista Unified Development Code” (UDC).

1.1.2. Effective Date

This UDC is hereby adopted and shall become effective on [insert month/day/201X].

Section 1.2 Purpose and Intent

1.2.1. Purpose³

The general purpose of this UDC is to protect the public health, safety, and welfare of the Town, and to implement policies and actions as called for in the Town of Buena Vista Comprehensive Plan and other adopted Town policies and plans.

1.2.2. Intent⁴

This UDC is intended to:

- A.** Guide the future growth and development of the Town in accordance with the Comprehensive Plan;
- B.** Provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population;
- C.** Protect the character and the social and economic stability of all parts of the Town;
- D.** Encourage the orderly and beneficial development of the community through appropriate growth management techniques, and to assure the timing and sequencing of development;

¹ Commentary such as this are included throughout the document to present some of the larger concepts and changes addressed through this new UDC. The commentary is intended to aid in the reader’s understanding of the particular section, but will be removed prior to the adoption draft.

² Replaces 16-1, 17-1, and 17-8.

³ New purpose statement.

⁴ Several purpose statements carried forward from current Section 17-3, with revisions as noted.

- E.** Promote in-fill development with adequate public facilities in existing neighborhoods and non-residential areas;
- F.** Ensure proper urban form and open space separation of urban areas and protect environmentally critical areas and areas premature for urban development;
- G.** Protect and conserve the value of land throughout the Town and the value of buildings and improvements upon the land;
- H.** Minimize conflicts among uses and buildings;
- I.** Lessen congestion on streets, roads, and highways while accommodating appropriate pedestrian traffic;⁵
- J.** Regulate the subdivision of land;⁶
- K.** Ensure that public facilities and services are available with sufficient capacity to serve proposed development, and that development provides its fair share of capital facilities needs generated by the development;⁷
- L.** Prevent the pollution of air, rivers, streams, and ponds and ensure wise management of natural resources throughout the Town to preserve the integrity, stability, and beauty of the Town;⁸
- M.** Preserve the natural beauty and topography of the Town and ensure appropriate development with regard to natural features; and
- N.** Provide open spaces through the most efficient design and layout of the land.

Section 1.3 Authority⁹

This UDC is adopted pursuant to the authority vested in the Town under Colorado Revised Statutes §29-20-101 et seq. (Colorado Land Use Control Enabling Act) and §31-23-301 et seq., as amended.

Section 1.4 Applicability and Jurisdiction

1.4.1. General Applicability¹⁰

This UDC shall apply to all land, building, structures, and land uses located in the Town of Buena Vista, unless an express exemption is granted pursuant to this UDC.

1.4.2. Compliance Required¹¹

- A.** No permit, certificate, license, or approval for any use that is subject to this UDC shall be issued or granted by any department, agency, Town official, or Town employee without compliance with this UDC.
- B.** Any permit, certificate, license, or approval issued in violation of this UDC, or the land use and development regulations in effect at the time of issuance, is void.¹²

⁵ Replaces 17-3(g).

⁶ Replaces 17-3(h),(m), and (n).

⁷ Simplified version of 17-3(i).

⁸ Replaces 17-3(j).

⁹ Replaces first part of current 16-2, authority and application.

¹⁰ Replaces second part of current 16-2.

¹¹ New standards typically included in zoning codes.

¹² From 16-3(c), revised.

- C. No building or structure shall be erected, converted, enlarged, reconstructed, or altered without full compliance with this UDC.
- D. No subdivision of property shall create a lot of record or occur without compliance with this UDC.

1.4.3. Application to Governmental Agencies¹³

This UDC shall apply to all land, buildings, structures, and land uses owned by governmental agencies to the extent permitted by federal, state, and local laws. When this UDC does not control governmental agencies, such governmental agencies are encouraged to comply with this UDC.

1.4.4. Conflicts with Other Ordinances¹⁴

A.

Whenever there is a conflict between this UDC and other ordinances or regulations, as determined by the Town Administrator, whichever imposes higher standards shall govern.

1.4.5. Private Covenants¹⁵

- A. Nothing in this UDC shall be construed to render inoperative any restrictions established by covenants running with the land unless such restrictions are prohibited by or are directly contrary to this UDC.
- B. The Town of Buena Vista does not enforce private covenants and/or restrictions.

1.4.6. Emergency Powers¹⁶

The Board of Trustees may authorize any deviation from this UDC during a local emergency. Local emergencies shall be declared in accordance with Chapter 2, Article XVI, and any deviations from this UDC during such an emergency shall be authorized by separate resolution of the Board of Trustees without a requirement for advance notice or public hearing. The Board of Trustees shall provide written notice in a public location as soon as practicable following any official action taken.

Section 1.5 Nonconformities¹⁷

1.5.1. Generally

A. Purpose¹⁸

As the result of the adoption, amendment, and repeal from time to time of the regulations within this UDC, certain land uses, lots, or structures that were lawfully established or allowed at the time of their creation may become nonconforming and/or prohibited. It is the intent of this section to allow the continuation of such nonconforming uses, lots, and structures.

¹³ New standard to encourage compliance with the UDC even when some governmental agencies are not required by law to do so.

¹⁴ New standard. Revised since Module 1.

¹⁵ New standards.

¹⁶ New. Many communities include these emergency powers to expedite decision-making during unplanned emergencies, natural or man-made disasters, or any other emergency.

¹⁷ These are mostly new regulations, unless otherwise noted.

¹⁸ Replaces 16-121.

B. Determination of Nonconformity Status

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

C. Maintenance and Minor Repair

Minor repairs or maintenance of nonconformities are permitted and encouraged, provided that the repairs and maintenance do not increase the degree of nonconformity. Maintenance and repairs that qualify as “minor” include the following:

1. Repairs necessary to maintain and to correct any damage or deterioration to the structural soundness of, or the exterior or interior appearance of, a building or structure, without expanding the building or structure;
2. Maintenance of land to protect against and mitigate health and environmental hazards; and
3. Repairs that are required to remedy otherwise unsafe conditions.

D. Violation of Law Not Allowed

Nothing in this section shall be construed as authorizing violation of any law.

1.5.2. Nonconforming Uses

A. Continuation of Use¹⁹

Uses lawfully existing prior to the enactment of this UDC, or any subsequent amendment, shall be allowed to continue in the same manner and to the same degree as established before the creation of nonconforming uses, subject to the following:

1. A nonconforming use shall not be expanded, enlarged, increased, or extended to occupy a greater area of land than occupied on the date of the creation of the nonconformity.
2. A nonconforming use shall not be changed or altered to another nonconforming use.
3. A nonconforming use shall not resume, or be restored or reestablished after a discontinuance of six consecutive months or more.
4. A nonconforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use.²⁰

B. Change in Use

A nonconforming use may change to an allowed use within the zoning district in accordance with the following:

1. The change in use shall not create any additional nonconforming situations or increase any existing nonconformity;
2. Any new improvements necessitated by the change in use shall conform to all standards of the applicable zoning district, and use-specific standards applicable to the new use, the building code, and any other applicable Town standards;
3. Any expansion associated with a proposed change in use shall comply with this UDC; and
4. Any change in use that requires a special use permit, PUD approval, and/or rezoning shall only be allowed if the proposed use and site improvements, other than existing nonconforming structures, comply with this UDC.

¹⁹ From 16-122, revised for clarity. Relocated damage of structure provision to later section on nonconforming structures.

²⁰ New standard.

C. Nonconforming Residences²¹

1. Existing single-family, two-family, or multifamily dwellings located in zoning districts other than the R-1, R-2, and R-3 districts may be enlarged, altered, rebuilt, or repaired provided that no additional dwelling units are added, including accessory dwelling units, and that any enlargement, alteration, rebuilding, or repair complies with the dimensional standards for the applicable zoning district.
2. Existing manufactured homes in manufactured home parks may be altered, rebuilt, replaced, or repaired provided that the total number of manufactured home sites within a manufactured home park remains the same, and the alteration, rebuilding, replacement, or repair complies with the standards for the M-H district.

1.5.3. Nonconforming Structures**A. Damage or Destruction²²**

When a nonconforming structure is damaged in excess of 60 percent of its assessed value at the time of damage, it shall only be restored in compliance with this UDC.

B. Expansion of a Nonconforming Structure²³

A nonconforming structure may be allowed to expand if the expansion complies with this UDC. An expansion shall not increase the degree of any nonconformity, as determined by the Town Administrator.

C. Movement of a Nonconforming Structure

A nonconforming structure shall only be moved if such movement places the structure in a location that removes the nonconformity and complies with this UDC.

D. Nonconforming Accessory Structures

A nonconforming accessory structure shall not be converted into a primary structure unless the structure complies with this UDC.

1.5.4. Nonconforming Lots**A. Nonconforming by Virtue of Enactment**

If a lot is made nonconforming by virtue of enactment of this UDC, the lot may be developed provided that the proposed development complies with this UDC except for lot area and/or lot width standards.

B. Change in Use or Expansion of Use or Structure on a Nonconforming Lot²⁴

A special use permit is required for any change in use or expansion of a use or structure on a nonconforming lot. The following criteria shall apply in addition to the procedures in Section 6.5.2, *Special Use Permit*:

1. If the total cumulative area of all expansions increases the use or gross floor area of a structure by more than 20 percent of the existing use or gross floor area of the structure existing prior to the effective date of this UDC, all existing site improvements other than the existing nonconforming structures shall comply with this UDC.

²¹ From 16-124, revised for clarity and to require compliance with underlying dimensional standards. Current provision requires compliance with the R-2 district dimensions, regardless of the district that the subject property is in.

²² Replaces 16-122, relocated here from continuation of uses. Changed "fair market value" to "assessed value" for ease of enforcement.

²³ Replaces 16-123.

²⁴ New standards. We did not carry forward 16-125, Nonconforming Lots of Record, and 16-125.5, Merger of Nonconforming Lots.

2. All new improvements other than expansions subject to the requirements in paragraph 1 above shall comply with this UDC.

C. Change in a Conforming Use or Structure When Lot Size is Only Nonconformity

If a change in use is proposed on a property where the only nonconformity is the lot size, then the use shall be permitted without requiring a special use permit as long as the new proposed use complies with any applicable use-specific standards pursuant to Section 3.2.

D. Subdivision Shall Not Create Nonconformities²⁵

No subdivision or adjustment to lots shall create nonconforming lots, or cause any structure, building, space, or use to become nonconforming.

1.5.5. Nonconforming Site Features²⁶

A. Applicability

1. For purposes of this subsection, the term “nonconforming site feature” includes any driveway, off-street parking or loading area, landscaping, buffer, screening, or exterior lighting that lawfully existed before becoming noncompliant with this UDC.
2. A nonconforming site feature may continue to exist even though it does not conform to current applicable standards of this UDC, subject to the requirements of this subsection.
3. No nonconforming site features shall be increased by degree or extent.

B. Nonconforming Off-Street Parking

1. Continuation of Nonconforming Off-Street Parking

Except as otherwise provided in this UDC, any parking spaces or access to public rights-of-way lawfully existing on the effective date of this UDC that are made nonconforming by virtue of enactment of this UDC shall be allowed to continue, provided that:

- a. Any change in use or expansion of any use or structure shall only be permitted if the additional number of parking spaces required by the expansion or change in use is provided according to Section 4.3, *Off-Street Parking and Loading*.
- b. Nonconforming off-street parking areas shall not be expanded. When additional parking is required by this UDC, all new parking areas shall comply with this UDC.

2. Upgrading of Nonconforming Off-Street Parking²⁷

Nonconforming off-street parking facilities shall be upgraded to achieve full compliance with this UDC’s off-street parking standards in conjunction with the following development of the site containing the nonconforming parking:

- a. An addition to or expansion of one or more structures that, over a two-year period, would increase the total gross floor area of the structures (as shown by Building Permit applications) by more than 50 percent; or
- b. A remodeling of one or more structures that, over a two-year period, would cost (as shown by Building Permit applications) more than 50 percent of the current assessed value of the structures.

²⁵ From 16-126, revised to exclude first half of that provision that was redundant.

²⁶ New standards.

²⁷ This new subsection requires the upgrading of parking nonconformities to full compliance with applicable standards in conjunction with a substantial expansion or remodeling of an existing development.

C. Upgrading on Nonconforming Buffers, Landscaping, Screening, and Outdoor Lighting

Nonconforming buffers, landscaping, screening, and outdoor lighting shall be upgraded to achieve full compliance with this UDC's buffer, landscaping, screening, and outdoor lighting standards for any of the following developments on the site containing those nonconforming site features:

1. An increase in the total square footage of the vehicular use area by more than 10 percent; or
2. A structural addition that increases the combined total gross floor area of all existing structures by more than 500 square feet or 20 percent, whichever is less; or
3. Building elevation changes involving 50 percent or more of the exterior walls of a roofed structure on the property within a two-year period, excluding minor cosmetic items such as painting, masonry repair, lighting fixtures, awnings, and signs. A modification to only part of an elevation shall constitute a change in the entire elevation of that exterior wall;
4. Expansion of outdoor operations, storage, or display areas on a site containing nonconforming buffers or screening that increases the gross square footage of such areas shall require nonconforming buffers and screening to comply with the UDC buffer, landscaping, and screening requirements.

D. Compliance to the Maximum Extent Practicable

Where full compliance with the requirements of this subsection is precluded by a lack of sufficient developable area due to the size of the lot, the layout of existing development, or the presence of significant wetlands, floodplains, watercourses, or other significant environmental constraints, the applicant shall comply with the requirements of this section to the maximum extent practicable, as determined by the Town Administrator.

1.5.6. Nonconforming Signs

See Section 4.7.4.

Section 1.6 Enforcement²⁸

1.6.1. Purpose²⁹

This section identifies violations of this UDC and establishes procedures for the Town to ensure compliance with this UDC and to correct violations. This section also sets forth the remedies and penalties for violations of this UDC.

1.6.2. Enforcement Officers and Authorization³⁰

- A. The UDC shall be enforced and administered by the Town's enforcement officers, including the Town Administrator or such subordinate officer(s) as he or she may designate and authorize.
- B. Any enforcement officer shall be authorized to enter upon and inspect any public or private property in the Town of Buena Vista to enforce this UDC pursuant to the Town's adopted procedures.

²⁸ Many of these standards are new and are fairly common to development codes.

²⁹ Replaces 16-21.

³⁰ From 16-22, revised for clarity and expanded on.

1.6.3. Continuation of Prior Enforcement Actions

Nothing in this UDC shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to the previous regulations.

1.6.4. Violations

A. Violations of the UDC

Each of the following shall be a violation of this UDC:

1. Activity Inconsistent with this UDC

Any erection, construction, reconstruction, remodeling, alteration, maintenance, expansion, movement, or use of any land, site, building, structure, or sign that is inconsistent with this UDC.

2. Activity Inconsistent with Permit or Approval

Any development, use, or other activity that is inconsistent with the terms or conditions of any permit or approval required to engage in such activity under this UDC.

3. Illegal Lot Split

Any subdivision of property not authorized by the Town after the initial adoption of the Town's subdivision regulations, dated May 27, 1975, as amended.³¹ The sale or exchange of parcels of land between owners of adjoining properties for the purpose of adjusting boundaries that did not create additional lots and the original parcels or lots were not reduced below the minimum size requirements was allowed until July 27, 2010. Any such reconfiguration after that time is a violation of this UDC.

B. Continuation of Violations

Each day that a violation occurs or remains uncorrected following a notice of violation shall constitute a separate and distinct violation of this UDC.

1.6.5. Penalties and Remedies

A. Denial, Withholding, or Revocation of Permits

1. No building permit, water system connection permit, access permit, or other permit shall be issued for any building, development, structure, lot, or parcel created, used, sold, or conveyed in violation of this UDC, unless otherwise permitted by Section 1.5, *Nonconformities*.³²
2. Any permit or approval issued in reliance upon or as a result of a materially false statement or representation made by the applicant in the process of obtaining a permit or development approval shall be void. Any person having received a void or voidable permit or approval shall not be relieved from having to comply with all applicable terms and conditions of this UDC, and the Town shall not be estopped from fully enforcing same.³³

B. Stop-Work Orders

1. The Town Administrator may issue a stop-work order whenever any building, structure, site, or portion of a building, structure, or site is being demolished, constructed, reconstructed,

³¹ Based on ordinance 7 of 1974.

³² From 16-3(b), revised for clarity.

³³ From 16-3(c), revised for clarity.

altered, or repaired in a hazardous manner, in substantial violation of any applicable building code, or in a manner that endangers life or property.

2. The Town Administrator may issue a stop-work order for any activity conducted in violations of this UDC.
3. A stop-work order shall be in writing and directed to the person doing the work and the property owner, and shall specify the provision of this UDC or other law in violation. The stop work order shall be delivered via certified mail, return receipt requested.
4. If a stop-work order is issued, no work shall proceed on any building, structure, site, or portion of a building, structure, or site subject to the order except to correct a violation or to comply with the order.
5. Once conditions cited in the stop-work order have been adequately addressed, the Town Administrator shall rescind the stop-work order.

C. Penalty³⁴

Violations of this UDC shall be punishable upon conviction for each separate offense by a fine or imprisonment, or both, as set forth in Article IV of Chapter 1 of the Municipal Code.

D. Injunctive Relief

The Town Administrator may seek injunctive relief or other appropriate relief in a court of competent jurisdiction for a violation of this UDC.

E. Abatement

The Town may abate a violation pursuant to the Town’s adopted procedures for nuisance abatement.

Section 1.7 Severability³⁵

- A. If any provision of this UDC is invalidated by a court of competent jurisdiction, such judgment shall not affect the validity of the remaining provisions of this UDC.
- B. If any application of any provision of this UDC is invalidated by a court of competent jurisdiction, such judgment shall not affect the application of that provision to any other parcel, building, structure, or use not specifically included in that judgment.
- C. If any condition attached to an approval of an application for development is invalidated by a court of competent jurisdiction, such judgment shall not affect any other conditions attached to the same approval unless specifically included in that judgment.

Section 1.8 Transition from Prior Regulations³⁶

1.8.1. Prior Building Permits

Any building permit issued by the Town of Buena Vista prior to the effective date of this UDC shall be valid, provided the construction is started within one year from the date of the issuance of the permit.

³⁴ From 16-3(a), revised for clarity.

³⁵ Replaces current 17-9, Separability.

³⁶ These are new regulations to clarify the status of violations, nonconformities, recently approved developments, and pending applications that exist at the time this UDC is adopted or is made effective. Section 17-11, Repeal of Prior Regulations was not carried forward.

1.8.2. Prior Violations³⁷

If a development or activity in violation of the prior regulations fully complies with this UDC, it shall no longer be deemed a violation. Unpaid fees or penalties from prior enforcement of violations are still valid and shall be the responsibility of the violator of the prior regulation.

1.8.3. Prior Nonconformities

To the extent a legal nonconformity under the prior regulations becomes conforming under this UDC, it shall no longer be deemed nonconforming. Otherwise, it shall continue to be deemed nonconforming and subject to Section 1.5, *Nonconformities*.

1.8.4. Development Approvals

Any development approved under the prior regulations may be established or carried out under the terms and conditions of the approval and the development standards in effect at the time of approval, provided the approval has not expired and otherwise remains valid, and the approved development complies with the standards of this UDC regarding ongoing operations and maintenance. If the prior approval expires, is revoked, or otherwise becomes invalid, any subsequent development of the site shall be subject to the procedures and standards of this UDC.

1.8.5. Pending Applications³⁸

A development application accepted as complete under the prior regulations, but still pending a final decision as of the effective date of this UDC, may be reviewed and decided under the development regulations in effect when the application was accepted, or under this UDC, at the applicant's discretion. Such application shall not be processed under a combination of the old regulations and this UDC.

³⁷ This new provision allows previous violations to continue to be pursued by the Town.

³⁸ This new provision is common. Many communities allow accepted applications still pending approval to be processed under the old regulations or the new regulations according to the applicant's preference.

Article 16.02: Zoning Districts

Commentary:

This article represents the current thinking on the lineup of zoning districts for Buena Vista, per the recommendations made in the Assessment Memo and Annotated Outline.

New Districts:

The MU-1 District – replaces the current B-1 OT mixed-use designation for development in the OT overlay west of Highway 24. The district can also be used for other “neighborhood mixed-use” areas throughout the Town.

The MU-2 District – replaces the current B-1 OT mixed-use designation for development in the OT overlay east of Highway 24. The district can also be used for other “corridor mixed-use” areas throughout the Town.

The MU-MS District – new district applies to East Main Street, allowing for mixed-use development, intended for a different character from other mixed-use areas and with a higher level of design standards.

The MH District – new district for designation of existing and future manufactured home parks.

The AP District – new district applies to the airport. We did not develop a purpose statement or dimensional standards for this district. The airport should work with the Town to provide adequate standards unique to airport operations and buildings.

Consolidated Districts:

The Old Town Overlay districts were consolidated into one unified Old Town Overlay. Unique dimensional standards define how this overlay applies to base zoning districts in Buena Vista.

Each Zoning District includes a purpose statement and a summary table of applicable dimensional standards. For each of the summary tables, modifications from the current code standards are shown with shaded cells. Cells shaded green indicate that the standard proposed is more flexible; cells shaded red indicate that the standard proposed is more restrictive. In those modified cells, the current code requirement is stricken (e.g., 50). Section 2.7 integrates the zoning district dimensional standards into summary tables for cross-comparison of the dimensions. The final section of this article includes measurements and exceptions to the dimensional standards.

Section 2.1 Districts Established

Zoning districts are established as shown in Table 2.1, Zoning Districts Established. They are organized into the following categories:

2.1.1. Base Zoning Districts³⁹

Base zoning districts are established by the Town’s adoption of the Official Zoning Map and subsequently by approval of a rezoning pursuant to Section 6.4.1. Approval of initial zoning or a rezoning authorizes the full range of development allowed by the standards applicable to the base zoning district.

Table 2.1: Zoning Districts Established	
Residential Districts	
R-1	Low-Density Residential District
R-2	General Residential District
R-3	High-Density Residential District
M-H	Manufactured Home Park District
Mixed-Use and Commercial Districts	
MU-1	Mixed-Use One District
MU-2	Mixed-Use Two District
MU-MS	Mixed-Use Main Street District
HC	Highway Commercial District
Other Nonresidential Districts	
I-1	Light Industrial District
OSR	Open Space/Recreation District
AP	Airport District
Overlay Districts	
OTO	Old Town Overlay District
APO	Airport Protection Overlay District
Planned Unit Development District	
PUD	Planned Unit Development District

³⁹ New introduction.

2.1.2. Overlay Districts⁴⁰

- A. Overlay zoning districts are established initially by the Town's adoption of the Official Zoning Map and subsequently by approval of a rezoning pursuant to Section 6.4.1. They are superimposed over one or more underlying base or planned development zoning districts.
- B. Section 2.5, *Overlay Districts*, identifies the overlay zoning districts and sets forth each district's purpose and the standards that modify those of underlying districts.
- C. If the standards for an overlay district conflict with those for an underlying base zoning district, planned unit development district, or another applicable overlay district, the more restrictive standards shall apply.
- D. If the standards in a PUD located within the APO district conflict with the APO district standard, the APO standards shall apply.⁴¹

2.1.3. Planned Unit Developments⁴²

- A. Planned unit development (PUD) districts are established by the Town's approval of a PUD rezoning pursuant to Section 6.4.2. Development in a PUD district is subject to the standards included in or referenced in an approved PUD concept plan.
- B. Section 2.6, *Planned Unit Development*, describes the general purpose of PUD districts and sets forth base requirements applicable to all such districts, including the minimum development standards to be addressed in the district's PUD concept plan and the means of modifying the standards of this UDC through a PUD approval.

2.1.4. Zoning Map

A. Established District Boundaries⁴³

The boundaries of zoning districts are established as shown on the map entitled "Official Zoning Map, Town of Buena Vista, Colorado" adopted by the Board of Trustees and certified by the Town Clerk. The map and all explanatory matter are adopted as part of this UDC. Amendments to the Official Zoning Map shall be in accordance with the procedures in Section 6.4.1, *Rezoning*.

B. Interpretation of District Boundaries⁴⁴

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Official Zoning Map, the following rules shall apply:

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

⁴⁰ New introduction.

⁴¹ Added this clarification since Module 1.

⁴² New introduction.

⁴³ From current 16-82, revised for clarity and to cross-reference procedures (to be developed in 2nd installment).

⁴⁴ From current 16-83, revised for clarity. Removed provision 5 regarding physical or cultural features at variance with those shown on the zoning map being interpreted by the BOA. The new provision 5 more broadly covers any other uncertainties.

3. Where district boundaries are indicated as approximately running parallel to the centerlines of streets, alleys, highways or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel to the centerlines and at a distance as indicated on the Official Zoning Map. If no distance is given, the distance shall be determined by the use of the scale shown on the Official Zoning Map.
4. Where a district boundary line divides a lot in single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole lot, provided that such extensions shall not include any part of such a lot more than 35 feet beyond the district boundary line.
5. In the event of any other uncertainty not mentioned in this section, the Town Administrator shall recommend the location of such boundaries to the Board of Adjustment and the Board of Adjustment shall make the final determination.⁴⁵

Section 2.2 Residential Districts

2.2.1. General Purposes of All Residential Districts⁴⁶

The residential districts established in this section are intended to:

- A. Provide appropriately located lands for residential development that are consistent with the policies and actions of the Comprehensive Plan;
- B. Ensure adequate light, air, privacy, recreation areas, and open space for each dwelling, and protect residents from the negative effects of noise, incompatible population density, traffic congestion, flooding, and other significant adverse environmental impacts;
- C. Protect residential areas from fires, explosions, airborne contaminants and substances, and other public safety hazards;
- D. Provide for residential housing choice, affordability, and diversity with varying housing densities, types, and designs;
- E. Provide for safe and efficient vehicular access and circulation and promote bicycle-, pedestrian-friendly neighborhoods;
- F. Provide for public services and facilities needed to serve residential areas and accommodate public and semi-public land uses that complement residential development while protecting residential areas from incompatible nonresidential development; and
- G. Create neighborhoods and preserve existing community character while accommodating new infill development and redevelopment consistent with the Town's goals and objectives.

⁴⁵ New provision replaces current 16-83(5).

⁴⁶ New. We often include these general intent statements for district types.

2.2.2. Low-Density Residential District (R-1)

A. Purpose⁴⁷

The R-1 district is intended primarily for low-density single-family detached dwellings. The R-1 district should have connected streets, and accessibility to public uses such as parks, open spaces, and schools.

B. R-1 District Dimensional Standards

Project and Site Requirements	R-1	Old Town Overlay
Lot area, min. (square feet)	6,500 ⁴⁸	None
Lot width, min. (feet)	65	25
Lot width, max. (feet) ^[1]	None	100
Yard Requirements		
Front setback, min. (feet)	25	15
Front setback, max. (feet)	None	25
Side setback, min. (feet)	5	3
Rear setback, min. (feet)	15	5 ^[2]
Rear setback, accessory structures, with alley present, min. (feet)	None	None
Rear setback, accessory structures, with no alley present, min. (feet) ⁴⁹	5	5
Building coverage, max.	40% ⁵⁰	60%
Required landscaping, min. ⁵¹	25%	25%
Building Requirements		
Primary building height, max. (feet)	30 ⁵²	30
Accessory building height, max. (feet) ⁵³	30 ⁵⁴	30
Notes:		
[1] A single-family dwelling shall not occupy more than two historic Old Town lots; a two-family dwelling shall not occupy more than three historic Old Town lots.		
[2] If alley present, then the minimum rear setback is zero.		

2.2.3. General Residential District (R-2)

A. Purpose⁵⁵

The R-2 district is intended primarily for single-family detached dwellings, two-family dwellings, and other medium-density residential uses. The district should have connected streets, and accessibility to public uses such as parks, open spaces, and schools. The district may also serve as a transition between higher-density neighborhoods and lower-density neighborhoods, or between low-density mixed-use developments and residential neighborhoods.

⁴⁷ Replaces 16-142.

⁴⁸ Eliminated 10,000 sf requirement for two-family.

⁴⁹ Replaces current note (d) to Table 16-245, which determines setbacks for accessory structures based on whether the doors open onto a public right-of-way.

⁵⁰ Current code allows for 40% building coverage for two-family.

⁵¹ From current Table 16-1, Section 16-255.

⁵² Current code and earlier draft was 25 feet. Increased height to 30 feet to accommodate two-story homes with a pitched roof.

⁵³ New standard. Current code does not limit height of accessory structures.

⁵⁴ Previous drafts limited accessory building height to 22 feet. That was insufficient to accommodate an ADU above a garage with a pitched roof.

⁵⁵ Replaces 16-145.

B. R-2 District Dimensional Standards

Table 2.3: R-2 District Dimensional Standards		
Project and Site Requirements	R-2	Old Town Overlay
Lot area, min. (square feet)	6,000 5,000 ⁵⁶	None
Lot width, min. (feet)	65 50 ⁵⁷	25
Lot width, max. (feet) ^[1]	None	100
Yard Requirements		
Front setback, min. (feet)	20 12	10
Front setback, max. (feet)	None	20
Side setback, min. (feet)	5	3
Rear setback, min. (feet)	15 10	5 ^[2]
Rear setback, accessory structures, with alley present, min. (feet)	None	None
Rear setback, accessory structures, with no alley present, min. (feet) ⁵⁸	5	5
Building coverage, max.	35% 55% ⁵⁹	70%
Required landscaping, min. ⁶⁰	25% 20%	20%
Building Requirements		
Primary building height, max. (feet)	35	35
Accessory building height, max. (feet) ⁶¹	30	30
Notes:		
[1] A single-family dwelling shall not occupy more than two historic Old Town lots; a two-family dwelling shall not occupy more than three historic Old Town lots.		
[2] If alley present, then the minimum rear setback is zero.		

2.2.4. High-Density Residential District (R-3)

A. Purpose⁶²

The R-3 district is intended for a broad range of residential use types, including single-family and multifamily residential development at medium- and/or high-densities. The district is intended for locations close to commercial and mixed-use areas, near downtown, and may serve as a transition between lower-density residential districts and commercial or other nonresidential areas. The district should have connected streets, and accessibility to public uses such as parks, open spaces, and schools.

⁵⁶ Previously 6,000 sf for single-family, and 10,000 sf for two-family.

⁵⁷ Previously 65 feet. With appropriate setbacks in place, the lot width becomes less important. As an alternative, we could eliminate the minimum lot width requirements altogether.

⁵⁸ Replaces current note (d) to Table 16-245, which determines setbacks for accessory structures based on whether the doors open onto a public right-of-way.

⁵⁹ Current code allows for 35% for single-family and 40% for two-family.

⁶⁰ From current Table 16-1, Section 16-255.

⁶¹ New standard. Current code does not limit height of accessory structures.

⁶² Replaces 16-148.

B. R-3 District Dimensional Standards

Table 2.4: R-3 District Dimensional Standards		
Project and Site Requirements	R-3	Old Town Overlay
Lot area, min. (square feet)	6,000 2,500 ⁶³	None
Lot area, min. (square feet), single-family attached dwellings with zero side setbacks (excluding end units) ⁶⁴	1,500	1,500
Lot width, min. (feet)	65 25 ⁶⁵	25
Lot width, min. (feet), single-family attached and two-family dwellings ⁶⁶	15	15
Lot width, max. (feet) ¹¹	None	100
Yard Requirements		
Front setback, min. (feet)	5	5
Front setback, max. (feet)	None	15
Side setback, min. (feet)	5	3
Side setback, min. (feet) between internal dwelling units for single-family attached and two-family dwellings	None	None
Rear setback, min. (feet)	15 5	5 ²²
Rear setback, accessory structures, with alley present, min. (feet)	None	None
Rear setback, accessory structures, with no alley present, min. (feet) ⁶⁷	5	5
Building coverage, max.	35% 75% ⁶⁸	80%
Required landscaping, min. ⁶⁹	20% 15%	15%
Building Requirements		
Primary building height, max. (feet)	35 45 ⁷⁰	45
Accessory building height, max. (feet) ⁷¹	30	30
Notes:		
[1] A single-family dwelling shall not occupy more than two historic Old Town lots; a two-family dwelling shall not occupy more than three historic Old Town lots.		
[2] If alley present, then the minimum rear setback is zero.		

2.2.5. Manufactured Home Park District (M-H)⁷²

A. Purpose

The purpose of the M-H district is to provide suitable locations for manufactured homes and manufactured home parks. Manufactured home parks shall offer high-quality planning and design for the benefit of the residents and the Town of Buena Vista. The district shall provide accessibility to public uses such as parks, open spaces, and schools.

⁶³ Previously 6,000 sf for single-family, 10,000 sf for two-family and three-family, 12,000 sf for four-family, and 2,500 for a row house.

⁶⁴ New standard.

⁶⁵ Previously 65 feet.

⁶⁶ New standard to allow for narrow lots for attached housing products.

⁶⁷ Replaces current note (d) to Table 16-245, which determines setbacks for accessory structures based on whether the doors open onto a public right-of-way.

⁶⁸ Current code allows for 35% for single-family, 40% for two-family, and 50% for others.

⁶⁹ From current Table 16-1, Section 16-255.

⁷⁰ Previously 35 feet. This would allow for multifamily apartment development of four stories.

⁷¹ New standard. Current code does not limit height of accessory structures.

⁷² This is a new district proposed to apply to designated manufactured home parks. Although the district is new, many of the standards were carried forward from the current mobile home park standards from 16-150(1).

B. M-H District Dimensional Standards

Table 2.5: M-H District Dimensional Standards	
Project and Site Requirements	
Site area for manufactured home park, min.	1 acre
Site area for manufactured home park, max.	6 acres
Site area per manufactured home site, min. (square feet)	3,000
Manufactured home site width, min. (feet)	35
Density, max. (manufactured home sites per acre)	12
Yard Requirements	
Setback from exterior boundary of the park adjacent to public right-of-way, min. (feet)	20
Setback from exterior boundary of the park not adjacent to public right-of-way, min. (feet)	5
Setback from exterior boundary of the park adjacent to public right-of-way, common structures, min. (feet)	40
Landscaping and Open space for manufactured home park site, min. gross area	8%
Building Requirements	
Primary building height, max. (feet)	25
Common area structures height, max. (feet)	25

C. Other District-Specific Standards

Manufactured homes and manufactured home parks shall comply with the additional standards in Section 3.2.1.E.

Section 2.3 Mixed-Use and Commercial Districts

2.3.1. General Purposes of All Mixed-Use and Commercial Districts⁷³

The mixed-use and commercial districts are intended to promote compact, mixed-use and commercial development patterns that provide an opportunity to live, work, create, and shop in pedestrian-friendly environments.

- A.** Provide strong multi-modal (e.g., pedestrian, bicycle, automobile, public transportation) connections between diverse uses to create a busier, safer, and more exciting environment for residents, employees, and visitors;
- B.** Encourage efficient land use by facilitating compact, higher-density development and minimizing the amount of land that is needed for surface parking while reducing vehicle trips;
- C.** Encourage both a vertical and horizontal mix of land uses;
- D.** Provide for an interesting and walkable environment;
- E.** Accommodate development intensities appropriate to the scale of the area served by the district;
- F.** Facilitate efficient vehicular traffic flow by allowing only land uses developed with comprehensively planned access, egress, and internal circulation systems; and

⁷³ New.

- G. Provide a range of office, retail, service, institutional, and related uses to meet household and business needs along highway corridors.

2.3.2. Mixed-Use One District (MU-1)

A. Purpose⁷⁴

The MU-1 district is intended to allow for a vertical or horizontal mix of residential and commercial land uses. The MU-1 district is intended to provide small, compact mixed-use centers that are walkable and compatible in scale and character with surrounding neighborhoods. The MU-1 district is intended to support a mix of low- to medium-density residential, retail, cultural, entertainment, and office uses that maintain an active street presence.

B. MU-1 District Dimensional Standards

Table 2.6: MU-1 District Dimensional Standards		
Project and Site Requirements	MU-1	Old Town Overlay
Lot area, min. (square feet)	2,500	None
Lot area, min. (square feet), single-family attached dwellings with zero side setbacks (excluding end units) ⁷⁵	1,500	1,500
Lot width, min. (feet) ⁷⁶	25	25
Lot width, min. (feet), single-family attached and two-family dwellings ⁷⁷	15	15
Lot width, max. (feet) ^[1]	None	100
Yard Requirements		
Front setback, min. (feet)	None	None
Front setback, max. (feet)	15	15
Frontage build out, min. ^[2]	60% 65%	65%
Side setback, min. (feet) ^[3]	None	None
Side setback, min. (feet) between internal dwelling units for single-family attached and two-family dwellings	None	None
Rear setback, min. (feet) ^[3]	None	None
Rear setback, accessory structures, min.	None	None
Building coverage, max. ⁷⁸	100% 80%	90% ⁷⁹
Required landscaping, min. ⁸⁰	10%	10%
Building Requirements		
Primary building height, max. (feet)	35	45
Accessory building height, max. (feet) ⁸¹	35	35
Notes:		
[1] A single-family dwelling shall not occupy more than two historic Old Town lots; a two-family dwelling shall not occupy more than three historic Old Town lots.		
[2] The frontage buildout is the percentage of building frontage that must be between zero feet and the maximum setback distance.		
[3] Properties abutting residential zoning districts shall provide adequate screening, per Section 4.4.6. ⁸²		

⁷⁴ New. Purpose statements for the MU-1, MU-2, and MU-MS replace the previous Section 16-153 for the B-1 general business district, which stated: "The B-1 General Business District is established as a district in which the principal use of land is for retail sales and services to the consumer."

⁷⁵ New standard.

⁷⁶ The minimum lot width requirement is not as important once the appropriate setbacks and lot coverages have been assigned. This standard could be eliminated altogether.

⁷⁷ New standard to allow for narrow lots for attached housing products.

⁷⁸ The current maximum building coverages for B-1, B-2, and I-1 districts are infeasible given the setback requirements and minimum landscaping requirements. This draft proposes more reasonable building coverage maximums.

⁷⁹ Revised from 100% since Module 1 because 100 percent building coverage conflicted with 10% landscaping requirement.

⁸⁰ From current Table 16-1, Section 16-255.

⁸¹ New.

⁸² Current note (c) to 16-245 requires 8-foot high fence or vegetative buffer strip.

2.3.3. Mixed-Use Two District (MU-2)

A. Purpose⁸³

The MU-2 district is intended to allow for a vertical or horizontal mix of residential and commercial land uses in activity centers along the town’s primary transportation corridors and gateways. The MU-2 district is intended to support a mix of residential, retail, cultural, entertainment, and office uses that are consistent with Buena Vista’s character and meet both local and regional needs. The MU-2 district accommodates medium- and high-density residential, and is intended to provide for pedestrian-scale development with an active street presence.

B. MU-2 District Dimensional Standards

Table 2.7: MU-2 District Dimensional Standards		
Project and Site Requirements	MU-2	Old Town Overlay
Lot area, min. (square feet)	2,500	None
Lot area, min. (square feet), single-family attached dwellings with zero side setbacks (excluding end units) ⁸⁴	1,500	1,500
Lot width, min. (feet) ⁸⁵	25	25
Lot width, max. (feet) ¹¹	None	100
Yard Requirements		
Front setback, min. (feet)	None	None
Front setback, max. (feet)	15	15
Frontage build out, min. ^[2]	60% 75%	75%
Side setback, min. (feet) ^[3]	None	None
Side setback, min. (feet) between internal dwelling units for single-family attached and two-family dwellings	None	None
Rear setback, min. (feet) ^[3]	None	None
Rear setback, accessory structures, min.	None	None
Building coverage, max. ⁸⁶	100% 90%	90% ⁸⁷
Required landscaping, min. ⁸⁸	10%	10%
Building Requirements		
Primary building height, max. (feet)	35 45	45
Accessory building height, max. (feet) ⁸⁹	35	35
Notes:		
[1] A single-family dwelling shall not occupy more than two 25-foot wide historic Old Town lots; a two-family dwelling shall not occupy more than three 25-foot wide historic Old Town lots.		
[2] The frontage buildout is the percentage of building frontage that must be between zero feet and the maximum setback distance.		
[3] Commercial properties abutting residential zoning districts shall provide adequate screening, per Section 4.4.6. ⁹⁰		

⁸³ New.

⁸⁴ New standard.

⁸⁵ The minimum lot width requirement is not as important once the appropriate setbacks and lot coverages have been assigned. This standard could be eliminated altogether.

⁸⁶ The current maximum building coverages for B-1, B-2, and I-1 districts are infeasible given the setback requirements and minimum landscaping requirements. This draft proposes more reasonable building coverage maximums.

⁸⁷ Revised from 100% since Module 1 because 100 percent building coverage conflicted with 10% landscaping requirement.

⁸⁸ From current Table 16-1, Section 16-255.

⁸⁹ New.

⁹⁰ Current note (c) to 16-245 requires 8-foot high fence or vegetative buffer strip.

2.3.4. Mixed-Use Main Street District (MU-MS)

A. Purpose⁹¹

The MU-MS district is intended to allow for a vertical or horizontal mix of residential and commercial land uses except single-family dwellings along East Main Street in downtown Buena Vista, and other “main street” developments throughout the Town. The district is intended to maintain a vibrant downtown with shopping opportunities, offices, entertainment, lodging, and civic uses. The MU-MS district is intended for predominantly vertical mixed-use (commercial on first floor and other commercial or residential above), with occasional horizontal mixed-use. The MU-MS district places an emphasis on an active street presence with appropriate character and form.

B. MU-MS District Dimensional Standards

Table 2.8: MU-MS District Dimensional Standards	
Project and Site Requirements	
Lot width, min. (feet) ⁹²	25
Yard Requirements	
Front setback, min. (feet)	None
Front setback, max. (feet)	0 5 ⁹³
Frontage build out, min. ^[1]	70% 85% ⁹⁴
Side setback, min. (feet) ^[2]	None
Rear setback, min. (feet) ^[2]	None
Rear setback, accessory structures, min.	None
Building coverage, max. ⁹⁵	100 %
Required landscaping, min. ⁹⁶	None
Building Requirements	
Primary building height, max. (feet)	45 ⁹⁷
Accessory building height, max. (feet) ⁹⁸	35
Notes:	
[1] The frontage buildout is the percentage of building frontage that must be between zero feet and the maximum setback distance.	
[2] Properties abutting residential zoning districts shall provide adequate screening, per Section 4.4.6. ⁹⁹	

2.3.5. Highway Commercial District (HC)

A. Purpose¹⁰⁰

The HC district is intended to:

⁹¹ New.

⁹² The minimum lot width requirement is not as important once the appropriate setbacks and lot coverages have been assigned. This standard could be eliminated altogether.

⁹³ The current standard on Main Street is a maximum setback of zero feet between Hwy 24 and Belden. This does not allow for certain creative designs to occur along Main, including wider sidewalks, outdoor dining areas, or interesting building design components.

⁹⁴ The 85% was determined to be the maximum building frontage build out number while also allowing a minimum of three feet separation between buildings on the Old Town 25-foot lots (including a little wiggle room on either side). A 90% requirement would only allow for 2 ½ feet separation, which has been determined inadequate for allowing stairs and walking paths between buildings.

⁹⁵ The current maximum building coverages for B-1, B-2, and I-1 districts are infeasible given the setback requirements and minimum landscaping requirements. This draft proposes more reasonable building coverage maximums.

⁹⁶ From current Table 16-1, Section 16-255.

⁹⁷ Revised from 35 feet in Module 1.

⁹⁸ New.

⁹⁹ Current note (c) to 16-245 requires 8-foot high fence or vegetative buffer strip..

¹⁰⁰ Replaces 16-157.

1. Strengthen the Town’s economic base, and provide employment opportunities close to home for residents of the Town and surrounding communities;
2. Minimize the impact of commercial development on residential uses; and
3. Provide for retail sales and services that require good automobile access, and for other uses not requiring a centralized location but that do require highway frontage, comparatively large lot areas, and open sales yards or unenclosed storage areas.

B. HC District Dimensional Standards

Table 2.9: HC District Dimensional Standards	
Project and Site Requirements	
Lot area, min. (square feet)	2,500
Lot width, min. (feet) ¹⁰¹	25
Yard Requirements	
Front setback, min. (feet)	25
Front setback, max. (feet)	--
Frontage build out, min. [1]	--
Side setback, min. (feet) [2]	None
Rear setback, min. (feet) [2]	None
Rear setback, accessory structures, min.	None
Building coverage, max. ¹⁰²	100% 80%
Required landscaping, min. ¹⁰³	10%
Building Requirements	
Primary building height, max. (feet)	35
Accessory building height, max. (feet) ¹⁰⁴	35
Notes:	
[1] The frontage buildout is the percentage of building frontage that must be between zero feet and the maximum setback distance.	
[2] Properties abutting residential zoning districts shall provide adequate screening, per Section 4.4.6. ¹⁰⁵	

Section 2.4 Other Nonresidential Districts

2.4.1. General Purposes of Other Nonresidential Districts¹⁰⁶

The other nonresidential districts are intended to:

- A. Provide appropriately located areas consistent with the Comprehensive Plan for industrial, recreational, and airport uses;
- B. Strengthen the Town’s economic base and provide year-round employment opportunities close to home for residents of the Town and surrounding communities;
- C. Provide parks, open space, and other public facilities that serve the needs of the community;

¹⁰¹ The minimum lot width requirement is not as important once the appropriate setbacks and lot coverages have been assigned. This standard could be eliminated altogether.

¹⁰² The current maximum building coverages for B-1, B-2, and I-1 districts are infeasible given the setback requirements and minimum landscaping requirements. This draft proposes more reasonable building coverage maximums.

¹⁰³ From current Table 16-1, Section 16-255.

¹⁰⁴ New.

¹⁰⁵ Current note (c) to 16-245 requires 8-foot high fence or vegetative buffer strip.

¹⁰⁶ New.

- D. Minimize any negative impact of nonresidential development on adjacent residential districts and uses; and
- E. Maintain efficient airport operations.

2.4.2. Light Industrial District (I-1)

A. Purpose¹⁰⁷

The I-1 district is intended to allow for the fabrication, assembly, processing, storage, and manufacture of goods and materials with related retail and wholesale activities. The I-1 district is intended for uses and operations within enclosed buildings and in a manner that avoids dangerous, noxious, or unsightly land uses.

B. I-1 District Dimensional Standards

Table 2.10: I-1 District Dimensional Standards	
Project and Site Requirements	
Lot area, min. (square feet)	None
Lot width, min. (feet)	None
Yard Requirements	
Front setback, min. (feet)	25
Side setback, min. (feet) [1]	None
Rear setback, min. (feet) [1]	None
Rear setback, accessory structures, min.	None
Building coverage, max.	100% 80%
Required landscaping, min. ¹⁰⁸	10%
Building Requirements	
Primary building height, max. (feet)	35
Accessory building height, max. (feet)	35
Notes:	
[1] Properties abutting residential zoning districts shall provide adequate screening, per Section 4.4.6. ¹⁰⁹	

2.4.3. Open Space/Recreation District (OSR)

A. Purpose¹¹⁰

The OSR district is intended to allow for open space and community recreation. The OSR district discourages any use that would be detrimental to the recreational value of the areas to be included within this district.

¹⁰⁷ Replaces 16-160.

¹⁰⁸ From current Table 16-1, Section 16-255.

¹⁰⁹ Current note (c) to 16-245 requires 8-foot high fence or vegetative buffer strip.

¹¹⁰ Replaces 16-164.

B. OSR District Dimensional Standards

Table 2.11: OSR District Dimensional Standards¹¹¹	
Project and Site Requirements	
Lot area, min. (square feet)	None
Lot width, min. (feet)	None
Yard Requirements	
Front setback, min. (feet)	None
Side setback, min. (feet)	None
Rear setback, min. (feet)	None
Rear setback, accessory structures, min.	None
Building coverage, max.	100% ¹¹²
Required landscaping, min. ¹¹³	None
Building Requirements	
Primary building height, max. (feet)	45 ¹¹⁴
Accessory building height, max. (feet)	30

2.4.4. Airport District (AP)¹¹⁵

A. Purpose

The AP district is intended to allow for development activities unique to the Central Colorado Regional Airport. This district is intended to serve the specific requirements and programming conditions of the airport that cannot be served by any other base zoning district. Permitted uses are those typically associated with airports, and do not include residential uses other than flight crew quarters.

¹¹¹ New standards. The current code does not include dimensional standards for the S-1 special recreational district. These dimensions are based on other jurisdictions with similar districts.

¹¹² Revised from 25% in Module 1.

¹¹³ From current Table 16-1, Section 16-255.

¹¹⁴ Revised from 30 feet in Module 1, in part to accommodate a recreation center with adequate gym and pool facilities.

¹¹⁵ The AP district is new.

B. AP District Dimensional Standards

Table 2.12: AP District Dimensional Standards	
Project and Site Requirements^[1]	
Lot area, min. (square feet)	Per FAA regulations, 14 CFR Part 77
Lot width, min. (feet)	
Yard Requirements^[1]	
Front setback, min. (feet)	Per FAA regulations, 14 CFR Part 77
Side setback, min. (feet) ^[2]	
Rear setback, min. (feet) ^[2]	
Rear setback, accessory structures, min.	
Building coverage, max.	
Required landscaping, min. ^[16]	
Building Requirements^[1]	
Primary building height, max. (feet)	Per FAA regulations, 14 CFR Part 77
Accessory building height, max. (feet)	
Notes:	
[1] Per FAA regulations, 14 CFR Part 77.	
[2] Properties abutting residential zoning districts shall provide adequate screening, per Section 4.4.6. ^[17]	

Section 2.5 Overlay Districts

2.5.1. Old Town Overlay District (OTO)^[18]

A. Purpose^[19]

The intent of the OTO district is to preserve and protect the historic design of the Town and to create a compact, walkable, and mixed-use downtown core area. Infill development is critical to ensuring retail and commercial vitality on Main Street by locating more residents within walking distance of services. Infill development maximizes the efficiency and effectiveness of existing infrastructure that the Town already pays to maintain. The Old Town Overlay District shall apply to all lots that were part of the original Town of Buena Vista Subdivision Plat or Crossman Addition Subdivision.

B. Dimensional Standards

The dimensional standards applicable to parcels within the Old Town Overlay are included in the dimensional standards tables in the R-1, R-2, R-3, MU-1, and MU-2 base zoning districts.

2.5.2. Airport Protection Overlay District (APO)^[20]

A. Purpose^[21]

The purpose of the APO district is to minimize exposure of residential and other sensitive land uses to aircraft and their potential impacts, including noise, to minimize risks to public safety from

¹¹⁶ From current Table 16-1, Section 16-255.

¹¹⁷ Current note (c) to 16-245 requires 8-foot high fence or vegetative buffer strip.

¹¹⁸ Previous draft of Module 1 included standards for mixed-use designation stating that both residential and commercial uses shall be permitted in the MU-1 and MU-2 districts if in the OTO. For example, "lots in the MU-1 district shall have the same permitted and special uses as those in the R-1 and R-2 districts." The table of allowed uses in Section 3.1 adequately covers mixed uses in the mixed-use districts, therefore those standards were determined to be unnecessary and were removed.

¹¹⁹ Replaces 16-172.

¹²⁰ Largely carried forward from 2014 ordinance, but reorganized into additional headings. Revised as noted for clarity. All references to "FAR Part 77" were changed to reflect current regulations, "14 CFR Part 77."

¹²¹ From 16-167, revised for clarity.

aircraft accidents, and to discourage traffic congestion and incompatible land uses proximate to, and within, the APO district.

B. Warning and Disclaimer of Liability

The degree of protection provided by this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study and does not imply that areas outside the airport influence will be totally free from potential safety issues associated with aircraft activity. This section shall not create a liability on the part of, or cause an action against, the Town or any officer or employee of the Town, for any damages that may result directly or indirectly from the reliance on this section.

C. Nonconforming Structures or Uses¹²²

1. These regulations shall not require any change in the construction, alteration, or intended use of any structure, the construction, alteration, or use of which began prior to the effective date of this Section and is diligently prosecuted; provided, however, that when the nonconforming structure is destroyed or damaged to the extent of more than 60 percent¹²³ of the appraised value of the nonconforming structure, any reuse, reconstruction or replacement shall be deemed a new use and shall be subject to the standards of the APO district the UDC.
2. The owner of any nonconforming structure or object of natural growth is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as required by the 14 CFR Part 77, to indicate to the operators of aircraft in the vicinity of the airport the presence of such nonconforming structures or objects of natural growth. Such markers and lights shall be installed, operated, and maintained at the expense of the owner of such nonconforming structure or object of natural growth.

D. APO District Standards¹²⁴

1. General Standards

All land use applications in the APO district shall comply with the following requirements:

- a. Federal Aviation Regulations 14 CFR Part 77;
- b. Noise attenuation in building design shall be provided; and
- c. An aviation easement shall be provided for all new development.¹²⁵

2. Use Limitations

No use within the APO district shall:

- a. Create electrical interference with radio communication between the airport and aircraft;
- b. Make it difficult for pilots to distinguish between airport lights and other lights;
- c. Cause glare directed skyward in the direction of aircraft so as to interfere with air traffic;
- d. Impair visibility in the vicinity of the airport;
- e. Attract a collection of birds reasonably expected to interfere with aircraft or the use of the airport; or

¹²² From 16-169, revised for clarity.

¹²³ Previous draft was 50 percent, which was inconsistent with nonconformity standards in Section 1.5.

¹²⁴ From 16-170, excluding procedures which were moved to their own subsection.

¹²⁵ Whether or not an aviation easement or amended easement will be required for all new structures (including ADUs), requires further discussion with staff, the Town Attorney, and the airport.

- f. Otherwise endanger the landing, taking off, or maneuvering of aircraft at the airport or in the vicinity of the airport.

3. Height Limitations

Height limitations within the APO district, except as otherwise provided in this section, are subject to the limitation of the base zoning district within which the property is located. No structure or object of natural growth shall be constructed, erected, altered, or permitted to grow or to be maintained in excess of height limits for the applicable underlying zoning district, or the height limitation set forth in this subsection, whichever is lower.¹²⁶

4. Runway Protection Zone (RPZ)

Except as otherwise provided in this section, no use that would result in a man-made structure or natural object shall be permitted in the RPZ, unless expressly allowed by the FAA or otherwise approved by the FAA.

5. Review Procedures

a. Generally

Review for compliance with the requirements of the APO district shall follow the procedure for the review of the underlying application.

b. Notice to FAA

Notice to the FAA in the form required by Section 77.7 of the 14 CFR Part 77 must be provided by the applicant for applications involving the following types of new construction or alteration:

- i. Any construction exceeding 200 feet in height;
- ii. Any construction exceeding the height limitation established by the imaginary ceiling for the following slopes:¹²⁷
 - (a) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each airport described in this subsection with its longest runway more than 3,200 feet in actual length, excluding heliports.
 - (b) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport described in this subsection with its longest runway no more than 3,200 feet in actual length, excluding heliports.
 - (c) 25 to 1 for a horizontal distance of 5,000 feet from the nearest point of the nearest landing and takeoff area of each heliport described in this subsection.
- iii. Or as otherwise required by 14 CFR Part 77 (including without limitation 14 CFR Part 77, Section 77.9).

c. Submittal Requirements

In addition to any other submittal requirements required by this UDC, an application for new development, rezoning, or subdivision approval for land in the APO district shall include the following:

- i. An aviation easement signed by the landowner that acknowledges flight operations above the land, recorded in the office of the county clerk and recorder. The reception

¹²⁶ Aside from the UDC process, staff is considering identifying trees species under 35-feet at full maturity for inclusion in a technical/landscape manual.

¹²⁷ Staff is considering obtaining or developing maps of these distinctions for inclusion in a technical manual.

number or book and page of the recorded easement shall be noted on subsequent approved plans and plats involving the land.

- ii. A study which shows compliance with the FAA, 14 CFR Part 77, and if a plat is required, a plat note on the Final Plat stating that the plat is in compliance with 14 CFR Part 77.
- iii. Referral to the Central Colorado Regional Airport Manager and other affected reviewing agencies for review and comment.

Section 2.6 Planned Unit Development¹²⁸

Commentary:

The PUD regulations were updated to reflect a rezoning of any PUD property to official PUD designation rather than applied as an overlay to an existing base zoning district. PUD standards related to approval procedures are located in the rezoning procedures in Article 16.06, Review Procedures.

2.6.1. Purpose¹²⁹

The purpose of the planned unit development (PUD) option is to:

- A. Encourage innovation and flexibility in the development of land to promote variety in the type, design, and layout of buildings;
- B. Result in greater benefit to the Town than could otherwise be achieved through the UDC;¹³⁰
- C. Improve the integration, character, and quality of land uses;
- D. Promote the more efficient use of land and infrastructure while achieving compatibility of land uses;
- E. Achieve economy in the delivery and maintenance of public services; and
- F. Promote the preservation of open space and natural and scenic areas.

2.6.2. Applicability¹³¹

- A. PUD zoning may be applied to any property within any zoning district pursuant to Section 6.4.2.
- B. The PUD concept plan shall designate a default base zoning district that shall regulate dimensional and use standards not otherwise in the PUD plan. Any other provisions or procedures that are not specified by the PUD concept plan shall be regulated by this UDC.¹³²

¹²⁸ From current Sections 16-191 through 16-205, excluding procedures which are relocated to Article 16.05, Review Procedures.

¹²⁹ From 16-191(a).

¹³⁰ New.

¹³¹ From 16-191(b), revised for clarity.

¹³² New. Did not carry forward 16-192, zoning classification, since PUDs will be treated as a rezoning, and not as an overlay.

2.6.3. PUD Standards¹³³

A. Minimum Land Area¹³⁴

The minimum project area for a PUD shall be five acres to prevent use of the PUD process for smaller projects that simply do not comply with UDC requirements, except that co-housing development shall have a minimum project area of one acre.

B. Clustering Lots¹³⁵

The clustering of development with useable common open areas shall be permitted to encourage access to common open areas and to reduce street and utility construction and maintenance costs. Clustering is also intended to accommodate contemporary building types that share common side walls, combined service facilities, or similar architectural innovations, whether or not providing for separate ownership of land and buildings.

C. Residential Density¹³⁶

The average residential density shall be calculated by summing the number of residential dwelling units planned within the boundary of the PUD and dividing by the total gross areas expressed in acres within the boundary of the PUD. Averaging and transferring of densities within the PUD shall be allowed upon a showing of conformance to the purpose of this UDC. The average density of dwelling units in a PUD may be greater than the maximum permitted for a similar use in other zoning districts.

D. Building Height¹³⁷

The maximum height of buildings may be increased above the maximum permitted for similar buildings in other zoning districts. Maximum height shall be determined by considering the following:

1. The probable effect on surrounding slopes and/or terrain;
2. Adverse visual impacts on adjacent sites or other areas in the vicinity;
3. Potential impacts to adjacent sites caused by shadows, loss of air circulation, or loss of view;
4. Influence on the general vicinity, with regard to extreme contrast, vistas, and open space; and
5. Fire protection needs as a result of the proposed building height.

E. Permitted Uses¹³⁸

The PUD concept plan shall specify the uses allowed within the PUD.

¹³³ Did not carry forward 16-199, off-street parking standards.

¹³⁴ Replaces current 16-201, which left the minimum land area to the discretion of the BOT. This provides more predictability for the community and ensures that the Town is not using the PUD process for one-off parcels that don't otherwise meet the code requirements.

¹³⁵ From current 16-202. Did not carry forward provisions for lot area, coverage, and setbacks. Those provisions did not clarify any specific requirements, but rather stated that the PUD can differ from other standards that might be considered typical for those lots or sites. Also deleted "architectural style of buildings shall not be the only basis for denying approval of a PUD application."

¹³⁶ From current 16-203, revised for clarity. Previous draft required consistency with comprehensive plan; however, the 2015 comprehensive plan does not specify densities.

¹³⁷ From current 16-200. Did not carry forward statement that maximum height shall never exceed 35 feet. The intent of the PUD is to allow for flexibility and creativity in exchange for benefit to the Town. Eliminated two of the characteristics previously listed – the building's geographic location and the uses within the building. The other characteristics capture the necessary criteria for determining height.

¹³⁸ Replaces current 16-204. Did not carry forward specific list of land uses. Approval of appropriate uses will be determined upon rezoning approval.

F. Common Open Space¹³⁹**1. Amount Required**¹⁴⁰

A minimum of 25 percent of the total area within the boundary of any PUD shall be devoted to usable and accessible common open space. The Board of Trustees may reduce such requirement if it finds that such decrease is warranted and that the needs of the occupants of the PUD for common open space can otherwise be met through the proposed PUD and the surrounding area.

2. Ownership and Maintenance

- a.** Unless otherwise approved by the Board of Trustees, the common open space of a PUD shall be owned and maintained by the property owners within the PUD, or other organization or district. If such owners or organization fails to maintain the common open space in accordance with the PUD concept plan or this UDC, the Board of Trustees may serve written notice to the organization or residents of the PUD, specifying the nature of the failure to maintain the common open space. The notice shall include a demand that such deficiencies of maintenance be mitigated within 30 days and shall state the date and place of a hearing before the Board of Trustees that shall be held within 14 days of the notice. At such hearing, the Board of Trustees may modify the terms of the original notice as to deficiencies and timeframe to mitigate such deficiencies.
- b.** If the deficiencies set forth in the original notice or in subsequent modifications are not mitigated within 30 days or any extension granted, the Town, in order to preserve the taxable values of the properties within the PUD and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain the property.¹⁴¹ The entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the owners.
- c.** The cost of such maintenance by the Town shall include actual cost, plus overhead, plus 25 percent, and shall be paid by the owners of properties within the PUD who have a right of enjoyment of the common open space, and any assessments unpaid for a period of 60 days shall become a tax lien on the properties. The Board of Trustees shall file a notice of such lien in the office of the County Clerk and Recorder upon the properties affected by such lien within the PUD and shall certify such unpaid assessments to the Board of County Commissioners and the County Treasurer for collection, enforcement, and remittance.

¹³⁹ From current 16-205, revised for clarity.

¹⁴⁰ This percentage may be revisited following discussions with the BOT.

¹⁴¹ The current standard is unusual in that the Town would maintain the common open space for a year rather than a one-time maintenance operation. Through this proposal, we are revising the process to require compliance within 30 days or the Town will step in. Following that, the Town can repeat that process as often as the common open space is out of compliance with the PUD or the UDC.

Section 2.7 Summary Tables of Dimensional Standards¹⁴²

In case of a discrepancy with the summary tables for any specific zoning district in this Article, the master tables in this section govern.

2.7.1. Residential Districts

Table 2.13: Summary of Residential District Dimensional Standards				
	R-1	R-2	R-3	M-H
Project and Site Requirements				
Lot area, min. (square feet)	6,500 ¹⁴³	6,000 5,000 ¹⁴⁴	6,000 2,500 ¹⁴⁵	See Section 2.2.5
Lot width, min. (feet)	65	65 50 ¹⁴⁶	65 25 ¹⁴⁷	
Lot width, min. (feet), single-family attached and two-family dwellings ¹⁴⁸	None	None	15	
Yard Requirements				
Front setback, min. (feet)	25	20 12	5	See Section 2.2.5
Side setback, min. (feet)	5	5	5	
Side setback, min. (feet) between internal dwelling units for single-family attached and two-family dwellings	None	None	None	
Rear setback, min. (feet)	15	15 10	15 5	
Rear setback, accessory structures, with alley present, min. (feet)	None	None	None	
Rear setback, accessory structures, with no alley present, min. (feet) ¹⁴⁹	5	5	5	
Building coverage, max.	40% ¹⁵⁰	35% 55% ¹⁵¹	35% 75% ¹⁵²	
Required landscaping, min. ¹⁵³	25%	25% 20%	20% 15%	
Building Requirements				
Primary building height, max. (feet)	30 ¹⁵⁴	35	35 45 ¹⁵⁵	See Section 2.2.5
Accessory building height, max. (feet) ¹⁵⁶	30 ¹⁵⁷	30 ¹⁵⁸	30	
Notes:				

¹⁴² These tables replace the contents of current 16-245, with changes as noted. We did not carry forward maximum lot area, which only applied to row-homes in the R-3 district. Cells shaded green means that the standard was adjusted to be more lenient; cells shaded red means that the standard was adjusted to be more restrictive. Separate from this UDC, a summary table of all district dimensional standards may be developed as a helpful customer service tool for handout our download.

¹⁴³ Eliminated 10,000 sf requirement for two-family.

¹⁴⁴ Previously 6,000 sf for single-family, and 10,000 sf for two-family.

¹⁴⁵ Previously 6,000 sf for single-family, 10,000 sf for two-family and three-family, 12,000 sf for four-family, and 2,500 for a row house.

¹⁴⁶ Previously 65 feet. With appropriate setbacks in place, the lot width becomes less important. As an alternative, we could eliminate the minimum lot width requirements altogether.

¹⁴⁷ Previously 65 feet.

¹⁴⁸ New standard to allow for narrow lots for attached housing products.

¹⁴⁹ Replaces current note (d) to Table 16-245, which determines setbacks for accessory structures based on whether the doors open onto a public right-of-way.

¹⁵⁰ Current code allows for 40% building coverage for two-family.

¹⁵¹ Current code allows for 35% for single-family and 40% for two-family.

¹⁵² Current code allows for 35% for single-family, 40% for two-family, and 50% for others.

¹⁵³ From current Table 16-1, Section 16-255.

¹⁵⁴ Previous drafts limited height to 25 feet. That was determined to be insufficient for two-story homes with pitched roofs.

¹⁵⁵ Previously 35 feet. This would allow for multifamily apartment development of four stories.

¹⁵⁶ New standard. Current code does not limit height of accessory structures.

¹⁵⁷ Previous drafts limited height to 22 feet. That was determined to be insufficient for units above a garage with a pitched roof.

¹⁵⁸ Previous drafts limited height to 27.5 feet. Revised to 30 for consistency among residential districts.

2.7.2. Mixed-Use and Commercial Districts

Table 2.14: Summary of Mixed-Use and Commercial District Dimensional Standards				
	MU-1	MU-2	MU-MS	HC
Project and Site Requirements				
Lot area, min. (square feet)	2,500	2,500	None	2,500
Lot width, min. (feet) ¹⁵⁹	25	25	25	25
Lot width, min. (feet), single-family attached and two-family dwellings ¹⁶⁰	15	None	None	None
Yard Requirements				
Front setback, min. (feet)	None	None	None	25
Front setback, max. (feet)	15	15	0 5 ¹⁶¹	--
Frontage build out, min. ^[1]	60% 65%	60% 75%	70% 85% ¹⁶²	--
Side setback, min. (feet) ^[2]	None	None	None	None
Side setback, min. (feet) between internal dwelling units for single-family attached and two-family dwellings	None	None	None	None
Rear setback, min. (feet) ^[2]	None	None	None	None
Rear setback, accessory structures, min.	None	None	None	None
Building coverage, max. ¹⁶³	100% 80%	100% 90%	100%	100% 80%
Required landscaping, min. ¹⁶⁴	10%	10%	None	10%
Building Requirements				
Primary building height, max. (feet)	35	35 45	45	35
Accessory building height, max. (feet) ¹⁶⁵	35	35	35	35
Notes:				
[1] The frontage buildout is the percentage of building frontage that must be between zero feet and the maximum setback distance.				
[2] Properties abutting residential zoning districts shall provide adequate screening, per Section 4.4.6. ¹⁶⁶				

¹⁵⁹ The minimum lot width requirement is not as important once the appropriate setbacks and lot coverages have been assigned. This standard could be eliminated altogether.

¹⁶⁰ New standard to allow for narrow lots for attached housing products.

¹⁶¹ The current standard on Main Street is a maximum setback of zero feet between Hwy 24 and Belden. This does not allow for certain creative designs to occur along Main, including wider sidewalks, outdoor dining areas, or interesting building design components.

¹⁶² Previous draft showed 88%. This 85% was determined to be the maximum building frontage build out number while also allowing a minimum of three feet separation between buildings on the Old Town 25-foot lots (with a little wiggle room). A 90% requirement would only allow for 2 ½ feet separation, which has been determined inadequate for allowing stairs and walking paths between buildings.

¹⁶³ The current maximum building coverage for B-1, B-2, and I-1 districts are infeasible given the setback requirements and minimum landscaping requirements. This draft proposes more reasonable building coverage maximums.

¹⁶⁴ From current Table 16-1, Section 16-255.

¹⁶⁵ New.

¹⁶⁶ Current note (c) to 16-245 requires 8-foot high fence or vegetative buffer strip.

2.7.3. Other Nonresidential Districts

Table 2.15: Summary of Other Nonresidential District Dimensional Standards			
	I-1	OSR¹⁶⁷	AP¹⁶⁸
Project and Site Requirements			
Lot area, min. (square feet)	None	None	Per FAA regulations, 14 CFR Part 77
Lot width, min. (feet)	None	None	
Yard Requirements			
Front setback, min. (feet)	25	None	Per FAA regulations, 14 CFR Part 77
Side setback, min. (feet) ^[1]	None	None	
Rear setback, min. (feet) ^[1]	None	None	
Rear setback, accessory structures, min.	None	None	
Building coverage, max.	100% 80%	100%	
Required landscaping, min. ¹⁶⁹	10%	None	
Building Requirements			
Primary building height, max. (feet)	35	45	Per FAA regulations, 14 CFR Part 77
Accessory building height, max. (feet)	35	30	
Notes:			
[1] Properties abutting residential zoning districts shall provide adequate screening, per Section 4.4.6. ¹⁷⁰			

¹⁶⁷ New standards. The current code does not include dimensional standards for the S-1 special recreational district. These dimensions are based on other jurisdictions with similar districts.

¹⁶⁸ New standards based on staff suggestions.

¹⁶⁹ From current Table 16-1, Section 16-255.

¹⁷⁰ Current note (c) to 16-245 requires 8-foot high fence or vegetative buffer strip.

Section 2.8 Measurements and Exceptions

2.8.1. Lot Size

A. Minimum Dimensions¹⁷¹

All lots shall meet the minimum lot area and width requirements in the dimensional standards table for the appropriate zoning district in which it is located, unless the lot is nonconforming or a deviation from these requirements is approved pursuant to this UDC. New lots shall also meet the development standards set forth in Section 5.2, *Subdivision Design Standards*.

B. Number of Principal Structures or Uses on a Lot¹⁷²

1. Generally

Only one principal building and its customary accessory buildings may be erected on any one lot, except as allowed within a planned unit development (PUD); and except that in the MU-1, MU-2, MU-MS, HC, I-1, and OSR districts, more than one principal building may be allowed on a single lot with approval of a special use permit pursuant to Section 6.5.2 when the buildings will be maintained under single ownership.

2. Co-Housing Development¹⁷³

Multiple dwellings may be erected on a lot as part of a co-housing development subject to the requirements of this UDC.

3. Site Plan Required¹⁷⁴

An application to allow for more than one principal residential building on a lot shall require approval of a site plan pursuant to Section 6.5.1, *Site Plan Review*.

2.8.2. Setbacks

A. Required Setbacks

No building, structure, or lot shall be developed, used, or occupied unless it meets the minimum setback requirements in the dimensional standards table for the appropriate zoning district in which it is located. Setbacks shall be measured from the property lines to the exterior wall of any structure over 30 inches in height, except as otherwise provided in this Subsection 2.8.2.

B. Contextual Setbacks¹⁷⁵

The minimum front setback on any lot where the average front setback of existing dwellings, located either wholly or in part within 100 feet of the subject lot on each side of such lot within the same block and zoning district, and fronting on the same side of the street, shall be the average of the setbacks of those existing dwellings. When the contextual average is more restrictive, the underlying zoning district setback requirement shall apply.

¹⁷¹ New.

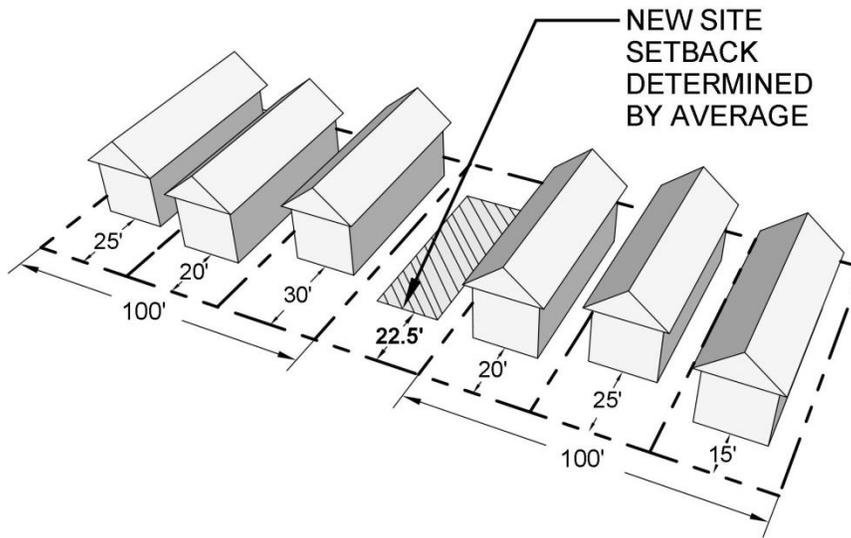
¹⁷² Replaces 16-239.

¹⁷³ These are new standards for a new use to permit "Tiny House" developments or other cottage or co-housing developments.

¹⁷⁴ Revised to require site plan submittal for any application for multiple buildings on a lot.

¹⁷⁵ Replaces current 16-272, front yard setback for dwellings.

Figure 2.A: Calculating Contextual Setbacks



C. Projections into Required Setbacks¹⁷⁶

1. Sills, belt course, cornices, buttresses, ornamental features, gutters, and eaves may project up to a maximum of two feet into a required minimum setback.
2. Open or enclosed fire escapes, fireproof outside stairways, and balconies may project up to a maximum of three and one-half feet into a required minimum setback.
3. Chimneys and flues may project up to a maximum of three and one-half feet into a required minimum setback with approval by the Town Administrator.

D. Exceptions to Setbacks

1. Zero Setbacks¹⁷⁷

In the R-3, MU-1, MU-2, and MU-MS districts, side setbacks may be eliminated between internal dwelling units for single-family attached and two-family dwellings. Side setbacks shall still apply to the end dwelling units on the side of the building not attached to another dwelling unit.

2. Corner Lots

- a. Where a side yard abuts a street, the setback requirement for the side yard shall be the same as the front yard setback requirement for lots or property facing the same street, except as otherwise provided for in the dimensional standards.¹⁷⁸
- b. On corner lots in the Old Town Overlay, the front setback shall only apply to the building frontage with the least width dimension. On the other street frontage, the side yard setback shall apply.¹⁷⁹

¹⁷⁶ Replaces current 16-275.

¹⁷⁷ New standards, not included in the public draft of Module 1.

¹⁷⁸ From 16-273, revised for clarity.

¹⁷⁹ Alternatively, front yard setbacks can be determined by the location of the primary entrance (front door).

Figure 2.B: Corner Lot Front Setback Requirement, Generally

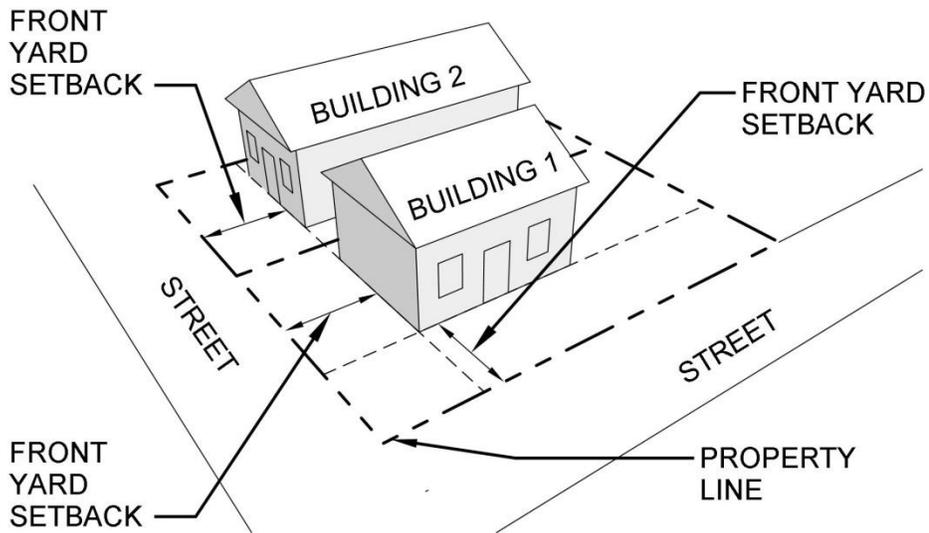
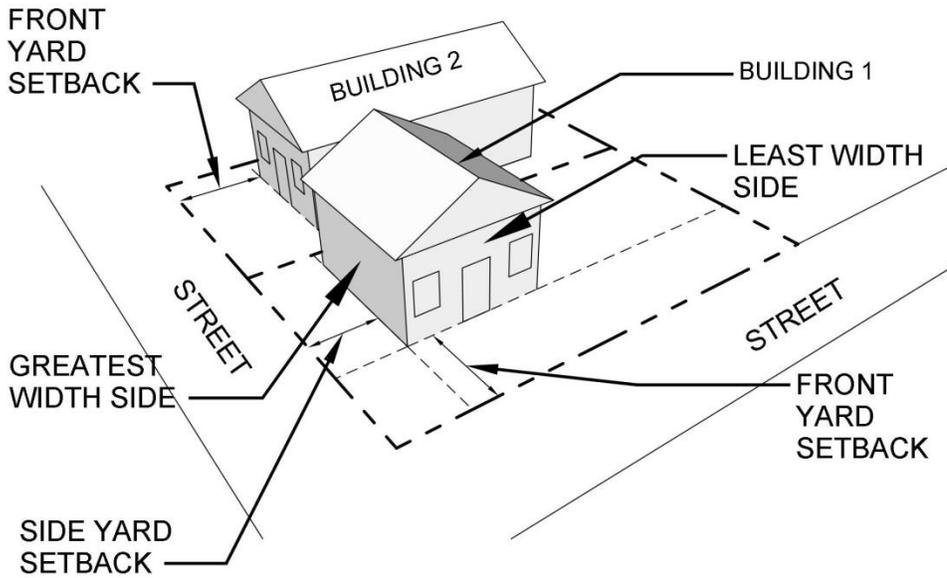


Figure 2.C: Corner Lot Front Setback Requirement, Within Old Town Overlay



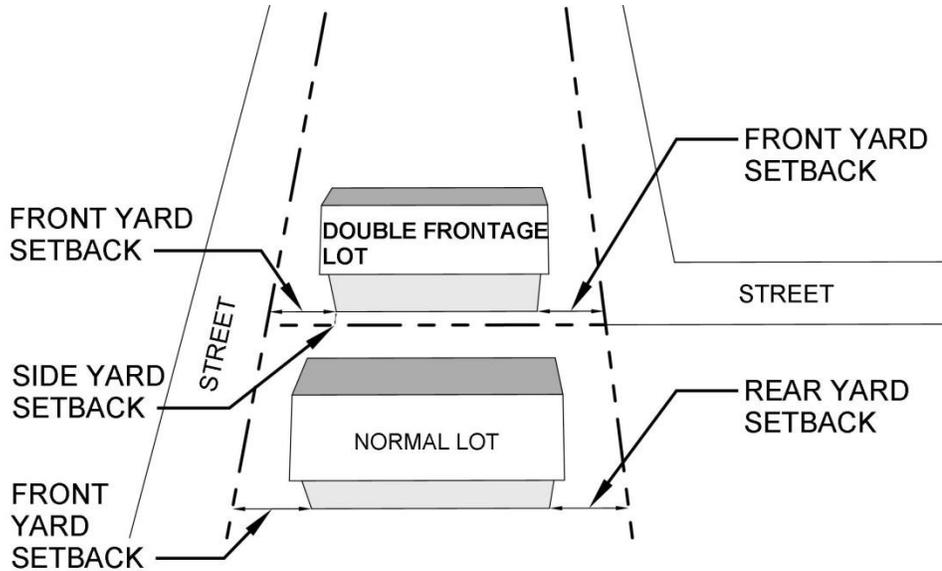
3. Double-Frontage Lots¹⁸⁰

- a. Where double-frontage lots exist, front yard setback requirements shall apply wherever the lot abuts street or highway right-of-way.

¹⁸⁰ From 16-274, revised for clarity.

- b. The requirements set forth in this section shall not apply to R-1, R-2, or R-3 lots in the Old Town Overlay.

Figure 2.D: Double-Frontage Lot Setbacks



4. Handicap Ramps¹⁸¹

Handicap access ramps and associated railings may be located within required front, side, and rear setbacks.

5. Storage Sheds and Accessory Buildings (other than ADUs)¹⁸²

Storage sheds and accessory buildings other than ADUs shall not be subject to side or rear setback requirements provided that the shed and/or accessory structure:

- a. Does not exceed 200 square feet in residential districts, and 120 square feet in all other districts;
- b. Does not exceed a height of 15 feet;¹⁸³
- c. Is not placed in an easement; and
- d. Is not placed on a permanent foundation.

6. Front Porches and Stoops¹⁸⁴

In residential and mixed-use districts, covered or uncovered front porches and stoops that are unenclosed on three sides may extend up to a maximum of eight feet into the required front setback.

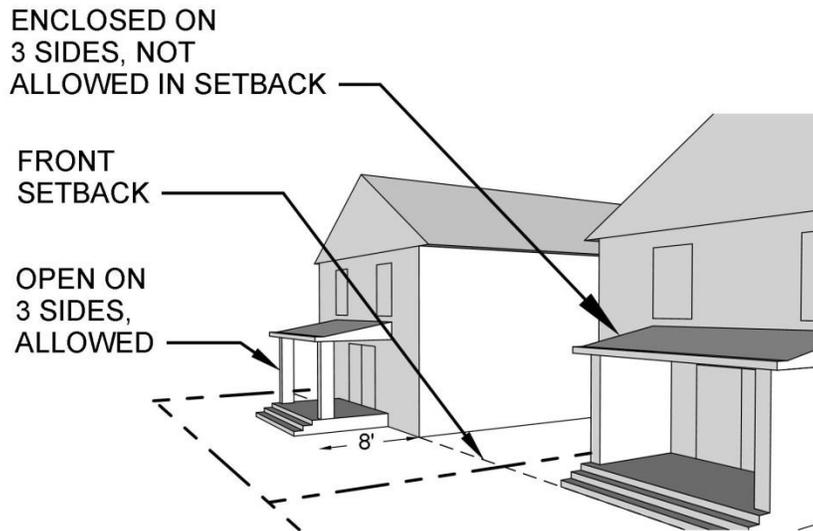
¹⁸¹ New.

¹⁸² New.

¹⁸³ New since Module 1.

¹⁸⁴ New.

Figure 2.E: Setback Exception for Front Porches and Stoops



7. Ground-Mounted Solar¹⁸⁵

In the residential districts, ground-mounted solar facilities may encroach into the required side or rear setback up to five feet from the property line if they are not located over an easement.

8. Animal Enclosures

New animal enclosures shall be located at least three feet from all property lines, per Section 7-95 of the municipal code.

2.8.3. Building Height

A. Generally

No building shall be erected or altered that will exceed the height limit for the applicable zoning district, unless otherwise provided in this UDC.

B. Measuring Building Height¹⁸⁶

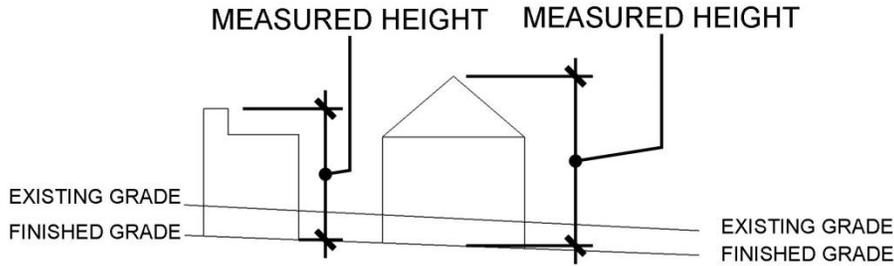
The height of buildings shall be measured on a vertical plane from the average natural or finished grade, whichever is lower, to the highest point on the roof surface. The average grade shall be calculated by adding the highest and lowest natural or finished grade divided by two.¹⁸⁷

¹⁸⁵ New.

¹⁸⁶ Replaces 16-253.

¹⁸⁷ The calculation of average grade (second half of this standard) is new.

Figure 2.F: Measuring Building Height



C. Exceptions to Height Requirements

1. Architectural Features

Chimneys, antennas, flag poles, bell towers, steeples, vents, roof access stairs, or other roof or building appurtenances extending from the surface of the roof may extend up to 10 feet above the maximum building height.

2. Rooftop Mechanical Equipment

Rooftop mechanical equipment and any required screening may extend up to five feet above the maximum building height.

3. Parapet Walls

Parapet walls may extend above the maximum building height up to three feet for commercial buildings, or for residential buildings containing two or more dwelling units.¹⁸⁸

4. Rooftop Solar¹⁸⁹

Rooftop solar panels may extend above the maximum building height up to five feet.

2.8.4. Summary of Permitted Encroachments

Table 2.16: Permitted Encroachments into Setbacks and Above Height Requirements	
Setback Encroachments	
Sills, belt course, cornices, buttresses, ornamental features, and eaves	2 feet
Open or enclosed fire escapes, fireproof outside stairways, and balconies	3.5 feet
Chimneys and flues (with Town Administrator approval)	3.5 feet
Handicap ramps	As necessary
Storage sheds and accessory buildings (other than ADUs)	Exempt from setback requirements, provided that the shed or building is: a. Less than or equal to 200 square feet in residential districts and 120 square feet in all other districts; b. Less than or equal to 15 feet in height; c. Not located in an easement; and

¹⁸⁸ New.

¹⁸⁹ New.

Table 2.16: Permitted Encroachments into Setbacks and Above Height Requirements	
	d. Not placed on a permanent foundation.
Front porches and stoops	8 feet
Ground-mounted solar	Up to 5 feet from side or rear property line (if not over an easement)
Animal enclosures	Up to 3 feet from a property line, per Section 7-95 of the municipal code
Height Encroachments	
Chimneys, antennas, flag poles, bell towers, steeples, vents, or other roof or building appurtenances extending from the surface of the roof	10 feet
Rooftop mechanical equipment	5 feet
Parapet walls	3 feet for commercial buildings, or for residential containing two or more dwelling units
Rooftop solar	5 feet

Article 16.03: Use Regulations

Commentary:

This article contains the standards related to land uses in Buena Vista and is intended to be reviewed with Article 16.02, Zoning Districts. This chapter includes a table of allowed uses allowed in all zoning districts. This new table was a major recommendation in the Assessment Memo and Annotated Outline. In the use table, many specific existing uses were grouped into new, more general use categories. Many new uses are also proposed in the table, per the Assessment Memo and Annotated Outline, in addition to other staff feedback and policy documents (including the draft Comprehensive Plan).

This article begins with the table of allowed uses, and is followed by use-specific standards applicable to certain uses in the table. The table provides a cross-reference in the far right column if use-specific standards are applicable. Some of the use-specific standards are carried forward from the current code, yet revised significantly for clarity and consistency. Additionally, many new use-specific standards were drafted to ensure compatibility with surrounding uses, to implement the comp plan, and to protect the general health, safety, and welfare of the community. These standards, whether existing or new, are indicated as such in the footnotes. The use-specific standards generally follow the same organization and order as the table of allowed uses (beginning with residential uses, and ending with industrial). Each use category and specific use type is defined in Article 16.06, Rules of Construction and Definitions.

The final sections of this article address accessory and temporary uses and structures. The current code contains very little on this subject. Further commentary is provided in those sections.

Section 3.1 Table of Allowed Uses¹⁹⁰

Table 3.1 below lists the uses allowed within all base zoning districts. All uses are defined in Article 16.07: *Rules of Construction and Definitions*. Development or use of a property for any other use not specifically allowed in Table 3.1, and without appropriate approval, is prohibited. Where there is conflict between Table 3.1 and any other standard in this UDC, Table 3.1 shall apply.

3.1.1. Table Abbreviations¹⁹¹

A. Permitted By-Right Uses (P)

A "P" in a cell indicates that the use is permitted by-right in the respective zoning district.

B. Special Uses (S)

An "S" in a cell indicates that the use is permitted only with an approved special use permit in accordance with the procedures in Section 6.5.2.

C. Accessory Uses (A)

An "A" in a cell indicates that the use is permitted only as accessory to a primary use in the respective zoning district.

D. Temporary Uses (T)

A "T" in a cell indicates that the use is permitted only with an approved temporary use permit in accordance with the procedures in Section 6.5.3.

¹⁹⁰ This table is new. The current code does not include a consolidated use table. In the current code, uses are listed using a "pyramid" method by which land uses for each more intense zoning district reference back to a previous district and then add any additional uses allowed or modified.

¹⁹¹ Previous draft included "V" uses to allow for uses in vacant buildings that have been vacant for 7 years, with approval of a special use permit. After further consideration, this did not appear to be an effective tool for BV and the use table was updated to either allow those uses by right or with special use permit regardless of any period of vacancy. In the previous draft, this only applied to museums in the I-1 district, and dormitories or vocational schools in the MU-MS district.

E. Prohibited Uses (blank)

A blank cell indicates that the use is prohibited in the respective zoning district.

3.1.2. Table Organization

The land uses and activities in Table 3.1 are classified first by general “use categories,” then by specific “use type” based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and typical site conditions. This system provides a basis for assigning present and future land uses into appropriate zoning districts. The use categories are merely an indexing tool and are not regulatory. The far right-hand column, “use-specific standards,” cross-references to additional requirements that shall be met for that specific use type.

3.1.3. Classification of New and Unlisted Uses¹⁹²

New types of uses will be proposed that are not anticipated by this UDC. When such application for a use category or use type is not specifically listed in Table 3.1, the Town Administrator shall make a determination as to the appropriate classification of such use category or use type as follows:

- A.** The Town Administrator shall provide an interpretation as to the zoning classification into which such uses should be placed. In making such interpretation, the Town Administrator shall consider the nature of the use, the intensity of the use, and the general requirements for public utilities for such use.
- B.** Standards for new and unlisted uses may be interpreted as those of a similar use.
- C.** Appeal of the Town Administrator’s decision shall be made to the Board of Adjustment following procedures under Section 6.7.4.

3.1.4. Table of Allowed Uses**Commentary:**

The table is based on the existing Buena Vista code, with numerous proposed updates. Changes are proposed to the level of permission for certain uses, based on one or more factors:

- 1) To be consistent with the comp plan, assessment memo and annotated outline, and/or current planning trends;
- 2) Use-specific standards allow for a more permissive level of approval with less discretion.

Proposed changes made to the level of permission in a particular district are shown by the shading of the cell. A cell shaded green means the level of permission has changed to be more permissive (e.g., S to P). A cell shaded red means the level of permission has changed to be more restrictive (e.g., P to S). The previous level of permission (P or S) is stricken (e.g., ~~S~~). If the use was previously prohibited (blank), the new level of permission will only include one letter in bold text. For uses that were consolidated, and the level of permission was different for the individual uses prior to consolidation, those changes are indicated in the footnotes. Use types shaded green mean that they were not previously listed in the current code’s use lists. This does not however mean that the use is new to Buena Vista.

As you review the table and use-specific standards, please consider the following:

- 1) For a use that is shown as prohibited, ask “why not in this district?”
- 2) For a use that is shown as prohibited, ask “can a use-specific standard mitigate any concern, thus making it an acceptable use in that district?”
- 3) For uses shown as “S,” thus requiring a special use permit approval, ask “should this require a public hearing, or should this be a permitted use-by-right in this district?”

¹⁹² New procedure. Current code does not explain how unlisted uses are addressed.

4) For uses shown as either “P” or “S,” ask “are there additional use-specific standards necessary to mitigate known issues with this use type?”

Table 3.1: Table of Allowed Uses													
P = permitted by-right S= special use permit A= accessory use T = temporary use													
Use Category	Use Type	R-1	R-2	R-3	M-H ¹⁹³	MU-1 ¹⁹⁴	MU-2 ¹⁹⁵	MU-MS ¹⁹⁶	HC ¹⁹⁷	I-1	OSR ¹⁹⁸	AP ¹⁹⁹	Use-Specific Standards
RESIDENTIAL USES													
Household living	Dwelling, single-family detached	P	P	P		P	P						
	Dwelling, single-family attached ²⁰⁰		S	P		S	S		S				3.2.1.A
	Dwelling, two-family ²⁰¹	S	P	P		P	P						
	Dwelling, multifamily ²⁰²		S	P		S	S	S	S				3.2.1.B
	Co-housing	S	P	P		P	P						3.2.1.C
	Live-work			S		P	P	P	S	S			3.2.1.D
	Manufactured home park			S	S								3.2.1.E
Group living	Assisted living facility		P	P		P	P	P					3.2.1.F
	Continuum of care or nursing home			S		P	P	P					3.2.1.G
	Day care home ²⁰³	S	S	S		P	P						3.2.1.H
	Group home	S	S	P									3.2.1.I
PUBLIC, INSTITUTIONAL, AND CIVIC USES													
Community and cultural facilities	Assembly hall ²⁰⁴					P	P	P	P	P	P		
	Cemetery	S	S										
	Church or place of worship	S	S	S		S	S	S	S				
	Civic organization, club, or lodge					P	P	P	P				
	Community center ²⁰⁵	S	S	S		P	P	P	P		P		
	Fire or police station	S	S	S		P	P	P	P	P	P	P	
	Library		S	S		S	S	S	P		P		
	Museum					P	P	P	P	P	P		

¹⁹³ New district to accommodate existing and future manufactured home parks.
¹⁹⁴ New district to replace the B-1 OT Mixed-Use designation for development located west of Highway 24. The current code allows for uses in the B-1 OT (west) that are permitted in the B-1, R-1, and R-2 districts.
¹⁹⁵ New district to replace the B-1 OT Mixed-Use designation for development located east of Highway 24. The current code allows for uses in the B-1 OT (east) that are permitted in the B-1, R-1, and R-3 districts.
¹⁹⁶ New district to apply to East Main Street and potentially to other areas where mixed-use and pedestrian-oriented development is desirable.
¹⁹⁷ Previously B-2, highway business district. Renamed to reflect highway and auto-oriented nature of the district.
¹⁹⁸ Previously S-1, special recreational district. Renamed to reflect the primarily open and recreation uses within the district.
¹⁹⁹ New district. intended for lands currently owned by the airport to meet specific requirements and programming conditions that cannot be appropriately addressed through the I-1 district. The airport protection overlay was carried forward, and still applies to both lands within and outside the airport boundaries.
²⁰⁰ New use title for attached units including “rowhouses,” “townhouses,” and “condominiums.” These single-family attached uses were previously lumped together with multifamily and apartment uses.
²⁰¹ Previously called “duplex dwellings.”
²⁰² Includes apartments, rowhouses, townhouses, and condominiums per Sec. 16-149(2)
²⁰³ Previously called “properly licensed child day care homes.”
²⁰⁴ Previously included with “not-for-profit or for-profit museums, and municipally owned assembly halls and community centers.”
²⁰⁵ Previously included with “not-for-profit or for-profit museums, and municipally owned assembly halls and community centers.” Also included with “public golf courses, parks, playground, etc.,” which allows community centers as a special use in the R-1, R-2, and R-3 districts.

Table 3.1: Table of Allowed Uses													
P = permitted by-right S= special use permit A= accessory use T = temporary use													
Use Category	Use Type	R-1	R-2	R-3	M-H ¹⁹³	MU-1 ¹⁹⁴	MU-2 ¹⁹⁵	MU-MS ¹⁹⁶	HC ¹⁹⁷	I-1	OSR ¹⁹⁸	AP ¹⁹⁹	Use-Specific Standards
Recreation and entertainment	Golf course ²⁰⁶	S	S	S							P		
	Indoor recreation or entertainment ²⁰⁷					§ P	§ P	§ P	§ P	P	P		
	Motor sports facility									S	S		
	Outdoor entertainment facility ²⁰⁸								S	S	P		
	Outdoor recreation facility ²⁰⁹								S	S	P		
	Park and playground	§ P	§ P	§ P	P	P	P	P	P		P		
	Shooting range ²¹⁰								P	§ P			3.2.2.A
Education facilities	College or university					S	S	S	S	S			
	Elementary or secondary school ²¹¹	§ P	§ P	§ P		§ P	§ P	§ P	§ P				
	Trade or vocational school ²¹²					S	S	S	S	§ P			
Healthcare facilities	Medical or dental clinic, office, or laboratory	S	S	S		§ P	§ P	§ P	P	P		P	
	Hospital			§		S	S	S	§ P	P			
COMMERCIAL USES													
Agricultural or Animal-related services	Community garden	P	P	P	P	P	P	P	P	P	P		3.2.3.A
	Kennel ²¹³								P	P			3.2.3.B
	Veterinary hospital or clinic					S	S	S	§ P	P			3.2.3.C
Adult entertainment establishments	Sexually-oriented business									P			3.2.3.D
Offices and professional services	Office ²¹⁴					P	P	P	P	P		P	
	Personal service ²¹⁵			§		P	P	P	P	S			3.2.3.E
Retail	Retail, general ²¹⁶			S		P	P	P	P	S			3.2.3.F
	Building materials sales and storage ²¹⁷								P	§ P			
	Equipment sales								P	P			3.2.3.G
	Flea market or auction house ²¹⁸					S	S	S	§ P	S			
	Greenhouse, nursery, or garden supply store ²¹⁹					P	P	P	P	P			

²⁰⁶ Previously included with “public golf courses, parks, playgrounds, swimming pools and community centers, not for profit museums, etc.”

²⁰⁷ Includes “establishments providing recreational services to the general public.”

²⁰⁸ New use to accommodate outdoor music venues.

²⁰⁹ Includes “active and passive recreation facility,” and “archery facility.” Archery facility previously only permitted in the S-1 as a special use.

²¹⁰ Previously called “Target ranges and other facilities utilized for the discharge of firearms.”

²¹¹ Previously called “school.”

²¹² Previously called “industrial, trade, or vocational schools and similar uses.”

²¹³ Previously included with “veterinary clinics or hospitals and kennels” in B-2 special uses.

²¹⁴ Previously called “offices; public, municipal, professional, and private.”

²¹⁵ Includes “businesses engaged exclusively in providing services to the general public,” “laundromats,” and “businesses or institutions, either public or private, engaged in providing services to the general public.”

²¹⁶ Previously called “businesses engaged in the retail sale of goods to the general public.”

²¹⁷ Previously called “open yards for the storage or sale of lumber and building materials.”

²¹⁸ Previously called “auction houses, flea markets and similar uses conducting business in an enclosed structure.” Previous draft included a use-specific standard that required business activities to be conducted in a fully-enclosed building. That standard was removed after further discussion with staff.

²¹⁹ Previously called “retail greenhouses and nursery, garden and landscape supply stores, inclusive of associated outdoor storage.”

Table 3.1: Table of Allowed Uses													
P = permitted by-right S= special use permit A= accessory use T = temporary use													
Use Category	Use Type	R-1	R-2	R-3	M-H ¹⁹³	MU-1 ¹⁹⁴	MU-2 ¹⁹⁵	MU-MS ¹⁹⁶	HC ¹⁹⁷	I-1	OSR ¹⁹⁸	AP ¹⁹⁹	Use-Specific Standards
	Recreational vehicle and large equipment sales ²²⁰									P			3.2.3.H
Lodging facilities	Bed and breakfast	S	S	S		P	P	P					3.2.3.I
	Dormitories			S		S	S	S	S	S			
	Hotels, motels, and other forms of public lodging and boarding ²²¹			S		S	S	S	P				
	Short-term rentals ²²²	P	P	P	P	P	P	P					3.2.3.J
Food and beverage services	Bar or tavern ²²³					S	S	S	S	S			3.2.3.K
	Microbrewery, distillery, or winery					P	P	P	P	P		P	3.2.3.L
	Restaurant ²²⁴					P	P	P	P	S			3.2.3.M
Vehicular and transportation	Automobile leasing or sales								P	S		P	3.2.3.N
	Automobile service, major ²²⁵								P	P			3.2.3.O
	Automobile service, minor ²²⁶					S	S	S	P	P			3.2.3.P
	Establishment providing transportation for the general public					S	S	S	P	P		P	
	Fueling station ²²⁷					S	S	S	P	P		P	3.2.3.Q
	Parking lot or structure ²²⁸					P	P	P	P	P	P	P	
	Railroad transshipment facility									P			3.2.3.R
INDUSTRIAL USES													
Storage and Warehousing	Above-ground bulk storage tank					S	S	S	S	S		P	3.2.4.A
	Wholesale distribution, warehouse, or mini-warehouse									P		P	3.2.4.B
	Short-term parking of recreational/camping vehicles	P	P	P						P	P		
	Long-term storage of recreational/camping vehicles ²²⁹	P	P	P						P	P		3.2.4.C
Manufacturing	Manufacturing, light ²³⁰					P	P	P	P	P		S	3.2.4.D
	Manufacturing, medium or heavy ²³¹									P			3.2.4.E
Energy and utilities	Geothermal facility, small	P	P	P	P	P	P	P	P	P	P	P	3.2.4.F
	Geothermal facility, large								P	S	S		3.2.4.G
	Public utility distribution line, transmission line, or facility ²³²	S	S	S		P	P	P	P	P			3.2.4.H
	Radio and television transmitting station and studio			S					S	S			3.2.4.I
	Solar energy facility, small	P	P	P	P	P	P	P	P	P	P	S	

²²⁰ Previously called “open sales yards for the retail sale of automobiles, trucks, boats, trailers, recreational vehicles, farm machinery, and equipment.”

²²¹ Includes “motels, hotels, motor courts or other establishments providing lodging for the general public.”

²²² Previously called “vacation rentals.”

²²³ Previously called “cocktail lounges, taverns, and bars.”

²²⁴ Includes “restaurants with or without bar.”

²²⁵ Previously called “automobile repair or paint shop.”

²²⁶ Previously called “Tire or windshield repair or replacement operations, muffler and exhaust system repair and fabrication operations and oil or vehicular fluid change operations.”

²²⁷ Previously called “gasoline or filling station.”

²²⁸ Previously called “automobile parking lots and structures, either public or private.”

²²⁹ Separated storage from short-term parking. Previously called “short-term parking and/or storage facilities for recreational/camping vehicles.”

²³⁰ Previously called “Fabricating and assembly or processing establishments of small size.”

²³¹ Previously called “Facilities for the manufacture, assembly or processing of goods and materials.”

²³² Includes “Public utility buildings and facilities,” and “Public utility distribution lines, transformer stations, transmission lines and towers, water tanks and towers, and telephone exchanges.”

Table 3.1: Table of Allowed Uses													
P = permitted by-right S= special use permit A= accessory use T = temporary use													
Use Category	Use Type	R-1	R-2	R-3	M-H ¹⁹³	MU-1 ¹⁹⁴	MU-2 ¹⁹⁵	MU-MS ¹⁹⁶	HC ¹⁹⁷	I-1	OSR ¹⁹⁸	AP ¹⁹⁹	Use-Specific Standards
	Solar energy facility, large									S	S		
	Wind energy facility, small	P	P	P	P				P	P	P		
	Wind energy facility, large								P	S	S		
	Telecommunication facility, building/roof-mounted	P	P	P		P	P	P	P	P	P		3.2.4.J
	Telecommunication facility, free-standing tower								P	P	P		3.2.4.J
ACCESSORY USES													
	Accessory dwelling unit	S P	S P	S P		P	P		S	S			3.3.4.A
	Enclosed storage	P	P	P		P	P	P	P	P	P	P	2.8.2.D.5 and Section 3.3
	Home occupation	P	P	P	P	P	P	P					3.3.4.B
	Retail display			S		P	P	P	P	P			3.3.4.C
	Screened storage					S	S	S	S	P			3.3.4.D
TEMPORARY USES													
	Special events	T	T	T		T	T	T	T	T	T	T	3.4.4.A
	Temporary office, contractor's quarters, and equipment storage ²³³	T	T	T		T	T	T	T	T	T		3.4.4.B
	Temporary vendors ²³⁴	T	T	T	T	T	T	T	T	T	T	T	3.4.4.C

Section 3.2 Use-Specific Standards

3.2.1. Residential Uses

A. Dwelling, Single-Family Attached²³⁵

In the R-2 district, each single-family attached building shall exhibit the characteristics of a series of single-family detached dwellings that are arranged in an attached side-by-side fashion and shall be designed to protect the character of single-family detached residences as set forth below:

1. Dwelling Fronting Street

Except for ADUs, dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 15 feet of street frontage.

2. Variation of Exterior Walls

No more than two adjacent single-family attached dwelling units may have front façades in the same vertical plane. Where a variation in front façade plane is required, the variation shall be a minimum of two feet.²³⁶

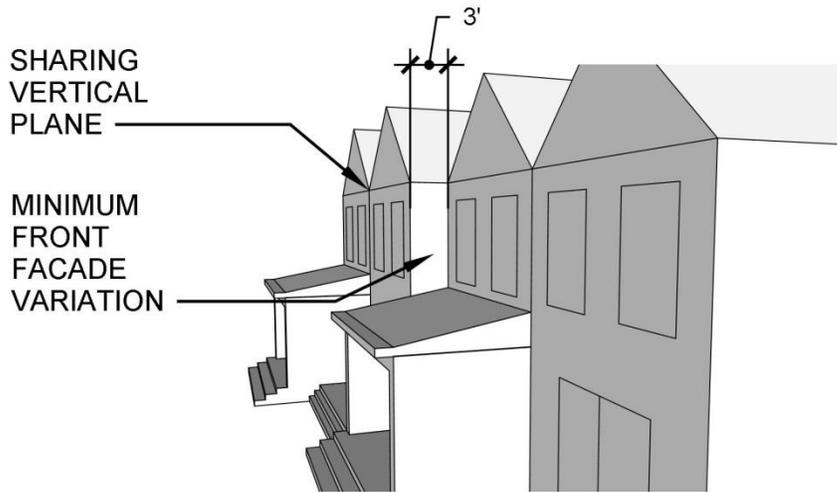
²³³ Previously "temporary real estate or construction office."

²³⁴ New use.

²³⁵ New standards.

²³⁶ Revised from three feet in Module 2. Graphic needs to be updated to reflect changes.

Figure 3.A: Variation of Exterior Wall Plane



B. Dwelling, Multifamily²³⁷

In the MU-MS and HC districts, multifamily dwellings are only permitted as part of a vertical mixed-use building.

C. Co-Housing²³⁸

1. Design Requirements

- a. The minimum project size for co-housing development is one-quarter acre.²³⁹
- b. A shared open space equal to at least 10 percent of the project area shall be provided.
- c. Underlying zoning district lot and setback requirements shall apply to the project site boundaries as a whole, but not to individual co-housing dwellings.
- d. Each co-housing dwelling unit shall be separated by a minimum of five feet.

2. Operation and Ownership

- a. Each co-housing dwelling unit shall be on a permanent foundation and shall connect to public water and sanitary sewer.
- b. One accessory storage structure less than 100 square feet may be permitted for any co-housing dwelling unit. Additionally, one shared enclosed storage facility not to exceed 600 square feet may be permitted if necessary for maintenance of the property. All accessory storage structures shall be separated from other structures by a minimum of three feet.
- c. Co-housing projects shall be organized as condominiums under state law.
- d. Individual lots or portions of the site may not be subdivided for sale.
- e. Each applicant shall enter into a development agreement with the Town agreeing that the condominium association shall maintain all streets, utilities, and infrastructure that is not dedicated to and accepted by the Town.

²³⁷ New standard. MU-MS added since Module 1.

²³⁸ New standards, based on other communities and discussions with staff.

²³⁹ Previous drafts required one acre. Revised to further promote the concept of co-housing in BV.

D. Live-Work²⁴⁰**1. Location**

Residential areas shall be located above or behind non-residential portions of the structure.

2. Ownership

The non-residential use shall be owned and operated by a resident of the live-work dwelling unit.

E. Manufactured Home Park²⁴¹**1. General Site Requirements**

- a. The minimum area of any manufactured home park is one acre. The maximum area for any manufactured home park is six acres.
- b. The maximum density shall be 12 manufactured home sites per acre, and each manufactured home shall be situated on a manufactured home site.
- c. No part of any manufactured home park shall be used for nonresidential purposes, except as required for maintenance and management of the park including laundry facilities, recreation buildings, and accessory buildings.
- d. The soil, groundwater level, drainage, rock formation, and topography shall not create hazards to the property or to the health and safety of manufactured home inhabitants.

2. Site Design Standards

- a. The minimum site size for individual manufactured home sites shall be 3,000 square feet, with a width or length of at least 35 feet, exclusive of common driveway. If a manufactured home subdivision is established, then Section 5.2, *Subdivision Design Standards* shall apply.
- b. Each manufactured home site shall abut a driveway within the manufactured home park. The driveway shall consist of two inches of asphalt over four inches of base material. The design of any driveway shall provide for adequate accessibility for emergency vehicles and shall be subject to approval as a part of the review process. All driveways shall be adequately maintained by the manufactured home park owner or operator to original design standards. Snow removal of driveways shall be the responsibility of the manufactured home park owner or operator.
- c. Two off-driveway parking spaces with not less than four inches of crushed stone or other suitable material on a well-compacted subbase shall be provided for each manufactured home space. Required parking spaces may be included within the 3,000 square feet required for each manufactured home site.
- d. No manufactured home shall be located within 20 feet of the exterior boundary of the park or a bounding street or highway right-of-way. No accessory buildings used for laundry, recreation, or storage purposes shall be located within 40 feet of the boundary or right-of-way. Each manufactured home shall be situated so that the manufactured home hitch is fronting on and directly accessible from a conforming mobile home park driveway.

²⁴⁰ New standards. Previous draft included limitation to two non-resident employees. After further consideration, we think that standard was unnecessary in BV.

²⁴¹ From 16-150(1), revised for clarity.

- e. A minimum of eight percent of the gross manufactured home park area shall be devoted to open space, which may be devoted to park or recreation facilities in a central location.
- f. The developer shall provide parking and storage of manufactured home park resident's recreational vehicles.
- g. Each manufactured home site shall be clearly identified with numbers not less than three inches in height that are clearly visible from the driveway.
- h. Adequate screening, such as a fence or buffer strip of vegetation six feet in height, shall be located along all sides of the manufactured home park, but shall not extend beyond the established setback line along any street. This requirement may be modified by the Board of Trustees where adequate buffering exists in the form of vegetation or terrain.

3. Operation and Maintenance

The storage, screening, collection, and disposal of solid waste in the manufactured home park shall be conducted to prevent unsightliness, health hazards, accident hazards, and pollution.

4. Procedures

- a. Plans for manufactured home parks shall be submitted to and approved by the Town Administrator prior to submission to the Board of Trustees for consideration of a special use permit pursuant to Section 6.5.2. Plans shall include:
 - i. The area to be used for the manufactured home park;
 - ii. The ownership and use of neighboring properties;
 - iii. All proposed entrances, exits, driveways, open space areas, and service buildings;
 - iv. The proposed plan for water supply and sewage disposal (adequate space for lines and easements shall be provided); and
 - v. The location and size of individual manufactured home sites including a sketch of the proposed location of the manufactured homes on the mobile home sites.
- b. Any expansion of a manufactured home park in existence as of the effective date of this UDC shall comply with this section concerning manufactured home parks.

F. Assisted Living Facility²⁴²

1. Facilities in residential districts shall be designed to be residential in character to the maximum extent practicable.
2. Facilities shall be licensed by the State of Colorado.

G. Continuum of Care or Nursing Home²⁴³

1. Facilities in residential districts shall be designed to be residential in character to the maximum extent practicable.
2. Facilities shall be licensed by the State of Colorado.

H. Day Care Home²⁴⁴

Day care homes shall meet all certification and licensing requirements of the State of Colorado.²⁴⁵

²⁴² New standards.

²⁴³ New standards.

²⁴⁴ Replaces 16-144(8), modified to reference state licensing requirement.

²⁴⁵ New.

I. Group Home²⁴⁶

Group homes shall meet all certification and licensing requirements of the State of Colorado.

3.2.2. Public, Institutional, and Civic Uses**A. Shooting Range²⁴⁷**

1. Owners and/or operators of shooting ranges shall submit a cleanup and mitigation plan demonstrating compliance with all Town standards and applicable state and federal environmental standards.
2. Shooting ranges shall comply with all other Town standards relating to noise and public safety. The police department shall review all shooting range applications and forward recommendations to the Town for consideration.
3. All outdoor shooting areas shall be set back a minimum distance of 100 feet from any public right-of-way.
4. The shooting backstops for outdoor shooting areas shall be an earthen mound or dugout of sufficient dimensions to stop projectiles.
5. An accessory retail store, snack shop, and short-term rental of firearms and equipment for use on the premises are permitted. Sale of alcoholic beverages is prohibited.

3.2.3. Commercial Uses**A. Community Garden²⁴⁸**

1. The sale of produce and plants shall only include those grown on-site.
2. No permanent structures other than greenhouses or storage sheds shall be erected for the sale of produce and plants.

B. Kennel²⁴⁹**1. Enclosed Building Requirements**

- a. Those parts of structures in which animals are boarded shall be fully enclosed, with solid core doors and no operable windows, and shall be sufficiently insulated so no unreasonable noise or odor can be detected off the premises.
- b. All boarded animals shall be kept within a totally enclosed part of a structure between the hours of 10:00 p.m. and 6:00 a.m.

2. Outdoor Runs

Any open or exercise run shall be at least 150 feet from adjoining properties.

C. Veterinarian Hospital or Clinic²⁵⁰

Outdoor overnight housing for animals is not permitted in the MU-1, MU-2, or MU-MS districts.

D. Sexually-Oriented Business²⁵¹

1. Sexually oriented businesses shall be located a minimum of 1,000 feet from any:

²⁴⁶ Replaces 16-144(2), modified to reference state licensing requirement.

²⁴⁷ New standards.

²⁴⁸ New standards.

²⁴⁹ New standards.

²⁵⁰ New. Revised since Module 1 to remove the HC district from this limitation.

²⁵¹ From 16-300, revised for clarity.

- a. Area zoned for residential use;
 - b. Single-family or multifamily dwelling, whether located within or outside of the Town limits;
 - c. Church, public park, community center, recreation facility, or any publicly owned or maintained building open for use to the general public;
 - d. State-licensed day care facility for children;
 - e. School or educational facility serving persons under 18 years of age, or property owned by a school or educational facility; or
 - f. Other sexually-oriented business.
2. The distance between any two sexually-oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any sexually-oriented business and any church, community center, recreation facility, publicly owned or maintained building open for use to the general public, school, school-owned or educational facility-owned property, day care facility, public park, dwelling or residential district shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the structure used for the sexually-oriented business to the nearest property line of the church, community center, recreation facility, publicly owned or maintained building open for use to the general public, school, school-owned or educational facility-owned property, day care facility or dwelling, or the nearest boundary of the public park or residential district.
 3. Sexually explicit advertisements or other promotional displays for sexually-oriented businesses shall not be visible to minors from pedestrian ways, walkways, or other public areas.

E. Personal Service

In the MU-1, MU-2, and MU-MS districts, all business and storage activities shall be within a completely enclosed structure.²⁵²

F. Retail, General

1. In the MU-1, MU-2, and MU-MS districts, all business and storage activities shall be within a completely enclosed structure.²⁵³
2. In the R-3 district, grocery store is the only permitted retail use and shall comply with the following standards:
 - a. Shall not exceed 2,500 square feet; and²⁵⁴
 - b. Shall be limited to vertical mixed-use buildings.²⁵⁵

G. Equipment Sales

In the HC district, unenclosed storage of inoperable or wrecked machinery or equipment is prohibited.²⁵⁶

H. Recreational Vehicle and Large Equipment Sales

The unenclosed storage of junked vehicles or wrecked or inoperable equipment or materials shall be prohibited.²⁵⁷

²⁵² Replaces 16-154(2). Revised since Module 1 to exclude limitation in the R-3 district to only allowing Laundromats, pursuant to current 16-150(2).

²⁵³ Replaces 16-154(1).

²⁵⁴ From 16-150(2).

²⁵⁵ New standard.

²⁵⁶ From 16-158(4).

I. Bed and Breakfast²⁵⁸

1. A proprietor or manager shall reside on the premises.
2. Guest rooms shall be located in the principal building on the property.
3. Meals shall be served only to permanent residents and overnight guests.
4. Occupancy at a bed and breakfast by a paying guest shall not exceed 30 days.

J. Short-Term Rentals

1. All applicable taxes and fees shall be paid prior to operating a short-term rental.²⁵⁹
2. Accessory dwelling units shall not be used as short-term rentals.²⁶⁰
3. Occupancy of a short-term rental by a paying guest shall not exceed 30 days.²⁶¹

K. Bar or Tavern²⁶²

1. Bars and Taverns shall adhere to liquor license requirements regarding hours of operation, location, and other matters regulated by the State.
2. Outdoor dining facilities in the public right-of-way shall require an encroachment permit from the Town Administrator and may be subject to a Special Use Permit.²⁶³

L. Microbrewery, Distillery, or Winery

1. Microbreweries, distilleries, and wineries are subject to the use-specific standards for a bar or tavern pursuant to subsection 3.2.3.K.
2. Retail sales of food prepared on-site shall be permitted as an accessory use.
3. Production capacity shall be limited to 15,000 gallons.
4. Microbreweries, distilleries, and wineries shall provide noise and odor abatement.
5. Raw ingredients or waste shall be stored in a fully-enclosed structure compliant with all building and fire code requirements.

M. Restaurant

1. In the MU-1, MU-2, and MU-MS districts, drive-through facilities are prohibited.²⁶⁴
2. Outdoor dining facilities in the public right-of-way shall first obtain an encroachment permit from the Town Administrator and may be subject to a Special Use Permit.²⁶⁵

N. Automobile Leasing or Sales

1. The unenclosed storage of inoperable or wrecked automobiles is prohibited.²⁶⁶
2. Automobile sales, but not leasing, is prohibited in the AP district.²⁶⁷

O. Automobile Service, Major

1. All repairs, services, and storage shall be conducted within a completely enclosed structure.²⁶⁸

²⁵⁷ From 16-161(10).

²⁵⁸ New standards. Revised since Module 1 to remove limitation on number of guest rooms to five.

²⁵⁹ From 16-143(5).

²⁶⁰ New standard.

²⁶¹ From definition of "vacation rental."

²⁶² New standard.

²⁶³ New standard replaces 16-294. Since Module 1, added "and may be subject to a Special Use Permit."

²⁶⁴ Replaces 16-154(4).

²⁶⁵ New standard replaces 16-294. Since Module 1, added "and may be subject to a Special Use Permit."

²⁶⁶ From 16-158(2).

²⁶⁷ New since Module 1.

²⁶⁸ Replaces 16-158(3).

2. Open storage of wrecked or inoperable cars, discarded tires, auto parts, or similar materials shall not be permitted.

P. Automobile Service, Minor²⁶⁹

1. Storage of vehicles on premises shall not exceed 30 days.
2. Storage of equipment, auto parts, and supplies used in servicing vehicles shall be maintained inside an enclosed structure.
3. Open storage of wrecked or inoperable cars, discarded tires, auto parts, or similar materials shall not be permitted.

Q. Fueling Station²⁷⁰

1. Gasoline pumps and other appliances shall be located at least 15 feet from any public right-of-way.²⁷¹
2. All service, storage, or similar activities shall be conducted entirely on the premises.
3. Open storage of wrecked or inoperable cars, discarded tires, auto parts, or similar materials shall not be permitted.

R. Railroad Transshipment Facility

Transshipment facilities for coal are prohibited.²⁷²

3.2.4. Industrial Uses

A. Above-Ground Bulk Storage Tank²⁷³

1. Shall comply with the Town fire code and all applicable standards and regulations of the National Fire Protection Association (NFPA).
2. In the MU-1, MU-2, MU-MS, and HC districts, above-ground bulk storage tanks shall be limited to nonflammable and/or noncombustible gases or liquids.

B. Wholesale Distribution, Warehouse, or Mini-Warehouse²⁷⁴

For mini-warehouses:

1. Doors to individual storage units shall not face any abutting street frontage, or if the site is located on a corner, shall not face the primary street frontage.
2. No outdoor storage is permitted except for boats or vehicles, which shall be stored only in designated screened areas.
3. When adjacent to any residential zoning district:
 - a. Access to mini-warehousing facilities shall be limited to the hours of 6:00 a.m. to 11:00 p.m.
 - b. Mini-warehousing facilities shall be adequately screened pursuant to Section 4.4.6 along any property line adjacent to a residential zoning district.

²⁶⁹ New standards.

²⁷⁰ From 16-241, revised based on initial feedback. Eliminated 40-foot setback for buildings. The building setbacks are covered by the district dimensional standards. Previous draft included the following: "all minor service, such as battery testing, lubricant servicing, or installation of accessory parts shall be conducted completely within an enclosed building."

²⁷¹ Revised from "street right-of-way" based on feedback that determining where the ROW line lies requires a survey.

²⁷² From 16-161(3).

²⁷³ From 16-155.

²⁷⁴ New standards.

C. Short-Term and/or Long-Term Storage of Recreational/Camping Vehicles²⁷⁵

In the R-1, R-2, and R-3 districts, recreational/camping vehicles:

- 1.
2. Shall not be occupied or used for living, sleeping, or housekeeping purposes.
3. Shall be parked on an improved surface such as gravel, asphalt, concrete, or pavers if stored in a front yard.

D. Manufacturing, Light

In the MU-1, MU-2, and MU-MS districts, a light manufacturing use shall not exceed 5,000 square feet.²⁷⁶

E. Manufacturing, Medium or Heavy

A medium or heavy manufacturing use shall not include any of the following:²⁷⁷

1. Cement, lime, gypsum, rockwall, or plaster of Paris manufacture;
2. Acid manufacture;
3. Explosives manufacture or storage, except for above-ground bulk tank storage of gases or liquids with approval of a special use permit pursuant to Section 6.5.2;
4. Glue manufacture, fat rendering, distillation of bones, fertilizer manufacture;
5. Petroleum or petroleum products refining;
6. Milling or smelting of ores;
7. Garbage, offal, or dead animal reduction or dumping;
8. Stockyards, feeding yards, or slaughter of animals;
9. Oil extraction from vegetative materials using flammable solvents;
10. Manufacture of liquid petroleum gases or petroleum products; or
11. Other uses similar to those listed above.

F. Geothermal Facility, Small²⁷⁸

1. In the R-1, R-2, and R-3 districts, geothermal facilities shall be located entirely within the subject property.
2. No portion of a geothermal facility shall be located within a stream or required stream buffer.

G. Geothermal Facility, Large²⁷⁹

No portion of a geothermal facility shall be located within a stream or required stream buffer.

H. Public Utility Distribution Line, Transmission Line, or Facility**1. In the R-1, R-2, and R-3 Districts²⁸⁰**

- a. All structures shall be located at least 25 feet from any lot line;
- b. Fences or other appropriate safety devices shall be installed to protect the public safety and welfare;

²⁷⁵ New standards. Since Module 1, standards were revised to be more flexible in allowing storage of RVs on single-family properties.

²⁷⁶ Replaces 16-154(9).

²⁷⁷ From 16-163.

²⁷⁸ New standards as neighborhood protection standards for geothermal intended for personal use.

²⁷⁹ New standards.

²⁸⁰ From 16-144(7) and 16-150(4).

- c. No vehicles or equipment shall be stored, maintained, or repaired on the premises;
- d. All structures shall be consistent with the character of the neighborhood; and
- e. Adequate landscaping, screening, or buffering shall be provided to ensure compatibility with the neighborhood.

2. In the MU-1, MU-2, MU-MS, and HC Districts²⁸¹

Service and storage yards are prohibited.

I. Radio and Television Transmitting Station and Studio²⁸²

- 1. All structures shall be consistent with the character of the neighborhood;
- 2. All structures shall be located at least 35 feet from any lot line; and
- 3. Adequate landscaping, screening, and buffering shall be provided to ensure compatibility with the neighborhood.

J. Telecommunication Facility²⁸³

1. Purpose and Intent

To provide design standards for cellular communication facilities in order to ensure their compatibility with surrounding development. The unique and diverse landscapes of the Town are among its most valuable assets. Protecting these assets will require that location and design of wireless communication services facilities and equipment be sensitive to and in scale and harmony with, the character of the community. The purpose of these regulations is to provide predictable and balanced standards for the siting and screening of wireless telecommunication services facilities and equipment on property within the jurisdiction of the Town in order to:

- a. Preserve the character and aesthetics of areas which are in close proximity to wireless telecommunication services facilities and equipment by minimizing the visual, aesthetic and safety impacts of such facilities through careful design, siting and screening; placement, construction or modification of such facilities;
- b. Protect the health, safety and welfare of persons living or working in the area surrounding such wireless telecommunication services facilities and equipment from possible adverse environmental effects (within the confines of the Federal Telecommunications Act of 1996) related to the placement, construction or modification of such facilities;
- c. Provide development which is compatible in appearance with allowed uses of the underlying zone;
- d. Facilitate the Town's permitting process to encourage fair and meaningful competition and, to the greatest extent possible, extend to all people in all areas of the Town high quality wireless telecommunication services at reasonable costs to promote the public welfare; and
- e. Encourage the joint use and clustering of antenna sites and structures, when practical, to help reduce the number of such facilities which may be required in the future to service the needs of customers and thus avert unnecessary proliferation of facilities on private and public property.

²⁸¹ From 16-154(8).

²⁸² From 16-150(3).

²⁸³ Carried over from 16-252, largely unchanged. Minor revisions for clarity.

2. Applicability²⁸⁴

- a. All applications for the installation or development of wireless telecommunication services facilities and/or equipment must receive building permits, prior to installation. Prior to the issuance of appropriate building permits, wireless telecommunication services facilities and/or equipment shall be reviewed for approval by the Planning Department in conformance with this section.
- b. Wireless telecommunication services facilities and equipment subject to this section include cellular telephone, paging, enhanced specialized mobile radio (ESMR), personal communication services (PCS), commercial mobile radio service (CMRS) and other wireless commercial telecommunication devices and all associated structures and equipment including transmitters, antennas, monopole antennas, towers, masts and microwave dishes, cabinets and equipment rooms.
- c. These provisions and criteria do not apply to noncommercial satellite dish antennas, radio and television transmitters, and antennas incidental to residential use. All references made throughout this section, to any of the devices to which this section is applicable, shall be construed to include all other devices to which this subsection J is applicable.

3. Procedures

a. General

The applicant shall conduct a pre-application meeting with staff of the Planning Department. The Planner shall then prepare a pre-application summary describing the submission requirements and any other pertinent land use material, the fees associated with the reviews and the review process in general.

b. Planning Review

After the pre-application meeting, the applicant shall submit to the Planning Department an application for review and approval with payment of all applicable fees. The application shall be reviewed by the Planning Department for completeness and consistency with the requirements and standards of this Chapter. Upon determination by the Planning Department that the application is complete, the application will proceed through the land use process.

c. Appeal of Planning Department's Determination

The Planning Department in its administrative approval process outlined in paragraph d below, may apply reasonable conditions to the approval as deemed necessary to ensure conformance with applicable review criteria outlined within in subsection 3.2.4.J.6 If the Planning Department determines that the proposed wireless telecommunication services facilities and equipment do not comply with the review criteria and denies the application, or the applicant does not agree to the conditions of approval determined by the Planning Department administrative approval, the applicant may apply for the appeal process outlined in paragraph 3.2.4.J.3.f within 10 calendar days of the day on which the Planning Department's decision is rendered.

d. Administrative Review Process

The Planning Department shall provide notice of the application to adjacent property owners (excluding public rights-of-way). The public notice shall summarize the plan and provide notice of their right to comment on or object to the plan by filing such comments

²⁸⁴ Broken up into three distinct paragraphs.

or objections with the Planning Department within seven business days of the date the notice is posted on the property. Such notice shall be provided by: (a) prominently and visibly posting the property subject to the application; and (b) delivering notice either by regular mail or personal delivery. Applications shall be reviewed within 10 business days, and the Planning Department shall, in writing, approve, deny, or conditionally approve the application based on the criteria set forth within this section.

e. Building Permit

A building permit application cannot be filed unless and until final land use approval has been granted. When applying for building permits, the applicant shall submit a signed letter indicating his/her compliance with all conditions of approval, as well as a copy of the signed document granting the land use approval for the subject building permit application.

f. Appeal Process²⁸⁵

- i.** An appeal of a decision of the Planning Department approving or denying an application for a telecommunication facility shall be made to the Board of Trustees in writing by filing with the Town Clerk within 10 days from the date of the decision appealed from.
- ii.** All appeals shall be heard by the Board of Trustees de novo and shall be conducted at a public meeting within 30 days from the filing of the appeal, or as soon thereafter as can be accommodated.
- iii.** The Town Clerk shall notify the appellant and, if different, the permit applicant by certified mail, return receipt requested, of the date the appeal shall be heard at least seven days in advance of the hearing.
- iv.** The decision of the Board of Trustees on appeal may be issued orally, but shall thereafter be reduced to writing within a reasonable period of time after the conclusion of the hearing and mailed to the appellant and, if different, the permit applicant. Such appeal review may be approved, approved with conditions, or denied based on conformance with the applicable review standards outline within this section.

4. Application

An application for approval of new, modified or additional wireless telecommunication services facilities and/or equipment shall follow the submittal process set forth in 3.2.4.J.3. Wireless telecommunication services facilities and equipment applications shall contain at least the following information:

- a.** Site plan or plans drawn to a scale of one inch equals 10 feet or one inch equals 20 feet, including "before and after" photographs (simulations) specifying the location of antennas, support structures, transmission buildings and/or other accessory uses, access, parking, fences, signs, lighting, landscaped areas and all adjacent land uses within 150 feet. Such plans and drawings should demonstrate compliance with the review standards of this Section.
- b.** Site improvement survey including topography and vegetation showing the current status, including all easements and vacated rights of way, of the parcel certified by a registered land surveyor, licensed in the State of Colorado.

²⁸⁵ Broken up into paragraphs.

- c. Landscape plan drawn to a scale of one inch equals 10 feet or one inch equals 20 feet, including "before and after" photographs (simulations) indicating size, spacing and type of plantings and indicating steps to be taken to provide screening as required by the review standards of this Section. The landscape plans shall also indicate the size, location and species of all existing vegetation and whether each of those indicated are proposed for removal (indicate proposed mitigation), relocation (indicate from and to) or preservation. The appropriate decision-making authority (Planning Department or Board of Trustees, as applicable) shall determine if a landscape plan is necessary; for instance, when an antenna is to be attached to a building, this requirement may be waived.
- d. Elevation drawings or "before and after" photographs/drawings simulating and specifying the location and height of antennas, support structures, transmission buildings and/or other accessory uses, fences and signs.
- e. Lighting plan and photometric study indicating the size, height, location and wattage of all proposed outdoor lighting sources. This study shall also include a graphic indicating the spread and degree/intensity of light from each source/fixture.
- f. Structural integrity report from a professional engineer licensed in the State of Colorado documenting the following:
 - i. Tower height and design, including technical, engineering, economic and other pertinent factors governing selection of the proposed design;
 - ii. Total anticipated capacity of the structure, including number and types of antennas which can be accommodated;
 - iii. Failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris in the event of failure; and
 - iv. Specific design and reconstruction plans to allow shared use. This submission is required only in the event that the applicant intends to share use of the facility by subsequent reinforcement and reconstruction of the facility.
- g. **FAA and FCC Coordination**²⁸⁶

Applicant shall submit documentation showing compliance with Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) regulations, indicating that:

 - i. (Required only if the facility is near an airfield per FAA distance requirements) The application has not been found to be a hazard to air navigation under 14 CFR Part 77, Federal Aviation, Federal Aviation Regulations, or stating that no compliance with 14 CFR Part 77 is required and the reasons therefore. A letter from the Central Colorado Regional Airport Administrator shall also be required if the appropriate decision-making authority (Planning Department or Board of Trustees, as applicable) determines that the proposed facility may impact airport operations;
 - ii. (Required of all wireless telecommunication services facility or equipment applicants) The application complies with the regulations of the Federal Communications Commission with regard to maximum radio frequency and electromagnetic frequency emissions or a statement from the applicant that no such compliance is necessary and the reasons therefore.

²⁸⁶ References to FAA Part 77 were changed to "14 CFR Part 77."

- h. Evidence that an effort was made to locate on an existing wireless telecommunication services facility site including coverage/interference analysis and capacity analysis and a brief statement as to other reasons for success or no success.
- i. Written documentation in the form of a signed affidavit demonstrating a good faith effort in locating facilities in accordance with site selection order of preference outline within subsection 3.2.4.J.5.b.
- j. All companies and providers of wireless telecommunication service facilities and equipment within the Town shall, during their pre-application meeting for a new facility, be prepared to verbally outline, to the best of current knowledge, a master or long-term plan for all proposed sites within a three-mile radius of the Town. In particular, companies and providers should be prepared to discuss their need for the proposed site and how it fits into their existing and proposed coverage grids.

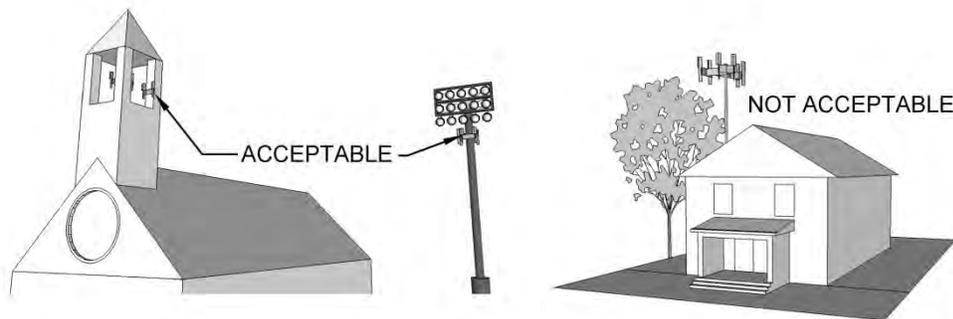
5. General Requirements

The following standards apply to all wireless telecommunication services facilities and equipment applications, sites and uses.

a. Permitted Districts and Restrictions²⁸⁷

- i. Telecommunications facilities are permitted or prohibited per Table 3.1: Table of Allowed Uses.
- ii. Freestanding towers are prohibited within the Old Town Overlay.
- iii. In the R-1, R-2, and R-3 districts, building and/or roof-mounted telecommunication facilities shall only be permitted if they are concealed within nonresidential structures using stealth design techniques such as within a church steeple, ball field lighting, water towers, etc.²⁸⁸

Figure 3.B: Stealth Telecommunication Facilities vs. Unconcealed



- iv. Lattice antenna towers and Guyed Mast Towers are prohibited within the Town. For existing Nonconformities, see Section 1.5, Nonconformities.

²⁸⁷ The permission for towers and building/roof-mounted facilities were relocated from the current table in Section 16-252(g) to Table 3.1, Table of Allowed Uses.

²⁸⁸ New standard to permit stealth design of telecommunication facilities on non-residential structures within residential districts. Building and roof-mounted facilities are currently prohibited in the R-1, R-2, and R-3 districts.

- v. Customer premises equipment is allowed in residential zoning districts in accordance with all other standards of the UDC.²⁸⁹
 - vi. All wireless telecommunication services facilities and equipment not prohibited by the preceding statements shall be allowed in all other zoning districts subject to review and approval by the appropriate decision-making authority (Town Administrator or Board of Trustees, as applicable) pursuant to this UDC, including consistency with the dimensional requirements of the underlying zoning district.
- b. Site Selection**
- Wireless communication facilities shall, in accordance with local zoning requirements, be located in the following order of preference:
- i. **First:** On existing structures such as buildings, communication towers, flagpoles, church steeples, cupolas, ball field lights, water towers, etc.
 - ii. **Second:** In locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.
 - iii. **Least:** On vacant ground or highly visible sites without significant visual mitigation and where screening or buffering is difficult.
- c. Interference**
- Radio interference is prohibited. The applicant shall meet FCC requirements for radio interference and if the proposed wireless telecommunication services facilities or equipment is within 1,000 feet of the Town's radio controlled model airplane runway, the applicant must provide satisfactory documentation evidencing that the facilities or equipment will not interfere with the model airplanes' radio frequencies.
- d. Airports and Flight Paths**
- Wireless telecommunication services facilities and equipment shall not present a hazard to air navigation under 14 CFR Part 77, Federal Aviation, Federal Aviation Regulations.²⁹⁰
- e. Public Buildings, Structures and Rights-Of-Way**
- Leasing of public buildings, publicly owned structures and/or public rights-of-way for the purposes of locating wireless telecommunication services facilities and/or equipment is encouraged. In cases where a facility is proposed on Town property, specific locations and compensation to the Town shall be negotiated in lease agreements between the Town and the provider on a case-by-case basis and would be subject to all of the review criteria contained in Subsection 3.2.4.J.6. Such agreements shall not provide exclusive arrangements that could tie up access to the negotiated sites or limit competition and must allow for the possibility of "co-locating" (sharing of facilities) with other providers as described in Subsection 3.2.4.J.5.f, below.
- f. Co-Location**
- i. Co-location or sharing, of facilities with other providers is encouraged. Co-location can be achieved as building-mounted, roof-mounted, or ground-mounted facilities. In designing poles, applicants are strongly encouraged to consider the possibility of present or future co-location of other wireless communication equipment by structurally overbuilding in order to handle the loading capacity of additional

²⁸⁹ Simplified.

²⁹⁰ Revised to reference "14 CFR Part 77."

antennas, for the use of the company and for other companies to use as well. Applicants shall use good faith efforts to negotiate lease rights to other telecommunications users who desire to use the monopole. Co-location on an existing support structure (tower) shall be permitted as an accessory use. A maximum 24-inch diameter dish antenna is permitted per monopole antenna. Projections of any type on the monopole, which are not antennas, are strongly discouraged.

- ii. Multiple use facilities are encouraged as well. Wireless telecommunication services facilities and equipment may be integrated into existing or newly developed facilities that are functional for other purposes, such as ball field lights, flagpoles, church steeples, water towers, etc. All multiple use facilities shall be designed to make the appearance of the antenna relatively inconspicuous.
- iii. The co-location requirement may be waived by the appropriate decision-making authority (Planning Department or Board of Trustees, as applicable) upon a showing that either federal or state regulations prohibit the use, the proposed use will interfere with the current use, the proposed use will interfere with surrounding property or uses, the proposed user will not agree to reasonable terms, or such co-location is not in the best interest of the public health, safety, or welfare.
- iv. This Subsection f shall not be interpreted to prevent a co-location of telecommunication facilities as provided in the federal Telecommunications Act and Middle Class Tax Relief and Job Creation Act (2012), as amended and interpreted by the federal courts.²⁹¹
- v. The co-location device shall match existing color and material of the facility it is located with. All wiring for co-location facilities shall be hidden inside the structure or designed to match if it is demonstrated that wiring cannot be physically placed inside the structure.²⁹²

g. Maintenance

All towers, antennas, related facilities and equipment and subject sites shall be maintained in a safe and clean manner in accordance with project approvals and building codes. The telecommunication facility operator/property owner shall be responsible for maintaining free from graffiti, debris and litter, those areas of the site which are adjacent to the premises over which he or she has control. The applicant shall be responsible for reasonable upkeep of the facility and subject property. All towers, antennas and related facilities shall be subject to periodic inspection by the Town to ensure continuing compliance with all conditions of approval and requirements of this Section.

h. Abandonment and Removal

- i. All required approvals shall be in effect only so long as the antennas and other structures are operated at the site. Facilities that are not in use for 90 consecutive days for cellular communication purposes shall be considered abandoned and shall be removed by the facility owner following approval of a demolition permit. The site shall be restored to the condition it was in prior to the installation/location of the facility. Such removal shall be carried out in accordance with proper health and safety requirements.

²⁹¹ New standard related to compliance with Colorado and federal laws.

²⁹² New since Module 1.

- ii. The owner of such facilities shall provide the Town of Buena Vista with a copy of the notice to the FCC of the intent to cease operations within 30 days of delivery of the notice to the FCC. The operator shall have 90 days to remove the facility. The Town shall determine whether or not the facility is abandoned.
 - iii. If a facility falls into disrepair, repairs are required to be completed within 30 days of the damage occurring. If the cell tower owner is unable to repair the damage within 30 days of occurrence, a request for extension of time to complete the repairs may be submitted to the Town within 30 days of the damage to the structure. If damage to the structure is not repaired within 30 days, and a request for extension is not filed with the Town, the structure shall be determined to be abandoned.
 - iv. If the owner fails to remove the wireless telecommunication services facilities and/or equipment within the timeframe identified in this section, the Town Administrator or Board of Trustees may cause the demolition and/or removal of all telecommunications facilities and/or towers from the site and recover its costs of demolition and removal from the telecommunication facility operator and/or property owner.
- i. Conditions and Limitations**
- i. The Town shall reserve the right to add, modify or delete conditions after the approval of a request in order to advance a legitimate Town interest related to health, safety or welfare. Prior to exercising this right, the Town shall notify the owner and operator in advance and shall not impose a substantial expense or deprive the affected party of a substantial revenue source in the exercising of such right.
 - ii. Approval by the appropriate decision-making authority (Planning Department or Board of Trustees, as applicable) for a wireless telecommunication services facility and/or equipment application shall not be construed to waive any applicable zoning or other regulations; and unless otherwise specified, all other requirements of this Code shall apply. All requests for modifications of existing facilities or approvals shall be submitted to the Planning Department for review under all requirements of this Section. If other than minor changes are proposed, a new, complete application containing all proposed revisions shall be required.

6. Review Standards

a. Summary of Dimensional Standards

The following standards are designed to foster the Town's safety and aesthetic interests without imposing unreasonable limitations on wireless telecommunication services facilities and equipment:

	Residential Districts	Mixed-Use Districts	HC District	I-1 District	OSR District	Old Town Overlay
Height (max.): Freestanding tower	not permitted	not permitted	35 feet	75 feet	35 feet; 250 feet on rodeo grounds. ^[1]	not permitted
Setbacks (min.): Freestanding tower	not permitted	not permitted	50 feet ^[2]	50 feet ^[2]	50 feet ^[2]	not permitted
Alternative Tower Structure Required	not permitted	not permitted	Yes	No	Yes	Yes
Height (max): Building/Roof-Mounted	Per underlying district	Antenna: 5 feet above highest portion of roof; Whip antenna: 10 feet above highest portion of roof.				Limited to existing height of structure
Notes:						
[1] Antennas attached to ball field lights are allowed in the OSR district and can extend beyond height restrictions in this table.						
[2] Adjacent to residential districts: 3 times the height of the tower; from any public road: equal to the height of the tower.						

b. Setbacks

Wireless telecommunication services facilities and equipment shall comply with the minimum setback requirements of the underlying zoning district; if the following requirements are more restrictive than those of the underlying zoning district, the more restrictive standard shall apply.

- i. All facilities shall be setback 50 feet from any property lines, except when roof-mounted (above the eave line of a building). Flat-roof mounted facilities visible from ground level within 100 feet of said property shall be concealed to the extent possible within a compatible architectural element, such as a chimney or ventilation pipe or behind architectural skirting of the type generally used to conceal HVAC equipment. Pitched-roof-mounted facilities shall always be concealed within a compatible architectural element, such as chimneys or ventilation pipes.
- ii. Monopole antenna towers shall be set back from any residentially zoned properties a distance of at least three times the monopole antenna's height (i.e., a 60-foot setback would be required for a 20-foot monopole antenna) and the setback from any public road, as measured from the right-of-way line, shall be at least equal to the height of the monopole antenna.
- iii. No wireless communication facility may be established within 1,000 feet of any existing, legally established wireless communication facility except when located on the same building or structure.
- iv. No portion of any antenna array shall extend beyond the property lines.

c. Height

- i. Wireless telecommunication services facilities and/or equipment not attached to a building shall not exceed 35 feet in height or the maximum permissible height of the underlying zoning district, whichever is more restrictive; except the height limit for the Town's rodeo grounds in the OSR district shall be 250 feet, and the height limit in the I-1 zoning district shall be 75 feet.

²⁹³ Replaces Table from 16-252(g), revised for simplicity. Did not carry forward setbacks for wall/roof mounted column, because there were not standards listed. Determination of whether or not a tower or building/roof-mounted facility is permitted in a particular district was relocated to Table 3.1, Table of Allowed Uses.

- ii. Whenever a wireless telecommunication services antenna is attached to a building roof, the antenna and support system for panel antennas shall not exceed five feet above the highest portion of that roof, including parapet walls and the antenna and support system for whip antennas shall not exceed 10 feet above the highest portion of that roof, including parapet walls.
 - iii. The Board of Trustees may approve a taller antenna height than provided in these regulations if the Board determines that the antenna is suitably camouflaged and allows for co-location of at least two facilities, and documentation is provided indicating FAA and FCC rules and regulation compliance. Camouflaging requirements are set forth in Subsection 3.2.4.J.6.f.
 - iv. Support and/or switching equipment shall be located inside the building, unless it can be fully screened from view as provided in the "Screening" standards outline with in this Subsection 3.2.4.J.6.f, below.
- d. Architectural Compatibility**
- Whether manned or unmanned, wireless telecommunication services facilities shall be consistent with the architectural style of the surrounding architectural environment (planned or existing) considering exterior materials, roof form, scale, mass, color, texture and character. In addition:
- i. All towers in the permitted zoning districts other than the I-1 must be an alternative tower structure. The applicant must present at least two designs for the appropriate decision-making authority to select from.
 - ii. If such facility is accessory to an existing use, the facility shall be constructed out of materials that are equal to or of better quality than the materials of the principal use that meet building codes and safety standards.
 - iii. Wireless telecommunication services equipment shall be of the same color as the building or structure to which or on which such equipment is mounted or as required by the applicable decision-making authority.
 - iv. Whenever wireless telecommunication services equipment is mounted to the wall of a building or structure, the equipment shall be mounted in a configuration designed to blend with and be architecturally integrated into a building or other concealing structure, be as flush to the wall as technically possible, and shall not project above the wall on which it is mounted.
 - v. Monopole support buildings, which house cellular switching devices and/or other equipment related to the use, operation or maintenance of the subject monopole antenna, shall be designed to match the architecture of adjacent buildings. If no recent and/or reasonable architectural theme is present, the applicable decision-making authority may require a particular design that is deemed to be suitable to the subject location.
 - vi. All utilities associated with wireless communication facilities or equipment shall be underground (also see "Screening" below).
- e. Compatibility with the Natural Environment**
- Wireless telecommunication services facilities and equipment shall be compatible with the surrounding natural environment considering land forms, topography and other natural features and shall not dominate the landscape or present a dominant silhouette. In addition:

- i. Site disturbances shall be minimized and existing vegetation shall be preserved or improved to the extent possible, unless it can be demonstrated that such disturbance to vegetation and topography results in less visual impact to the surrounding area.
 - ii. Surrounding view planes shall be preserved to the extent possible.
 - iii. Wireless telecommunication services facilities and equipment shall comply with the Federal Communication Commission's regulations concerning maximum radio frequency and electromagnetic frequency emissions.
- f. Screening**
- Roof-and ground-mounted wireless telecommunication services facilities and equipment, including accessory equipment, shall be screened from adjacent and nearby public rights-of-way and public or private properties by paint color selection, parapet walls, screen walls, fencing, landscaping and/or berming in a manner compatible with the building's and/or surrounding environment's design, color, materials, texture, land forms and/or topography, as appropriate or applicable. In addition:
- i. Whenever possible, if monopoles are necessary for the support of antennas, they shall be located near existing utility poles, trees or other similar objects; consist of colors and materials that best blend with their background; and, have no individual antennas or climbing spikes on the pole other than those approved by the applicable decision-making authority.
 - ii. For ground-mounted facilities, landscaping may be required to achieve a total screening effect at the base of such facilities or equipment in order to screen the mechanical characteristics; a heavy emphasis on coniferous plants for year-round screening may be required. Landscaping shall be of a type and variety capable of growing within one year to a landscape screen which satisfactorily obscures the visibility of the facility. See Section 4.4.6, *Screening and Fencing*.
 - iii. Unless otherwise expressly approved, all cables for a facility shall be fully concealed from view underground or inside of the screening or monopole structure supporting the antennas; any cables that cannot be buried or otherwise hidden from view shall be painted to match the color of the building or other existing structure.
 - iv. Chain link fencing shall be unacceptable to screen facilities, support structures or accessory and related equipment (including HVAC or mechanical equipment present on support buildings); fencing material, if used, shall be six feet in height or less and shall consist of wood, masonry, stucco, stone or other acceptable materials that are opaque. A fence permit shall be required if fencing is proposed. See Section 4.4.6, *Screening and Fencing*.
 - v. Notwithstanding the foregoing, the facility shall comply with all additional measures deemed necessary to mitigate the visual impact of the facility. Also, in lieu of these screening standards, the applicable decision-making may allow use of an alternate detailed plan and specifications for landscape and screening, including plantings, fences, walls, sign and structural applications, manufactured devices and other features designed to screen, camouflage and buffer antennas, poles and accessory uses. For example, the antenna and supporting structure or monopole antenna may be of such design and treated with an architectural material so that it complies with an alternative tower structure. The plan should accomplish the same degree of screening achieved by meeting the standards outlined above.

g. Lighting and Signage

In addition to other applicable sections of the code regulating signage or outdoor lighting, the following standards shall apply to wireless telecommunication services facilities and equipment:

- i. Wireless telecommunication services facilities shall not be illuminated, except in accordance with applicable state and federal regulations or by approval from applicable decision-making authority. Telecommunications facilities including accessory buildings and equipment shall not incorporate dusk to dawn security lighting. The facilities may utilize manual switch or motion activated exterior illumination for repair, maintenance, and security purposes. If lighting is proposed it shall meet these requirements:
 - (a) The light source for security lighting shall feature down-directional, sharp cut-off luminaries to direct, control, screen or shade in such a manner as to ensure that there is no spillage of illumination off-site. Also refer to **Section 18-295(6)**.
 - (b) Light fixtures, whether free standing or tower-mounted, shall not exceed 12 feet in height as measured from finished grade.
- ii. The display of any sign or advertising device other than public safety warnings, certifications or other required seals on any wireless communication device or structure is prohibited.
- iii. The telephone numbers to contact in an emergency shall be posted on each facility in conformance with Section 4.7, *Signs*.

h. Access Ways

In addition to ingress and egress requirements of the Building Code, access to and from wireless telecommunication services facilities and equipment shall be regulated as follows:

- i. No wireless communication device or facility shall be located in a required parking, maneuvering or vehicle/pedestrian circulation area such that it interferes with or in any way impairs the intent or functionality of the original design.
- ii. The facility must be secured from access by the general public but access for emergency services must be ensured. Access roads must be capable of supporting all potential emergency response vehicles and equipment.
- iii. Any easements required for ingress and egress and for electrical and telephone shall be recorded at the County Clerk and Recorder's Office prior to the issuance of building permits.

Section 3.3 Accessory Uses and Structures

Commentary:

There are only minimal provisions in the current code on the topics of accessory uses and structures.

This draft offers general standards that apply to all accessory uses and structures, in addition to identifying some specific accessory uses in the allowable uses table. This draft also provides the Town Administrator with the discretion to allow for other accessory uses not listed if he or she determines that the use complies with the performance standards set forth in this UDC.

3.3.1. Purpose²⁹⁴

This section authorizes the establishment of accessory uses that are incidental and subordinate to principal uses.

3.3.2. Approval of Accessory Uses and Structures²⁹⁵

All principal uses allowed in a zoning district per Table 3.1: Table of Allowed Uses shall be deemed to include those accessory uses, structures, and activities typically associated with the principal use, unless specifically prohibited in this section. Accessory uses shall be subject to the standards in this section as well as any applicable use-specific standards applicable to the associated principal use in Section 3.2 above.

3.3.3. General Standards for all Accessory Uses and Structures²⁹⁶

A. Compliance with this UDC

All accessory uses and structures are subject to the dimensional standards in Article 16.02: Zoning Districts and the development standards in Article 16.04: *Development and Design Standards*. Should any standards from this section conflict with any other requirement of the UDC, the more restrictive shall control.

B. Dimensional Standards for Accessory Structures

1. Same Lot

Any accessory use or structure shall be conducted and located on the same lot as the principal use or structure.

2. Size and Use

- a. The maximum size of any accessory structure shall be 1,000 square feet, and the maximum total area of all accessory structures on a lot shall be 1,000 square feet, unless otherwise provided in the UDC.
- b. No accessory structure shall begin construction until the construction of the primary structure has commenced.
- c. No accessory structure shall be used unless the primary structure is being used.

3. Same Ownership Required

Accessory structures and uses shall be under the same ownership as the primary structure and use. The property shall use the same utility meter with the exception of an accessory dwelling unit.

C. Unenclosed Outdoor Storage Prohibited

Unenclosed outdoor storage associated with any accessory use or structure is prohibited.

3.3.4. Standards for Specific Accessory Uses and Structures

The following standards shall apply in addition to the general standards from Subsection 3.3.3.

²⁹⁴ New.

²⁹⁵ New.

²⁹⁶ New.

A. Accessory Dwelling Unit²⁹⁷**1. Purpose**

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

2. Size and Quantity

- a. ADUs shall be a minimum of 400 square feet and a maximum of 850 square feet.
- b. Only one ADU shall be allowed per principal building.
- c. ADUs shall only be permitted with single-family and two-family dwellings.²⁹⁸

3. Design Standards

- a. Each ADU shall contain a kitchen equipped, at a minimum, with an oven, a stove with two burners, a sink, and a refrigerator/freezer with a capacity not less than six cubic feet.
- b. Each ADU shall contain a bathroom equipped with, at minimum, a sink, a toilet, and a shower.
- c. Each ADU shall contain a clothes washer and dryer.²⁹⁹
- d. No ADU shall contain more than two bedrooms.
- e. The design, exterior treatments and color of an ADU shall be the same as, or compatible with, the design and exterior color and treatments of the principal building to which it is accessory.

4. Site Standards

- a. All water service connections made to an ADU shall comply with the Town's water service connection requirements, and each ADU sharing and/or connected to the water service line/system serving a principal building shall be assessed a one-time water service expansion/connection fee equal to one-quarter of the connection fee that would be charged for a new water connection serving the principal building. All sanitary service connections serving an ADU shall comply with the requirements of the Buena Vista Sanitation District.
- b. Detached ADUs in a residential zoning district must be located in the rear half of the residential lot or parcel unless the ADU is to be located within or above a garage or approved pursuant to special use permit for siting in the front half of the lot or parcel.

5. Ownership and Occupancy

- a. An ADU shall not be condominiumized and/or sold separately from the principal building to which it is accessory.
- b. An ADU shall not be rented for a period of less than 30 consecutive days.³⁰⁰

²⁹⁷ From 16-257, revised for clarity and to reflect staff comments. Eliminated provision "Attached ADUs in the General Business (B-1) and Highway Business (B-2) districts shall not be allowed to occupy the ground level street frontage within a principal building, while detached ADUs must be located in the rear half of the lot or parcel." These are treated as live-work.

²⁹⁸ ADUs are not permitted in multifamily structures, or with live-work units and other housing types.

²⁹⁹ This is a new standard since Module 1.

³⁰⁰ This is a new standard since Module 1 to prevent ADUs from being used as short-term rentals. The standard that required owner occupancy of either the primary dwelling or the ADU was removed since Module 1.

B. Home Occupation³⁰¹**1. Number and Size**

- a. Multiple home occupations shall be permitted within a principal dwelling, provided the sum of all home occupations comply with the standards in this section.
- b. Home occupations shall not occupy more than 25 percent of the total gross floor area of the dwelling.

2. Operational and Use Standards

- a. Home occupations shall be incidental and secondary to the use of a dwelling for dwelling purposes;
- b. Home occupations shall not change the residential character of a dwelling;
- c. Home occupations shall not employ more than two persons on site who are not full-time residents of the dwelling;
- d. All persons engaged in a home occupation shall obtain and maintain all necessary business licenses prior to and during the operation of the home occupation;
- e. No sales of goods or products shall be allowed on the premises of a home occupation, unless such goods or products are incidental to a service provided by the home occupation.
- f. Home occupations shall comply with all building, fire, safety, and other codes applicable to the particular home occupation;
- g. There shall be no storage or display of any goods, products, equipment, or materials outside of the dwelling or accessory structure, and no hazardous or dangerous materials not customarily associated with a residential use shall be stored or used on the premises;
- h. Home occupations shall not disrupt the neighborhood by the creation of traffic, congestion, dust, smoke, vibration, noise from equipment, excessive lighting, offensive odor, or electrical interference.
- i. Vehicle traffic generated by a home occupation shall not create a need for additional off-site parking; and
- j. No use or storage of heavy equipment or commercial or heavy trucks or trailers for the home occupation shall be permitted.
- k. Signs shall be regulated according to Section 4.7.

3. Complaints and Violations

- a. The operation of a home occupation may be subject to review upon written complaint. In the event a complaint is received by the Town containing substantial credible information illustrating a possible violation of the terms and/or operating standards contained in this Section, the Town Administrator shall cause notice of such complaint to be served personally or by certified mail, return receipt requested, on the operator of the home occupation.
- b. The notice shall describe in reasonable detail the complaint concerning the home occupation and command the operator to appear before the Board of Trustees at a public hearing to show cause why the operation of the home occupation should not be

³⁰¹ From 16-254, substantially reorganized and revised for clarity.

- suspended, modified, or terminated. The notice shall be issued not less than 15 days prior to the hearing and shall contain the date, time, and place for the hearing.
- c. A copy of the notice shall also be timely provided in advance of the hearing to the person who submitted the subject complaint.
 - d. The Board of Trustees may suspend, modify, or terminate the operation of a home occupation upon a finding that the terms of this Section have been violated. All decisions of the Board of Trustees under this Section shall be reduced to writing and copies of such decision shall be promptly mailed or personally delivered to the operator by certified mail with return receipt requested, and to the complainant by regular first class mail.

C. Retail Display

1. Maximum retail display area shall not exceed 150 square feet for buildings with less than 55 linear feet of primary building frontage, or 2.75 square feet for each one foot of primary building frontage for buildings with primary building frontage of 55 linear feet or greater.
2. Retail display areas in the public right-of-way shall first obtain an encroachment permit and revocable license agreement from the Town.³⁰²

D. Screened Storage³⁰³

1. Generally

- a. No unenclosed or outdoor storage shall be located along a primary building frontage.
- b. Appropriate landscaping, fencing, and screening standards shall apply per Section 4.4.
- c. All unenclosed or outdoor storage adjacent to a residential zoning district shall be set back at least 15 feet from the property line separating the residential property from the lot or parcel on which the storage is occurring.
- d. The stockpiling of decorative rock, bark or wood chips, or soil and similar loose landscaping material, shall be maintained in neat piles and shall be protected from dispersal by blowing wind and other adverse weather events.³⁰⁴
- e. Trees, shrubs, flowers, and similar live plant products displayed by a nursery and/or a landscaping or garden supply retailer shall not constitute unenclosed or outdoor storage.
- f. No materials shall be stacked or stored to a height exceeding a screening fence or wall.
- g. Vehicles and/or equipment stored in association with a commercial or other nonresidential use and not on retail display within an open sales yard shall be screened by a fence or other acceptable physical barrier six feet in height, and all such vehicles and equipment shall be stored at their lowest operating height and in a manner that minimizes their visible profile from view. Vehicles and equipment shall not be stacked.

2. Screening Standards

- a. Screening shall consist of durable, low-maintenance materials that effectively block the visual observation of the stored materials when viewed at a height of six feet above finished or natural grade from public walkways or streets.³⁰⁵

³⁰² New since Module 1.

³⁰³ From 16-256, expanded and revised for clarity.

³⁰⁴ Removed 10-foot height limitation. That was inconsistent with later requirement to not exceed the height of required screening.

³⁰⁵ Replaced previous view requirement of "at distances up to and including forty (40) feet from the screening" with public walkways or streets.

- b. Screening may consist of fencing, walls, or other structures. All screening shall be maintained in good and effective condition. Chain link fencing, with or without added material, is prohibited.
- c. No stored material shall exceed the height of the screening.
- d. Wood fences used for screening shall be made of natural, pressure-treated, or manufactured (recycled) wood of sufficient quality and durability to withstand prolonged exposure to the weather.
- e. The Town Administrator may approve alternative screening materials and/or methods upon written application. All alternative screening shall effectively serve and satisfy the intent and purposes of this section.

Section 3.4 Temporary Uses and Structures

Commentary:

There is minimal discussion of temporary uses and structures in the current code. For this draft, we include several new provisions related to the types of structures and uses permitted.

3.4.1. Purpose

The purpose of this section is to authorize the establishment of certain uses and structures of a limited duration. This section is intended to ensure that such uses or structures do not negatively impact adjacent properties, are discontinued upon expiration of a set time period, and do not result in any permanent use or structure.

3.4.2. Approval of Temporary Uses and Structures³⁰⁶

Review and approval of Temporary Use Permits shall be in accordance with Section 6.5.3, *Temporary Use Permit*.

3.4.3. General Standards for All Temporary Uses and Structures³⁰⁷

Temporary uses and structures shall comply with the following general requirements unless otherwise specified in this UDC:

- A. A temporary use or structure shall not be detrimental to surrounding properties or to the public health, safety, or general welfare.
- B. Permanent alterations to the site are prohibited.
- C. Temporary signs associated with a temporary use or structure shall be removed when the activity ends or permit expires, whichever occurs first.
- D. A temporary use or structure shall not violate any applicable use-specific standards or conditions of approval applicable to a principal use on the site.
- E. A temporary uses or structure shall not disturb any sensitive or protected resources, including floodplains, river protection setbacks, and required landscaping.
- F. At the conclusion of a temporary use or structure, all disturbed areas shall be restored to the condition that existed prior to the use, or improved.

³⁰⁶ Procedures for the temporary use permits will be based on current 16-63 and revised based on initial feedback.

³⁰⁷ New.

- G. A temporary use or structure shall not impede normal operations of any permanent use located on the property.
- H. Off-street parking shall be sufficient to accommodate the proposed temporary use.

3.4.4. Standards for Specific Temporary Uses and Structures

A. Special Events³⁰⁸

Special temporary events shall comply with the standards in Chapter 11, Article VII, *Special Events in Public Places*.

B. Temporary Office, Contractor's Quarters, and Equipment Storage³⁰⁹

Temporary office, contractor's quarters, and equipment storage may be approved in conjunction with a construction project, including sales offices on residential development sites. Such structures and uses shall be located on the site no more than 30 days prior to the start of construction and removed no more than 30 days after issuance of a certificate of occupancy. Residential sales offices may remain on site until all houses or units are sold or leased.

C. Temporary Vendors³¹⁰

1. Generally

- a. Temporary vendors are those activities and associated structures that may be allowed pursuant to this section on a nonpermanent and temporary basis upon review of their proposed nature, location and duration and their compatibility with surrounding uses and structures within an underlying zoning district.
- b. Except as otherwise provided in this section, no temporary vendor shall be located or permitted in any residential zoning district except upon review and approval of the Board of Trustees in accordance with the procedures, standards, and limitations set forth in Section 6.5.3. Likewise, no temporary vendor shall be located or permitted in any nonresidential zoning district except upon review and approval by the Town Administrator in accordance with the procedures, standards, and limitations set forth in Section 6.5.3.³¹¹
- c. No person shall conduct business as a temporary vendor without first obtaining a permit from the Town and paying the required fee. It shall be unlawful for any person to sell any goods or services on a temporary basis within the Town except as provided by this section.
- d. Temporary vendor permits shall be issued subject to such safeguards, terms and conditions as deemed necessary and appropriate by the Board of Trustees or the Town Administrator to protect and preserve the intent and purpose of this UDC. Violations of any of the terms and conditions imposed on a temporary vendor shall be deemed to be violations of this section and shall be punishable under the general penalty provisions of this UDC.
- e. Applications for a temporary vendor permit shall be made to the Town on forms provided therefor. A reasonable fee shall be charged for each application as set by the

³⁰⁸ New standards.

³⁰⁹ Replaces 16-143(3), list of permitted uses, which limits construction offices to six months.

³¹⁰ From 16-64, revised for clarity. The town has been considering revised standards for temporary vendors. This UDC will reflect the most recent thinking and any feedback received from the steering committee and the community at-large.

³¹¹ These should be relocated to the administration article.

Board of Trustees, and a site plan and other drawings and information as deemed necessary by the Town Administrator shall be required as part of the application.

- f. Applications for a temporary vendor permit in a residential zoning district shall follow the process set forth in Section 6.5.3.

2. Approval Considerations

Temporary vendor permits shall be granted by written order, but only after finding that the proposed temporary vendor will not adversely impact the neighborhood or the public safety and welfare. In determining whether to grant a temporary vendor permit, the following factors shall be considered:

- a. The location, size, design, operating characteristics and visual impacts of the proposed use or structure.
- b. The ingress and egress to the property and proposed structures, with particular reference to automotive and pedestrian safety, convenience, traffic flow and access in case of fire or other catastrophe. The location of the temporary vendor may not cause congestion of vehicular or pedestrian traffic and shall not be placed in right-of-way sight triangles as determined by the Public Works Department.
- c. Off-street parking and loading areas and the noise, glare or odor effects of the temporary vendor on adjoining properties and the neighborhood generally.
- d. Refuse, sanitation, and service areas.
- e. Utilities, with reference to location, availability and compatibility.
- f. Signs, lighting, screening and buffering with reference to type, dimensions and character. Each vendor may have two signs limited to 12 square feet each. Signs must be constructed of durable materials. Temporary signs shall only be allowed as provided for in Section 4.7 of this Code (relating to temporary signs). Proposals for signs exceeding the maximum size requirements of this Section shall be reviewed under the Comprehensive Sign Plan process as outlined in Section 4.7.6.F of this UDC.
- g. The use of a Town-owned parcel or park may be permitted, denied or limited by the number of days by the Town Administrator based on the number of existing vendors already using the area, compatibility with existing uses or users of the space, permitted special events or any of the factors as set forth by paragraphs a through f above. Use of Town right-of-way shall require an encroachment permit and revocable license agreement.

3. Limitations and Expiration

- a. Permits for temporary vendors shall be granted for a period not to exceed more than 180 total days in one calendar year.
- b. The Town may require temporary vendors to move their facility offsite for the purposes of managing sanitation requirements prior to returning their facility to that location.
- c. No temporary vendor shall occupy one location (*location* for this purpose shall mean a legally defined lot or parcel of property) for a period longer than 180 days in aggregate in any single calendar year without prior Town approval. If the temporary vendor demonstrates satisfactory maintenance and sanitation of the vendor's site and no unreasonably negative impacts to the site and surrounding area, the Town may permit a longer period of occupation.

Article 16.04: Development and Design Standards

Commentary:

This article contains the various regulations addressing development quality – how the land is protected or modified, how development is laid out on a site, how buildings are designed, and operational standards, etc.

The development and design standards are organized from the “ground-up,” beginning with site preparation (such as drainage and grading), followed by site layout issues (such as driveways, parking, and landscaping), and concluding with site features beyond the building related to use and operation (such as signs and lighting standards). The organization of this article generally follows the annotated outline included with the assessment memorandum, with some minor adjustments as noted.

These draft development and design standards are based on the Town’s existing regulations, with a substantial amount of revised and new material. The primary goals of this draft were to follow the direction from the assessment memorandum, from staff and the steering committee, to respect existing neighborhoods in the Town, and to remove impediments to high-quality development.

Section 4.1 Stormwater Drainage and Erosion Control³¹²

4.1.1. Purpose³¹³

The purpose of these standards is to ensure adequate drainage and infiltration of stormwater, to improve water quality, and to maintain the stability of soils on development sites.

4.1.2. Applicability

These standards apply to any new development site with a disturbed area of more than 5,000 square feet.

4.1.3. Site Drainage

A. Generally

Site drainage shall be in accordance with the municipal code and the Town of Buena Vista Specifications and Standards manual. Drainage will be reviewed using the applicable approval procedure pursuant to Article 16.06: *Review Procedures*.

B. Low-Impact Development³¹⁴

To the maximum extent possible, applicants should implement Low-Impact Development (LID) features, such as:

1. Disconnecting impervious areas (keeping runoff out of piped systems);
2. Grass buffers and swales;

³¹² New standards, many of which cross-reference other Buena Vista municipal standards.

³¹³ New purpose statements are included with each section in this Article, unless otherwise noted.

³¹⁴ These are new standards to encourage the use of more sustainable drainage features. Many communities are requiring and encouraging the use of similar techniques to provide better water infiltration, reduce runoff, and improve water quality. Alternatively this could be revised to “require” rather than using “to the maximum extent possible.”

3. Bioretention through rain gardens or porous landscape detention; and
4. Pervious pavement systems.

Figure 4.A: Examples of Low-Impact Development (LID) Features



Examples of bioretention swales, rain gardens, and porous pavers.

C. Drainage Improvements³¹⁵

Drainage improvements shall accommodate potential runoff from the upstream drainage area and shall be designed to prevent increases in downstream flooding. The Town Administrator may require the use of control methods such as retention or detention, and/or the construction of drainage improvements to mitigate the impacts of the proposed developments.

4.1.4. Grading and Erosion Control

No site grading shall occur without approval of a stormwater quality control plan and a grading, erosion, and sediment control plan prepared according to the standards of the Town of Buena Vista Development and Design Manual.

Section 4.2 Access and Circulation

Commentary:

This is a new section including standards for driveways and access and pedestrian circulation. The sidewalk standards were substantially improved, requiring both internal and external connections. The comprehensive plan suggested a need to improve connectivity throughout the Town, and this section works with the subdivision standards to accomplish that policy direction.

³¹⁵ From 17-56(b)5.

4.2.1. Purpose

The purpose of the access and circulation standards is to improve multimodal circulation for existing and future development areas and to increase the effectiveness of local service delivery and emergency service times throughout the Town.

4.2.2. Applicability

These standards apply to all new development unless otherwise stated in this UDC.

4.2.3. Driveways and Access³¹⁶

- A. Every lot shall have sufficient access to afford reasonable means of ingress and egress for emergency vehicles as well as those needing access to the property for its intended use.
- B. Driveways and access points shall comply with the standards in the Municipal Code **Chapter 11 Article II** and shall be constructed to the standards of the Town of Buena Vista Development and Design Manual.
- C. Single-family and two-family residential lots shall not have direct driveway access from arterial or collector streets, or highways, unless no other alternative exists.³¹⁷

4.2.4. Streets and Vehicular Circulation

All streets shall comply with the standards in Section 5.2, *Subdivision Design Standards*.

4.2.5. Pedestrian Circulation³¹⁸

A. Sidewalks³¹⁹

1. Generally

- a. Where required, concrete sidewalks shall be installed on both sides of all streets and shall be at least five feet wide. Sidewalks shall be separated from the edge of asphalt, or curb if installed, by a minimum of six feet.
- b. Property owners are responsible for the construction and maintenance of required sidewalks to the standards of the Town of Buena Vista Development and Design Manual.³²⁰

2. Where Required³²¹

- a. Except for within the I-1 zoning district, curb, gutter, and/or sidewalk shall be required if the Town Administrator determines that such improvements are necessary to serve the development and/or to protect the public health, safety, or welfare.

³¹⁶ Paragraphs A and B are new.

³¹⁷ From 17-57(a)(2), revised to only apply to single-family and two-family residential driveways. Also added highways to this standard. This same standard also applies to subdivisions and a cross-reference to this standard is included in the subdivision regulations.

³¹⁸ New standards.

³¹⁹ From 17-57(b)11, including recent amendments per Ordinance No. 1 from 2016. We revised the language to mirror the tone and simplicity of the rest of the draft UDC.

³²⁰ New.

³²¹ The Town is currently working on policy related to “complete streets” by which multimodal use of rights-of-way will be improved. Requirement for sidewalks will eventually be identified on a map, at which point the UDC should be amended to refer to the map instead of negotiating with the Town.

- b. A new sidewalk generally shall not be required for the development of one infill lot or construction of a new accessory dwelling unit, unless determined necessary by the Town Administrator to protect the public health, safety, or welfare.

3. Light Industrial (I-1) Zoning District

In the I-1 zoning district, the Board of Trustees may require curb, gutter, and sidewalks.

B. On-Site Pedestrian Connections³²²

All new nonresidential and multifamily development shall provide a network of on-site pedestrian walkways with a minimum width of five feet to and between the following areas:

1. Entrances to each building on the site, including pad site buildings;
2. Public sidewalks, trails, or walkways on adjacent properties that extend to the boundaries shared with the subject development; and
3. Adjacent public parks, open space, trails, or other civic uses such as schools, places of worship, public recreational facilities, or government offices.

Section 4.3 Off-Street Parking and Loading

Commentary:

This section includes standards for how much parking and loading is required, and the layout and design of parking areas. The current Buena Vista parking requirements vary depending on the zoning district. This draft presents a new methodology, with parking requirements based on the type of land use. Table 4.1, *Minimum Number of Off-Street Parking Spaces Required* mirrors the uses from the Table 3.1, *Table of Allowed Uses*, making it clear how much parking is required for each proposed use.

There are several new exemptions from off-street parking requirements, including the MU-MS district, and properties without alleys in the MU-1 and MU-2 districts. Minor expansions and changes in use are also exempted in certain scenarios, making it easier to redevelop properties in Buena Vista. Parking alternatives are proposed to encourage sustainable practices such as shared parking, bicycle parking, and pervious pavement surfaces.

The location, design, and landscaping of parking areas is also improved through new standards, such as prohibiting parking areas in front of buildings on Main Street.

4.3.1. Purpose

This section is intended to ensure off-street parking and loading facilities are provided in rough proportion to the generalized parking, loading, and transportation demands of different land uses. This section is also intended to help protect the public health, safety, and general welfare by:

- A. Avoiding and mitigating traffic congestion;
- B. Encouraging multi-modal transportation options and enhanced pedestrian safety;
- C. Reducing stormwater runoff and the heat island effect of large paved parking areas; and
- D. Providing flexible methods of responding to the transportation and access demands of various land uses in different areas of the Town.

³²² This new standard will promote a more unified system of sidewalks throughout the Town over time.

4.3.2. Applicability and Exemptions

A. Applicability

This section applies to all new development and changes in use after the effective date of this UDC, unless exempted by paragraph B below.

B. Exemptions

This section shall not apply to the following:

1. Properties in the MU-MS district with payment of a fee-in-lieu as determined appropriate by resolution of the Board of Trustees.³²³
2. Properties in the MU-1 and MU-2 districts without an alley provided required bicycle parking is installed pursuant to Section 4.3.5.C.³²⁴
3. Expansions or remodels that increase the square footage of an existing structure by less than 20 percent provided that existing off-street parking remains unaltered.³²⁵
4. Changes in use of a structure that do not expand the square footage of the structure provided that the existing off-street parking remains unaltered.³²⁶

4.3.3. Computation of Parking and Loading Requirements³²⁷

A. Area Measurements

All square-footage based parking and loading requirements shall be computed on the basis of gross floor area of the subject use. Structured parking within a building shall not be counted in such computation.

B. Fractions

When measurements of the number of required spaces result in a fractional number, the fraction shall be rounded up to the nearest whole number. For example, if a computation results in a parking requirement of 3.49 spaces, that shall be rounded down to 3 spaces. If a computation results in a parking requirement of 3.5 spaces, that shall be rounded up to 4 spaces.

4.3.4. Required Off-Street Parking

A. Required Off-Street Parking Spaces³²⁸

Unless otherwise provided in this Section 4.2, the number of off-street parking spaces shall be provided in accordance with Table 4.1 below.

³²³ Per staff recommendation. Since Module 1, a fee-in-lieu requirement was added. This will require further discussion with the Board of Trustees to develop the fee-in-lieu program.

³²⁴ From 16-232(d) which applies to the current B-1 district and states “properties that do not have an alley are exempt from the off-street parking requirement.” The B-1 was suggested to be replaced by the MU-1, MU-2, and MU-MS districts in Module 1.

³²⁵ New standard to encourage redevelopment and infill.

³²⁶ From 16-232(a), revised for clarity.

³²⁷ New standards to clarify the computation of required spaces.

³²⁸ The required parking table is formatted to match the proposed table of allowed uses. If the use table changes based on public review, this parking table will also be adjusted to match. Did not carry forward 16-236, which limits any reduction of parking spaces without a variance. The variance process is covered more broadly through the administration and procedures in Article 16.06.

Table 4.1: Minimum Number of Off-Street Parking Spaces Required		
Use Category	Use Type	Proposed Parking Requirement
RESIDENTIAL USES		
Household living	Dwelling, single-family detached	2 spaces per unit
	Accessory dwelling unit	1 space per unit
	Dwelling, single-family attached	1.5 space per unit
	Dwelling, two-family	
	Dwelling, multifamily	
	Co-housing	1 space per unit
	Live-work	
Manufactured home park	2 spaces per unit (per use-specific standards)	
Group living	Assisted living facility	1 space per 400 sf
	Continuum of care or nursing home	
	Day care home	1 space per 250 sf
	Group home	1 space per 400 sf
PUBLIC, INSTITUTIONAL, AND CIVIC USES		
Community and cultural facilities	Assembly hall	1 space per 250 sf
	Cemetery	No requirement
	Church or place of worship	1 space per every 6 seats in worship area
	Civic organization, club, or lodge	1 space per 500 sf
	Community center	
	Fire or police station	
	Library	
Museum		
Recreation and entertainment	Golf course	3 spaces per hole or 1 space per 400 sf of buildings, whichever is greater
	Indoor recreation or entertainment	1 space per 500 sf
	Motor sports facility	1 space per 250 sf, plus 1 space per 10,000 sf site area
	Outdoor entertainment facility	
	Outdoor recreation facility	No requirement
	Park and playground	
Shooting range	1 space per firing lane	
Education facilities	College or university	1 space per 500 sf office, research, and library, plus 1 space per 125 sf in largest assembly area(s)
	Elementary or secondary school	The lesser of 2 spaces per 8 seats in main auditorium, or 3 spaces per classroom
	Trade or vocational school	
Healthcare facilities	Medical or dental clinic, office, or laboratory	1 space per 250 sf
	Hospital	2 spaces per 1,000 sf
COMMERCIAL USES		
Agricultural or Animal-related services	Community garden	No requirement
	Kennel	1 space per 1,000 sf
	Veterinary hospital or clinic	1 space per 500 sf
Adult entertainment establishments	Sexually-oriented business	1 space per 250 sf
Offices and professional services	Office	1 space per 500 sf
	Personal service	1 space per 250 sf; 3 stacking spaces per drive-through lane.
Retail	Retail, general	1 space per 500 sf
	Building materials sales and storage	1 space per 1,000 sf, plus 1 space per 2,500 sf of outdoor display and storage area
	Equipment sales	1 space per 500 sf
	Flea market or auction house	1 space per booth, or 1 per 1,000 sf sales area, whichever is greater
	Greenhouse, nursery, or garden supply store	1 space per 1,000 sf, plus 1 space per 2,500 sf of outdoor display and storage area
	Recreational vehicle and large equipment sales	1 space per 1,000 sf
Lodging facilities	Bed and breakfast	1 space per room plus 1 space for manager

Table 4.1: Minimum Number of Off-Street Parking Spaces Required		
Use Category	Use Type	Proposed Parking Requirement
	Dormitories	1.5 spaces per room
	Hotels, motels, and other forms of public lodging and boarding	1 space per guestroom
	Short-term rentals	Based on housing type
Food and beverage services	Bar or tavern	1 space per 250 sf
	Microbrewery, distillery, or winery	1 space per 250 sf seating/tasting area
	Restaurant	1 space per 250 sf dining area; 3 stacking spaces per drive-through lane.
Vehicular and transportation	Automobile leasing or sales	1 space per 500 sf showroom and sales area; 3 spaces per service bay for repair areas
	Automobile service, major	4 spaces per repair bay
	Automobile service, minor	2 spaces per repair bay
	Establishment providing transportation for the general public	No requirement
	Fueling station	1 space per fuel pump, plus 1 space per 400 sf retail or repair area; 3 stacking spaces per automatic car wash facility.
	Parking lot or structure	No requirement
	Railroad transshipment facility	No requirement
INDUSTRIAL USES		
Storage and Warehousing	Above-ground bulk storage tank	No requirement
	Wholesale distribution, warehouse, or mini-warehouse	For wholesale distribution or warehouse: 1 space per 2,000 sf warehouse area, plus 1 space per office; For mini-warehouse: 4 spaces, plus 1 space for resident caretaker
	Short-term parking of recreational/camping vehicles	1 space per vehicle storage capacity
	Long-term storage of recreational/camping vehicles	4 spaces for automobiles, plus 1 RV space per reservation spot, plus 1 space per 500 sf office or administrative area
Manufacturing	Manufacturing, light	1 space per 500 sf manufacturing area, plus 1 space per 500 sf office or administrative area
	Manufacturing, medium or heavy	1 space per 2,000 sf manufacturing area, plus 1 space per 500 sf office or administrative area
Energy and utilities	Geothermal facility, small	No requirement
	Geothermal facility, large	
	Public utility distribution line, transmission line, or facility	
	Radio and television transmitting station and studio	1 space per 500 sf
	Solar energy facility, small	No requirement
	Solar energy facility, large	
	Wind energy facility, small	
	Wind energy facility, large	
Telecommunication facility, building/roof-mounted		
Telecommunication facility, free-standing tower		
ACCESSORY USES		
	Accessory dwelling unit	1 space per unit
	Enclosed storage	No requirement
	Home occupation	
	Retail display	
	Screened storage	
TEMPORARY USES		
	Special events	Determined on a case-by-case basis at time of permit
	Temporary office, contractor's quarters, and equipment storage	
	Temporary vendors	

B. Accessible Parking³²⁹

Accessible parking spaces shall be provided for all multifamily and nonresidential uses according to the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities and the Colorado Revised Statutes, as amended.

C. Unlisted Uses³³⁰

For applications proposing a use not expressly listed in Table 4.1, *Minimum Number of Off-Street Parking Spaces Required*, the Town Administrator is authorized to establish the minimum off-street parking requirement based upon one of the following factors:

1. Parking requirements for a listed use that is deemed most similar to the proposed use;
2. National or local best practices; or
3. A parking study prepared by the applicant that estimates parking demand based on recommendations from the Institute of Traffic Engineers (ITE) or other reputable source of information.

D. Sites with Multiple Uses³³¹

On sites with multiple principle uses, the total requirement for off-street parking shall be the sum of the requirements of the various uses computed separately in accordance with Table 4.1, *Minimum Number of Off-Street Parking Spaces Required*, unless the Town Administrator approves a shared parking agreement pursuant to Section 4.3.5.A.

E. Use of Required Parking Areas³³²

1. Spaces in garages and driveways shall count towards the requirements of this section.
2. Areas required to maneuver vehicles shall not be used or considered to meet off-street parking requirements, except for single- or two-family dwellings.

4.3.5. Parking Alternatives

A. Shared Parking³³³

The Town Administrator may approve shared parking facilities for developments or uses with different operating hours or different peak business periods pursuant to the following standards:

1. Location

- a. Shared parking spaces shall be located within 500 feet of a main entrance.
- b. The applicant shall demonstrate the feasibility for shared parking showing that a reduction in required parking will not result in spillover of parking onto other properties or the public-right-of way.

2. Reduction of Required Parking

The Town Administrator may reduce the amount of parking spaces required per Table 4.1, *Minimum Number of Off-Street Parking Spaces Required*, up to 25 percent based on the review of the shared parking feasibility demonstrated by the applicant.

³²⁹ New standard to replace current 16-232(d)(2) mentions ADA parking spaces in accordance to the adopted building code in the B-2 district. ADA parking is required in every zoning district and this new standard will meet any new federal standards as they are amended over time.

³³⁰ New standards to provide clear guidance for assigning parking requirements to uses not addressed in the draft required parking table.

³³¹ Based on 16-237.

³³² From second half of 16-232(b), revised for clarity and divided into separate standards.

³³³ New standards allowing for the shared use of parking areas based on review of feasibility by the Town Administrator.

3. Feasibility and Agreement³³⁴

The parties involved in the joint use of off-street parking facilities shall submit a written agreement in a form to be recorded for such joint use, approved by the Town Administrator as to the format and content of the agreement.

B. Off-Site Parking

1. Required vehicle parking may be provided off site, provided that such property is located within 500 feet of the main entrance to the principal use.³³⁵
2. The applicant shall demonstrate that off-site vehicle parking spaces will be available for use for a period of at least two years, after which required parking shall be provided on site or shall be provided in another off-site parking facility meeting the requirements of this subsection.³³⁶
3. The parties involved in off-site parking facilities shall submit a written agreement in a form to be recorded for such joint use, approved by the Town Administrator as to the format and content of the agreement.³³⁷
4. Required parking areas for nonresidential uses may extend up to 120 feet into a residential zoning district, provided that the parking area or space:³³⁸
 - a. Adjoins the nonresidential district;
 - b. Has its only access to, or fronts upon, the same street that serves the nonresidential use, and is adjacent to the subject property; and
 - c. Is screened from adjacent properties in the residential zoning district by a fence or a buffer strip of vegetation at least six feet in height and complies with the screening and fencing requirements in Section 4.4.6.

C. Bicycle Parking³³⁹

1. All nonresidential uses shall provide a minimum of one bicycle parking space with convenient access to the main entrance of the structure. Each bicycle parking space shall accommodate at least two bicycles.³⁴⁰
2. In all zoning districts, each bicycle parking space in excess of the required bicycle parking shall count as one-half of a required vehicle parking space up to a maximum of two required vehicular parking spaces, or 10 percent of the required vehicular parking spaces, whichever is greater.³⁴¹
3. A minimum of 36 inches of clearance shall be maintained on any public walkway where a bicycle parking space is installed per ADA requirements.

³³⁴ Many communities require shared parking agreements to be recorded with the property prior to issuance of a building permit. This agreement requirement could be removed if the Town does not find it necessary. Further discussion required on whether or not these agreements should be heard by the applicable approval body for those applications requiring Planning and Zoning Commission or BOT approval.

³³⁵ From 16-233, revised for clarity.

³³⁶ New.

³³⁷ Added since Module 2.

³³⁸ From 16-234, revised to refer to nonresidential uses and districts instead of commercial.

³³⁹ From 16-232(d)(1), revised significantly to apply broadly to all zoning districts, and to adjust the parking reduction ratio as noted.

³⁴⁰ Added standard of accommodating at least two bicycles.

³⁴¹ New standard to apply more broadly throughout the Town, and to replace the current 1:1 ratio of bike rack to required parking space. This new limitation and reduction ratio will prevent developers from installing bicycle parking to avoid adding needed parking for some uses.

D. Electric Vehicle Charging Stations³⁴²

The Town Administrator may allow for a reduction of required parking spaces at a rate of two required parking spaces for every electric vehicle charging station provided, up to a maximum reduction of 20 percent of the required vehicular parking spaces.

E. Pervious Paving Materials³⁴³

The Town Administrator may allow for a reduction of required parking spaces up to 20 percent for parking areas surfaced with pervious paving materials accepted by the Town Engineer.

F. Parking Alternative Reductions are Cumulative³⁴⁴

Any combination of parking alternative reductions in this section may be applied cumulatively.

4.3.6. Parking Area Layout and Design**A. Location of Parking Areas**

1. Off-street parking areas shall have vehicular access to a street or alley and shall be designed or installed with adequate space for turning so that no vehicle shall be required to back into the street, except from spaces used for single- or two-family dwellings.³⁴⁵
2. If parking areas are provided on site in the MU-MS district, they shall be located behind the front façade of the primary structure.³⁴⁶
3. For multifamily dwellings, no more than 20 percent of the required parking spaces shall be located between the front façade of the structure and the public right-of-way.³⁴⁷

B. Surfacing Requirements³⁴⁸**1. All Lots**

- a. All off-street parking spaces shall be clearly marked and shall have a paved or other all-weather hardened surface of not less than 9 feet by 18 feet.
- b. All off-street parking areas shall be maintained to prevent the creation of ruts, potholes, and/or mud.

2. Lots Requiring Five or More Parking Spaces

For lots with five or more parking spaces required per Table 4.1, *Minimum Number of Off-Street Parking Spaces Required*, all parking areas shall be surfaced with concrete, asphalt, or pavers.

3. Lots Requiring Fewer than Five Parking Spaces

For lots with fewer than five parking spaces required per Table 4.1, *Minimum Number of Off-Street Parking Spaces Required*, surfaces for parking areas may include concrete, asphalt, pavers, and/or compacted or compressed stone or gravel of sufficient size and depth to completely cover the surface of the parking area.

³⁴² New standard, as discussed as an option in the assessment memorandum.

³⁴³ New standard, as discussed as an option in the assessment memorandum.

³⁴⁴ New standard to allow several reductions to apply to a single site provided all other requirements are met.

³⁴⁵ From first half of 16-232(b), revised for clarity and to apply more broadly to parking areas rather than each parking space.

³⁴⁶ New standard per the assessment memorandum that suggested limiting or prohibiting parking located in front of buildings along E. Main Street.

³⁴⁷ From 16-235, revised to 20 percent instead of “no more than 6 of the required number of parking spaces.”

³⁴⁸ From 16-232(c), revised for clarity and to separate into distinct standards.

4. Mini-warehousing³⁴⁹

Mini-warehousing may have gravel parking and drive aisles if fewer than five parking spaces are required.

C. Parking Lot Landscaping³⁵⁰

1. Perimeter Landscaped Buffer

- a. A landscaped buffer shall be required between any parking area and property lines, excluding those property lines within or adjacent to an alley. Such buffer shall be a minimum of five feet in width. Required buffers shall count toward the minimum landscaping area.³⁵¹
- b. If perimeter buffers are installed using Town-approved xeriscape methods, then the minimum width shall be three feet.³⁵²

2. Interior Parking Lot Landscaping³⁵³

Any parking area containing more than 10 parking spaces shall meet the following standards:

- a. Landscaped islands shall be provided at the ends of any rows of parking with more than 12 parking spaces.
- b. Landscaped islands shall be a minimum of 125 square feet in area and a minimum of eight feet in width.³⁵⁴
- c. Each landscaped island shall contain a minimum of one tree and five five-gallon shrubs.
- d. Landscaped islands shall be dispersed throughout the parking area to provide visual relief, particularly of parking aisles, by using flowering ornamental plantings and to provide physical relief by using seasonal shade trees.³⁵⁵
- e. Required interior parking and access area landscaping shall count toward the minimum requirements in Section 4.4, *Landscaping, Screening, and Fencing*.³⁵⁶

4.3.7. Off-Street Loading³⁵⁷

- A. Off-street loading spaces shall be provided for all mixed-use, commercial, and other nonresidential districts according to the following table:

³⁴⁹ New since Module 2.

³⁵⁰ New standards as noted, with many carried forward from 16-255(d)(3), revised for clarity and consistency. These standards should be reconciled with the current Buena Vista Planting Guide. They are currently inconsistent with the zoning code. We recommend updating the Planting Guide following adoption of the UDC. These draft standards are currently located in the landscaping section, but this draft suggests that parking lot landscaping should be located with the other parking standards.

³⁵¹ Revised to remove 2 foot buffer option for nonvegetated buffers. This new standard requires all buffers to be five feet in width.

³⁵² New standard as an incentive to use more drought-tolerant plantings.

³⁵³ Replaces 16-255(d)(3)b. Current island and tree requirements are based on number of parking spaces. These new standards are suggested to apply more consistently across parking areas. The current standards only apply to parking lots with 20 or more parking spaces. That threshold was reduced to 10 spaces in this draft. The Buena Vista Planting Guide applies internal parking lot landscaping standards to lots with over 10 spaces, or 3,500 square feet, whichever is less.

³⁵⁴ From the Buena Vista Planting Guide.

³⁵⁵ From 16-255(d)(3)c.

³⁵⁶ This standard added to clarify that parking lot landscaping counts toward required landscaped area for a site. A similar standard was also carried forward in Section 4.4.3.C to avoid any conflict.

³⁵⁷ From current 16-238, revised as noted. We did not carry forward minimum size requirements. This proposed revised language offers BV maximum flexibility for loading requirements, based on current trends in other communities. In our experience, when more complex systems for loading requirements are implemented by specific use types, it results in variances and exceptions. The current code requires loading space dimensions of 12 by 35 feet. Those types of technical standards can be located in a separate administrative manual that can be updated administratively.

Table 4.2: Off-Street Loading Requirements	
Use Size	Loading Spaces Required
Any property in the MU-MS district	None ³⁵⁸
Under 15,000 square feet	None ³⁵⁹
15,000 to 49,999 square feet	1
50,000 square feet or more	2

- B.** Loading spaces shall meet all applicable requirements in the Town of Buena Vista Development and Design Manual.

4.3.8. Stacking³⁶⁰

Where traffic flow is controlled by an entry gate or drive-through service facility, an adequate stacking lane outside of the public right-of-way shall be provided separate from required parking spaces or required maneuvering areas for flow of aisles, streets, bicycle paths, or pedestrian walkways.

Section 4.4 Landscaping, Screening, and Fencing³⁶¹

Commentary:

This section includes standards for the installation, design, and maintenance of on-site landscaping, screening, and fencing. One of the biggest changes in this draft is the requirement to submit a landscaping plan for all new development. This will allow staff to adequately review and enforce compliance with the landscaping and drainage standards. Throughout this section there are references to the Buena Vista Planting Guide, which we recommend updating for consistency following adoption of the UDC. The fencing and screening regulations were improved by clarifying language to remove loopholes in the current regulations and to promote a consistent aesthetic throughout the Town.

4.4.1. Purpose³⁶²

This section is intended to ensure that new landscaping, screening, and fencing are provided to contribute to high-quality development, the conservation of water, the reduction of heat islands, and to maintain the character of the Town of Buena Vista.

4.4.2. Applicability³⁶³

These standards apply to all new development. Changes of use and maintenance and repairs that do not expand the use or structure by more than 10 percent shall be exempt from this section.³⁶⁴

³⁵⁸ New exemption to allow loading and unloading from streets and/or alleys in the MU-MS.

³⁵⁹ New exemption. The current code requires one loading space per 10,000 sf of gross floor area for retail and 1 per 15,000 for wholesale uses.

³⁶⁰ New section.

³⁶¹ Brings forward several standards from 16-255 and the fencing and screening standards in Chapter 18, with significant revisions and additions as noted. As previously noted, the current Buena Vista Planting Guide is inconsistent with some provisions of Chapters 16, 17, and 18. This draft presents the recommended standards, but we recommend updating the Buena Vista Planting Guide for consistency following adoption of the UDC. The annotated outline recommended including screening and fences as a standalone section. During drafting, we felt that the material was better suited with the landscaping standards.

³⁶² Replaces current purpose statement in 16-255(a), revised to incorporate additional intent statements.

³⁶³ This is a change from current standards, which exempt properties in the R-1 and R-2 from compliance with landscaping standards. Those exemptions have created an enforcement issue in BV, because there is not a requirement to submit a landscape plan for low-density residential districts or commercial districts using 100% lot coverage.

³⁶⁴ The exemption clause is from current 16-255(c)(3).

4.4.3. Minimum Landscaping Required

A. Site Area Landscaping³⁶⁵

1. The minimum percent of site area required to be landscaped is established in the dimensional standards for each zoning district in Section 2.7, *Summary Tables of Dimensional Standards*.
2. Except for rear yards of single-family and two-family residential uses, any part of a site not used for building coverage, parking areas, driveways, sidewalks, or other site improvements shall be landscaped.
3. Existing healthy vegetation meeting Town specifications that is retained on a site shall count toward the landscape area requirements.

B. Trees Required

1. Trees shall be planted on sites pursuant to the following:

Table 4.3: Minimum Number of Trees in Required Landscaped Areas	
Districts	Number of Trees
Residential Districts	2 per lot for single-family and two-family dwellings; 1 per 800 square feet of landscaped area for all other uses
Mixed-Use and Commercial Districts	1 per 500 square feet of landscaped area ³⁶⁶
Other Nonresidential Districts	1 per 500 square feet of landscaped area ³⁶⁷
In the Old Town Overlay District	Total of 2 trees per lot ³⁶⁸

2. At least one of the required trees for single-family and two-family uses shall be planted in the front yard. Additional trees above the required number are encouraged.
3. Street trees that comply with the Town of Buena Vista Development and Design Manual shall count toward the requirement in this subsection.
4. All planted trees shall comply with the minimum plant material sizes in Section 4.4.4.D.
5. If trees cannot be placed on site, the applicant may provide a fee in-lieu of planting to the Town pursuant to Section 5.3.3, *Tree Planting Fund*.

C. Parking Lot Landscaping

Parking lot landscaping shall be provided according to Section 4.3.6.C. Parking and access area landscaping shall count toward the minimum required landscaping.³⁶⁹

4.4.4. General Requirements for Landscaping

A. Landscape Plan Required³⁷⁰

A landscape plan shall be submitted with all new developments. Plant materials shall be installed prior to issuance of a Certificate of Occupancy unless the Town Administrator approves a seasonal

³⁶⁵ New.

³⁶⁶ Current standard in the commercial districts are 1/300 sf in the B-1, and 1/600 sf in the B-2. The proposed 1/500 sf is a middle ground for all nonresidential districts.

³⁶⁷ The current standard for industrial districts is 1/1,000 sf.

³⁶⁸ From 16-255(c)(1), revised from "additional trees" to "total."

³⁶⁹ This reverses the current limitation on parking areas from counting toward minimum landscaping requirements in 16-255(d)(2)h.

³⁷⁰ Based on 16-255(d)(1). A landscape plan is not currently required for all developments under the current code. This more broadly applied requirement will allow staff to adequately review applications for compliance with landscaping and drainage standards.

delay pursuant to Section 4.4.5.A. The landscape plan shall contain the following information at a minimum:

1. A drawing identifying all existing deciduous trees and coniferous trees of four inches in caliper or greater and illustrating the location, size, and type of all proposed landscaping. The drawing shall identify all existing vegetation that is to be preserved, demonstrate how irrigation is to be provided, and provide a legend.
2. A written summary of all calculations demonstrating compliance with the amount of landscaping required for the site.

B. Tree and Existing Vegetation Preservation³⁷¹

Existing healthy trees and shrubs shall be retained to the maximum extent possible. Existing healthy trees that are four inches in caliper or more and healthy shrubs that are five-gallon or larger shall count one-and-a-half times toward the landscaping standards of this section if they are preserved.

C. Water Conservation³⁷²

1. The total amount of high-water-use landscaping, according to Town specifications, on a property may not exceed 50 percent of the total landscaped area. The total amount of high water use turf grass may not exceed 30 percent of the total landscaped area. Turf grass areas designated for high use or a specific recreational use shall be excluded from the total landscaped area under this requirement.
2. Plants or turf grass in a high water use zone may not be planted on slopes or berms at a 4 to 1 slope or steeper.

D. Minimum Plant Material Sizes

All plant materials shall be planted according to the Buena Vista Planting Guide and **Chapter 11, Article V** of the Buena Vista Municipal Code. Trees or shrubs that are not recommended in the Buena Vista Planting Guide shall not count towards the required trees and shrubs in this Section.³⁷³ Minimum tree and shrub sizes are as follows:

1. Deciduous trees shall be a minimum of one and one-half inches in caliper, measured six inches above the ground.
2. Coniferous trees shall be a minimum of six feet in height.³⁷⁴
3. Shrubs shall be a minimum of five gallons.³⁷⁵

E. Obstructions Prohibited³⁷⁶

1. Fire Hydrants, Public Traffic Signs, Sidewalks, and Utilities

- a. Landscaping shall not obstruct fire hydrants, public traffic signs, sidewalks, or utility boxes except to comply with screening of mechanical equipment pursuant to Section 4.4.6.B.1.
- b. Landscaping shall not grow into any overhead utility lines.

³⁷¹ From 16-255(d)(2)d, revised for clarity.

³⁷² From 16-255(d)(2)e.

³⁷³ From 16-255(d)(2)b.

³⁷⁴ Minimum tree sizes carried forward from 16-255(d)(2)g. The Buena Vista Planting Guide requires minimum of five feet in height for evergreen trees. That should be amended for consistency.

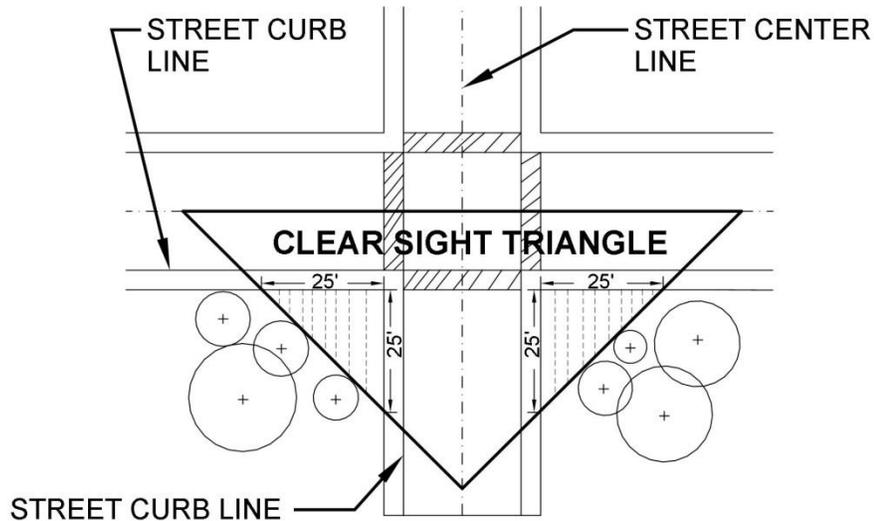
³⁷⁵ Current size requirement is a minimum 10-inch by 10-inch container. The 5-gallon size requirement is a more common measurement approach.

³⁷⁶ From 16-255(d)(2)f, revised for clarity.

2. Clear Sight Triangle³⁷⁷

No planting, structure, sign, fence, wall, or other visual obstruction more than three feet in height measured from the centerline of the street shall be located within the triangular area formed by the intersecting street curb lines and a straight line connecting points on the street curb lines, each measuring 25 feet from the point of intersection. The clear sight triangle requirement shall not apply to alleys.

Figure 4.B: Clear Sight Triangle



F. Deer Fencing and Guy Lines Required³⁷⁸

Wire mesh deer fencing and guy wires shall be installed around all new tree plantings. See planting guide for best practices. Guy wires shall be removed after the first full growing season from the date of installation. Deer fencing shall not require a fence permit but shall comply with Section 4.4.6.G.2.b.

4.4.5. Installation and Maintenance³⁷⁹

A. Required Installation Completion

With approval from the Town Administrator, landscaping required for all uses may be installed after a certificate of occupancy is issued, provided the landscaping is installed within six months of its initial date of occupancy, excluding the months of October through April, and collateral for outstanding work is submitted to the Town Administrator. Such collateral shall include the cost of

³⁷⁷ From 16-240, revised for clarity and to apply more broadly to all zoning districts. The obstructions limitation for landscaping was revised from two feet in height to three feet in height. Public Works Department is still reviewing this section. This may be revised in a final draft for adoption.

³⁷⁸ From 16-255(d)(2)c, revised for clarity.

³⁷⁹ From 16-255(d)(4) and Chapter 18 Article XI, revised to add headings and to clarify language. Did not carry forward Section 18-225 for the administrative special fence permit. Those should be treated as any other type of variance application for consistency.

landscaping, the labor for installing required materials, plus 10 percent. The collateral shall be refunded upon installation and Town inspection of the landscaping.³⁸⁰

B. Irrigation Systems and Plans³⁸¹

If an irrigation system is installed, the system shall meet the following minimum requirements:

1. An approved backflow prevention device shall be installed with all irrigation systems.
2. Low-volume, drip or subsurface irrigation systems shall be used in all non-turf grass areas and in landscaped areas where any one dimension is less than six feet in width and surrounded by impervious surfaces.
3. Any landscaping areas that are being dedicated to the Town or will be maintained by the Town in association with a development shall be required to install an irrigation system. The plans for this irrigation system shall be approved by the Public Works Department. This excludes non-disturbed areas, natural areas, or areas located in the floodplain.

C. Landscaping in the Right-of-Way

The portion of the public right-of-way, if any, between the property line and the street curb line may be used for landscaping purposes, provided it will be maintained by the abutting property owner. The replacement of any damaged landscaping due to work in the right-of-way is the responsibility of the abutting property owner.

D. Landowner Responsible

Maintenance of all landscaped areas on a developed site shall be the responsibility of the property owner.

E. Replacement of Dead Plant Materials

Required landscaping that does not survive shall be replaced within three months of initial notice from the Town, excluding the months of October through April. Replacement vegetation shall be similar in size and type.

4.4.6. Screening and Fencing³⁸²

A. Purpose³⁸³

The purpose of these standards is to provide reasonable regulations for the appearance, location, type, and long-term maintenance of fences and walls to ensure the safety of residents and the high-quality character and appearance of the Town of Buena Vista.

B. Screening Requirements

1. Screening of Mechanical Equipment

Meters and mechanical equipment, excluding publicly-owned utility boxes, shall be screened from public view by landscaping or architectural elements compatible in material and color with the primary structure.³⁸⁴

³⁸⁰ Language related to posing deposits and collateral is new. The “plus 10 percent” is new since Module 2.

³⁸¹ The Town will also require as-built drawings for installed irrigation systems that are either dedicated to or maintained by the Town. This requirement should be located in the Administrative Manual.

³⁸² Based on current standards in the building code, Chapter 18. Definitions in 18-222 were relocated to the end of this UDC. The annotated outline suggested that this section would be included in a standalone section. After further review, we felt the material was better suited with the landscaping standards.

³⁸³ Replaces 18-221, from the building code in Chapter 18.

³⁸⁴ From the Buena Vista Planting Guide.

2. Screening of Storage, Waste Collection, and Loading Areas

- a. Storage, service, and loading areas in nonresidential or multifamily residential developments, excluding areas not visible from a public right-of-way, shall be screened from public view by privacy fences or walls with a minimum height of six feet.³⁸⁵
- b. Waste collection and recycling areas on nonresidential or multifamily properties shall be enclosed on all sides with a gated solid screening wall at least six feet in height, designed to be compatible with the primary structure material and color.³⁸⁶
- c. A concrete or asphalt pad shall be installed beneath the waste collection area.³⁸⁷

C. Procedures and Exemptions³⁸⁸

1. Fences and Walls Requiring a Fence Permit

- a. Fences not exempt from permit requirements in paragraph 3.
- b. Retaining walls less than or equal to 48 inches in height.

2. Fences and Walls Requiring a Building and Fence Permit

- a. Any fence over six feet in height and any wall over four feet in height (measured from the finished grade of the bottom of the fence or wall to the top) shall require both a fence permit and a building permit issued by the Town Administrator and the authorized building department.
- b. Any fence over six feet in height or wall over four feet in height shall also require an engineered design of the wall to be submitted prior to approval of a building permit.³⁸⁹ The Town Administrator may waive this requirement for open fencing not subject to failure in wind conditions.

3. Exempt Fences Not Requiring a Fence Permit³⁹⁰

The following do not require a fence permit:

- a. A seasonal or temporary fence, up to six feet in height, constructed of lightweight wire, or vinyl- or plastic-coated wire, which is installed immediately adjacent to a garden, ornamental tree, or other landscaping for the sole purpose of preventing damage from grazing wildlife.³⁹¹
- b. Temporary fences used to secure or protect construction sites or open excavations. Such fences shall be six feet in height unless a taller fence is necessary to safely secure the site.
- c. Temporary fences used to contain, direct, or control crowds at outdoor events. Such fencing may be addressed through a Special Event permit if required.
- d. Temporary fences constructed of wood, vinyl, plastic or cloth-like fabric and installed during the winter snowfall season for snow control.

³⁸⁵ From the Buena Vista Planting Guide. We did not carry forward the trash receptacle screening standards from the landscaping section 16-255(d)(2)i, which allows landscaping as a screening mechanism for trash. Did not carry forward the provision for screening applicable to trash receptacles of two cubic yards volume or greater. The screening is drafted instead to apply to all nonresidential and multifamily development rather than based on the measurement of the dumpsters. Also did not carry forward provision allowing chain-link fencing with landscaped material to be used as screening for storage, service, or loading areas.

³⁸⁶ From 18-225(b)(2), revised for clarity.

³⁸⁷ New since Module 2 to meet state requirements for food establishments.

³⁸⁸ From 18-223, revised for clarity. Amended since Module 2 to require fence permits for most types of fences.

³⁸⁹ New standard.

³⁹⁰ From 18-223(a) and (b)(1) through (5).

³⁹¹ Replaced "regardless of height" with "up to six feet in height." This has been a loophole for avoiding permitting of tall fences in Town. Also, we removed the "cloth-like fabric or similar lightweight material" as an option in the list of materials.

- e. Open-mesh chain-link fences installed by a school or government agency on school or other publicly-owned or managed land to demarcate, enclose, or protect playing fields or equipment (including baseball field fencing and/or walls), outdoor pools, parks or playgrounds, or mechanical equipment. These fences may be installed to a maximum height of 10 feet, and a maximum height of 25 feet for batting backstops; however, fences and backstops in excess of six feet in height shall be required to obtain a building permit.
- f. Deer fencing required for new planting materials.

D. Acceptable Fencing and Screening Materials³⁹²

1. Fences and screening walls shall be constructed from durable, low-maintenance materials. Acceptable fence and screening materials shall include:
 - a. Masonry (brick) with stucco or other acceptable finish, or constructed masonry units with an indigenous pattern or finish;
 - b. Stone or rock;
 - c. Wood;
 - d. Wrought iron and other manufactured metal;
 - e. Recycled composite fencing;³⁹³
 - f. Chain-link fence constructed with round metal posts and top rail may be allowed (color shall be dark or natural, if coated) for fences within side and rear yards other than those required for screening;
 - g. Other alternative materials that can withstand exposure to the weather, subject to review and approval by the Town Administrator.
2. Live vegetation hedges may be used in place of a fence or wall where appropriate.³⁹⁴

E. Prohibited Fencing and Screening Materials³⁹⁵

1. Barbed wire, razor wire or concertina wire fences, electrified fences, and fences with embedded glass shards or utilizing sharp protrusions are prohibited unless required for security purposes by a government agency, for a use in an industrial zoning district, or for the containment of livestock.
2. No fence, hedge, or wall over four feet in height shall be installed closer than 18 inches to the closest edge of a public sidewalk or walkway.³⁹⁶
3. Chain-link and/or wire fencing equipped with interwoven plastic, wood, fabric, or metal slats shall not qualify as an appropriate or allowable screening fence.³⁹⁷

F. Clear Sight Triangle

Fences and walls shall comply with the clear sight triangle requirements in Section 4.4.4.E.2.

³⁹² From 18-224, revised for clarity.

³⁹³ New material added per staff suggestion.

³⁹⁴ Removed statement about the clear sight triangle. That is already covered in other sections.

³⁹⁵ From 18-224(3). Provisions for industrial zoning districts and containment of livestock are new.

³⁹⁶ Replaced trail with "sidewalk or walkway."

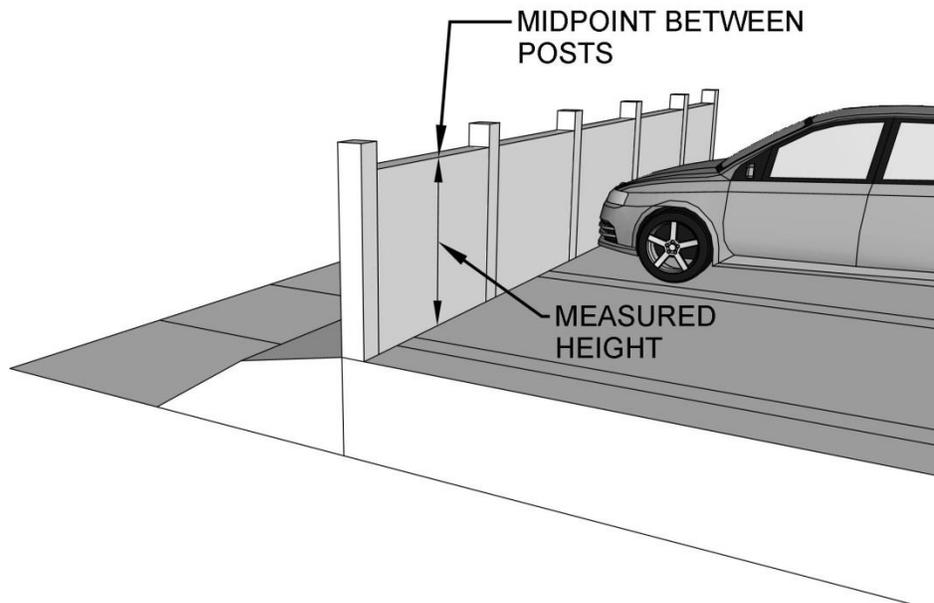
³⁹⁷ From last sentence of 18-225(b)(4). Added "fabric" per staff suggestion.

G. Construction Standards and Dimensions³⁹⁸

1. Fence or Wall Height Measurement³⁹⁹

The height of a fence or wall shall be measured from the finished grade of the storage or parking area adjacent to the fence or wall to the top of the fence or wall, at the midpoint between posts. Posts shall be allowed to extend up to one foot above the height of the fence.

Figure 4.C: Fence or Wall Height Measurement



2. Residential Districts⁴⁰⁰

The following height and construction standards shall apply to all fences and screening walls in residential zoning districts:

a. Generally

- i. Fences in a front, side, or rear yard that abut a public street, excluding public alleys, shall not exceed a height of four feet.⁴⁰¹
- ii. Fences in rear yards and fences in side yards extending up to the front yard shall not exceed a height of six feet. Any portion of a side yard fence extending beyond a front yard setback line shall not exceed a height of four feet, except that a fence that is less than 50 percent opaque shall be permitted up to a height of six feet.
- iii. Fencing enclosing or protecting an athletic court (e.g., tennis court) may exceed six feet in height subject to the issuance of a building permit.

³⁹⁸ From 18-225(a) and (b), revised for clarity.

³⁹⁹ New.

⁴⁰⁰ From 18-225(a), revised for clarity.

⁴⁰¹ Deleted "except if authorized by a special fence permit for a demonstrated unique security need."

- iv. In addition to the regulations set forth in this Paragraph 2, multifamily properties located in residential districts shall be subject to the regulations contained in Paragraph 3 below.
- b. Deer Protection Fencing⁴⁰²**
- i. Deer protection fencing shall be allowed in front, side, or rear yards up to a maximum height of six feet.
 - ii. Deer protection fencing shall be limited to those areas immediately surrounding the tree and/or plant(s) being protected.
 - iii. Any portion of a deer protection fence above four feet in height shall not exceed a maximum of 50 percent opacity.
- 3. Mixed-Use, Commercial, and Other Nonresidential Districts and Multifamily Properties⁴⁰³**
- The following height and construction standards shall apply to all fences and screening walls in mixed-use, commercial, and other nonresidential zoning districts, and on all multifamily properties:
- a. In the MU-1, MU-2, and MU-MS districts, fences in a front, side, or rear yard that abut a public street, excluding public alleys, shall not exceed a height of four feet, except that a fence that is less than 50 percent opaque shall be permitted up to a height of six feet.⁴⁰⁴
 - b. Fences used or required for purposes other than for screening (e.g., deer fencing, security, or boundary fences) shall not exceed six feet in height.⁴⁰⁵
 - c. Screening shall be provided when multifamily, mixed-use, commercial, or other nonresidential development abuts the R-1 or R-2 zoning districts.
 - d. No screening fence or wall utilized to screen stored or other materials shall be constructed within 15 feet of a residential property or zoning district boundary line.
 - e. Screening fences, walls, and gates shall be constructed of materials and installed in such a manner to create a completely opaque screen through which no portion of the material being screened is visible.⁴⁰⁶
- 4. Retaining Walls⁴⁰⁷**
- a. All retaining walls shall be designed and constructed to resist and contain loads due to the lateral pressure of the material or slope to be retained, in accordance with accepted engineering practices.
 - b. The construction and/or installation of a retaining wall in excess of 42 inches in height measured from the finished grade to the top of the wall shall require a building permit and require that the structural design be certified by a state-licensed professional engineer.
 - c. No retaining wall shall be constructed or installed that creates erosion or scarring.

⁴⁰² New.

⁴⁰³ From 18-225(b), revised for clarity.

⁴⁰⁴ New standard for mixed-use districts carried forward from the current residential district standards. This should help to prevent tall fences along Main Street and other important corridors in BV while still allowing taller fences in industrial, highway commercial, and other nonresidential districts.

⁴⁰⁵ Current code allows eight foot fences in nonresidential districts. This was changed to six feet for consistency with the character of BV.

⁴⁰⁶ Deleted "(except that five percent [5%] open space resulting from shrinkage is allowed)" since that cannot be enforced.

⁴⁰⁷ From 18-226.

H. Swimming Pool Fences⁴⁰⁸

All rigidly framed or non-inflatable above-ground pools exceeding 24 inches in depth and all below-ground swimming pools, excepting portable hot tubs and inflatable or other similar temporary pools that are filled by a hose, shall be completely enclosed by a fence not less than four feet in height. Such fence shall not have openings wider than four inches unless the yard or site in which the pool is situated is already fully enclosed by a fence of at least four feet in height with openings less than four inches in width. All gates shall be equipped with child-resistant, self-latching, and self-closing devices that meet the building code requirements.

I. Maintenance⁴⁰⁹

1. All fencing and screening shall be maintained in a structurally safe and visually acceptable manner. For purposes of this Section, “visually acceptable manner” shall mean, without limitation, that the paint on a fence is not peeling or excessively chipped or faded; that rot, rust, or corrosion is not prominent; that slats, bricks, stones, wire, posts or other fence material or equipment are not broken or missing; and/or that the fence is not leaning or falling down at an angle of five degrees or more from vertical. Vegetation growing on or supported by a fence shall be maintained in a healthy condition and shall be regularly pruned and trimmed to prevent the deterioration, collapse, or other structural failure of the fence or wall.
2. Dilapidated, broken, structurally unsound, or unsafe fences or walls shall be removed or repaired upon written notice served by the Town Administrator. The notice shall specify the nature of all repairs or replacements needed to be undertaken and a reasonable time period by which such repairs or replacements shall be completed.

Section 4.5 Site and Building Design Standards

Commentary:

The current code does not include any building design standards, with the exception of a few standards in the Building Code Section 18-295 applicable to the Buena Vista Municipal Airport. The comprehensive plan suggested an expansion of design standards in Buena Vista to promote the “Town’s desired image.”

This section contains proposed new standards for building design in some of Buena Vista’s key character-defining areas, such as the downtown core and the Highway 24 corridor. These design standards focus more on overall mass and scale of buildings and their relationship to the street, and less on architectural style. The assessment memorandum suggested that enhanced building design standards could include roof pitch, location of building entrances, building stepbacks, minimum transparency (amount of glass), and other building articulation elements.

4.5.1. Purpose

The purpose of these standards is to promote high-quality and attractive development in Buena Vista. These standards are intended to:

- A. Protect and enhance the character and quality of residential, commercial, and mixed-use areas in Buena Vista;
- B. Balance Buena Vista’s economic and aesthetic concerns; and
- C. Mitigate the negative visual impacts of the scale, bulk, and mass of large buildings.

⁴⁰⁸ From 18-227.

⁴⁰⁹ From 18-228, revised to add “walls” and to simplify language.

4.5.2. Residential Site and Building Design Standards

A. Applicability

This subsection applies to the following uses and areas:

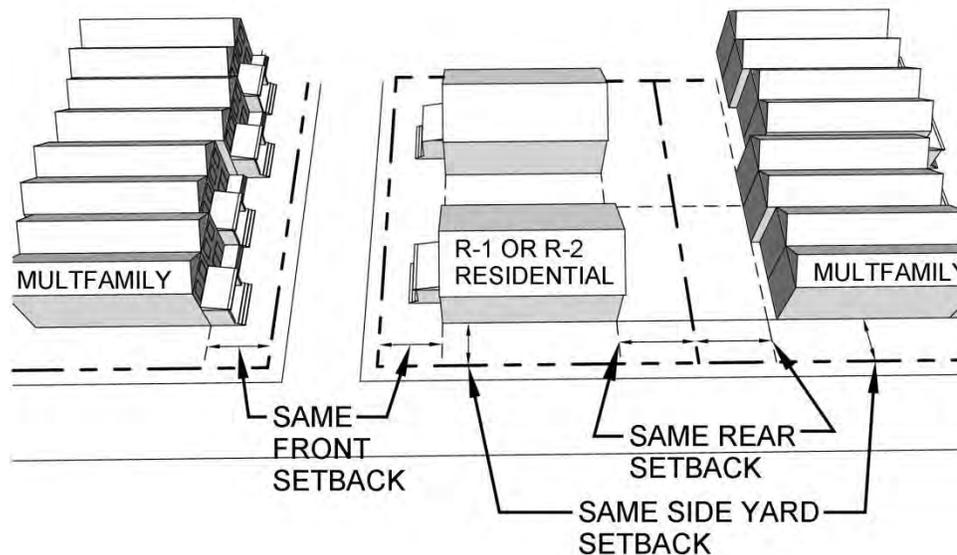
1. In all districts, any multifamily development with three⁴¹⁰ or more units; and
2. All residential development in the MU-MS district.⁴¹¹

B. Transitional Setbacks and Height⁴¹²

For multifamily residential developments adjacent to or within 100 feet, as measured from lot line to lot line, from residential uses in the R-1 or R-2 districts:

1. The required side or rear setback of the adjacent residential district shall apply along the common lot line to the subject property;
2. The required front setback of a residential use immediately across the street from the subject property shall apply to the subject property;

Figure 4.D: Transitional Setbacks



3. Building height shall not exceed the adjacent R-1 or R-2 maximum height requirement (as applicable) within 15 feet of a common lot line.⁴¹³

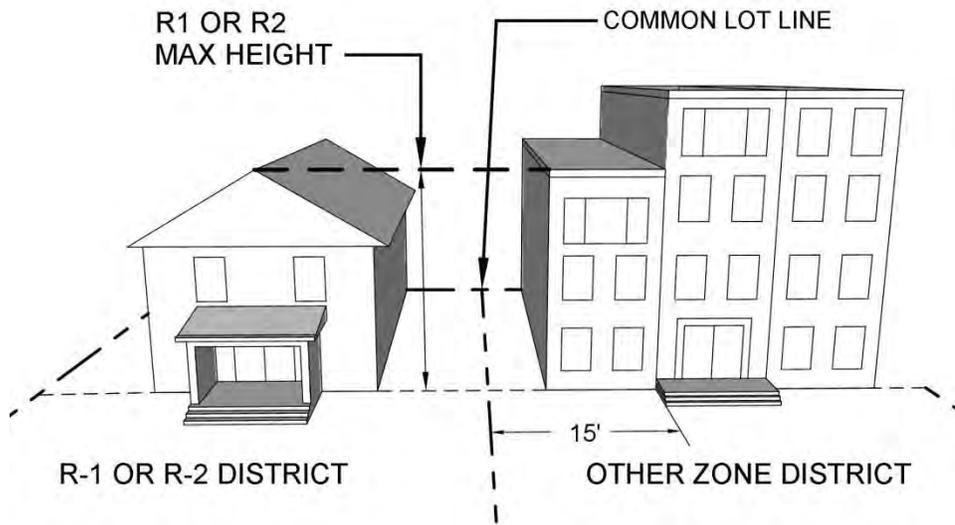
⁴¹⁰ Module 2 threshold was five or more units.

⁴¹¹ Single-family and two-family dwellings are not permitted in the MU-MS district; however, these exceptions apply to existing units.

⁴¹² New standards to protect the character of existing low-density residential neighborhoods.

⁴¹³ This is a building stepback provision. A building can be located closer than 15 feet to the lot line depending on the zoning district, but greater heights must step back from the lot line to avoid overshadowing adjacent low-density residential.

Figure 4.E: Transitional Heights



C. Building Mass and Form

Blocky, uniform façades are prohibited. Buildings shall be articulated through the incorporation of three or more of the following:

1. Balconies;
2. Bay or box windows;
3. Relief in wall plane of 12 inches or more;
4. Front porches;
5. Prominent entry features;
6. Dormers;
7. Variation in materials;
8. Window and door trim at least four inches wide or with a reveal from the wall plane of at least three inches; or
9. Other design elements that add visual interest as determined by the Town Administrator.

Figure 4.F: Comparison of Building Articulation



Top: Encouraged

Bottom: Discouraged

D. Roof Form

Roof forms shall avoid large, unbroken expanses and long, continuous rooflines using the following techniques:

1. Variation in rooflines at a maximum of every 40 feet;
2. Variation in roof height at a maximum of every 40 feet and by a minimum of two feet; and
3. Use of dormers.

E. Garages and Carports⁴¹⁴

1. Front-Loading (Street-Facing) without Alley Access

Front-loading (street-facing) garages and carports are prohibited unless the garage or carport is:

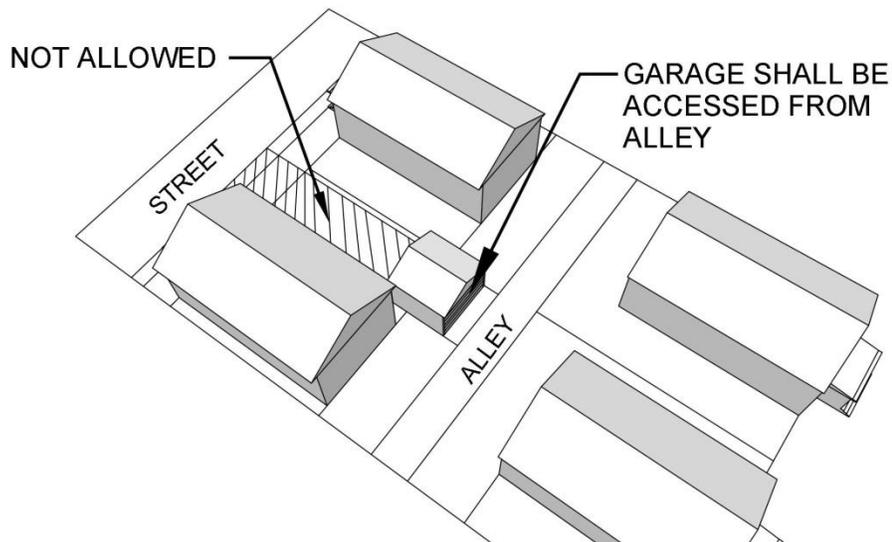
- a. Detached from the primary structure and located in the rear yard; or
- b. Recessed behind the front façade of the primary structure by a minimum of 10 feet.

2. Blocks with Alley Access

Garages and carports on blocks with alley access shall be accessed from the alley, not from the primary street. Existing homes within the Esgar’s Addition and Collegiate Heights subdivisions are allowed access to the primary street to a new garage or carport.

⁴¹⁴ These new standards are intended to prevent the “snout house,” in which the garage sticks out from the front façade.

Figure 4.G: Alley Access to Garages



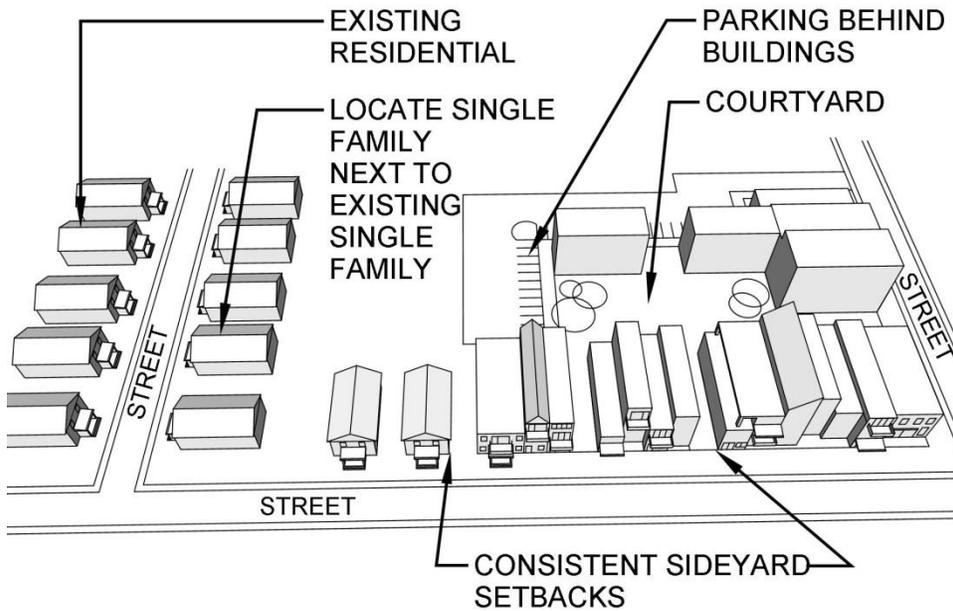
F. Multi-Building Developments⁴¹⁵

For developments with three or more buildings, the buildings shall be arranged using one or more of the following techniques:

1. Organize units around a central courtyard that maintains a consistent side yard setback between units along the street frontage;
2. Locate the buildings on the corner of an adjacent street intersection or entry point to the development to frame the corner;
3. Locate parking areas behind the primary structures;
4. Provide outdoor dining and/or common gathering spaces between buildings; and/or
5. Other site development elements approved by the Town Administrator.

⁴¹⁵ New standards to promote interesting and walkable site design that respects the current character of BV and prevents massive parking areas from becoming the focal point of the project.

Figure 4.H: Multiple Building Development Features



4.5.3. Nonresidential Site and Building Design Standards

A. Applicability⁴¹⁶

The nonresidential site and building design standards in this subsection apply to the following uses and areas:

1. All nonresidential and mixed-use development in the MU-MS district; and
2. Nonresidential or mixed-use development in the MU-1 or MU-2 districts with frontage on Highway 24.

B. Building Orientation⁴¹⁷

Local climatic conditions shall be considered when orienting buildings on a site. The following shall be incorporated into the building orientation to the maximum extent possible:

1. Building entries on north-facing facades shall be designed to prevent ice accumulation;
2. Snow shed from roofs and snowpiling areas along internal streets and walkways shall be considered; and
3. Adequate solar access shall be considered when planning outdoor spaces, with shade and relief from glare provided by landscaping and/or overhead structures.

⁴¹⁶ Applicability standards based on stakeholder feedback and the comprehensive plan.

⁴¹⁷ New standards. The language "to the maximum extent possible" gives the town flexibility to accommodate development proposals with unique site characteristics.

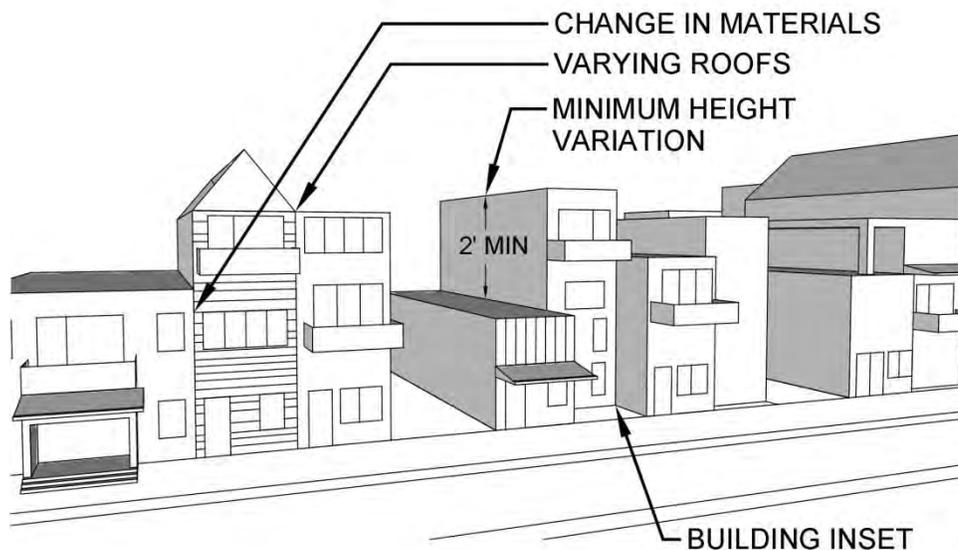
C. Multi-Building Developments⁴¹⁸

Nonresidential and mixed-use developments with three or more buildings shall comply with the multi-building development standards for residential developments in Section 4.5.2.F.

D. Building Mass and Form⁴¹⁹

1. Buildings shall vary in size and shape for developments with three or more buildings.
2. Buildings shall incorporate features at the ground level to enliven pedestrian space. Examples are well-defined and articulated entries and windows, awnings, canopies, arcades, recessed entries, changes in color, material, or texture.
3. No single building façade or plane shall exceed 60 feet, measured horizontally, without being broken up or distinguished from another building façade or plane using the following techniques:
 - a. Variations in roof form or variations in roof height of two feet or more;
 - b. Insets or other relief in wall plane of 12 inches or more; and
 - c. Changes in color, materials, or textures.

Figure 4.I: Examples of Distinguishing Building Facades

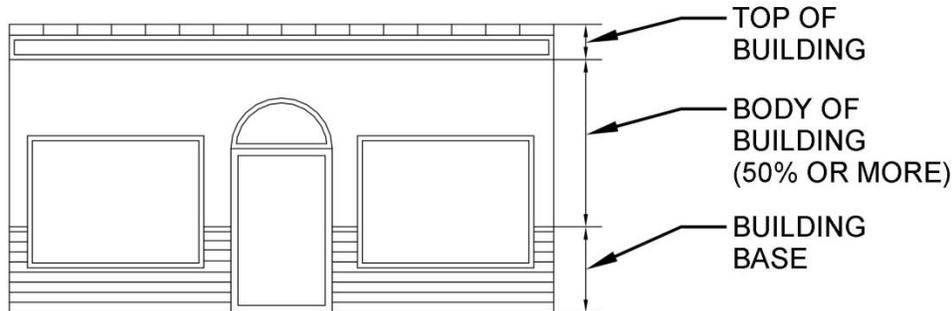


4. Buildings shall be designed to reduce the apparent mass by including a clearly defined base, body, and top of the building, with horizontal elements separating each component. The body or middle of the building shall comprise a minimum of 50 percent of the total building height.

⁴¹⁸ New standards to promote interesting and walkable site design that respects the current character of BV and prevents massive parking areas from becoming the focal point of the project.

⁴¹⁹ New standards to prevent “box” development and to maintain the existing character of BV.

Figure 4.J: Building Base, Body, and Top



E. Building Transparency⁴²⁰

Building facades facing a street, plaza, park, or other public space shall comply with the following standards:

1. At least 30 percent of the ground floor shall be comprised of transparent window openings to allow views of interior spaces; and
2. At least 20 percent of each upper floor shall be comprised of transparent or nontransparent glazing.

F. Street Corners⁴²¹

Buildings situated on street corners shall comply with the following standards:

1. The tallest portions of the building shall be concentrated at the intersection to adequately frame the corner; and
2. Architectural features such as angled facades, prominent entrances, or other unique building features as approved by the Town Administrator shall be employed to the maximum extent possible.

G. Primary Entrance⁴²²

Buildings shall feature visually-prominent entrances. Unless otherwise provided in this UDC, primary building entrances shall incorporate two or more of the following techniques:

1. Canopy, portico, archway, arcade, or similar projection that provides architectural interest and protection for pedestrians;
2. Prominent tower, dome, or spire;
3. Peaked roof;
4. Projecting or recessed entry;
5. Outdoor features such as seat walls or permanent landscape planters with integrated seating; or
6. Other techniques deemed comparable by the Town Administrator.

⁴²⁰ New standards to help activate the pedestrian environment. Preventing large blank walls is important to maintaining BV's character.

⁴²¹ New standards to promote prominent street corners and an active pedestrian environment in BV.

⁴²² New standards to clearly distinguish primary entrances and to maintain the existing character of BV.

Figure 4.K: Building Entry Features



Top: Prominent overhang, seating, and landscaping, Prominent structural tower and landscaping
 Bottom: Peaked roof to depict entry and landscaping

H. Primary Building Materials

1. Primary buildings should each use a variety of durable materials, including:
 - a. Brick, stone, or other masonry;
 - b. Steel;
 - c. Cast stone;
 - d. Split-face block;
 - e. Composite siding;
 - f. Rot-resistant wood;
 - g. Traditional concrete stucco; or
 - h. Comparable material as approved by the Town Administrator.

4.5.4. Design Standards in the Airport (AP) District⁴²³

The following design standards apply to construction in the AP District:

- A. All exterior surfaces shall be of prefinished aluminum, steel, decorative masonry, or pre-colored laminate. No painted wood, unfinished materials, or walls comprised of more than 50 percent glass will be permitted,⁴²⁴

⁴²³ Based on current standards in the building code, Section 18-295(1), *Exterior*. Revised to broaden applicability to the Airport District, rather than just the BV Municipal Airport. Did not carry forward the following standard: “All new construction shall be of high quality and utilize material and finishes which will have a minimum twenty-year warranty” because it is too subjective to enforce.

⁴²⁴ Revised to define “excessive glass walls” as walls with more than 50 percent glass. Also removed the text prohibiting damaged materials from being used, since that would be a requirement under the building code.

- B. All exterior colors and materials shall be of neutral tones and shall be submitted for review and approval by the Airport Advisory Board;
- C. The front, rear, and sides of all buildings shall be of compatible design and aesthetics;
- D. All roofs shall be metal or cement tile and shall be of a tone and color consistent with the exterior façade materials; and⁴²⁵
- E. Building materials shall not cause glare, reflections, or any other interference with flight operations, airport operations, or ground circulation.⁴²⁶

Section 4.6 Exterior Lighting

Commentary:

This section includes standards for lighting parking areas, buildings, and streets. The current code is extremely brief on lighting regulations, so many of the standards in this section are new. As with the landscaping section, the new lighting standards require submittal of a lighting plan to provide staff adequate review materials for compliance and enforcement.

4.6.1. Purpose

The purpose of this Section 4.6 is to ensure that vehicle circulation areas, pedestrian areas, parking areas, public gathering spaces, and other areas have adequate outdoor illumination to provide safety at night, while limiting the negative impacts of outdoor lighting nuisance on adjacent properties.

4.6.2. Applicability⁴²⁷

A. General Applicability

1. The exterior lighting requirements apply to all new development and new buildings on previously developed lots unless exempted in paragraph B below.
2. For nonresidential and multifamily developments, the applicant shall demonstrate compliance with this section through a detailed lighting and photometric plan submitted with applicable development application, building permit, and/or electrical permit requirements.⁴²⁸

B. Exemptions⁴²⁹

1. Holiday Lighting

- a. Temporary winter holiday lighting illuminated from November 1 to March 1 is allowed in nonresidential zoning districts. Residential zoning districts may use holiday lighting any time of year. Other exemptions for temporary holiday lighting may be approved by the Town Administrator through a temporary use permit.
- b. Holiday lighting shall not exceed one footcandle at any property line, except where the property line is adjacent to walkways, driveways, and streets.

2. Single-Family Residential

Soffit or wall-mounted lights with a light output of less than 1,000 lumens and permanently attached to single-family dwellings shall be exempt from the exterior lighting regulations,

⁴²⁵ Revised to clarify that “match the exterior” means consistent tone and color of the façade.

⁴²⁶ Revised to broaden to other interferences.

⁴²⁷ Sections 4.6.2 through 4.6.5 are mostly new standards reflecting best practices in outdoor lighting.

⁴²⁸ New requirement to submit a photometric and detailed lighting plan for staff review. There is not currently a way for staff to review for compliance with lighting standards.

⁴²⁹ New exemptions for lighting.

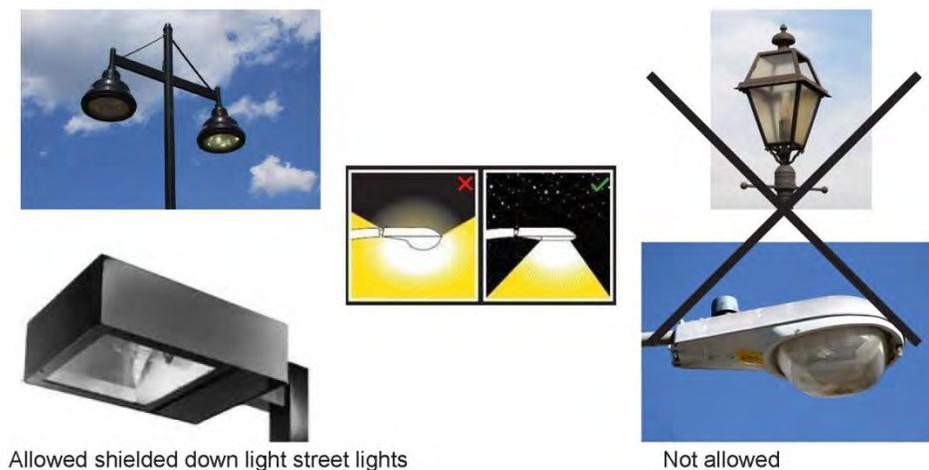
provided the lights do not exceed the height of the eave. Such lights shall be downcast and directed away from abutting properties.

4.6.3. Standards Applicable to All Development

The following standards apply to all development unless specifically exempted in Section 4.6.2.A.

- A. Except in the R-1 and R-2 districts, sidewalks, internal pedestrian paths, and bicycle paths shall be lit with full cutoff shielded and downcast fixtures no more than 16 feet tall and providing consistent illumination of at least one footcandle on the walking surface.⁴³⁰

Figure 4.L: Allowed Lighting Fixtures



Allowed shielded down light street lights

Not allowed

- B. Lighting along public rights-of-way and landscaped areas for a specific development shall be designed uniformly.
- C. Light spillover onto adjacent properties shall not exceed one footcandle at any property line, except where the property line is adjacent to walkways, driveways, and streets.

4.6.4. Parking Area Lighting

A. Pole Height

Parking area lighting fixtures shall not exceed 25 feet in height.

B. Shielding of Lights

1. Parking area lighting shall be full cutoff shielded and downcast fixtures.
2. The source of light on any fixtures on a nonresidential or mixed-use lot adjacent to a residential use or district shall be shielded from sight from all residential uses.
3. Lighting fixtures for canopies or similar structures shall be flush-mounted or recessed above the lower edge of the canopy.

⁴³⁰ New standards. Could be applied to the R-2 district if desired.

C. Illuminance

1. Maintained average illuminance values in commercial and multifamily parking areas shall be no less than two footcandles.
2. The acceptable uniformity ratio for lighted areas shall comply with recommended ranges adopted by the International Engineering Society of North America (IESNA) for low, medium, and high activity areas.

D. Hours of Lighting

A maximum of 25 percent of the parking lot lighting fixtures may remain in operation from one hour after business closing to one hour before business opening to provide necessary security. During such time period, the average illuminance values in paragraph C do not apply.

4.6.5. Building Lighting⁴³¹

A. Location and Direction

1. Except for decorative lighting, building-mounted lights shall be installed so that all light is directed downward.
2. Wall packs and similar lights shall be prohibited unless the cutoff angle effectively eliminates glare from beyond the property lines.
3. Lights shall not exceed 400 watts of incandescent illuminance or the equivalent.

B. Decorative Lighting

Decorative lighting not exceeding 100 watts of incandescent illuminance, or the equivalent, per fixture shall be permitted provided all light is cast against the building surface.

4.6.6. Street Lighting⁴³²

- A. Street lights shall be installed by the developer for every new nonresidential or multifamily development, and for single-family developments containing more than 10 lots. Street lights may be required for other developments, if determined by the Town Administrator that they are necessary to protect the public health, safety, and welfare of the site and/or surrounding neighborhoods.⁴³³
- B. All fixtures shall be compatible with the character of the neighborhood and Town as a whole as determined by the Public Works Director.⁴³⁴
- C. All street lighting fixtures shall be full cut-off and designed to direct lighting below a 90-degree horizontal plane extending from the lowest point of the light source.
- D. All street lighting fixtures shall be designed and constructed to minimize or eliminate the direct visibility of the light source and so that they do not cast or reflect light on adjacent properties.
- E. All street lighting fixtures shall conform to the design requirements in Table 4.4 below.

⁴³¹ Building and street lighting is currently measured by watts of incandescent illuminance. Conversion of light measurement to lumens would require further discussion with code enforcement.

⁴³² From 17-57(b)17, simplified and revised for clarity.

⁴³³ Includes revisions to 17-57(b)(17)(a) from Ordinance 2016 No. 1. We did not carry forward the following text "...unless the Board of Trustees determines that they are necessary to serve the development and/or protect the public health, safety or welfare. The Board of Trustees may also reduce or eliminate street lighting requirements for very low density developments" Replacing it with the determination by the Town Administrator.

⁴³⁴ Did not carry forward "The type, intensity and distribution of lighting fixtures shall be determined by recommendation of the Planning and Zoning Commission and decision of the Board of Trustees."

Standard	Residential	Mixed-Use, Commercial, and Other Nonresidential
Maximum initial horizontal illuminance	2 footcandles	3 footcandles
Maximum pole height	14 feet	20 feet
Maximum fixtures per pole	1	2
Maximum lighting trespass	0.2 footcandles	0.3 footcandles
Maximum fixture wattage (incandescent)	75 watts	100 watts
Maximum fixture wattage (HID)	70 watts	100 watts
Maximum fixture wattage (florescent)	32 watts	32 watts

Section 4.7 Signs

Commentary:

The sign regulations were revised based on feedback from staff and stakeholders and the recommendations in the assessment memorandum and annotated outline. We also addressed comments provided in a matrix from staff dated June 11, 2015, that included several pages related to the sign code. We made several changes to the regulations to ensure content neutrality – e.g., allowing two flags of any type to be exempt from the sign regulations instead of limiting the exemption to “flag of any nation, organization of nations, state, county, or municipality.” We also made several changes to the permanent sign standards, and consolidated the allowable sign information in a new table.

The comprehensive sign plan procedure was merged with the procedure for signs requiring a special review sign permit based on staff comments and the assessment memorandum direction to simplify these procedures. There are several proposed sign types in this draft that would be administratively approved through the comprehensive sign plan procedure. This is a response to stakeholder feedback that the process was overly burdensome for simple sign permits. We identified several other areas in the footnotes where we would like direction from staff.

4.7.1. Purpose⁴³⁶

This section is intended to coordinate the use, placement, physical dimensions, and design of all signs within the Town while preserving the right of free speech and expression. The purpose of these regulations is to:

- A.** Ensure that signs are well-designed and contribute in a positive way to the Town's visual environment, express local character, honor local heritage, and enhance the distinctive image for the Town;
- B.** Recognize that signs are a necessary means of visual communication for the convenience of the public;⁴³⁷
- C.** Limit signage to those reasonably necessary to convey a desired message or identify an establishment or event;⁴³⁸
- D.** Lessen the visual clutter caused by proliferation, improper placement, illumination, animation, and excessive height and area of all signs that compete for the attention of pedestrian and vehicular traffic;⁴³⁹

⁴³⁵ From the table in current 17-57(b)17(f). As noted above, lighting is currently measured by watts of incandescent illuminance. Conversion of light measurement to lumens would require further discussion with code enforcement.

⁴³⁶ From 16-242(a), revised for clarity and as noted below.

⁴³⁷ Eliminated “and provide flexibility within the sign review/approval process to allow for unique circumstances and creativity.” The intent is to establish clear standards to avoid further cases to be reviewed case-by-case and to minimize variances. Did not carry forward 16-242(a)(8), to bring nonconforming signs into compliance with these regulations.

⁴³⁸ Replaces 16-242(a)(3).

⁴³⁹ New.

- E. Protect the public from the dangers of unsafe signs and require signs to be located, constructed, installed, and maintained in a safe and satisfactory manner;⁴⁴⁰
- F. Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings, uses, site features, and the surrounding neighborhood; and
- G. Ensure that signs are appropriately sized for adjacent lots, building frontages, and rights-of-way.⁴⁴¹

4.7.2. Applicability

A. Generally

This section shall apply to any sign in any district, unless otherwise stated in this section or the UDC.

B. Permit Required

No person shall erect, display, alter, relocate, or replace any sign, including a sign face replacement, without the prior issuance of a sign permit issued pursuant to Section 4.7.6, unless the sign is exempt from permit requirements as provided in Subsection C below.

C. Signs That Do Not Require a Permit⁴⁴²

The following signs do not require a sign permit, provided they comply with the applicable conditions and limitations listed below.

1. Address Signs

The Town requires addresses to be posted near all primary building entrances and detached address signs if the sign near the building entrance is not visible from the public right-of-way. Because these signs are required, such signs shall be exempt if they do not exceed two square feet in area.

2. Window Signage⁴⁴³

Signs and decals affixed or painted on windows or door glass panels, provided window signage does not cover more than 50 percent of any one window panel.

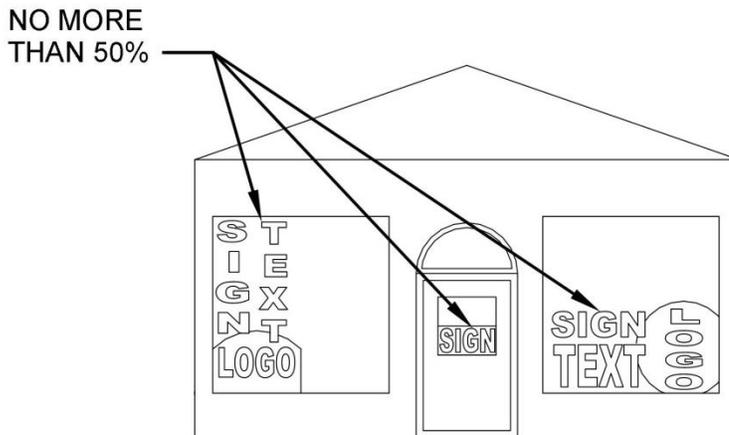
⁴⁴⁰ Replaces 16-242(a)(5).

⁴⁴¹ Replaces 16-242(a)(7).

⁴⁴² From 16-242(f), revised as noted. Previously titled "exempt signs," which implied that they do not have any regulations associated with them. Did not carry forward menu display boards as an exemption, for purposes of content-neutrality.

⁴⁴³ Revised to clarify that the 50 percent applies to the total window area per window panel, to prevent any one window from being covered entirely.

Figure 4.M: Window Signage Requirements



3. Banners⁴⁴⁴

- a. A banner shall not require a permit provided the following:
 - i. Banners shall not exceed 16 square feet.
 - ii. No more than one banner shall be displayed on a property at one time.
 - iii. Banners shall be professionally printed and installed in a way that does not create a safety hazard.
 - iv. No property shall display a banner for more than two weeks every calendar quarter (January through March, April through June, July through September, and October through December).
- b. Banners not meeting the any of the above may be permitted with a temporary sign permit pursuant to Section 4.7.5.C.1.

4. Flags⁴⁴⁵

Up to two flags allowed per property. Flags shall be affixed to permanent flagpoles, whether or not such flagpole is freestanding or attached to a building. A minimum pedestrian clearance of seven feet shall be maintained for any flag hanging above a sidewalk or walkway.

5. Public Signs

Signs required by the local and/or state government, or signs erected by government agencies, utilities, or special districts, including traffic, utility, schools, safety, railroad crossing, wayfinding, public notices, and identification signs for public facilities.

6. Signs Located Inside Buildings⁴⁴⁶

Signs located inside a building, except that any sign located within five feet of any window shall not have any flashing or moving lights that would produce any glare or distraction for any passing motorist, including video monitors and excluding temporary holiday lights.

⁴⁴⁴ New.

⁴⁴⁵ Revised for content-neutrality.

⁴⁴⁶ Revised to say "holiday lighting" instead of "Christmas-type."

7. Yard Signs⁴⁴⁷

Yard signs are permitted on a property provided such signs comply with the following:

- a. Yard signs shall be limited to two per property.
- b. Yard signs shall be limited to six square feet per sign within residential zoning districts, and 16 square feet per sign within all other zoning districts.⁴⁴⁸
- c. No person shall post any yard sign upon public or private property without permission of the property owner;
- d. Yard signs shall not be permitted on any utility pole, lighting pole, or other similar structure; and
- e. Yard signs shall not be placed for longer than 90 days per calendar year.⁴⁴⁹

8. Site Signs⁴⁵⁰

Site signs may be permitted as temporary signs after the commencement of construction. Each site shall be limited to one site sign, and shall not exceed 32 square feet in area and six feet in height. The site sign shall be removed after the first certificate of occupancy for the project is issued.

9. Street Signs⁴⁵¹

Street name signs shall be installed at all intersections. For new development applications, at the discretion of the Board of Trustees, the developer shall install street and traffic control signs, devices, and markings. The number and type of signs, devices, and markings shall conform to the current Manual on Uniform Traffic Control Devices for Streets and Highways and all other current Town regulations.

4.7.3. Prohibited Signs⁴⁵²

The following signs are prohibited:

A. Glaring Signs

Signs with light sources or that reflect brightness (such as mirrors) to constitute a hazard or nuisance. This includes signs with fluorescent text, graphics, or background, as well as holographic signs.

B. Obstructive Signs or Signs in the Public Right-of-Way⁴⁵³

Any sign that obstructs free and clear vision of an intersection or traffic approaching the intersection or a roadway or any sign in, on, or above a public right-of-way that in any way interferes with normal or emergency use of that right-of-way without entering into a revocable encroachment license agreement with the Town.

⁴⁴⁷ Revised from political signs to maintain content-neutrality. These yard sign provisions now include the temporary real estate sign regulations.

⁴⁴⁸ Clarified that the maximum area is per sign.

⁴⁴⁹ This new 90 day time limit is applied broadly to all yard signs, meaning that temporary real estate signs are now required to be removed after 90 days instead of the current 30 days.

⁴⁵⁰ Revised name from construction signs to site signs for content neutrality. Also revised the size from current 20 square feet and 8 feet in height.

⁴⁵¹ From 17-57(b)16, Street Signs and Markings, revised for clarity.

⁴⁵² From 16-242(i), revised as noted.

⁴⁵³ Added a provision for revocable license agreements issued by the Town to allow for sandwich boards, A-frames, menu boards, and other potential permanent or temporary signage to be reviewed on a case-by-case basis.

C. Posters and Handbills⁴⁵⁴

Any exterior sign affixed to any structure, tree, pole, or natural vegetation except in designated community areas or as otherwise permitted by this UDC.

D. Vehicle Signs⁴⁵⁵

Any sign displayed on a parked vehicle or trailer, unless:

1. The vehicle or trailer is functional with current registration; and
2. The vehicle or trailer is parked in a parking space or behind a principal building.

E. Abandoned Signs⁴⁵⁶

Any unused abandoned sign, including any pole or structure supporting such sign, shall be removed within six months following the conclusion or termination of the reason for the sign. If an existing sign pole or structure is expected to be used for future use of an existing building, then such structure may remain; however, the copy, text, icon, or any messages on such sign shall be removed.

F. Backlit and Internally-Illuminated Signs in the MU-MS district⁴⁵⁷

Any backlit or internally-illuminated sign is prohibited in the MU-MS district. Backlit or internally-illuminated signs existing as of the effective date of this UDC shall be considered nonconforming.

G. Feather Flags

Feather flags and similar devices shall be prohibited.

Figure 4.N: Feather Flag



H. Streamers⁴⁵⁸

No sign shall contain or consist of pennants, ribbons, streamers, spinners or other similar moving, fluttering, or revolving devices.

I. Permanent Banners

Banners shall only be allowed as a temporary sign, pursuant to Section 4.7.2.C.3.

⁴⁵⁴ Added an exception for designated community areas (such as libraries with community billboards), and to allow for other signs designated in this UDC.

⁴⁵⁵ Substantially new standards for clarity.

⁴⁵⁶ New standard. The current code simply lists abandoned signs as prohibited, without any supporting text.

⁴⁵⁷ Revised standard to apply to the MU-MS district, rather than "East Main Street."

⁴⁵⁸ From 16-242(j)(2)b.

J. Roof-Mounted Signs

No sign shall be permitted to be mounted on the roof of a building.

K. Animated or Moving Signs⁴⁵⁹

Animated or moving signs are not permitted unless approved through a Comprehensive Sign Plan pursuant to Subsection 4.7.6.F. Fluttering air devices shall not be permitted through the Comprehensive Sign Plan procedures.

L. Obscene, Indecent, or Immoral Signs⁴⁶⁰

There shall be no signs or pictures of an obscene, indecent, or immoral character such as will offend morals or decency in accordance with constitutional standards.

4.7.4. Nonconforming Signs⁴⁶¹

A nonconforming sign may remain, provided that it is maintained in good repair, pursuant to the following provisions.

A. Modification

Nonconforming signs shall not be enlarged, extended, structurally reconstructed, or altered in any manner unless the sign is modified to conform to this Section 4.7.

B. Damage⁴⁶²

1. A nonconforming sign or the structure supporting the sign that is damaged or destroyed to the extent of 50 percent or more of the replacement cost shall not be altered, replaced, or reinstalled unless it is in conformance with this Section 4.7.
2. A nonconforming sign or the structure supporting the sign that is damaged or destroyed to the extent of less than 50 percent of the replacement cost shall comply with the following:
 - a. Repairs shall return the sign to previous conditions prior to the damage, or shall bring the sign into conformance with this Section 4.7,⁴⁶³
 - b. Repairs shall commence within 60 days;
 - c. Repairs shall be completed within six months.

C. Discontinuance⁴⁶⁴

Nonconforming signage shall be brought into conformance with this Section 4.7 within six months following a vacated use or change in use, or shall be considered to be an abandoned sign. A sign face on a nonconforming sign may be replaced following a change in use so long as such change does not increase the nonconformity of the sign.

D. Change in Location⁴⁶⁵

Nonconforming signs shall not be moved to a new location either on-site or off-site, unless the new location of such sign eliminates all nonconformities associated with the sign.

⁴⁵⁹ New standards.

⁴⁶⁰ From 16-242(j)(2)d.

⁴⁶¹ From 16-242(b)(1), revised for clarity.

⁴⁶² Revised to clarify that 50 percent damage is related to the replacement cost of the sign.

⁴⁶³ New standard.

⁴⁶⁴ Revised to designate such signs as abandoned if discontinued. Added provision to allow for sign face changes with a change in use.

⁴⁶⁵ Added provision to allow for relocation of a sign if the relocation actually causes the sign to conform to the regulations.

4.7.5. Sign Standards

A. General Sign Standards

1. Materials and Safety⁴⁶⁶

- a. All signs shall be constructed of durable materials and installed to withstand expected winds, snow loads, and deterioration from the elements.
- b. Permitted sign materials include wood, metal, stone, or other durable material. No sign shall contain iridescent or Day-Glo paint. Permitted permanent exterior signs shall not be made of paper, cloth, canvas, cardboard, wallboard, or other similar nondurable material.

2. Sign Maintenance⁴⁶⁷

All signs shall be maintained in good repair and in a safe, clean, and attractive condition.

3. Design and Use

All signs shall be uncluttered, used for the purpose of business or subdivision identification, and provide sufficient contrast between letters, images, and the background.

4. Revocable License and Encroachment Permit Required

The owner of any sign extending over a public street or other public right-of-way or space shall complete an encroachment permit application with required fees and enter into a revocable license agreement with the Town prior to installing the sign.⁴⁶⁸

5. Sign Measurement

a. Area

The area of a sign shall be equivalent to the total surface devoted to a sign message, including text, symbols, photographs, logos, and display faces, but excluding supporting structures and time-and-temperature display.⁴⁶⁹

i. Single-Faced Signs⁴⁷⁰

The area of a sign with one sign face shall be calculated as the total area of the sign face using no more than 12 perpendicular lines for rectilinear designs. For signs with cutout letters, displays, symbols, or logos, the area shall be calculated by determining the area that can be enclosed by a rectangle or series of geometric shapes.

⁴⁶⁶ From 16-242(i)(2)a, revised for clarity.

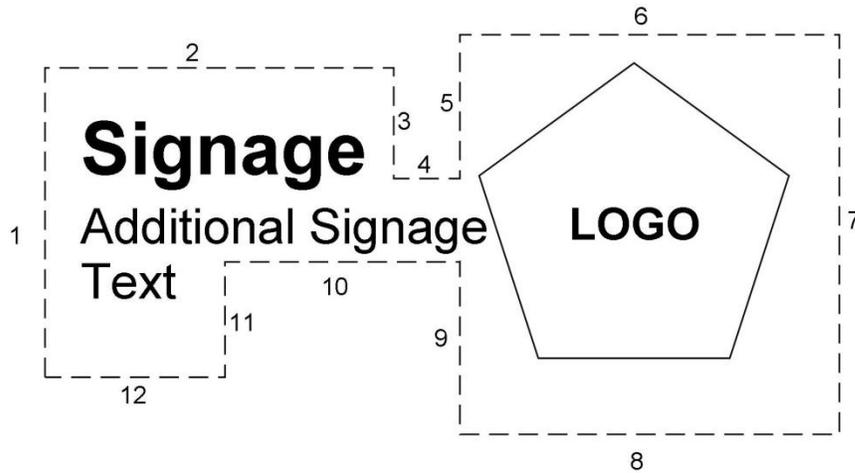
⁴⁶⁷ From 16-242(i)(2)(e), simplified.

⁴⁶⁸ Currently addressed for projecting signs, awning signs, canopy signs, and marquee signs. Relocated to apply more generally to all sign types.

⁴⁶⁹ From 16-242(i)(3)(a), revised for clarity and to exclude supporting structures from the area calculation.

⁴⁷⁰ New.

Figure 4.O: Measuring Area of a Single-Faced Sign



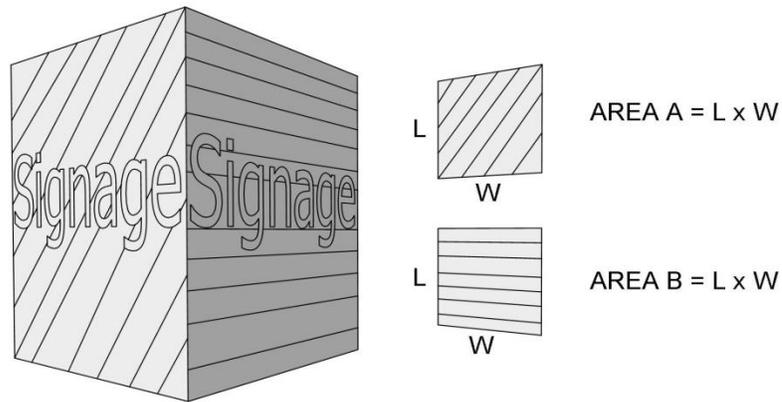
ii. Double-Faced Signs⁴⁷¹

The area of a sign with two sign faces shall be calculated as one sign face provided the sign faces are identical in size and shape and are parallel.

iii. Multi-Faced (Three or More) Signs⁴⁷²

The sign area shall be calculated by the area of all sign faces.

Figure 4.P: Measuring Area of a Multi-Faced Sign



AREA A + AREA B = TOTAL SIGN AREA

b. Height⁴⁷³

The height of a sign shall be measured from the average grade at the base of the sign to the highest point of a sign.

⁴⁷¹ New.

⁴⁷² New.

⁴⁷³ From 16-242(i)(3)(b), revised for clarity. Did not carry forward "If berms are used in conjunction with signage, the height of the sign shall be measured from the mean elevation of the fronting street."

6. Illumination⁴⁷⁴

- a. The light from any sign shall be directed to avoid causing a traffic hazard, nuisance, or glare on any public right-of-way or adjacent property.
- b. All lighting fixtures shall be directed downward below a ninety-degree horizontal plane extending from the lowest point of the light source.
- c. The source of illumination shall not be visible from any street, sidewalk, or adjacent property.
- d. Full-spectrum and energy-efficient light bulbs are recommended.

B. Permanent Signs⁴⁷⁵

1. Summary Table of Permanent Sign Standards⁴⁷⁶

Table 4.5 below summarizes the requirements for permanent signs. Additional applicable requirements follow the table.

Table 4.5: Summary of Sign Standards for Permanent Signs				
Signs Permitted By Type				
Sign Type	UDC Section Number	Number of Signs Permitted, Maximum	Sign Area Per Sign, Maximum	Sign Height
Wall ⁴⁷⁷	4.7.5.B.2	1 per dwelling unit in residential districts; 1 per tenant per street frontage in all other zoning districts ⁴⁷⁸⁽¹⁾	2 square feet in residential districts; 24 square feet in all other zoning districts	Minimum 10 feet; Maximum 20 feet ⁽²⁾
Projecting	4.7.5.B.3	1 per tenant in any mixed-use district, the HC district, and the I district; not permitted in any other districts	6 square feet	Minimum 8 feet; Maximum 14 feet
Awning, canopy, or marquee	4.7.5.B.4	Considered a wall sign for calculation	Considered a wall sign for calculation	Minimum 8 feet
Freestanding monument	4.7.5.B.6	Single-tenant properties: 1 sign; Multitenant properties: 1 per access up to a maximum of 2 ⁽³⁾	60 square feet	Maximum 16 feet
Freestanding pole	4.7.5.B.6	Considered a freestanding monument sign for calculation ⁽³⁾	48 square feet	Minimum 10 feet; Maximum 20 feet
Freestanding subdivision entry	4.7.5.B.7	1 per subdivision entrance	24 square feet	Maximum 5 feet
Electronic message board ⁴⁷⁹	4.7.5.B.8	Considered a freestanding monument sign for calculation ⁽³⁾	30 square feet	Maximum 8 feet

⁴⁷⁴ Replaces 16-242(j)(2)(c). We did not carry forward the following: "Unless otherwise permitted, all signs shall be externally lit by lights in a visible fixture above the sign. Backlit and internally illuminated signs are allowed by special use." We carried forward the prohibition against internally-illuminated and backlit signs in the MU-MS district in the proposed Section 4.7.3.F.

⁴⁷⁵ Based largely on 16-242(j)(4), with changes as noted. Information on the number and size of signs permitted was consolidated into the summary table.

⁴⁷⁶ This table replaces the current table in 16-242(j)(1), with changes as noted.

⁴⁷⁷ Revised to include home occupation regulations in residential zoning districts to maintain content neutrality.

⁴⁷⁸ Added "per tenant" to wall signs, projecting signs, and portable A-frame signs to address multitenant buildings.

⁴⁷⁹ New standards.

Table 4.5: Summary of Sign Standards for Permanent Signs				
Sidewalk sign ⁴⁸⁰	4.7.5.B.9	1 per tenant	12 square feet ⁴⁸¹	Maximum 5 feet ⁴⁸²
Drive-through sign	4.7.5.B.10	2 per drive-through service lane ⁴⁴¹	16 square feet ⁴⁸³	Maximum 7 feet
Historical	See 4.7.5.B.11			
Off-premises	Requires comprehensive sign plan procedures per 4.7.6.F			
Additional Sign Standards by District⁴⁸⁴				
District	Number of Signs Permitted		Area of Signs Permitted	
All Mixed-Use (MU) Districts	<p>Single-tenant buildings: Per standards earlier in this table, provided the total area requirements in the column to the right are met.</p> <p>Multitenant buildings: No tenant within a multitenant building shall have more than two signs total including wall signs; projecting signs; awning, canopy, marquee signs; and freestanding signs. All other sign types shall be permitted in addition to those signs.</p>		The total area of all wall signs; projecting signs; awning, canopy, marquee signs; and freestanding signs shall not exceed 48 square feet. ⁴⁸⁵	
Highway Commercial (HC) and Light Industrial (I-1) Districts	<p>Single-tenant buildings: Per standards earlier in this table, provided the total area requirements in the column to the right are met.</p> <p>Multitenant buildings: No tenant within a multitenant building shall have more than two signs total including wall signs; projecting signs; awning, canopy, marquee signs; and freestanding signs. All other sign types shall be permitted in addition to those signs.</p>		The total area of all wall signs; projecting signs; awning, canopy, marquee signs; and freestanding signs shall not exceed 72 square feet.	
NOTES:				
[1] For multitenant buildings, street frontages shall only apply to tenants occupying the portion of the building fronting the street.				
[2] Shall not project above the roofline.				
[3] Prohibited in the Residential and Mixed-Use Districts. ⁴⁸⁶				
[4] Only permitted in the HC and I-1 districts.				

2. Wall Signs⁴⁸⁷

A wall sign shall not:

- a. Extend above the roof or parapet of the building front or fascia.
- b. Result in the modification, alteration, or obstruction of any historic architectural design elements.

⁴⁸⁰ Consolidated A-frame, sandwich board, portable menu board, and wheeled signs to “sidewalk sign.”

⁴⁸¹ Removed separate provision allowing 20 square feet for menu boards, which can be adequately accommodated for in the 12 square feet maximum.

⁴⁸² New, since current table states “N/A.”

⁴⁸³ Standards in the current table of 16-242(j) show 20 square feet, but the text shows 16 square feet in current section 16-242(j)(8)b.

⁴⁸⁴ This part of the table includes standards based on 16-242(j)(1), revised as noted.

⁴⁸⁵ Revised from 40 square feet to 48 square feet to allow for two wall signs at 24 square feet each.

⁴⁸⁶ Revised to reference Mixed-Use Districts. Current code prohibits freestanding monument signs on Main Street and does not mention the B-1 district in Section 16-242(j)(6) so was assumed to prohibit them in all residential and mixed-use districts. We also revised the standard to be based on the number of accesses, to eliminate proliferation of monument signs on smaller properties.

⁴⁸⁷ From 16-242(j)(4)(a), revised for clarity and to revise “encouraged” to “shall.” Did not carry forward requirement for P&Z approval for more than one sign per frontage, since the standards do not permit more than one per frontage. We also did not carry forward limitation of wall signs to B-1, B-2, and I-1 districts. The signs permitted in Buena Vista could apply to any district, depending on the use. For example, an apartment building could have a wall sign in a residential zoning district, or a library or museum in the OSR district.

3. Projecting Signs⁴⁸⁸

Projecting signs:

- a. Shall not result in the modification, alteration, or obstruction of any historic architectural design elements.
- b. Shall extend from the building wall or fascia at an angle of 90 degrees.⁴⁸⁹
- c. Shall not project more than three feet from the plane of the face of the building to which they are attached.
- d. Extending over a public street or other public right-of-way or space during the period of time that the sign and associated attachments are installed shall enter into a revocable license agreement pursuant to Section 4.7.5.A.4 prior to installing the sign.

4. Awning, Canopy, or Marquee Signs⁴⁹⁰

- a. Awnings shall not be constructed of vinyl or plastic. Awnings shall be made of durable materials such as fabric or metal.⁴⁹¹
- b. The sign on an awning may be printed or painted.
- c. An awning sign shall not project above the awning.
- d. An awning, canopy, or marquee sign shall be located on the front surface, parallel with the building wall facing the street frontage.
- e. An awning, canopy, or marquee sign shall not project above the structure on which it is affixed to, or be located on the canopy roof.
- f. An awning, canopy, or marquee sign shall be at least eight feet above the ground or sidewalk over which it extends.
- g. An awning, canopy, or marquee sign shall be located on the first-floor business only.
- h. Any sign suspended below an awning or canopy, such as a soffit sign shall be no lower than eight feet above the sidewalk.

⁴⁸⁸ From 16-242(i)(5). Projecting signs are currently limited to the B-1 district. The summary table permits projecting signs in any mixed-use district since the MU districts replace the B-1 district. Also added projecting signs to be permitted in the HC and I districts.

⁴⁸⁹ Relocated exemption provision related to historic theater marquees to historical signs in Section 4.7.5.B.11.

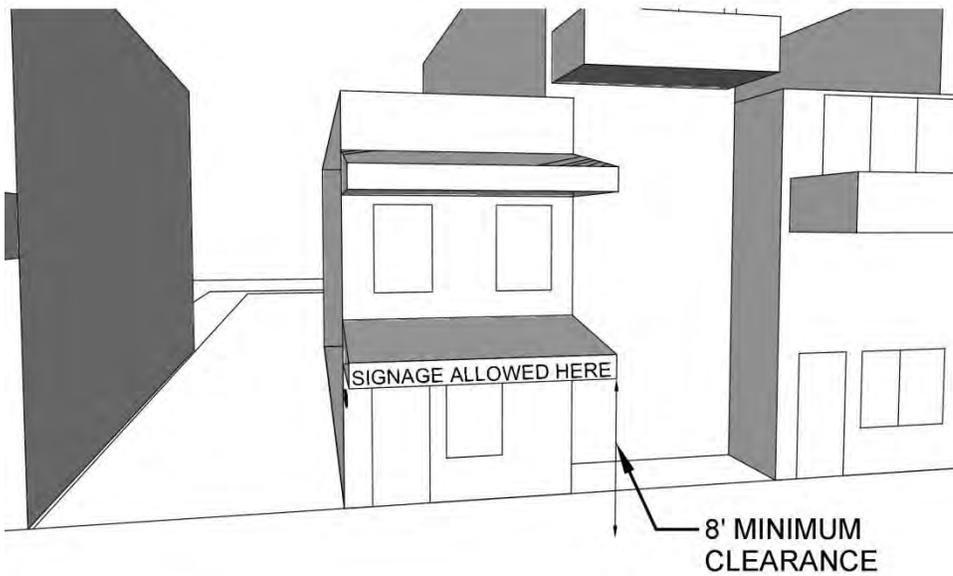
⁴⁹⁰ From 16-242(i)(7).

⁴⁹¹ New Since Module 2.

Figure 4.Q: Standards for Awning, Canopy, and Marquee Signs (1 of 2)



Figure 4.R: Standards for Awning, Canopy, and Marquee Signs (2 of 2)



5. Freestanding Signs, Generally⁴⁹²

- a. Freestanding signs shall be located inside the property line and outside all clear sight triangles.
- b. Freestanding signs shall be designed to not block the view of an adjacent business and shall not interfere with any sidewalk or path.
- c. Surrounding landscaping shall be provided where possible, as determined by the Town Administrator.

6. Freestanding Monument and Pole Signs⁴⁹³

For properties or buildings with multiple tenants, monument and pole signs shall provide space for all potential tenants.

7. Freestanding Subdivision Entrance Signs

Subdivision entrance signs shall only include the name and logo of the subdivision.

8. Electronic Message Boards⁴⁹⁴

a. Only Permitted as Freestanding Monument Sign

Electronic message boards shall only be permitted as freestanding monument signs and shall not be attached to any building, structure, or pole.

b. Illumination and Brightness

- i. Electronic message boards shall have automatic dimmer software or sensors to control brightness according to ambient light conditions. The light source shall not produce any glare that constitutes a traffic hazard or negatively impacts the public health, safety, or welfare of the community.
- ii. An electronic message board luminance shall not exceed 300 NITs between dusk and dawn as measured from the sign's face.
- iii. Applications for a sign permit for an electronic message board shall include the manufacturer's specifications and NIT rating.

c. Location

Electronic message boards shall comply with the locational requirements of freestanding monument and pole signs in paragraphs 5 and 6.

d. Message Images and Transitions

Electronic message boards shall:

- i. Contain static messages only;
- ii. Display images and messages for a period of not less than eight seconds.⁴⁹⁵
- iii. Not include any movement or transitions.

⁴⁹² From 16-242(i)(6). We did not carry forward the following: "Freestanding signs shall be designed with attractive supports." That language is vague and difficult to enforce.

⁴⁹³ New standard.

⁴⁹⁴ New standards.

⁴⁹⁵ Some communities choose shorter (5 seconds) or longer (10 seconds) time periods for image holds.

9. Sidewalk Signs⁴⁹⁶

- a. Portable signs shall not be located in the public right-of-way, except for an A-Frame sign for properties in the MU-MS district with an approved encroachment permit and revocable license agreement pursuant to Section 4.7.5.A.4.
- b. Portable signs shall be made of durable material.⁴⁹⁷

10. Drive-Through Signs⁴⁹⁸

- a. Each drive-through sign shall incorporate materials and colors that match or complement the materials and colors of the associated building;
- b. Each drive-through sign shall include an architecturally complementary base that is proportional to the size of the sign;
- c. No other sign shall be attached or added to a drive-through sign; and
- d. Each drive-through sign shall be surrounded at its base with appropriate landscaping and/or xeriscaping consistent with the remainder of the site.⁴⁹⁹

11. Historical Signs⁵⁰⁰

- a. Legally permitted signs of 30 years of age or more are permitted to be retained in nonresidential zoning districts and shall not count toward permitted signage for the property, provided that:
 - i. The sign is kept in good repair;
 - ii. The sign does not constitute a hazard to public safety; and
 - iii. The original content on the sign does not change.
- b. Historic marquee signs shall be exempt from the projecting sign standards in Section 4.7.5.B.3, except an historic marquee sign shall require a revocable license agreement and encroachment permit where projecting over the public right-of-way.⁵⁰¹

12. Off-Premises Signs⁵⁰²

a. Location⁵⁰³

Off-premises signs:

- i. Are limited to mixed-use and nonresidential zoning districts.⁵⁰⁴
- ii. Shall not interfere with pedestrian or vehicle traffic.
- iii. Shall not be placed in areas designated as Town parks.
- iv. Shall comply with state standards if located adjacent to state highways.

⁴⁹⁶ From 16-242(j)(9).

⁴⁹⁷ Did not carry forward "shall be attractively designed," since that is vague and difficult to enforce.

⁴⁹⁸ From 16-242(j)(8), revised to remove "menu and order board" references to maintain content neutrality.

⁴⁹⁹ Revised the screening requirement to simply require landscaping around the sign. Screening such as sign would render the sign illegible to ordering vehicles.

⁵⁰⁰ From 16-242(j)(11), revised for clarity and to ensure that historical signs are not changed to reflect current uses, thus circumventing the allowable number of signs.

⁵⁰¹ Relocated from projecting sign standards. Removed "theater" to maintain content-neutrality.

⁵⁰² From 16-242(h)(1), revised for clarity. Did not carry forward "The following shall apply to off-premises signs until such time that the Town adopts the Town Sign Plaza Program." We understand that the Town is currently developing the Wayfinding Sign Plan, and the UDC should be amended to mention compliance with that plan when it is completed.

⁵⁰³ Did not carry forward "Placement of off-premises signs shall be made at the discretion of the Town Administrator so as to avoid the over-proliferation of signs on one parcel of property or in one particular area;" since that is already covered by limiting the number of off-premises signs to two on a property.

⁵⁰⁴ This current standard conflicted with another standard limiting off-premises signs to the B-1 and B-2 zoning districts. The proposed draft allows for off-premises signs in any nonresidential district.

b. Standards

- i. Off-premises signs shall not detract from the general appearance of the area in which the sign is being placed.
- ii. No property owner shall be permitted more than one off-premise sign.
- iii. No more than two off-premises signs shall be placed on any single parcel of property or property frontage.⁵⁰⁵
- iv. Off-premises signs shall be a maximum of six square feet per side.

c. Review Procedures

Proposals for off-premises signs shall follow the procedures for a Comprehensive Sign Plan in Subsection 4.7.6.F in addition to the following:

- i. The applicant shall submit an off-premises sign application and processing fee as established by the Town;
- ii. The applicant shall obtain written permission from all adjacent property owners for the placement of the off-premises sign along street frontage or property either owned by the Town or by adjoining property owners; and
- iii. If located on Town property, the applicant shall provide proof of insurance and maintain it for the duration that the sign is present for liability arising out of the use or placement of said off-premises sign and shall verify that the Town is listed as an additional insured under said policy. If the insurance is not constantly maintained, the Town may require its removal from the right-of-way.

C. Temporary Signs⁵⁰⁶

1. Permit and Application

- a. Temporary signs shall only be erected after obtaining a temporary sign permit. The temporary sign permit shall cite the length of time the sign may be displayed and date of expiration. Temporary signs shall not be permitted for a period exceeding 180 days unless otherwise stated in this UDC.
- b. A temporary sign permit application shall include the appropriate permit fee as established by resolution of the Board of Trustees.
- c. Temporary signs shall be removed within the time period specified on the permit. Upon applicant certification that the sign has been removed, the deposit shall be returned.

2. Type and Size of Temporary Signs

a. Temporary Vendor Signs

Signs for temporary vendors shall be processed concurrently with an application for a temporary use permit pursuant to Section 6.5.3.⁵⁰⁷ Vendor signs shall be constructed of permanent durable materials.

b. Special Event Banners⁵⁰⁸

Banners may be allowed to be hung over Main Street in association with a special event approved or sponsored by the Town. Such signs shall constitute temporary signs, and may

⁵⁰⁵ Revised from current limitation of one sign per property. This will allow additional flexibility for colocation of off-premises signs without resulting in a proliferation of signage.

⁵⁰⁶ From 16-242(g), revised as noted.

⁵⁰⁷ Cross reference will be provided once the procedures are drafted.

⁵⁰⁸ Revised to allow three days before removal.

be erected one week prior to the special event and shall be removed within three days following the special event. Such banners shall be reviewed and approved as part of a special event permit and shall not require a separate temporary sign permit.

c. Inflatable Signs and Other Objects⁵⁰⁹

Signs and other objects that are inflated, including but not limited to balloons shall be permitted for a two-week duration up to four times in one calendar year.

4.7.6. Sign Review and Approval Procedures⁵¹⁰

No sign, except as provided by Section 4.7.2.C, shall be erected, displayed, altered, relocated, or replaced, including a sign face replacement, until the Town has issued a sign permit.⁵¹¹

A. Sign Permit Application Submittal⁵¹²

Sign permit applications shall be submitted on forms provided by the Town, and shall include the following:

1. Business name, address, and phone number where the proposed sign is to be located;
2. Business owner name, mailing address, and phone number;
3. Property owner name, mailing address, and phone number;
4. Site plan showing the location of the sign on the premises in relation to lot lines, buildings, sidewalks, streets, and public rights-of-way;
5. Description of sign(s), including type, size, structural design, and construction materials;
6. Drawing or photograph of the proposed sign with specifications indicating height, perimeter, area of sign and/or area of copy, dimensions, type of lettering proposed, means of support, method of illumination, and any other significant characteristics;
7. Any other information requested by the Town Administrator to determine compliance with the regulations in this Section 4.7; and
8. The required sign permit fee as established by resolution of the Town.

B. Application Completeness Determination⁵¹³

The Town Administrator shall make a determination that the application, with all required data, has been properly prepared and submitted and is complete. The official date of submission shall be the day the Town Administrator determines that the application is complete.

C. Permit Review and Action⁵¹⁴

1. Permit Application Review

The Town Administrator shall review the sign permit application for compliance with this Section 4.7 and shall either ask for more information or issue or deny the permit.⁵¹⁵

⁵⁰⁹ Did not carry forward “once per quarter,” since that requires a higher level of administration and enforcement. Also removed “excluding holiday decorations to be included during the season.”

⁵¹⁰ The procedures for obtaining a sign permit remain in this section; however, they could alternatively be relocated with other procedures if desired. We did not include the appeals procedures here, which will be covered by general appeals for all other procedures. We also did not carry forward violations provision, which is covered in the general provisions of this UDC (in Section 1.6.4).

⁵¹¹ Removed “and the sign registration sticker is duly affixed to the sign.” We understand that registration stickers have never been tracked and is an obsolete provision.

⁵¹² From 16-242(c)(1), revised for clarity.

⁵¹³ From 16-242(c)(2)a, revised for clarity.

⁵¹⁴ From 16-242(c)(2)b, c, d, and e, revised for clarity. Did not carry forward 16-242(c)(2)f and g, which are related to registration of signs and affixing information stickers on permitted signs.

2. Inspection for Compliance

- a. The Town Administrator shall perform a final inspection after installation of any approved sign.
- b. Any discrepancies between any sign as approved and the sign as constructed or installed shall be identified in writing and shall require correction of the discrepancy. If the discrepancy is not corrected within 20 days after written notice, the sign may be ordered removed by the Town Administrator.

D. Violations⁵¹⁶

Any sign that has not been permitted or has not been designated a legal nonconforming sign shall be deemed to be in violation of these regulations and shall be ordered removed by the Town Administrator. Any costs for removal shall be at the expense of the sign owner or the property owner. Failure to comply will result in the Town proceeding with additional enforcement procedures pursuant to Section 1.6.

E. Post-Approval Actions

1. Expiration of Sign Permit⁵¹⁷

If a sign authorized by any sign permit has not been erected within one year from the date of permit approval, the sign permit shall be deemed expired. Prior to the deadline of sign installation, the applicant may request an extension, in writing, from the Town Administrator. The Town Administrator may establish an extended time period for sign installation at the time of permit approval for sign applications that are submitted as part of developments requiring site or building construction.

2. Revocation of Sign Permit⁵¹⁸

The Town Administrator shall take action if any sign, whether new or preexisting, is damaged, moved, or otherwise altered, either intentionally or by natural forces, in a manner that causes the sign to be not in conformity with these regulations or to be a hazard or danger to the public. The Town Administrator shall give written notice specifying the violation to the sign owner and the property owner to conform or to remove the sign. If the sign has not been brought into conformance within 20 days from the date of the notice, the Town Administrator shall revoke the sign permit and the subject sign shall be removed at the expense of the property or business owner as a nuisance via the Town's nuisance abatement process.

F. Comprehensive Sign Plan⁵¹⁹

1. Applicability

- a. The Comprehensive Sign Plan procedures apply to the following types of signs:
 - i. Signs greater in number or size than permitted by this Section 4.7;
 - ii. Off-premises signs, pursuant to the standards in Subsection 4.7.5.B.12;
 - iii. Neon signs;
 - iv. Statuary signs; and

⁵¹⁵ Did not carry forward current code requirement for 7-10 day review period.

⁵¹⁶ From 16-242(c)(2)h, revised for clarity.

⁵¹⁷ From 16-242(c)(3), revised to add flexibility for sign permits that are submitted as part of larger development applications.

⁵¹⁸ From 16-242(c)(4), revised for clarity and to change the conformance time requirement to 20 days to be consistent with the inspection for compliance procedures in Section 4.7.6.C.2.

⁵¹⁹ Did not carry forward violations provision, which is covered in the general provisions of this UDC (in Section 1.6.4).

- v. Animated and moving signs.
- b. The Comprehensive Sign Plan procedures shall not apply to:
 - i. Pole signs taller than 20 feet;
 - ii. Roof signs;
 - iii. Signs that do not require a permit, pursuant to Section 4.7.2.C;
 - iv. Inflatable signs; or
 - v. Fluttering air devices pursuant to Section 4.7.3.K.

2. Comprehensive Sign Plan Application Submittal

- a. Applications for a Comprehensive Sign Plan shall be submitted to the Town Administrator on forms provided by the Town.
- b. A reasonable fee as determined by the Town shall be submitted with each application. Actual costs for professional planning, engineering, legal and/or other consulting services incurred by the Town in reviewing an application shall be paid by the applicant.
- c. A site plan shall be required as part of the application.
- d. Additional information may be required by the Town Administrator as necessary to evaluate the merits of the Comprehensive Sign Plan application.

3. Completeness Determination

Applications for a Comprehensive Sign Plan shall be initially reviewed by the Town Administrator for completeness prior to further processing or distribution to review bodies and/or decision-makers.

4. Review Procedures

a. Administrative Review⁵²⁰

i. Applicability

Administrative review shall be limited to the following types of applications:

- (a) Comprehensive Sign Plans with total proposed signage of less than 48 square feet above the stated maximum for the subject property, and with no internally lit signage;⁵²¹
- (b) Off-premises signs, pursuant to the standards in Subsection 4.7.5.B.12;
- (c) Exterior wall murals, signs painted on a wall, or roof murals;
- (d) Neon signs; and
- (e) Statuary signs.

ii. Notice

Following application submittal, the Town shall provide notice of the application to adjacent property owners (excluding public rights-of-way) summarizing the plan and notifying them of their right to comment on or object to the plan by filing such comments or objections with the Town Administrator within seven business days of the date the application is filed with the Town. Such notice shall be provided by:

⁵²⁰ From 16-242(e)(3), revised to add most of the types of signs that currently require special review sign permit.

⁵²¹ Revised to increase the maximum to 48 square feet (currently 24 square feet), and to clarify that the 48 square feet is above what is otherwise permitted by the sign code.

- (a) Prominently and visibly posting notice on the property subject to the application; and
- (b) Delivering notice either by regular mail or personal delivery.

b. Planning and Zoning Commission Review

i. Applicability

Applications that do not meet the requirements for the administrative review process set forth in Subsection 4.7.6.F.4.a above shall be reviewed by the Planning and Zoning Commission.

ii. Notice and Public Hearing

The applicant shall be notified in advance of the time and place of the Planning and Zoning Commission's public hearing and may attend and participate in such hearing. Not less than 15 days prior to the hearing, written notice describing the request and the time and place for the hearing shall be prominently and visibly posted on the property subject to the application and sent by regular mail to the applicant and the owners of all properties that are adjacent to the subject property (excluding public rights-of-way).

5. Action Required

- a. For Comprehensive Sign Plan applications subject to administrative review, the Town Administrator shall approve, deny, or conditionally approve the application within 10 business days based on the criteria set forth in paragraph 6.
- b. For applications for Comprehensive Sign Plans subject to Planning and Zoning Commission Review the Planning and Zoning Commission shall approve, deny, or conditionally approve the application at the next available meeting based on the criteria set forth in paragraph 6.

6. Approval Criteria⁵²²

- a. Comprehensive Sign Plans shall be approved by the Planning and Zoning Commission or Town Administrator, as applicable, after finding that the proposed plan will not adversely impact the neighborhood or the public safety and welfare and the applicant has demonstrated compliance with the following criteria:
 - i. The proposed Comprehensive Sign Plan results in a greater community benefit than otherwise achieved through the strict application of the sign regulations in this Section 4.7;⁵²³
 - ii. The features of the sign(s), including the illumination, support structure, color, lettering, height and location, are designed so that the signs are an attractive, effective, and complimentary feature of the building or property;
 - iii. The scale and placement of the signs are appropriate for the building and the site and are sensitive to the context in which they are used; and⁵²⁴

⁵²² From 16-242(e)(5), revised to place the burden on the applicant to demonstrate compliance with the criteria. Did not carry forward "The signs make a positive contribution to the general appearance of the street and commercial area in which they are located;" which is too subjective to assist with decision-making.

⁵²³ New.

⁵²⁴ Removed "and whether building signs are harmonious in scale and proportion with the building facade to which they are mounted." That is already covered in the scale and context in this provision.

- iv. The signs are professionally designed and fabricated of high-quality, durable materials.
- b. Decisions shall be in writing and shall be provided to the applicant.
- c. A Comprehensive Sign Plan may or may not run with the property and shall be approved subject to such safeguards, terms, and conditions as deemed necessary to protect and preserve the intent and purposes of this Section 4.7.⁵²⁵

7. Comprehensive Sign Plan Amendments⁵²⁶

The following activities shall require a Comprehensive Sign Plan Amendment:

a. Additional Sign Square Footage

- i. Additional sign square footage up to 10 percent over the approved square footage shall be reviewed administratively.
- ii. Additional sign square footage more than 10 percent over the approved square footage shall be reviewed by the Planning and Zoning Commission.

b. Additional Number of Signs

- i. Amendments proposing one additional sign more than what was approved shall be reviewed administratively.
- ii. Amendments proposing more than one additional sign in addition to what was approved shall be reviewed by the Planning and Zoning Commission.

c. Amendment Procedure

- i. Amendments shall be processed as new applications according to the procedures in Paragraph 4 above.
- ii. Only one amendment to an individual Comprehensive Sign Plan shall be processed per calendar year.⁵²⁷

d. Replacement Signs

- i. Individual units and tenants shall be permitted to replace and/or change signage without requiring an amendment to the Comprehensive Sign Plan provided that the sign does not increase square footage or the number of signs. Replacement signs shall be required to obtain a sign permit according to Section 4.7.6.

4.7.7. Savings and Severability⁵²⁸

- A.** Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.
- B.** If any clause, section, or other part of the application of this Section 4.7, Signs, shall be held by any court of competent jurisdiction to be unconstitutional or invalid, it is the intent of the Board of Trustees that such clause, section, or other part of the application of this section shall be

⁵²⁵ From 16-242(e)(1), revised for clarity.

⁵²⁶ New standards to address amendments to comprehensive sign plans and to allow for some modification administratively without requiring public hearings.

⁵²⁷ Limitation for one amendment per calendar year included to avoid applications for back-to-back amendments to circumvent Planning and Zoning Commission review.

⁵²⁸ New since Module 2.

considered eliminated and not affecting the validity of the remaining clauses, sections, or applications remaining in full force and effect.

Article 16.05: Subdivision

Commentary:

This article contains the standards related to layout and design of subdivided land in the Town. Much of the material in this article was relocated from the 2010 development code, with substantial revisions for clarity and overall organization. Subdivision approval procedures are in Article 16.06: *Review Procedures*.

Design standards (such as driveways and access and pedestrian circulation) that apply to all new development or redevelopment in the Town are included in the development and design standards in the previous article, with cross-references to applicable sections in this article.

This draft incorporates recent revisions from Ordinance No. 1 from Series 2016, including the elimination of “intermediate developments,” and strengthening sidewalk standards.

There are several standards that were not carried forward because they are technical and belong in a specifications manual or public works manual (such as curb dimensions, asphalt depth, survey monuments, and cross-pan design).

Section 5.1 General Provisions

5.1.1. Purpose⁵²⁹

This article establishes minimum standards for the design and improvement of land subdivision to ensure that each building site can accommodate a structure for the intended use of land, is adequately served by public improvements, and protects sensitive lands from the impacts of development.

5.1.2. Applicability

This article shall apply to all divisions of land into two or more parcels, tracts, or lots.

5.1.3. Compliance with Other Applicable Requirements⁵³⁰

In addition to the subdivision requirements established in this article, all development plans shall comply with the intent of this UDC and the applicable zoning district(s) in which the subdivision is located. Subdivisions shall be designed to avoid creating lots that will make compliance with other development standards in this UDC difficult.

Section 5.2 Subdivision Design Standards⁵³¹

All subdivisions shall be designed and improved in accordance with the standards in this section.

5.2.1. Minimal Standards

The design standards in this section are the minimum standards. The Town may impose more restrictive standards when deemed necessary to meet sound engineering or design standards or other standards in this UDC.

⁵²⁹ New purpose and applicability sections.

⁵³⁰ Replaces 17-56(a), substantially simplified to eliminate references to state requirements and other Town policies and regulations. Did not carry forward 17-61 for manufactured housing that stated that these regulations are not intended to prevent the siting of a manufactured home in the Town of Buena Vista. Did not carry forward 17-56(c), which was related to private covenants.

⁵³¹ Did not carry forward 17-56(f), which gives the BOT the authority to establish the name of a development during the sketch plan review procedure.

5.2.2. Suitability of Land for Subdivision⁵³²

A. Avoidance of Sensitive Areas

Land in sensitive areas subject to flooding, improper drainage, steep slopes, landslides, hazardous topography, or other features that could be harmful to the safety, health, and general welfare of the present or future inhabitants shall be considered unsuitable for occupancy or subdivision unless adequate mitigation is provided. Development in flood hazard areas shall be regulated by **Chapter 18, Article IX, Flood Regulations**.

B. Adjustment of Minimum Lot Sizes⁵³³

If avoidance of sensitive areas other than flood hazard areas results in the subdivision containing fewer buildable parcels than it would have if sensitive areas were not avoided, the Town Administrator may adjust the minimum lot size or lot width dimensions by up to 25 percent to allow for additional lots that would have otherwise been possible.



Example: The Town Administrator could reduce the minimum lot size in the R-2 district by up to 1,250 square feet ($5,000\text{ sf} \times 0.25 = 1,250\text{ sf}$). The Town Administrator could reduce the minimum lot width in the R-2 by a maximum of 12.5 feet ($50\text{ feet} \times 0.25 = 12.5\text{ feet}$).

5.2.3. Lot and Block Design⁵³⁴

A. Lots⁵³⁵

1. Lot sizes shall comply with the applicable zoning district dimensional standards in Section 2.7, *Summary Tables of Dimensional Standards*.
2. Driveway access shall be provided pursuant to Section 4.2.3, *Driveways and Access*.
3. The use of an easement for primary access to a lot is prohibited unless the Town Administrator determines that there is no other alternative available.⁵³⁶
4. Lots with double frontage shall be avoided except where essential to provide separation from major arterials or because of the slope. Side lot lines shall be perpendicular to street lines to the maximum extent feasible.
5. Lot lines shall not cross municipal boundary lines.⁵³⁷

B. Blocks⁵³⁸

1. Generally

- a. New block lengths shall be at least 350 feet and shall not exceed 800 feet.⁵³⁹

⁵³² New standard to replaces current 17-56(e). Did not include utility easements as one of the conditions for suitability.

⁵³³ New. Many newer codes are including provisions like this one to encourage protection of sensitive areas while still allowing growth to occur.

⁵³⁴ From 17-57(a)(1) and (2), revised for clarity.

⁵³⁵ From 17-57(a)(2), revised to reference new zoning district dimensional standards, to remove references to modifications through PUDs, and to separate into separate standards for clarity.

⁵³⁶ New standard based on current 17-57(a)3 to prevent creation of lots without adequate primary access (land-locked).

⁵³⁷ From 17-56(d), substantially simplified and changed standards from a "should" to a "shall."

⁵³⁸ From 17-57(a)(1), simplified and deleted the following text "These length and depth requirements may be modified by the Board of Trustees when land ownership, topography or physical shape of the property dictate a reasonable variance from these standards, and when a PUD is proposed and the modification is in compliance with the purposes set forth in Sec. 17-3."

⁵³⁹ Reduced from 400 feet minimum and 1,500 maximum block length.

- b. Blocks within one-quarter mile of the original plat of Buena Vista shall reproduce block lengths of the original town plat and shall replicate the historic pattern of the surrounding lands.
 - c. The width of a block shall be sufficient to permit the depth of two lots between streets.
- 2. In the R-3, MU-1, MU-2, and MU-MS districts⁵⁴⁰**
- a. New block lengths shall be at least 350 feet and shall not exceed 500 feet.
 - b. The width of a block shall permit the depth of two lots and an alley between two streets.

5.2.4. Public Facilities and Services⁵⁴¹

A. Generally

No final development plan shall be approved unless public facilities and services will be adequate to support and service the area of the proposed development. The applicant shall submit sufficient information and data on the proposed development to demonstrate the expected impact on and use of public facilities by possible uses of the subject development. Public facilities and services include streets, alleys, public transportation facilities, storm water drainage, water, electric, gas, sanitary sewer, and parks and open space.

B. Adequacy Determination⁵⁴²

The Board of Trustees shall periodically establish by resolution guidelines for the determination of the adequacy of public facilities and services based on an analysis of current growth and the amount of additional growth that can be accommodated by future public facilities and services.

C. Relationship to Town Policies⁵⁴³

Proposed public improvements shall generally comply with the Town's Comprehensive Plan and capital improvements plans.

D. Offsite Improvements⁵⁴⁴

All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, alleys, waterlines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The Board of Trustees or the Town Administrator may require the applicant to extend offsite improvements, provide easements to reach the development, and oversize required public facilities to serve anticipated future development as a condition of plat approval pursuant to Section 5.5, *Cost Recovery*.

E. Standard Specifications⁵⁴⁵

Construction of streets, alleys, curb, gutter, sidewalks, water distribution system, sanitary sewer system, drainage system, landscaping, and other public utilities and improvements shall be in accordance with the adopted specifications and Town ordinances where cited, Buena Vista

⁵⁴⁰ New.

⁵⁴¹ From 17-56(b), adequate public facilities, revised for clarity.

⁵⁴² Removed reference to Planning Commission conducting the study/analysis. This can be either prepared by the Town Administrator, a designee, or can be based on assumptions made in the comprehensive plan.

⁵⁴³ From 17-56(b)2, simplified and revised to require "general compliance" with the comp plan and CIP rather than strict conformance.

⁵⁴⁴ From 17-56(b)8, revised for clarity.

⁵⁴⁵ From 17-58, revised for clarity and to exclude the second provision (b) related to contents, since that is already stated in the first provision ("adopted specifications and Town ordinances, where cited").

Sanitation District standards, and with applicable Colorado standard specifications as promulgated by the Colorado Department of Transportation.⁵⁴⁶

5.2.5. Street Design

A. Generally⁵⁴⁷

All streets shall generally conform to existing street patterns, the current Comprehensive Plan, and the complete streets policy. All streets proposed for dedication to the public shall be laid out, graded, and paved from curb to curb. Asphalt, drainage control, sidewalks, and buffer shall be installed on all streets according to this UDC and the technical specifications manual.

B. Street Connections

Street connections shall be provided to adjoining undeveloped and/or underdeveloped lands within and outside the Town to allow future development to connect to a public street system.

C. Improvement of Existing Streets

In cases where an existing street does not meet Town specifications, such street shall be improved to meet the Town specifications for new developments located adjacent to the subject right-of-way that propose 10 or more dwelling units and/or 10,000 square feet or more of nonresidential gross floor area, or subdivisions proposing 10 or more lots. At a minimum, the developer shall be responsible for improving the portion of the street adjacent to the subject property to meet Town specifications.⁵⁴⁸

D. Street Classification⁵⁴⁹

Streets shall be classified as arterials, collectors, or local streets according to their location, function, and traffic volumes. Collector streets generally connect to arterials or other collectors. Local streets generally serve neighborhood traffic over very short distances and connect to higher use streets such as collectors. The primary purpose of a local street is to provide vehicular access to adjacent land.

E. Street Buffers⁵⁵⁰

Streets with an open section (drywell) or vegetated swale do not require an additional buffer. Streets with a curb require one of the following between the curb and required sidewalks:

1. Topsoil to a depth of six inches as required to sustain healthy vegetative growth or appropriate landscaping, pursuant to the Buena Vista Planting Guide; or
2. Minimum six-foot wide rock-lined drywells to a minimum depth of 18 inches, with rock diameters between four to six inches;
3. In the Mixed-Use and Commercial Districts, hardscape may be installed, provided minimum landscaping requirements are met elsewhere on the site.⁵⁵¹

⁵⁴⁶ Removed reference to "State Department of Highways, Division of Highways."

⁵⁴⁷ From 17-57(b), introductory text, including revisions from Ordinance 2016 No. 1 to add reference to the complete streets policy and to eliminate exclusion of minor developments from street requirements. Text was revised for clarity and to match tone and simplicity of the draft UDC. Did not carry forward similar language from 17-56(b)7.

⁵⁴⁸ From 17-57(b) introductory language, revised for clarity.

⁵⁴⁹ From 17-57(b)1, revised for clarity.

⁵⁵⁰ From 17-57(b)14, revised for clarity.

⁵⁵¹ Replaces current standard that says "commercial areas may install hardscape."

F. Cul-de-Sacs and Dead-End Streets Discouraged⁵⁵²

The design of street systems shall use through-streets. Permanent cul-de-sacs and dead-end streets shall only be used when topography, the presence of natural features, and/or vehicular safety factors make a vehicular connection impractical.

5.2.6. Sidewalks

Sidewalks shall be installed pursuant to Section 4.2.5.A.

5.2.7. Alleys and Easements**A. Alleys⁵⁵³**

Alleys are permitted and encouraged in new developments in the Town of Buena Vista. Alleys shall:

1. Be a minimum width of 20 feet;⁵⁵⁴
2. Be built to the requirements of the Town of Buena Vista Development and Design Manual; and
3. Be dedicated to the Town.

B. Easements⁵⁵⁵

Utilities, drainage, trails, pedestrian ways or other public facilities located outside of street rights-of-way shall require easements for such purposes. Such easements shall be located on rear or side lot lines, unless otherwise required by individual utility providers.

5.2.8. Water Distribution⁵⁵⁶

All proposed developments and all habitable buildings and lots shall be served by the Town water supply system and shall be capable of providing water for health and emergency purposes in accordance with Chapter 13 of this Code, unless otherwise agreed to by the Town.

5.2.9. Sanitary Sewage Collection⁵⁵⁷

All proposed developments and all habitable buildings and lots shall be served by the Buena Vista Sanitation District sanitary sewer system, unless otherwise agreed to by the Town and the Buena Vista Sanitation District. All sanitary sewer design plans must be approved by Buena Vista Sanitation District prior to submittal of a final plat application.

5.2.10. Underground Utilities⁵⁵⁸

All new utilities shall be placed and maintained underground. Such utilities shall be constructed within street rights-of-way or within easements dedicated for such use.

⁵⁵² New standard to promote better connectivity between neighborhoods and throughout the Town of BV.

⁵⁵³ From 17-57(b)8, revised for clarity and to encourage the use of alleys throughout the Town, rather than simply allow them. Did not carry forward requirement for six-inch depth of gravel. That is technical material that should be relocated to an administrative manual.

⁵⁵⁴ Reduced from 25 feet to 20 feet.

⁵⁵⁵ From 17-57(a)3, revised for clarity and to add trails to the list. Limitations on primary access to a lot through an easement was relocated to Section 5.2.3.A in the lot and block design standards.

⁵⁵⁶ Consolidates 17-56(b)3 and 17-57(b)18, revised for clarity.

⁵⁵⁷ Consolidates 17-56(b)4 and 17-57(b)19, revised for clarity.

⁵⁵⁸ From 17-57(b)20, simplified. We heard that there have been requests to avoid connecting to existing utilities because of the cost of undergrounding the utility – and instead connecting to above-ground propane. This revised provision applies a broad requirement to underground utilities. Alternatively, we could insert “to the maximum extent feasible” at the end of the first sentence.

Section 5.3 Land Dedication and Fee-in-Lieu Requirements

5.3.1. Open Space, Parks, and Trails Dedication⁵⁵⁹

A. Applicability

Developers of land for residential use shall dedicate land for open space, parks, pedestrian, or bikeway use; pay a fee-in-lieu of land dedication as an open space, park, or pedestrian or bikeway development fee; or provide a combination of land dedication and fee payment.

B. Land Dedication for Residential Development⁵⁶⁰

1. Residential Development

The developer shall dedicate land to the Town to be used for public recreation by means of a final plat dedication or other mechanism approved by the Town, at a ratio of seven and one-half acres for every 1,000 residents for proposed residential development, including any residential units that are part of mixed-use developments.

2. Calculations

Dedication requirements shall be prorated based on 2.2 residents per unit.⁵⁶¹

3. Standards for Land to be Dedicated

- a. Lands proposed to be dedicated may be accepted by the Town if such lands help implement the Town's Recreation Facilities Master Plan, the River Park Site Plan, or the Trails Master Plan; or if they preserve valuable wildlife habitat, wetlands, or natural features of the Town.
- b. The suitability of land to be dedicated shall be determined by the applicable approval authority. Factors used in evaluating suitability will include size and shape, topography, geology, flora, fauna, access, location, and reasonable adaptability for use as a pocket park, neighborhood or community park and playground, and access to adjacent parks or bikeways.
- c. Developers of land containing usable connections for a proposed or existing public pedestrian or bikeway trail as identified in the Trails Master Plan, shall be asked to voluntarily dedicate to the Town such land or easement(s) as would connect or complete the trail. Land voluntarily dedicated for trail development shall be credited against any land dedication requirement otherwise imposed by this UDC.⁵⁶²
- d. If a fee is paid in lieu of land dedication, such fee will be used to install facilities per the Town's Recreation Facilities Master Plan, the River Park Site Plan, or the Trails Master Plan Recreation or Trails Master Plan.

4. Fee Payment in Lieu of Land Dedication⁵⁶³

With approval by the Board of Trustees, a fee may be paid in lieu of land dedication. When a fee is paid in lieu of land dedication, either in whole or in part, the applicant shall pay the

⁵⁵⁹ From 17-57(a)4 and 5, combined the open space/parks/and trails dedication requirements for simplification. Reorganized the standards for clarity, and to separate provisions.

⁵⁶⁰ From 17-57(a)6, revised for clarity and to change ratio for nonresidential calculation to a percentage of development site area.

⁵⁶¹ New, based on state demography office data.

⁵⁶² From 17-57(a)5.

⁵⁶³ Currently under review by the Town for potential modifications to accommodate escalating costs of land.

Town prior to recording the final plat. The amount of the fee shall be established using the following methodology:

- a. The Board of Trustees upon recommendations from the Recreation Advisory Board and the Planning and Zoning Commission shall establish the fee that may be accepted in lieu of land dedication each year as of January 31.
- b. The fee shall be based on the average cost of vacant undeveloped residential land on one- to 10-acre parcels within the corporate limits of the Town.
- c. The fee shall increase five percent from the preceding year if a new fee has not been established by the Board of Trustees by January 31 of the current year, or the Board of Trustees finds that the fee structure requires further amendment due to land value fluctuation.

C. Nonresidential Development

Commentary:

For nonresidential development, the set asides are not required to be dedicated to the Town or made available to the public.

1. Common Open Space Required

The developer shall set aside land at a rate of 10 percent of the development site area as common open space for the use of the residents and/or employees of the site. Such area may be provided in the form of outdoor recreational or gathering space as approved by the Town.

2. Characteristics of Common Open Space Areas⁵⁶⁴

- a. If provided as common open space, the following features and areas may be credited towards compliance with any required public land dedication requirements, provided they meet all other applicable standards of this Code:
 - i. Natural resource and hazard areas;
 - ii. Active recreational areas;
 - iii. Stormwater management devices;
 - iv. Formal plantings and gardens;
 - v. Squares, plazas, and outdoor gathering or dining areas;
 - vi. Public access easements; and
 - vii. Required buffer and landscape areas.
- b. Areas used as a required common open space area shall be compact and contiguous unless a different configuration is needed to continue an existing trail or to accommodate preservation of natural features.

5.3.2. Fee Payment in Lieu of Curb, Gutter, or Sidewalk⁵⁶⁵

A. Generally

The Board of Trustees has the authority to elect to have a fee paid in lieu of curb, gutter, or sidewalks, based upon the size of a development and/or the absence of curb, gutter, and sidewalks immediately adjacent to the development. When a fee is paid in lieu of installation of

⁵⁶⁴ New.

⁵⁶⁵ From 17-57(b)13, revised for clarity and to separate unique standards.

curb, gutter, or sidewalks, either in whole or in part, the applicant shall pay the Town prior to recording the final plat or issuance of a building permit.

B. Methodology

The amount of the fee shall be established using the following methodology:

1. The Board of Trustees upon recommendations from the Town Engineer and the Planning and Zoning Commission shall establish the fee that may be accepted in lieu of curb, gutter, and sidewalk each year as of January 31.
2. The fee shall be based on the average costs of installation of curb, gutter, and sidewalk within the corporate limits of the Town.
3. The fee shall be assessed as a cost-per-foot based upon the total linear frontage of all lots within the development adjacent to the publicly dedicated right-of-way including state highway right-of-way and Chaffee County right-of-way, regardless of whether or not such right-of-way is improved with a paved driving surface.

5.3.3. Tree Planting Fund⁵⁶⁶

For all major developments, the applicant shall plant two trees per residential lot prior to issuance of a building permit or shall pay a fee into the Town's dedicated tree planting fund equal to the cost of two trees per lot abutting a street within the development. The *Adopt-A-Tree Program* sponsored by the Town's Tree Board shall be responsible for planting the trees that are not installed by individual lot owners, and shall be planted in conformance with the requirements and standards in the Buena Vista Planting Guide. The applicant shall provide a survival guarantee of no less than two years as part of the application approval.

5.3.4. Contribution for Public School Sites⁵⁶⁷

A. Purpose

Growth in residential land development and the construction of new residential dwellings in the Town and Chaffee County necessitates the acquisition of additional public school capital facilities to accommodate increases in student population. Requiring land dedication or conveyance for public school capital facilities or payments in lieu of such dedication or conveyance is intended to provide a portion of the resources to meet such demand.

B. Referral

All applications for residential subdivisions and planned unit developments creating residential dwelling units shall be referred to the Buena Vista School District R-31 for review and comment concerning impact of the development on the School District and the adequacy of public school sites and facilities. If a nonresidential land development application may have influence or effect on property owned by or activities of the Buena Vista School District R-31, the information pertaining to that application shall also be referred to the School District for review and comment.

C. Dedication Requirement

1. If recommended by the Buena Vista School District R-31, the applicant shall dedicate or convey land for a public school facility to the School District based on .0138 acres per residential dwelling unit. Otherwise, the applicant shall agree to a payment in lieu of land

⁵⁶⁶ From 17-57(b)15, revised for clarity, to limit this requirement to major developments, and to add the requirement for the BOT to establish the fee every year by January 31st for consistency with other fees.

⁵⁶⁷ Mostly a carryover from current municipal code section 17-74, slightly revised for clarity and to match tone of the rest of the draft UDC.

dedication or conveyance in the amount of \$354.00 per residential dwelling unit. The applicant may elect for such amount to be paid by the owner of the subject lot at the time a residential building permit is obtained. Such requirement shall be noted on the underlying plat and, if required by the Town, a separate covenant.

2. If the contribution for public school sites includes the dedication or conveyance of land, the applicant shall provide proof that the dedication has been made to the School District. Such dedication or conveyance shall occur in a manner and on terms satisfactory to the School District and in accordance with the following requirements:
 - a. Title shall be conveyed by a general warranty deed, free and clear of all liens, encumbrances, and exceptions (except those approved in writing by the School District), including, without limitation, real property taxes, which will be prorated to the date of conveyance or dedication. The land to be conveyed shall be conveyed pursuant to a contract for the sale and purchase of real property containing customary terms for the land that is being conveyed to the School District. Such conveyance may be submitted with a final plat application, but shall not be recorded until after the final plat has been recorded.
 - b. At the time of dedication or conveyance, the applicant shall provide a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property. At the appropriate time, not later than the issuance of the first building permit for the land development project, the person or entity shall also pay or provide for the payment of one-half of street development costs, and shall either provide, pay, or make provision for the payment of the costs associated with improvements for water, sewer, and utilities stubbed to the site, and overlot grading of the dedicated land. The applicant shall also furnish any off-site easements that the School District requires to develop the site.
 - c. The lands being dedicated or conveyed to the School District shall be located and configured as directed by the School District, but shall not result in a violation of this UDC.
 - d. The person or entity conveying the land to the School District shall satisfy the Town's water rights dedication requirements, as may be amended, prior to conveying the property to the School District.
 - e. In addition to conveyed or dedicated lands, the School District shall have the right to purchase adjacent lands owned by the developer at its fair market value so that the dedicated or conveyed and purchased lands together form a contiguous parcel that meets the School District's land area requirements.

D. Exemptions

The following uses shall be exempt from the requirements of this section:

1. Construction of any nonresidential building or structure;
2. Alteration, replacement, or expansion of any legally existing building or structure with a comparable new building or structure that does not increase the number of residential dwelling units;
3. Construction of any building or structure for limited-term stay or for long-term assisted living, including bed and breakfast establishments; continuum of care or nursing homes; day care homes; dormitories; group homes; hotels, motels, and other forms of public lodging and

boarding; halfway houses; or hospices, except where such building or structure will be used primarily to house school aged children;⁵⁶⁸

4. Construction of any residential building or structure classified as housing for older persons, pursuant to the Federal Fair Housing Act;
5. The construction of accessory buildings or structures;
6. Federally subsidized affordable housing sites.⁵⁶⁹

5.3.5. Fee Payment in Lieu of Parking⁵⁷⁰

Reserved

Section 5.4 Public Improvements Agreements⁵⁷¹

5.4.1. Applicability⁵⁷²

A. Development Applicants

All applicants granted development approval shall timely, completely, and satisfactorily construct or install all public and other required development improvements and infrastructure as called for in this UDC and or as may have been specified as a condition of approval. All improvements and infrastructure intended for public use shall be dedicated and/or transferred to the Town free of all liens and encumbrances.

B. Governmental Units⁵⁷³

Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agencies authorized to act on their behalf, agreeing to comply with the provisions of this UDC.

5.4.2. Public Improvements Agreement and Guarantee⁵⁷⁴

No final plat shall be executed by the Town and no building permits shall be processed or issued for any lot or property within a development involving or requiring the installation of public or other development improvements absent the preparation and execution of a written public improvements agreement which shall be recorded simultaneously with the final plat.

A. Contents of Agreement

Such agreement shall, at a minimum, set forth:

1. Construction specifications for required public improvements;
2. A construction and completion schedule;
3. Provide for security and guarantees concerning the timely and satisfactory completion of the improvements; and

⁵⁶⁸ Revised to match proposed use names from the allowed use table.

⁵⁶⁹ New since Module 2.

⁵⁷⁰ Requires further discussion and action by the Town/Board of Trustees.

⁵⁷¹ From current 17-46(a) through (h).

⁵⁷² Current 17-46(a). The last sentence about failure to complete or dedicate improvements was incorporated into the section on failure to complete improvements (Section 5.4.5).

⁵⁷³ Current 17-46(e), relocated to this new applicability section.

⁵⁷⁴ Current 17-46(b), renamed to public improvements. The subsections were also renamed and broken apart to match the intent of each provision.

4. Identify the terms and conditions for the acceptance of the improvements by the Town.

B. Timing of Agreement

The public improvements agreement shall also include a requirement that all improvements be maintained by and/or at the cost of the developer for a period of one year following preliminary acceptance, and that the developer will warrant all improvements to be free from defects (inclusive of materials, design and construction) for a period of two years following preliminary acceptance.

C. Agreement to Run with the Land

A public improvements agreement shall run with the land and bind all successors, heirs, and assignees of the developer.

D. Security

Public improvements agreements shall include a requirement for the posting of adequate financial security to insure the timely, complete, and satisfactory construction or installation of all public improvements and infrastructure as called for in the agreement.

1. Amount of Security⁵⁷⁵

Security shall be in an amount not less than 115 percent of the estimated cost of completion of all improvements or infrastructure and may be provided by letter of credit, cash escrow, or other financial instrument as approved by the Town within its sole discretion.

2. Letter of Credit

If an applicant posts a letter of credit as security, it shall:

- a. Be irrevocable;
- b. Be for a term, inclusive of renewals, sufficient to cover the completion, maintenance and warranty periods as required in Section 5.4.2.B; and
- c. Require only that the Town present the letter of credit with a demand and an affidavit signed by the Town Administrator attesting to the Town's right to draw funds under the letter of credit.

3. Cash Escrow

If an applicant posts a cash escrow, the escrow instructions shall provide:

- a. That the subdivider shall have no right to a return of any of the funds except as provided in Section 5.4.2.D.4; and
- b. That the escrow agent shall have a legal duty to deliver the funds to the Town whenever the Town Administrator presents an affidavit to the agent attesting to the Town's right to receive funds, whether or not the subdivider protests that right.

4. Reduction of Security

- a. Upon preliminary acceptance of a public improvement or public infrastructure, the Town shall release all but 15 percent of the amount of financial security posted to secure the successful and timely completion of same, so long as the developer is not in default of any provision of the public improvements agreement.

⁵⁷⁵ Removed performance bond from the list of options.

- b.** The residual 15 percent retained by the Town shall act as security for the developer's guarantee that the public improvements and infrastructure remain free of defect during the applicable warranty period. The developer may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial security to that security as originally posted with and/or retained by the Town.

5.4.3. Temporary Improvements⁵⁷⁶

The applicant shall build and pay for all costs of temporary improvements required by the Board of Trustees or Town Administrator and shall maintain those temporary improvements for the period specified by the Board of Trustees. Prior to construction of any temporary facility or improvement, the developer shall file with the Town a separate public improvements agreement and a letter of credit or cash escrow in an appropriate amount for temporary facilities, which agreement and credit or escrow shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

5.4.4. Special Districts⁵⁷⁷

- A.** Required public improvements shall be made by the developer, at its expense, without reimbursement by the Town or any improvement district except that, as may be allowed under state law, the developer may form or cause to be formed a special district or districts to construct and finance the construction of required public improvements excluding lot improvements on individual lots.
- B.** If the developer does form or cause to be formed a special district for the purposes identified in this section, the Town shall not release the developer from its obligations under any public improvements agreement nor shall the Town release any security, in whole or in part, until the special district has sold bonds or otherwise certifies to the Town that it has an absolute right to raise revenues sufficient to construct, maintain, and warrant the quality of the required public improvements.

5.4.5. Failure to Complete Improvements

- A.** For developments for which no public improvement agreement has been executed and no security has been posted, if the improvements are not completed within the period specified in the public improvements agreement, the application approval shall be deemed to have expired.
- B.** In those cases where a public improvements agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the Town may:
 - 1.** Declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default;
 - 2.** Suspend or revoke authorization for development, including without limitation suspension or revocation of previously issued building permits and suspend issuance of further building permits until the improvements are completed and record a document to that effect for the purpose of public notice;⁵⁷⁸

⁵⁷⁶ Current 17-46(c).

⁵⁷⁷ Current 17-46(d), renamed to special districts instead of costs of improvements.

⁵⁷⁸ Revised to exclude the reference to the final development plan. Also includes option to withdraw approvals relocated from last sentence of current 17-46(a).

3. Obtain funds under the security and complete improvements itself or through a third party;
4. Assign its right to receive funds under the security to any third party, including a subsequent owner of the development for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the development; and/or
5. Exercise any other rights available under the law.

5.4.6. Acceptance of Dedication Offers⁵⁷⁹

The acceptance of streets, parks, easements, or other public areas dedicated to the Town other than by appropriate dedication language on a final plat shall be by resolution adopted by the Board of Trustees.

5.4.7. As-Built Plans Required⁵⁸⁰

As-built plans shall be submitted to the Town prior to acceptance of facilities or improvements by the Town. Such plans shall:

- A. Include detailed and accurate information on all improvements completed as part of a project. Locations, dimensions, elevations, types of material, and all other information needed to provide a comprehensive and complete representation of the final project shall be included. Rights of way and easement lines shall also be shown.
- B. Be submitted upon completion of all work within a phase of the development, and the final as-built plans shall be received before final acceptance of that phase.
- C. Be submitted before final acceptance of improvements. Such plans shall be stamped "As-Built" and shall be signed by a registered professional engineer.
- D. Shall be submitted as AutoCAD or DXF drawings, two sets of prints, and reproducible Mylar and shall become property of the Town of Buena Vista and a part of permanent Town records.

Section 5.5 Cost Recovery⁵⁸¹

5.5.1. Purpose⁵⁸²

- A. These standards are intended to ensure that development pays its own way and does not require the citizens of the Town to bear the costs of constructing public improvements for new development.
- B. These standards provide a methodology for addressing cost recovery for developers required to construct oversized public improvements.
- C. These standards reflect the Board of Trustees determination that the expansion of land use and development within the Town results in impacts on public facilities and improvements and necessitates the construction and expansion of new public facilities, improvements, and services, including arterial and collector streets and bridges; water and sewer facilities; schools; pedestrian

⁵⁷⁹ Current 17-46(g).

⁵⁸⁰ Current 17-46(h), revised for clarity.

⁵⁸¹ New section based on the Town's cost recovery ordinance adopted in 2015 (Current 17-46(i)). Revised to reflect changes in this UDC to the current development code, including but not limited to the elimination of minor, intermediate, and major developments.

⁵⁸² New purpose statement based on adopting ordinance.

areas; community and neighborhood parks; emergency services; drainageways; parking facilities; and other Town facilities, improvements, and services.

5.5.2. Applicability⁵⁸³

The Town may require, as a condition of any approval required for development pursuant to Article 16.06: *Review Procedures*, the dedication of additional public improvements that are reasonably necessary for the orderly and logical extension of Town facilities and services.

5.5.3. Methodology for Recovery of Costs of Public Improvements⁵⁸⁴

A. Methods, Generally

Methodology for cost recovery may include comparative area or distance of a development benefited by a public improvement, comparative population or housing density of the development benefited by the public improvement, the trip generation rate, or other methodology for calculating approximate use of the public facilities, and such other methods as the Town may establish from time to time that are based upon the reasonable benefit conferred on a development by a public facility.

B. Alternative Methodology

1. In the event the Town determines that a development is reasonably benefitted more than under the minimum recovery methods above, the Town may calculate an alternate method to determine reasonable benefit and recovery costs for a development, provided that there shall be recovered no more than 100 percent of the costs of public facilities, plus applicable interest.
2. This Section 5.4 shall not be construed to limit the power of the Town to use any other lawful method for accomplishing the financing of public improvements for lands that will be reasonably benefited.⁵⁸⁵

C. Types of Costs Allowed

1. Generally

As part of any approval for site plan, special use permit, or major subdivision⁵⁸⁶, the Town may determine the public facilities, improvements, and services that are reasonably necessitated by and that are of reasonable benefit to the land being developed. The Town shall have authority to establish and administer a program to recover from benefitted property owners the costs incurred by the Town or other party in providing those public facilities, improvements, and services, which may include without limitation:

- a. The cost of right-of-way acquisition and construction of streets, including traffic signals, street lights, and traffic signs.
- b. The cost of sanitary sewer and water treatment and transmission facilities and service.
- c. Costs incurred for the acquisition, construction and servicing of drainageways.
- d. The cost of locating or relocating above-ground or underground utilities.

⁵⁸³ Current 17-46(i).

⁵⁸⁴ Current 17-46(i)(1)b, and 17-46(i)(1)(e), combined, reorganized, and updated for clarity.

⁵⁸⁵ This second provision was relocated from 17-46(i)(1)(k) and revised for clarity.

⁵⁸⁶ Revised to reflect new procedures as proposed in this draft. Current language reads "any approval for an application for a minor or intermediate development or approval of a preliminary plan for a major development within the Town."

- e. Costs incurred for the acquisition, development, and furnishing of neighborhood and community parks, public open spaces, pedestrian walkways, bikeways, and other recreational facilities in excess of normal development requirements.
- f. Costs incurred for the acquisition, development, construction, and furnishing of such other Town facilities or services the Town determines are reasonably necessary to serve, and of reasonable benefit to, new development.

2. Water Mains

The owner or developer of property abutting a water main constructed and paid for by another party shall pay a proportionate share of the costs determined by dividing one-half the total cost of the main by the total length of the main and multiplying the resulting quotient by the number of lineal feet of property abutting the main.

3. Street Improvements

The owner or developer of property abutting a street constructed and paid for by another party shall pay a proportionate share of the cost of such street, determined as follows:

- a. The owner or developer shall be required to pay 50 percent of the cost of the improvements, including street pavement, sub-base, storm sewer and other appurtenances, right-of-way costs, curbs, gutters, sidewalks, and acceleration and deceleration lanes adjacent to the development.⁵⁸⁷
- b. All drainage and other conduit structures constructed as an integral part of the street shall be considered to be street improvements, and the cost of those facilities may be allocated using the same method as allocating the cost of street improvements. The calculation of recovery costs for other drainage facilities, including storm drainage facilities that are not an integral part of the street construction, shall be established on a case-by-case basis, using a method based upon reasonable benefit to the property. Drainage facilities shall comply with the Town's minimum standards on storm drainage facilities to be eligible for cost recovery consideration.⁵⁸⁸

D. Costs Not Allowed

Costs for the administration of contracts, license fees, attorney fees, overhead, and other administrative, indirect costs shall be considered the cost of doing daily business and shall not be included in recovery costs.⁵⁸⁹

E. Amount and Distribution of Recovery Costs

1. Where the construction of the improvement or facility has been financed in whole or in part by a property owner or owners, and the financed amounts exceed the amount of benefits the owner or owners will realize from the improvement or facility so financed, the Town shall assume or recover the amount of such excess costs and reimburse the financing owner or owners to the extent the amount financed exceeds the benefits received.
2. The Town shall collect from the owners of benefitted properties the amount determined by the Town to be reasonable and in proportion to the benefits to such properties. From that

⁵⁸⁷ Did not carry forward beginning of this paragraph, which read "for streets, exclusive of acceleration and deceleration lanes..." That language conflicts with the end of the paragraph that includes acceleration and deceleration lanes adjacent to the development.

⁵⁸⁸ Current 17-46(i)(1)(e)(i)(2)(b), revised for clarity.

⁵⁸⁹ Current 17-46(i)(1)(c). did not carry forward first sentence related to the allowable costs, since those are redundant to the allowable costs listed in current 17-46(i)(1)(b)(ii).

collection, the Town shall reimburse the party who constructed and/or installed the public facility.

F. Written Agreements for Cost Recovery

1. Cost Recovery Integrated with Public Improvements Agreement⁵⁹⁰

Any agreement between the Town and a developer for cost recoveries shall be set forth in the developer's public improvements agreement pursuant to Section 5.4, *Public Improvements Agreements*.

2. Content of Agreement

In connection with the construction of any improvement or facility by a property owner or developer pursuant to this Section, the Town and such owner or developer may enter into a written agreement concerning the construction and the owner or developer's rights of cost recovery, if any, as follows:

- a.** Such agreement may include a provision for simple interest.
- b.** The Town shall require that the developer or his successors notify the Town in the event that there is a change in the payee of recovery fees collected for disbursement by the Town. Such notice shall be provided no later than 30 days after the effective date of the change in payee. Such notification shall include the new payee, the new payee's address, a description of the event resulting in the change of the payee, and the effective date of the change in payee. The notice shall be signed by an individual with legal authority to bind the transferor. The Town shall send collected recovery fees to the payee of record, as set forth in this paragraph 2. If, due to lack of notice by the payee, the Town is unable to ascertain the identity or location of the payee within 60 days after receipt of the recovery fees, such fees shall revert to the Town, and the Town may declare the agreement terminated and deposit the undisbursed recovery fees in the Town's related funds.
- c.** Such agreement shall include a listing of those properties to be charged with cost recovery for the improvement(s), which list shall be provided by the developer-beneficiary with the final plat. The developer shall also provide within the same time period a cost estimate of the improvements.⁵⁹¹

3. Recordation of Agreement⁵⁹²

The Town shall review and approve for recording all such agreements that include provisions for cost recovery for the benefit of private developers. It shall be the responsibility of the developer to record such agreements, and any effect on the developer's ability to recover costs, pursuant to the developer's failure to appropriately record such agreement or include a sufficient legal description for the properties to be charged with cost recovery, shall be the sole responsibility of the developer. All agreements or ordinances created in connection with the construction of public improvements for which costs have been allocated pursuant to this Section shall be recorded with the Office of the Chaffee County Clerk and Recorder as a matter of public record.

⁵⁹⁰ Relocated from current 17-46(i)(1)(f)(i).

⁵⁹¹ Relocated first half of current 17-46(i)(1)(f)(ii). Second half relocated to recordation of agreement section below.

⁵⁹² Relocated from current 17-46(i)(1)(e)(i)(4) and second half of 17-46(i)(1)(f)(ii).

4. Administration of Cost Recovery Agreements⁵⁹³

The Town's duty and liability in connection with the administration of a cost recovery agreement pursuant to this Section shall be limited as follows:

- a.** The Town shall exercise reasonable care to collect such amounts due the developer beneficiary, but the Town shall not be responsible or liable for any amounts not actually paid to the Town by the responsible party. The developer-beneficiary shall have no cause of action against the Town, other than to recover any amounts actually collected and on deposit with the Town.
- b.** The Town shall not be deemed to be acting as an agent or fiduciary of the developer-beneficiary or the responsible party. It shall be the exclusive responsibility of the developer-beneficiary to monitor and enforce the payment provisions of the agreement.
- c.** In the event of non-payment by a responsible party, the developer-beneficiary, in its capacity as principal third-party beneficiary of the agreement, shall have as its exclusive remedy the right to bring a cause of action against the defaulting responsible party.
- d.** The limitations set forth above shall be deemed as incorporated into every cost recovery agreement to be administered by the Town.

5.5.4. Town Contribution⁵⁹⁴

Under certain circumstances and in its sole discretion, the Town may choose to contribute to the costs of construction of public improvements or provide incentives to offset the costs of public improvements in cases of preferred developments, such as permanent affordable housing.

5.5.5. Inclusion of Recovery Costs in Development Applications⁵⁹⁵

Development applications shall contain a section entitled "Recovery Costs," which shall contain a list of the public facilities previously constructed on which the proposed development will be required to pay recovery costs and the areas of benefit, if applicable, and the Town recording information for the ordinance and agreement that established the recovery costs. The owner of proposed development shall also be responsible for any recovery costs established subsequent to the approval of the application. However, no recovery cost obligation shall be invalid against a development if it is undiscovered and/or inadvertently omitted from the application.

5.5.6. Recordation and Lien⁵⁹⁶

From the date of recording of any cost recovery agreement for developer-constructed public improvements, each of the records shall create a first and prior lien upon the properties benefited in the amount of the costs of the public facilities determined by the Town attributable to the property. At its discretion, the Town may allow the lien to become junior to the lien of deed(s) of trust executed by the landowners to secure loans to finance the construction of public facilities on the property.

⁵⁹³ From current 17-46(i)(1)(f)(iii).

⁵⁹⁴ Current 17-46(i)(1)(d).

⁵⁹⁵ Current 17-46(i)(1g), revised for clarity and to exclude references to preliminary plans and rather broadened to reference all development applications.

⁵⁹⁶ Current 17-46(i)(1)(h), revised for clarity. Did not carry forward provision (i) related to recordation because it was redundant with several other recordation provisions in the cost recovery ordinance.

5.5.7. Timing of Payment of Recovery Costs⁵⁹⁷

All recovery costs shall be due and payable at the time of the recording of a final plat for the applicable property, or at such time as application is made for a building permit or water tap for the applicable property, whichever occurs first. The Town may withhold building permits or water service on property within the area of benefit until recovery costs are paid. In the event an owner desires to proceed with development of a portion of his property based on a phased development plan, the owner may proceed after paying that portion of the recovery costs and making provision for payment of the remainder satisfactory to the Town.

5.5.8. Termination of Recoveries⁵⁹⁸

Upon receipt of an application by an owner previously entitled to receipt of cost recoveries or on its own motion, the Town may terminate a recovery for a public improvements, if the costs of the public improvements have been substantially recovered, if the project may be more effectively financed by another method, or for such other good cause as the Town may determine. In no event shall the cost recovery period last longer than 10 years.

⁵⁹⁷ Current 17-46(i)(1)(i), revised title to begin with "timing of."

⁵⁹⁸ Current 17-46(i)(1)(i).

Article 16.06: Review Procedures

Commentary:

This article describes the process for reviewing and approving development applications.

- Section 6.2 has a summary of review procedures, which provides a snapshot of the review and approval procedures in this article, including the review and decision authorities for each application type.
- Section 6.3 includes the common review procedures that apply to most development applications in the Town. This was one of the recommendations from the Assessment Memorandum, and helps the Town avoid repetition or create conflicts among the various application types.
- The remainder of the article describes application-specific procedures, cross-referencing common review procedures and noting any additions or modifications. Each application-specific procedure is summarized in a graphic, depicting the steps for review and approval, with specific notes according to that particular application type.
- Finally, the article includes general information about the various decision-making bodies in Buena Vista.

This draft uses the term “Town Administrator” as the staff review authority (as was the case with previous drafts). A definition is provided in Article 16.06: clarifying that the Town Administrator may appoint a designee.

In this article, we refer to an “administrative manual” several times. As recommended in the Assessment Memorandum, such a manual could contain specific departmental, administrative, or technical information not necessary to include in the UDC, such as application submittal requirements, time periods for review, and associated fees. Many communities host such a manual online without need to produce an actual “manual.” Another benefit of an administrative manual is that it allows the Town Administrator to make changes to those requirements without going to the Board of Trustees for an ordinance amendment.

Section 6.1 Purpose and Organization

6.1.1. Purpose

This article describes the procedures for review of all applications for land use and development in the Town of Buena Vista. This article is intended to ensure the consistent and efficient administration of the UDC.

6.1.2. Organization of this Article

- A.** Section 6.2, *Summary of Review Procedures*, lists the zoning and subdivision approval procedures in this UDC and identifies the applicable review and approval authorities.
- B.** Section 6.3, *Common Review Procedures*, describes standard procedures that are applicable to most types of development procedures.
- C.** Section 6.4, *Zoning and UDC Amendments*, describes additional procedures unique to each type of ordinance amendment including rezoning, rezoning to Planned Unit Development, and UDC amendments. This section should be administered in conjunction with Section 6.3.
- D.** Section 6.5, *Development Permits*, describes additional procedures unique to each type of development permit or approval procedures application including site plan review (administrative and major), special use permits, and temporary use permits. This section should be administered in conjunction with Section 6.3.
- E.** Section 6.6, *Subdivision*, describes additional procedures unique to each type of subdivision approval procedure, including minor subdivisions, sketch plans, preliminary plats, final plats,

condominiumization, and vacations of right-of-way or easements. This section should be administered in conjunction with Section 6.3.

- F. Section 6.7, *Adjustments, Vesting, and Appeals*, describes additional procedures unique to administrative adjustments, variances, vested rights, and appeal procedures. This section should be administered in conjunction with Section 6.3.
- G. Section 6.8, *Review and Decision-Making Bodies*, describes or cross-references the Buena Vista Municipal Code as it relates to the duties and membership of the boards, commissions, and other bodies with review and approval authority under this UDC.

Section 6.2 Summary of Review Procedures⁵⁹⁹

The following table summarizes the procedures for review and approval of applications for land use and development activity in the Town of Buena Vista. Not all review and approval procedures are addressed in this table; see subsequent sections of this article for information on other procedures.

⁵⁹⁹ New. This table was first introduced with the assessment memorandum, and was revised based on further discussion with staff and other stakeholders.

Commentary:

A cell shaded green indicates a new procedure and/or new decision-making authority. A cell shaded red indicates that the decision-making authority has been removed.

Table 6.1: Summary of Review Procedures

KEY: R = Review and Recommendation D = Review and Decision A = Appeal [R or D] = Public Hearing Required

Procedure	Section	Pre-Application Conference Required	Review and Decision-Making Bodies		
			Town Administrator	Planning and Zoning Commission	Board of Trustees
Zoning and UDC Amendments					
Rezoning	6.4.1	✓	R	[R]	[D]
Rezoning to a Planned Unit Development (PUD)	6.4.2	✓	R	[R]	[D]
Unified Development Code Amendment	6.4.3	Initiated by Town	R	[R]	[D]
Development Permits					
Site Plan Review (previously minor, intermediate, and major development plans)	Administrative (new)	6.5.1.D	optional	D	A
	Major	6.5.1.E	✓	R	[D]
Special Use Permit	6.5.2	✓	R	[D]	
Temporary Use Permit	6.5.3	optional	D		A ⁶⁰⁰
Subdivision					
Minor Subdivision	6.6.1	✓	D		A
Major Subdivision	Sketch Plan	6.6.2	optional	R	R
	Preliminary Plat	6.6.3	✓	R	[D]
	Final Plat	6.6.4	✓	D	A
Condominiumization	6.6.5	✓	R (D if fewer than 20 units)	R if 20 units or more	D if 20 units or more
Vacation of Right-of-Way	6.6.6	✓	R	[R]	[D]
Vacation of Easement	6.6.6	✓	D		
Adjustments, Vesting, and Appeals					
Administrative Adjustment (new)	6.7.1	optional	D		A
Variance	6.7.2	✓	R	[D] (P&Z acting as Board of Adjustment)	
Vested Rights	6.7.3	✓	Based on type of site-specific development plan		
Appeal	6.7.4	optional	R	Based on decision-making authority	

⁶⁰⁰ Shaded red to show that the decision-making authority was delegated down to the Town Administrator. The Board has authority to hear appeals over Administrator decisions.

Section 6.3 Common Review Procedures

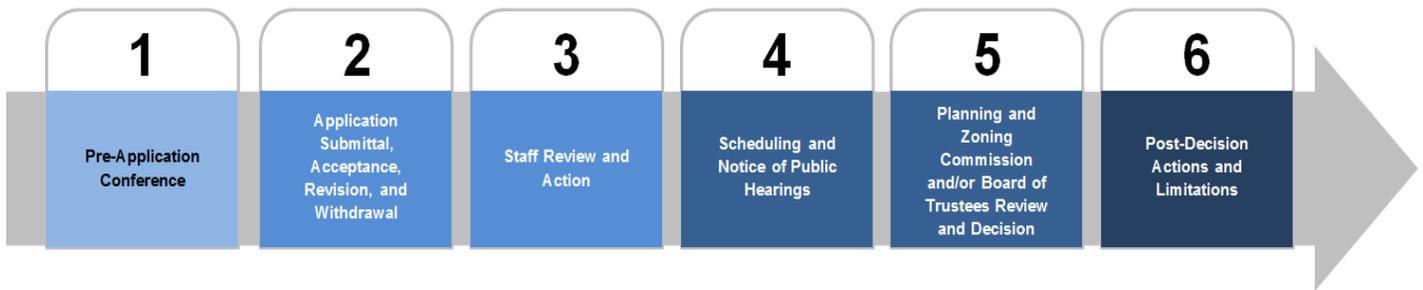
Commentary:

This new section was recommended in the Assessment Memorandum to remove inconsistencies and reduce the overall length of the UDC. The current development procedures are scattered throughout the zoning code and the 2010 development code.

Common review procedures are new to Buena Vista. They eliminate the need to amend multiple sections of the UDC when a common procedure changes. Subsequent sections in the application-specific procedures refer back to these common review procedures and note any modifications or additions.

The common review procedures apply to all types of development applications in this Article 16.06: *Review Procedures*, unless an exception to the common procedures is expressly identified elsewhere in this article. Common review procedures include six steps, not all of which may be applicable to each type of development application. Application-specific procedures in Sections 6.4 through 6.7 identify additional procedures and rules that apply in addition to those in this section.

Figure 6.A: Summary of Common Review Procedures



6.3.1. Step One: Pre-Application Conference⁶⁰¹

A. Purpose⁶⁰²

The pre-application conference is intended to provide an opportunity for the applicant to meet with Town staff to discuss submittal requirements, procedures for approval, and timeframes for approval of an application. The conference also allows staff to convey any details regarding potential impacts of the proposed project.

B. When Required

Pre-application conferences are required as indicated in Table 6.1, *Summary of Review Procedures*.

C. Procedure⁶⁰³

Pre-application conferences shall be scheduled pursuant to the following procedures.

1. Request and Required Information

The applicant shall submit a request for a pre-application conference to the Town Administrator on a form established by the Town Administrator.

⁶⁰¹ This section includes information from minor, intermediate, and major developments from the current Chapter 17. Similar information was consolidated.

⁶⁰² New, based on current Sections 17-28(a), 17-29(a), and 17-30(b).

⁶⁰³ New procedures. We did not carry forward current language stating that “The development coordinator shall also advise the applicant, when appropriate, to discuss the proposed development with those officials who must eventually approve those aspects of the development coming within their jurisdiction.”

2. Scheduling

The Town Administrator shall schedule pre-application conferences and notify appropriate staff and the applicant of the time and location of the conference.

3. Conference Determinations

Staff attending the pre-application conference shall identify concerns or factors that the application should consider during the project as they relate to this UDC. Staff shall also identify additional approvals necessary for the proposed project, such as variances and/or administrative adjustments.

D. Effect of Pre-Application Conference⁶⁰⁴

Any information provided in discussions held as part of the pre-application conference shall not be binding on the Town or applicant and is not intended to be all-inclusive or a guarantee of approval. Discussions of potential conditions to mitigate impacts do not reflect actions by the decision-making body until and unless a decision-making body takes formal action to attach that condition to a development approval.

6.3.2. Step Two: Application Submittal, Acceptance, Revision, and Withdrawal⁶⁰⁵

A. Authority to Submit Application

1. Unless expressly stated otherwise in this UDC, a development application shall be submitted by:
 - a. The owner, contract purchaser, or other person having a recognized property interest in the land on which development is proposed; or
 - b. A person authorized to submit the application on behalf of the owner, contract purchaser, or other person having a recognized property interest in the land, as evidenced by a letter or document signed by the owner, contract purchaser, or other person.
2. If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such persons shall sign the application or a letter or document consenting to the application.

B. Application Content⁶⁰⁶

1. The application shall be submitted to the Town Administrator on a form established by the Town Administrator.
2. The applicant bears the burden of ensuring that an application contains sufficient information and supporting documents to demonstrate compliance with application requirements and any other request made by the Town Administrator.

⁶⁰⁴ New language we are commonly including in newer codes to establish that pre-application conferences are intended to encourage problem-solving and innovation. This standard clarifies that any pre-application discussions of potential conditions do not in fact constitute actual conditions placed on the approval, which was the subject of the recent *Koontz* case in the US Supreme Court. Additional protection is provided in conditions of approval standards in Section 6.3.5.B.

⁶⁰⁵ Mostly new procedures. The current code includes only minimal information related to application submittals. Specific submittal requirements that are technical in nature (such as the number of copies and information to be included on a set of plans, or plat notes) will be included in an administrative manual outside of this UDC.

⁶⁰⁶ Some applications are currently required to be submitted to the Planning and Zoning Commission. For example, Section 17-28 requires that applications are filed with the Planning and Zoning Commission and presented to the "Development Coordinator." To streamline this process, all applications are filed with the Town Administrator.

3. Applications including substantially different information than what was discussed during the pre-application conference may require additional revisions and/or meetings prior to accepting the application.⁶⁰⁷

C. Application Fees

1. Application fees shall be paid at time of submittal according to the type of application and the Town of Buena Vista fee schedule. Fees shall be established by resolution by the Board of Trustees and reviewed annually. Applications will not be processed until fees are paid in full.
2. If the Town Administrator determines that additional funds are needed to complete the application review, including retention of outside professional services, the Town Administrator may impose additional application fees to recover the Town's actual costs in completing review.⁶⁰⁸
3. If the fees paid are greater than actual costs, the applicant shall be reimbursed the additional fees less actual costs.⁶⁰⁹
4. If the Town incurs costs beyond the amount deposited with the Town and the applicant does not pay those costs within 30 days after written notice from the Town, the Town shall be entitled to a lien for those costs on the land being developed, and reserves the right to stop work on a project and/or withhold approvals.

D. Submittal and Review Schedule⁶¹⁰

The Town Administrator shall establish a submittal and review schedule for development applications and shall include that information in the Administrative Manual. The Town Administrator may amend the schedule to ensure effective and efficient review under this UDC.

E. Determination of Application Completeness⁶¹¹

The Town Administrator shall determine whether the application is complete or incomplete within 10 business days. The Town Administrator shall provide written notification of the determination of application completeness.

1. Complete Applications

A complete application shall be processed for review according to the procedures in this UDC and the Administrative Manual.

2. Incomplete Applications

An incomplete application shall not be processed or reviewed. The Town Administrator shall provide written notice of the submittal deficiencies. The applicant may correct the deficiencies and resubmit the application for determination of application completeness. An incomplete application that is not resubmitted within 180 days of written notice from the Town Administrator shall be considered abandoned.⁶¹²

F. Minor Application Revisions⁶¹³

1. An applicant may revise an application after receiving notice of compliance deficiencies following staff review according to Section 6.3.3, or on requesting and receiving permission

⁶⁰⁷ New.

⁶⁰⁸ Replaces 16-212(a) from the current PUD regulations.

⁶⁰⁹ New.

⁶¹⁰ New provisions allowing the Town Administrator to set an appropriate timeframe for internal review of application types.

⁶¹¹ New provisions formalize the application completeness review process.

⁶¹² This new standard prevents applications from being resubmitted when conditions in the community may have changed.

⁶¹³ New.

from an advisory or decision-making body after that body has reviewed, but not yet taken action on, the application.

2. Revisions shall be limited to changes that directly respond to specific requests or suggestions made by staff or the advisory or decision-making body, as long as they constitute only minor additions, deletions, or corrections and do not include significant substantive changes to the development proposed in the application, as determined by the Town Administrator.
3. All other application revisions shall be processed as a new application per this Section 6.3.2.

G. Application Withdrawal⁶¹⁴

1. After an application has been accepted for review, the applicant may withdraw the application at any time by submitting a letter of withdrawal to the Town Administrator.
2. If an application is withdrawn after required notice of any scheduled public hearing, the application shall be subject to limitations on the subsequent submittal of similar applications (See Section 6.3.6, *Step Six: Post-Decision Actions and Limitations*).
3. An applicant is not entitled to a refund of application fees for withdrawn applications. However, the Town Administrator may refund fees not expended during the first round of staff review pursuant to Section 6.3.2.C.

6.3.3. Step Three: Staff Review and Action⁶¹⁵

A. Refer Application to Staff and Review Agencies

The Town Administrator shall distribute the complete application to appropriate staff and internal and external review agencies per the Administrative Manual.

B. Staff Review and Application Revisions

Staff shall review the application and submit recommendations and comments to the applicant in a form established by the Town Administrator.

C. Applications Subject to Staff Recommendation⁶¹⁶

1. Staff Report

If an application is subject to staff review and recommendation to another decision-making body per Table 6.1, staff shall prepare a written staff report. The staff report shall state whether or not the application complies with all UDC requirements and shall include a recommendation for a decision by the authorized decision-making body. The staff report may also recommend how noted deficiencies could be corrected and/or negative impacts mitigated.

2. Distribution and Availability of Application and Staff Report

Within a reasonable time period before a meeting or hearing at which a development application is scheduled for review by an advisory or decision-making body, the Town Administrator shall submit a copy of the staff report to the applicant and advisory or decision-making body, and shall make the staff report and all related materials available for public review.

⁶¹⁴ New provisions formalize an application withdrawal process.

⁶¹⁵ Staff review and action is a step that is largely missing from the current code. These new procedures establish an official process by which staff shall review development applications prior to their moving forward for further review and approval.

⁶¹⁶ New.

D. Applications Subject to Staff Decision⁶¹⁷**1. Decision**

- a. If an application is subject to staff review and a final decision by the Town Administrator per Table 6.1, the Town Administrator shall make a decision based on the review standards applicable to the application type. The decision shall be in writing and shall clearly state reasons for a denial or for conditions of approval, if any.
- b. Following any decision by the Town Administrator, the Town Administrator shall provide written notification of such decision to the Planning and Zoning Commission and Board of Trustees at the next regularly scheduled meeting or within the Town's monthly report.⁶¹⁸

2. Conditions of Approval

Any conditions of approval shall be limited to conditions deemed necessary to ensure compliance with the requirements of this UDC, and shall relate to the anticipated impacts of the proposed development.

6.3.4. Step Four: Scheduling and Notice of Public Hearings⁶¹⁹**A. Scheduling**

If an application is subject to a public hearing per Table 6.1: *Summary of Review Procedures*, the Town Administrator shall schedule the public hearing for either a regularly scheduled meeting or special meeting of the appropriate decision-making body.

B. Notice**1. General Notice Requirements**

All public hearings required by this UDC shall be preceded by notices identified in Table 6.2, below.

⁶¹⁷ New.

⁶¹⁸ New.

⁶¹⁹ Many new standards in this section. The current code includes limited information related to noticing requirements, mostly for rezonings/map amendments, and minor, intermediate, and major development plans. For all notices, we revised the timeframe to 15 days instead of the current 7 days to be consistent with state statutes, specifically C.R.S. §31-23-304 for zoning procedures. For simplicity, the proposed mailing and posting timeframes are also 15 days.

Table 6.2: Notice Requirements						
Procedure	Section	Type of Notice Required			Timing (# of days before hearing)	
		Published in Newspaper	Mailed to Property Owners	Posted on the Property		
Zoning and UDC Amendments						
Rezoning	6.4.1	✓	✓	✓	15	
Rezoning to a Planned Unit Development (PUD)	6.4.2	✓	✓	✓	15	
UDC Text Amendment	6.4.3	✓	Not required		15	
Development Permits						
Site Plan Review	Administrative (new)	6.5.1.D	Not required			
	Major	6.5.1.E	✓	✓	✓	15
Special Use Permit	6.5.2	✓	✓	✓	15	
Temporary Use Permit	6.5.3	Not required			If proposed duration of 72-hours or longer 2 days prior to decision	
Subdivision						
Minor Subdivision	6.6.1	Not required	✓	Not required		
Major Subdivision	Sketch Plan	6.6.2	Not required			
	Preliminary Plat	6.6.3	✓	✓	✓	15
	Final Plat	6.6.4	Not required			
Condominiumization	6.6.5	Not required				
Vacation of ROW or Easement	6.6.6	✓	✓	✓	15	
Adjustments, Vesting, and Appeals						
Administrative Adjustment (new)	6.7.1	Not required				
Variance	6.7.2	✓	✓	✓	15	
Vested Rights	6.7.3	Not required				
Appeal	6.7.4	✓	✓	✓	15	

2. Notice Responsibilities

The Town shall be responsible for the accuracy of and proper publication, mailing, and posting of notice of the public hearing. The applicant or other party seeking the public hearing shall be responsible for posting on the property shall bear all costs incurred giving notice of the public hearing.

3. Notice Format and Content⁶²⁰

a. Published and Mailed Notice

- i. A notice for any application requiring published or mailed notice per Table 6.2 shall:
 - (a) Identify the application type;
 - (b) Describe the nature and scope of the proposed project;
 - (c) Identify the location of land subject to the application;
 - (d) Identify the date, time, and location of the hearing being noticed;
 - (e) Identify where and when the application and materials may be inspected; and
 - (f) Indicate opportunity to appear at the public hearing.

⁶²⁰ Expands on current 16-6(g), which places posting and mailing burden on applicant and newspaper posting on the Town.

- ii. Published notice shall appear in a newspaper of general circulation in the Town at least 15 days prior to the scheduled public hearing.
 - iii. Mailed notices shall be sent via first class mail to all property owners within 300 feet of the subject property, as measured from subject property boundaries.⁶²¹
- b. Posted Notice⁶²²**
- i. For an application requiring posted notice per Table 6.2, the applicant shall post at least one sign, prepared by the Town, on the parcel at least 15 days prior to the scheduled hearing. The sign shall be clearly visible from the most heavily traveled adjacent street or public right-of-way and shall remain on the property until after the hearing.
 - ii. The Town Administrator may require additional signs based on access and configuration of the property.
 - iii. Required posted notice shall:
 - (a) Identify the application type;
 - (b) Describe the nature and scope of the proposed project;
 - (c) Identify the date, time, and location of the hearing being noticed; and
 - (d) Identify a telephone number for additional information.
- 4. Notice to Mineral Estate Owners and Lessees⁶²³**

The applicant shall provide notice by certified mail, return receipt requested, to all mineral estate owners and lessees on the subject property for development applications in accordance with C.R.S. § 24-65.5-103. Such notice shall be provided not less than 30 days prior to the initial public hearing, or not less than 30 days prior to the final decision if the application does not require a public hearing. The burden of determining mineral estate owners and lessees shall be entirely on the applicant.

5. Certification of Notice⁶²⁴

The Town shall provide a certification that notice has been provided in accordance with this Section 6.3.4 in a format established by the Town Administrator. Such certification shall be provided to the Town Administrator at least seven days prior to the scheduled public hearing.

6. Request to Defer Scheduled Hearings⁶²⁵

An applicant may request that review of an application scheduled for a public hearing be deferred in accordance with the following provisions.

- a. Before any notice is published, mailed, or posted, a written request for deferral that states the reasons for deferral shall be submitted to the Town Administrator, who may grant the request for good cause shown.
- b. Any subsequent request for deferral shall be in writing, state the reasons for deferral, and be submitted directly to the body scheduled to review the application. The appropriate body shall consider such a request and may either grant or deny the request and proceed

⁶²¹ Current code does not specify how adjacent and nearby residents are notified.

⁶²² This is a significant change from the current posting requirement of 5 days.

⁶²³ New, per Colorado statutory requirements.

⁶²⁴ New provisions. Module 2 proposed shifting this burden to the applicant, but this draft maintains staff responsibility.

⁶²⁵ New provisions to prohibit ability to defer an application from public hearing after the public has been notified of such hearing. Without this provision, people can show up expecting to speak and realize only after the fact that the application will not be presented that evening.

to hear public comments, review, and take action on the application. If the body grants the request for deferral, it shall concurrently identify the date and time of a subsequent meeting at which the application shall be scheduled for public comments and review. The application may be subject to additional application fees to defray additional costs of processing the application.

7. Constructive Notice⁶²⁶

- a.** Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be correctly conveyed.
- b.** Failure of a party to receive written notice shall not invalidate subsequent action. If questions arise at the public hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this UDC.

6.3.5. Step Five: Planning and Zoning Commission and/or Board of Trustees Review and Decision⁶²⁷

A. Hearing, Review, and Decision

- 1.** The application shall be subject to review, hearings, recommendations, and decisions as indicated in Table 6.1: *Summary of Review Procedures*.
- 2.** If the application is subject to a public hearing, the applicable review body shall hold a public hearing on the application in accordance with this UDC, bylaws of the respective decision-making bodies, and state law.
- 3.** The applicable review body shall consider the application, relevant support materials, staff report, and any evidence and public comments from the public hearing (if required).
- 4.** The burden to demonstrate the application's compliance with all applicable review criteria shall rest with the applicant.⁶²⁸
- 5.** The applicable review body shall approve, approve with conditions, or deny the application based on applicable approval criteria.
- 6.** If the review involves a quasi-judicial hearing, the recommendation or decision shall:
 - a.** Be based only on the record of the public hearing, staff report, and application materials and shall be in writing;
 - b.** Include findings of fact based on competent, material, and substantial evidence presented at the hearing;
 - c.** Reflect the determination of contested facts; and
 - d.** State how the findings support compliance with applicable review standards.

⁶²⁶ New provision that we typically recommend.

⁶²⁷ Mostly new standards, based on current provisions in the minor, intermediate, and major development plans from the 2010 Development Code.

⁶²⁸ From 16-212(e).

7. The applicable review body shall clearly state the factors considered in making its recommendation or decision, as well as the basis or rationale for the recommendation or decision.

B. Conditions of Approval

1. Where this UDC authorizes a decision-making body to approve or deny an application subject to applicable criteria, the decision-making body may approve the application with conditions necessary to bring the proposed development into compliance with this UDC or other regulations, or to mitigate the impacts of that development on surrounding properties and/or public rights-of-way.
2. All conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development or shall be based upon standards duly adopted by the Town.
3. Any condition of approval that requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.
4. During its consideration, the decision-making body may consider alternative potential conditions, and no discussion of potential conditions shall be deemed an attempt or intent to impose any condition that would violate the federal or state constitutions, statutes, or regulations. Discussions of potential conditions to mitigate impacts do not reflect actions by the decision-making body unless and until the decision-making body takes formal action to attach that condition to a development approval.⁶²⁹
5. Unless otherwise provided in this UDC, any representations of the applicant in submittal materials or during public hearings shall be binding as conditions of approval.

6.3.6. Step Six: Post-Decision Actions and Limitations⁶³⁰

A. Notice of Decision

1. Within 30 days after a final decision on an application, the Town Administrator shall provide written notification of the decision via personal delivery, electronic mail, or first-class mail to the applicant and make a copy of the decision available to the public.⁶³¹
2. If the review involves a quasi-judicial hearing, the Town Administrator shall, within 10 days after a final decision on the application, also provide a written notification of the decision via personal delivery, electronic mail, or first-class mail to the owner(s) of the subject site, and any other person that submitted a written request for a copy of the decision before its effective date.

B. Appeal

1. A party aggrieved or adversely affected by any decision by the Board of Trustees or Board of Adjustment may seek review of the decision in the courts in accordance with applicable state law.

⁶²⁹ In addition to the standards in the pre-application conference section of this UDC, we have started including this new provision as part of application review to protect local governments based on recent case law, namely *Koontz vs. St. John's River Water Management District*. The intent is to clearly designate that "talk is talk" concerning mitigating conditions, unless and until it is integrated into an official decision by a local government.

⁶³⁰ Mostly new standards.

⁶³¹ Revised to 30 days – Module 2 suggested 10 days.

2. A party aggrieved by other final decisions may appeal the decision in accordance with the procedures and standards in Section 6.7.4, *Appeal*.

C. Expiration of Approval

1. An application approval shall be valid as authorization for the approved activity unless it expires in accordance with expiration time periods provided in this UDC for the particular type of application.
2. A change in ownership of the land shall not affect the established expiration time period of an approval.
3. The Town Administrator may grant one extension of the expiration time period for up to one year, following a written request for such extension prior to the expiration date. The request shall include reasonable cause for an extension. Further extensions may be permitted if expressly allowed in specific application procedures in this UDC and shall be subject to the approval of the decision-making body for the original application.

D. Modification or Amendment of Approval

Unless otherwise provided in this UDC, any modification of an approved plan, permit, or condition of approval shall require a new application submitted and reviewed in accordance with the procedures applicable to that type of application.

E. Limitation on Subsequent Similar Applications⁶³²

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

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

Section 6.4 Zoning and UDC Amendments

Commentary:

Generally, the procedures in Sections 6.4 through 6.7 are organized consistently with Table 6.1: *Summary of Review Procedures*. Specific procedures for each type of application are listed following the purpose and applicability statements.

This section on Zoning and UDC Amendments describes the procedures for all ordinance amendments including rezonings, PUDs, and UDC amendments.

6.4.1. Rezoning⁶³³

A. Purpose⁶³⁴

1. The rezoning procedure provides a process to make amendments to the Official Zoning Map of the Town of Buena Vista to reflect changes in public policy, changed conditions, or to advance the welfare of the Town. The zoning classification of any parcel in the Town may be amended using this procedure. The purpose is neither to relieve particular hardships nor to confer special privileges or rights on any person. The rezoning procedure shall not be used

⁶³² These new standards prevent applicants from repeatedly submitting applications trying to achieve a different response or to “wear down” the Town without providing a substantially different application or new information.

⁶³³ From 16-6, revised as noted.

⁶³⁴ New. Current procedure does not have a purpose statement.

when a special use permit, variance, or administrative adjustment could be used to achieve the same result.

2. Changes to the characteristics of zoning districts (such as setbacks) and development standards that apply within districts (such as parking requirements) shall be processed as Unified Development Code amendments pursuant to Section 6.4.3, *Unified Development Code Amendment*.

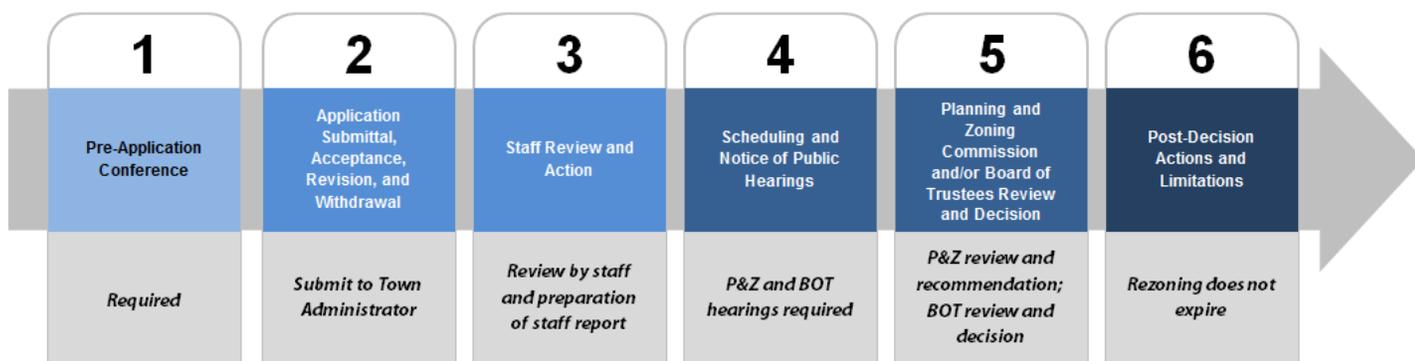
B. Applicability

A rezoning may be approved by the Board of Trustees following review and recommendation by the Planning and Zoning Commission. Rezoning to a Planned Unit Development requires a distinct type of amendment to the Official Zoning Map and shall follow the procedures in Section 6.4.2.

C. Rezoning Procedure

Figure 6.B identifies the applicable steps from the common review procedures in Section 6.3 that apply to the review of rezoning applications. Additions or modifications to the common review procedures are noted below.

Figure 6.B: Summary of Rezoning Procedure



1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

- a. The rezoning application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.
- b. Single, coordinated applications are encouraged for rezoning proposals on multiple parcels with similar impacts and requests. Separate applications for each property may be required if the Town Administrator makes such determination during the pre-application conference.

3. Staff Review and Action

Staff shall review the application and prepare a staff report and recommendation pursuant to Section 6.3.3.

4. Scheduling and Notice of Public Hearings⁶³⁵

The rezoning application shall be scheduled for public hearings before the Planning and Zoning Commission and Board of Trustees, and noticed pursuant to Section 6.3.4.

5. Planning and Zoning Commission and/or Board of Trustees Review and Decisions

a. Planning and Zoning Commission Review and Recommendation

- i.** The Planning and Zoning Commission shall review the rezoning application and recommend approval, approval with conditions, or denial in accordance with Section 6.3.5 and the criteria in subsection c, below.⁶³⁶
- ii.** Any conditions of approval shall be limited to minor technical conditions for the approval ordinance and shall not include conditions that must be met by the applicant in order to approve the rezoning.⁶³⁷

b. Board of Trustees Review and Decision

The Board of Trustees shall review the rezoning application and approve or deny the rezoning pursuant to Section 6.3.5 and the criteria in subsection c, below.

c. Rezoning Approval Criteria⁶³⁸

In reviewing a proposed rezoning, the Planning and Zoning Commission and Board of Trustees shall consider whether:

- i.** The proposed rezoning is consistent with the Comprehensive Plan and the purposes of this UDC;
- ii.** The rezoning is consistent with the purpose statement of the proposed zoning district;
- iii.** There have been significant changes in the area to warrant a zoning change;
- iv.** There was an error in establishing the current zoning;
- v.** The intensity of development in the new zoning district is not expected to create significantly adverse impacts to surrounding properties or the neighborhood; or
- vi.** Public facilities and services are available to adequately serve the subject property while maintaining an adequate level of service to existing development.

d. Protest Procedure⁶³⁹

- i.** Any owner of property affected by a proposed rezoning may protest the rezoning pursuant to the statutory requirements of C.R.S. §31-23-305, as amended.
- ii.** A protest against a rezoning shall be submitted to the Town Clerk up to 24 hours prior to a scheduled public hearing. Such protest shall be signed by the owners of at least 20 percent of the area of the lots included in the proposed zoning change boundaries or at least 20 percent of the lots adjacent to the subject property.
- iii.** If a rezoning protest is submitted, approval of the proposed rezoning shall require at least two-thirds of the membership of the Board of Trustees.

⁶³⁵ Did not carry forward 16-6(b), which required 15 days for newspaper, 10 days for posting, 10 days for letter mailings, and 5 days for hand-delivered letters.

⁶³⁶ Replaces 16-6(a). We did not carry forward the required P&Z report timeframe of 45 days. This provides some flexibility for both staff and the P&Z.

⁶³⁷ New standard to eliminate potential for "conditional zoning."

⁶³⁸ New criteria. The current code does not contain approval criteria for rezoning applications.

⁶³⁹ New standards, based on current Section 16-6(h).

6. Post-Decision Actions and Limitations⁶⁴⁰

Post-decision actions and limitations in Section 6.3.6 shall apply with the following additions or modifications:

- a. Following approval of a rezoning, the Town Administrator shall prepare an appropriate revision to the Official Zoning Map.
- b. Following approval of a rezoning, the Town Administrator shall record the amendment map and ordinance with the Chaffee County Clerk and Recorder as soon as practicable.

6.4.2. Rezoning to a Planned Unit Development (PUD)

A. Purpose⁶⁴¹

The purpose of rezoning to a PUD is to achieve greater flexibility than allowed by the strict application of the UDC while providing greater benefit to the Town. The PUD procedure shall not be used when a special use permit, variance, or administrative adjustment could achieve a similar result.

B. Applicability

The boundaries of a zoning district or the zoning classification of any parcel may be changed to a Planned Unit Development (PUD) pursuant to this section. An application to rezone to a PUD may be submitted for any land within any combination of zoning districts. A PUD may be initiated by an individual or group of individuals owning at least 50 percent of the land within the proposed PUD area.

C. Planned Unit Development Procedure

Figure 6.C identifies the applicable steps from the common review procedures in Section 6.3 that apply to the review of rezoning to PUD applications. Additions or modifications to the common review procedures are noted below.

Figure 6.C: Summary of Rezoning to a PUD Procedure



⁶⁴⁰ New.

⁶⁴¹ New. Current code does not include a purpose statement.

1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1. In addition, the application shall provide the following materials to help determine whether or not a PUD is the appropriate procedure for the applicant and the Town.⁶⁴²

- a. Proposed uses;
- b. Number and type of dwelling units;
- c. Proposed parking capacity and configuration; and
- d. General site planning layout and phasing.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

- a. The PUD application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.
- b. A PUD application shall include a PUD concept plan prepared to the specifications of the Administrative Manual. Approval of the PUD concept plan is required prior to development in a PUD district.
- c. The regulations of this UDC remain applicable to all PUD development, except as specifically modified pursuant to the provisions contained in the approved PUD concept plan.

3. Staff Review and Action

Staff shall review the PUD application and prepare a staff report and recommendation pursuant to Section 6.3.3.

4. Scheduling and Notice of Public Hearings

The PUD application shall be scheduled for public hearings before the Planning and Zoning Commission and Board of Trustees, and noticed pursuant to Section 6.3.4.

5. Planning and Zoning Commission and/or Board of Trustees Review and Decisions

a. Planning and Zoning Commission Review and Recommendation

The Planning and Zoning Commission shall review the PUD application and recommend approval, approval with conditions, or denial in accordance with Section 6.3.5 and the criteria in subsection c, below.⁶⁴³

b. Board of Trustees Review and Decision

The Board of Trustees shall review the PUD application and approve, approve with conditions, or deny the PUD pursuant to Section 6.3.5 and the criteria in subsection c, below.⁶⁴⁴

⁶⁴² New standards. This allows staff to work with applicant to explore other options such as special uses permits, variances, and/or administrative adjustments rather than automatically relying on a PUD.

⁶⁴³ Replaces 16-212(a). We did not carry forward the required P&Z public meeting and evaluation timeframe of 60 days from complete application. This provides some flexibility for both staff and the P&Z. The current code requires a public meeting, not a public hearing before the P&Z. This proposed draft requires a public hearing. Most communities require a public hearing for PUD approvals since it is effectively a rezoning effort.

⁶⁴⁴ Replaces 16-212(c). We did not carry forward the requirement to evaluate and act on the application within 30 days from receiving recommendation from the P&Z. Did not carry forward the remanding of the PUD to the P&Z for additional study and recommendation, and did not carry forward provision requiring staff to prepare a written resolution for consideration at the BOT's next regularly scheduled meeting.

c. PUD Approval Criteria⁶⁴⁵

In reviewing a proposed PUD and associated PUD concept plan, the Planning and Zoning Commission and Board of Trustees shall consider whether:

- i. The PUD meets the criteria for a general rezoning pursuant to Section 6.4.1.C.5.c;
- ii. The PUD is in general conformance with the Comprehensive Plan;⁶⁴⁶
- iii. The PUD does not include areas with incompatible land uses;⁶⁴⁷
- iv. The PUD addresses a unique situation, provides substantial benefit to the Town, or incorporates creative design, site layout, or configuration such that it achieves a higher quality than what could be accomplished through strict application of this UDC;
- v. The PUD provides adequate common open space in terms of location, area, and type or provides the fee-in-lieu for parks and/or open space.⁶⁴⁸
- vi. Exceptions for utilities, storm drainage, sewage collection and treatment and water supply and distribution are expressly prohibited;⁶⁴⁹
- vii. The PUD, if providing residential uses, includes varied housing types and densities;⁶⁵⁰ and
- viii. The PUD meets all applicable standards of this UDC not expressly modified in the PUD application.

6. Post-Decision Actions and Limitations

Post-decision actions and limitations for a general rezoning in Section 6.4.1.C.6 shall apply to PUD applications, including the following additions or modifications:

a. Effect of Approval⁶⁵¹

The approval of a PUD shall be inseparable from a PUD concept plan.

b. Expiration of a PUD

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

c. Recording Required

Following approval of a PUD, the applicant shall submit final copies of the PUD concept plan to the Town Administrator with applicable recording fee. The Town Administrator shall record the PUD concept plan and the zoning amendment map and ordinance with the Chaffee County Clerk and Recorder as soon as practicable. A list of approved PUDs and associated PUD concept plans shall be maintained by the Town Administrator.

⁶⁴⁵ Many of the PUD standards for approval in current 16-198 were not carried forward (such as internal circulation, parking, pedestrian circulation), and are replaced with the new provision (vii) which requires compliance with the UDC unless expressly modified by the PUD.

⁶⁴⁶ From 16-193, simplified.

⁶⁴⁷ From 16-196, revised for clarity.

⁶⁴⁸ From 16-198, revised for clarity and to remove statement that the PUD shall "strive for optimum preservation of the natural features of the terrain."

⁶⁴⁹ Carried forward this sentence from 16-195.

⁶⁵⁰ Replaces 16-198(5).

⁶⁵¹ From 16-194(b). Did not carry forward PUD's superseding underlying district regulations, since the proposed PUD zoning would replace the underlying zoning district, not act as an overlay.

d. Enforcement⁶⁵²

All provisions of an approved PUD concept plan run in favor of the residents, occupants, and owners of the PUD, but only to the extent expressly provided in the plan. The provisions, whether recorded by plat, easement, or otherwise, may be enforced by law or in equity by such residents, occupants, or owners acting individually, jointly or through an organization designated in the PUD concept plan to act on their behalf.

e. Modifications to an Existing PUD⁶⁵³

- i.** Except for minor amendments, an approved PUD may only be amended by submitting an amended PUD pursuant to Section 6.3.6.D.
- ii.** Minor amendments to an approved PUD may be approved by the Town Administrator if the proposed amendment complies with the following:
 - (a)** The amendment shall not change the overall character or intent of the development.
 - (b)** The amendment shall not change the ratio of residential units to square feet of non-residential area by more than 10 percent.
 - (c)** The amendment shall not change the allowed uses listed on the approved PUD concept plan, unless such use is unlisted in the UDC and the Town Administrator deems the use to be similar to another use type allowed in the PUD concept plan.
 - (d)** The number of residential units to be constructed shall not be increased by more than 10 percent.
 - (e)** The gross square feet of non-residential area shall not be increased by more than 10 percent.
 - (f)** The maximum allowable height of structures shall not be increased.
 - (g)** The setback distance to property lines shall not be reduced by more than 10 percent.
 - (h)** The number of required parking spaces shall not be reduced by more than 10 percent unless in accordance with an overall reduction in the required parking based on number of residential units or square feet of non-residential area.

f. Concurrent Subdivision Review⁶⁵⁴

- i.** Subdivision review required under Section 6.6 may be reviewed concurrently with PUDs. A preliminary plat for a PUD shall only be approved following approval of the rezoning to PUD with associated PUD concept plan.
- ii.** Each application for concurrent subdivision and PUD rezoning shall be reviewed and acted upon separately, based on the applicable standards and criteria in this UDC.

⁶⁵² From current 16-215(c), revised for clarity. Did not carry forward general enforcement provisions in 16-215(a) and (b) since that is covered in the general provisions of this UDC.

⁶⁵³ Mostly new amendment criteria, replacing those in current 16-215. These criteria are substantially more flexible than the criteria for insubstantial changes to a PUD in current 16-215(f), which limits most PUD changes to between one and three percent change.

⁶⁵⁴ New standards.

6.4.3. Unified Development Code Amendment⁶⁵⁵

A. Purpose

This section describes the review and approval procedures for amending the text of this UDC to respond to changes in public policy or changed conditions.

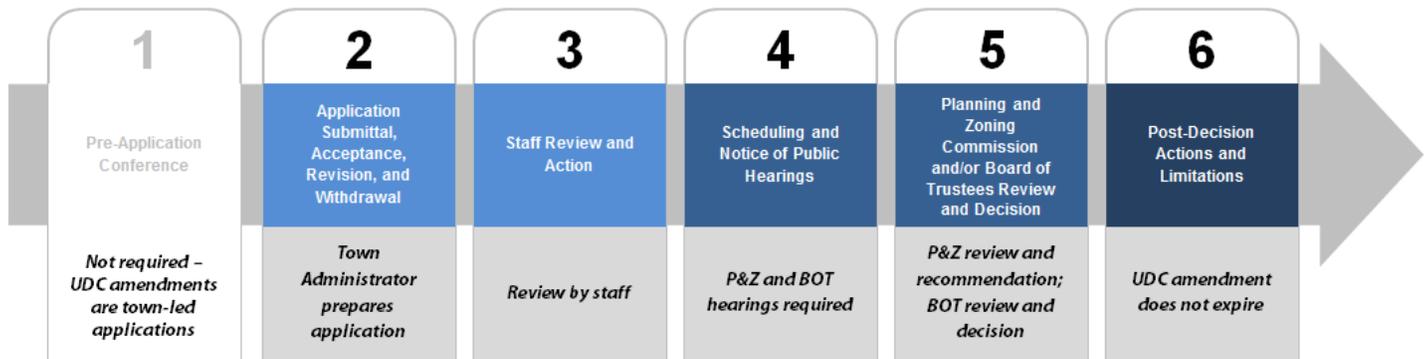
B. Applicability

Amendments to the UDC shall be initiated by the Town Administrator, the Planning and Zoning Commission, or the Board of Trustees.

C. Unified Development Code Amendment Procedure

Figure 6.D identifies the applicable steps from the common review procedures in Section 6.3 that apply to the review of UDC amendments. Additions or modifications to the common review procedures are noted below.

Figure 6.D: Summary of Unified Development Code Amendment Procedure



1. Application Submittal, Acceptance, Revisions, and Withdrawal

- a. The UDC amendment application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.
- b. An application for an amendment to the UDC shall be prepared by the Town Administrator. If the amendment is initiated by the Planning and Zoning Commission or the Board of Trustees, then the Town Administrator shall prepare the application at their request.

2. Staff Review and Action

Staff shall prepare a staff report and recommendation pursuant to Section 6.3.3.

3. Scheduling and Notice of Public Hearings

The UDC amendment application shall be scheduled for public hearings before the Planning and Zoning Commission and the Board of Trustees, and noticed pursuant to Section 6.3.4.

4. Planning and Zoning Commission and/or Board of Trustees Review and Decisions

a. Planning and Zoning Commission Review and Recommendation

The Planning and Zoning Commission shall review the UDC amendment application and recommend approval, approval with conditions, or denial pursuant to Section 6.3.5.

⁶⁵⁵ New procedure to describe the process for making legislative text amendments to the UDC.

b. Board of Trustees Review and Decision

The Board of Trustees shall review the UDC amendment application and approve, approve with conditions, or deny the amendment pursuant to Section 6.3.5. The Board of Trustees may also remand the application back to the Town Administrator or the Planning and Zoning Commission for further consideration. If the Board of Trustees revises the amendment or remands the application back to the Town Administrator or the Planning and Zoning Commission, additional public hearings may be required before final adoption.

c. UDC Amendment Approval Criteria

A UDC amendment is a legislative decision by the Board of Trustees. Prior to recommending approval or approving a proposed UDC amendment, the Planning and Zoning Commission and the Board of Trustees shall consider whether and to what extent the proposed amendment:

- i. Is consistent with the Comprehensive Plan;
- ii. Does not conflict with other provisions of the UDC or Town Code;
- iii. Is necessary to address a demonstrated community need;
- iv. Is necessary to respond to changing policy or conditions;
- v. Is consistent with the purpose and intent of the zoning districts in the UDC, would improve compatibility among land uses, or would result in an orderly and logical development pattern; and
- vi. Would not result in significantly adverse impacts to the natural environment, including air quality, water quality, wildlife, vegetation, and other natural features of the Town.

5. Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 6.3.6 shall apply with the following modifications:

- a. Approval of a UDC amendment authorizes the approved revision to the text. A UDC amendment does not authorize specific development activity.
- b. A UDC amendment shall remain valid until the revised text of the UDC is subsequently amended pursuant to this section.

Section 6.5 Development Permits**6.5.1. Site Plan Review****Commentary:**

This procedure is proposed to replace the current minor development, intermediate development, and major development procedures. While the ability to tailor the level of review based on the complexity and intensity of development projects is carried forward, the specific thresholds for review authority and the criteria for approval have been substantially modified into administrative (staff review) and major (Planning and Zoning Commission review) site plans.

The Assessment Memorandum recommended distinguishing subdivision procedures from other procedures. This reflects one of those instances, since the terms "minor," "intermediate," and "major" development often required subdivision and site plan approval.

New referral and call-up procedures are included in this draft, providing a process by which the Town Administrator can refer complex applications for Planning and Zoning Commission or Board of Trustees review, and conversely, the Board of Trustees can call up administrative or major site plans for review.

A. Purpose

The site plan review procedure provides a process to evaluate proposed development for compliance with the development and design standards of this UDC. The site plan review procedure ensures that the Town has the opportunity to mitigate potential impacts of proposed developments prior to issuance of a building permit.

B. Applicability

1. Exemptions

The following development is exempt from the site plan review procedure:

- a. A change in use that does not involve or require other development (such as additional parking or landscaping);
- b. Tenant improvements or interior remodels that do not increase gross floor area or building height, increase the density or intensity of the use, or affect development standards (such as parking or landscaping requirements); and
- c. Construction of single-family detached dwellings or two-family dwellings, additions to such dwellings, and structures accessory to such dwellings.⁶⁵⁶

2. Thresholds for Site Plan Review Type⁶⁵⁷

Table 6.3: *Site Plan Review Thresholds*, describes the applicable site plan review type (administrative and major).

Table 6.3: Site Plan Review Thresholds		
Type of Development	Administrative Site Plan (Town Administrator)	Major Site Plan Review (Planning and Zoning Commission)
Residential	10 or fewer dwelling units	More than 10 dwelling units
Nonresidential	Less than 10,000 square feet gross floor area	10,000 or more square feet gross floor area
Mixed-Use	10 or fewer dwelling units and less than 10,000 square feet of nonresidential gross floor area	More than 10 dwelling units or 10,000 or more square feet of nonresidential gross floor area

C. Procedures Applicable to All Site Plans

1. Application Submittal, Acceptance, Revisions, and Withdrawal

An applicant may request concurrent review of other land use applications such as a variance or special use permit by including such request in the application and by complying with the required public notice and hearing requirements. The applicant may also request that concurrent land use applications be held concurrently with any required public hearings for the minor or major site plan approval. Site plans shall meet the requirements of the Administrative Manual and shall be prepared by licensed professionals.

⁶⁵⁶ The Administrative Manual will include a requirement for a site survey for buildings that are within 5 feet of another building.

⁶⁵⁷ Site plan review thresholds developed to distinguish larger, more complex projects from minor projects. This proposed system replaces the current minor, intermediate, and major development plans as well as the triggers set forth in Section 18-26 for multifamily design review standards. Since Module 2, the threshold for administrative site plans was revised to include 10 dwelling units instead of “fewer than 10 dwelling units.”

2. Referral and Call-Up Procedures⁶⁵⁸

- a. The Town Administrator may refer administrative site plans to the Planning and Zoning Commission or to the Board of Trustees for a final decision at his or her discretion.
- b. The Town Administrator shall make available to the Board of Trustees a record of pending applications for administrative site plans and major site plans. If at least three members of the Board determine, in their discretion, that the Board of Trustees shall make the final decision on any such application, the Administrator shall place the application on a Board of Trustees regular meeting agenda for decision. Notice of such determination shall be made at the first regularly scheduled meeting after receiving notice of the submitted complete application.
- c. Any application referred to or called up to the Board of Trustees shall first require a public hearing before the Planning and Zoning Commission to provide a recommendation on the application and shall be noticed pursuant to Section 6.3.4.

3. Approval Criteria for Site Plans⁶⁵⁹

In reviewing the administrative or major site plan application, the applicable review body (Town Administrator, Planning and Zoning Commission, or Board of Trustees) shall consider whether:

- a. The site plan is consistent with the Comprehensive Plan and other adopted Town policies and plans;
- b. The site plan is consistent with any previously approved plan, planned unit development, and/or any other precedent land use approval; and
- c. The site plan complies with applicable standards in this UDC.

4. Post-Decision Actions and Limitations

a. No Building Permit without Approval

No building permit shall be issued until the administrative or major site plan has been approved.

b. Expiration of Approval

Site plan approvals shall expire if the authorized use or construction is not substantially underway within three years after the date of the administrative or major site plan approval, unless an extension is granted pursuant to Section 6.3.6.C.

c. Minor Modifications Allowed

The Town Administrator may approve minor changes to an approved site plan without requiring a new application, provided that the Administrator determines that the proposed changes:

- i. Comply with the standards of the UDC;
- ii. Are necessary to meet conditions of approval; or
- iii. Would not significantly alter the function, form, intensity, character, demand on public facilities, or impact on adjacent properties as approved with the administrative or major site plan.

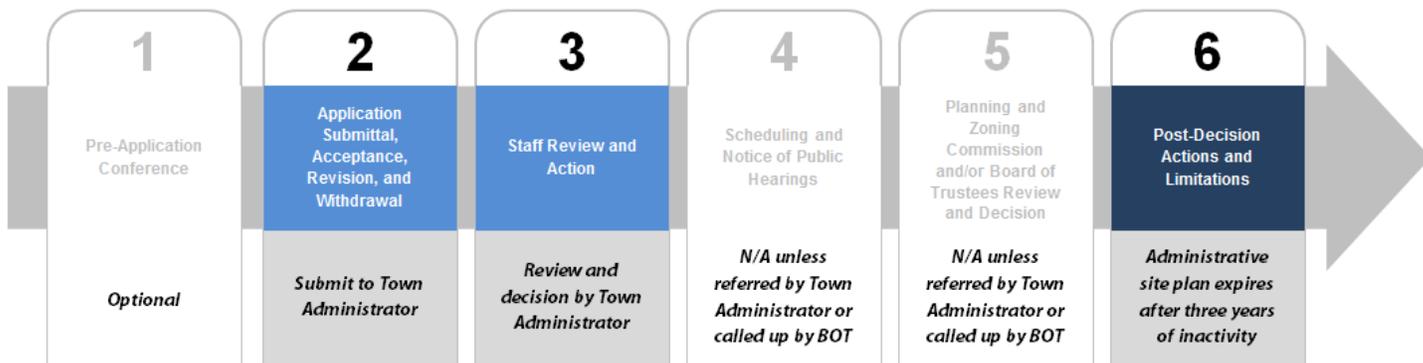
⁶⁵⁸ These are new procedures that allow staff to send complex, contentious, or otherwise unique site plans to the Planning and Zoning Commission and/or the Board of Trustees. The procedures also work the other way, allowing the Board of Trustees to call up administrative or major site plans. These procedures are still under consideration by the Town Attorney.

⁶⁵⁹ These criteria are new. The current criteria for minor, intermediate, and major developments

D. Administrative Site Plan Procedure

Figure 6.E identifies the applicable steps from the common review procedures in Section 6.3 that apply to the review of administrative site plan applications. Additions or modifications to the common review procedures are noted below.

Figure 6.E: Summary of Administrative Site Plan Procedure



1. Pre-Application Conference

An applicant may request an optional pre-application conference, held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

The administrative site plan application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.

3. Staff Review and Action

The Town Administrator shall review the administrative site plan application and distribute the application to other reviewers as deemed necessary. Based on the results of the internal review, the Town Administrator shall approve, approve with conditions, or deny the site plan, unless the application is referred to or called up to the Planning and Zoning Commission or the Board of Trustees.

E. Major Site Plan Procedure⁶⁶⁰

Figure 6.F identifies the applicable steps from the common review procedures in Section 6.3 that apply to the review of major site plan applications. Additions or modifications to the common review procedures are noted below.

⁶⁶⁰ This new procedure does not require a three-step process as currently required (sketch plan, preliminary plan, and final plan). The sketch plan procedure was relocated to subdivision procedures, and applies to major subdivisions. The current code uses development permits and subdivision procedures interchangeably, and this proposed draft distinguishes those procedures as recommended in the Assessment Memorandum.

Figure 6.F: Summary of Major Site Plan Procedure



1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

The major site plan application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.

3. Staff Review and Action

Staff shall review the major site plan application and prepare a staff report and recommendation pursuant to Section 6.3.3.

4. Scheduling and Notice of Public Hearings

The major site plan application shall be scheduled for public hearings before the Planning and Zoning Commission, and noticed pursuant to Section 6.3.4.

5. Planning and Zoning Commission and/or Board of Trustees Review and Decisions

a. Planning and Zoning Commission Review and Recommendation

- i. The Planning and Zoning Commission shall review the major site plan application and approve, approve with conditions, or deny the major site plan in accordance with Section 6.3.5 and the criteria in Section 6.5.1.C.3.
- ii. If the application is either referred to or called up to the Board of Trustees, then the Planning and Zoning Commission shall provide a recommendation of approval, approval with conditions, or denial of the major site plan to the Board of Trustees.

b. Board of Trustees Review and Decision

If the major site plan is referred to or called up to the Board of Trustees, then the Board of Trustees shall review the major site plan application and approve, approve with conditions, or deny the major site plan pursuant to Section 6.3.5 and the criteria in Section 6.5.1.C.3.

6.5.2. Special Use Permit⁶⁶¹

A. Purpose

The special use permit procedure provides a process for the Town to evaluate proposed development and land uses that have unique or widely varying operating characteristics or unusual site development features to ensure compatibility with surrounding areas. This procedure is intended to identify potential impacts of such uses and ensure adequate mitigation is provided.

B. Applicability

The special use permit procedure shall apply to land uses as specified in Table 3.1, *Table of Allowed Uses*.

C. Special Use Permit Procedure

Figure 6.G identifies the applicable steps from the common review procedures in Section 6.3 that apply to the review of special use permit applications. Additions or modifications to the common review procedures are noted below.

Figure 6.G: Summary of Special Use Permit Procedure



1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

The special use permit application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.

3. Staff Review and Action

Staff shall review the application and prepare a staff report and recommendation pursuant to Section 6.3.3.

4. Scheduling and Notice of Public Hearings⁶⁶²

The special use permit application shall be scheduled for a public hearing before the Planning and Zoning Commission, and noticed pursuant to Section 6.3.4.

⁶⁶¹ These procedures replace those from current 16-61.

⁶⁶² Did not carry forward 16-6(b), which required 15 days for newspaper, 10 days for posting, 10 days for letter mailings, and 5 days for hand-delivered letters.

5. Planning and Zoning Commission Review and Decision

a. Special Use Permit Review and Decision

The Planning and Zoning Commission shall review the special use permit application and approve, approve with conditions, or deny the special use permit pursuant to Section 6.3.5 and the criteria in subsection b, below.

b. Special Use Permit Approval Criteria⁶⁶³

- i.** In reviewing a proposed special use, the Planning and Zoning Commission shall consider whether:
 - (a)** The proposed use is consistent with the Comprehensive Plan and the purposes of this UDC;
 - (b)** The proposed use complies with applicable use-specific standards in Section 3.2;
 - (c)** The proposed use complies with all other standards in this UDC;
 - (d)** The proposed use is consistent with the purpose statement of the underlying zoning district;
 - (e)** Impacts of the use on the surrounding neighborhood have been adequately minimized; and⁶⁶⁴
 - (f)** The proposed use adversely impacts the public health, safety, and welfare of the Town of Buena Vista.⁶⁶⁵

6. Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 6.3.6 shall apply with the following additions or modifications:

a. Expiration of a Special Use Permit⁶⁶⁶

- i.** Unless substantially acted upon (demonstrated by use of the property, construction, or measurable development activity) within three years following the date of approval, a special use permit shall expire.
- ii.** The Town Administrator may grant one extension of the expiration period. Such extension shall require a written request and shall not exceed one year.

b. Expansion or Enlargement

Any expansion or enlargement of a special use shall require a new application. Expansions or enlargements may be approved by the Town Administrator provided that:

- i.** The expansion or enlargement is not expected to increase potential negative impacts to surrounding property or the Town; and
- ii.** The expansion or enlargement will not require adjustments to any standards greater than allowed through the administrative adjustment procedures in Section 6.7.1.

⁶⁶³ Replaces the criteria from current 16-61(f).

⁶⁶⁴ From 16-61(f)(8), revised for clarity.

⁶⁶⁵ From 16-61(f), revised for clarity.

⁶⁶⁶ From 16-61(g), revised from one year to three years.

c. Transfer of Special Use Permit⁶⁶⁷

A special use permit may be transferred to another person to operate the same use, in the same building(s), on the same property, and under the same terms of the permit. Such transfer shall require approval of a written request to the Town Administrator.

6.5.3. Temporary Use Permit⁶⁶⁸**A. Purpose**

The temporary use permit procedure provides a process to evaluate proposals for uses and/or structures of limited duration to ensure compliance with the applicable standards of this UDC.

B. Applicability**1. General Applicability**

A temporary use permit is required before establishing, constructing, or installing any temporary use or structure as specified in Table 3.1, *Table of Allowed Uses* or in Section 3.4, *Temporary Uses and Structures*.

2. Exemptions⁶⁶⁹

The following temporary uses or structures are exempt from this section:

- a. Construction project offices or trailers erected pursuant to an approved construction project, not to exceed two months following issuance of a certificate of occupancy;
- b. Display booths, gazebos, vending carts, or similar structures or devices erected pursuant to a permit authorizing the use of publicly owned property for a festival, carnival, nonprofit fundraiser, or other civic or entertainment event;
- c. Nonprofit fundraising events such as church bazaars, farmers markets, seasonal festivals, or substantially similar events in residential zone districts, inclusive of the use of tents, gazebos, carts, and similar temporary structures. (These types of uses and structures may require a special event permit);
- d. The use of party tents for weddings or similar private functions on private property in any zoning district for not more than 72 hours; and
- e. Nonrecurring garage, yard, or estate sales in residential zoning districts; however, the holding of four or more garage, yard, or estate sales, or any combination thereof, at the same location or property in a residential zoning district in any one calendar year shall be deemed the operation of a business and shall be governed under the home occupation regulations in Section 3.3.4.B.

C. Temporary Use Permit Procedure

Figure 6.H identifies the applicable steps from the common review procedures in Section 6.3 that apply to the review of special use permit applications. Additions or modifications to the common review procedures are noted below.

⁶⁶⁷ New standard to establish effect of a special use permit upon transfer of ownership or tenant. Current section 16-61(b) states that special use permits "may or may not run with the land," which we clarified with a discreet approval process in this proposed provision.

⁶⁶⁸ This procedure replaces the current 16-63, with some provisions carried forward as noted.

⁶⁶⁹ From 16-63(1), revised for clarity.

Figure 6.H: Summary of Temporary Use Permit Procedure



1. Pre-Application Conference

An applicant may request an optional pre-application conference, held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

The temporary use permit application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2. A temporary use permit application shall be submitted at least 30 days prior to the event to allow for any potential appeals to the Board of Trustees.

3. Staff Review and Action

a. Posting Requirement⁶⁷⁰

- i. For proposed temporary uses that will have a duration of 72 hours or more, the Town Administrator shall require the applicant to post notice on the subject property for at least two days stating that an application for a temporary use permit is under review.
- ii. The required posting shall describe the proposed use and/or structure, and inform interested parties that comments related to the use and/or structure shall be submitted in writing to the Town Administrator by a date certain, no later than two business days prior to issuance of a decision.

b. Review and Decision⁶⁷¹

- i. The Town Administrator shall review the temporary use permit application and distribute the application to other reviewers as deemed necessary.
- ii. If no timely objections are received pursuant to paragraph a above, then the Town Administrator shall approve, approve with conditions, or deny the temporary use permit based on the approval criteria in paragraph c below.
- iii. If a timely objection is received pursuant to paragraph a above, then the Town Administrator shall refer the temporary use permit application to the Planning and Zoning Commission for review and decision at a public hearing pursuant to the

⁶⁷⁰ From 16-63(6), revised substantially for clarity. We did not carry forward requirement for mailing notice for a temporary use permit. Posting on the subject property should be sufficient.

⁶⁷¹ The current code requires a public hearing before the Board of Trustees. This draft proposes that the Planning and Zoning Commission hear any temporary use permit applications (over 72-hour duration) only if there are objections following the posted notice.

scheduling and notice requirements in Section 6.3.4, and pursuant to the approval criteria in paragraph c below.

c. Temporary Use Permit Approval Criteria⁶⁷²

A temporary use permit shall be approved if the Town Administrator or Planning and Zoning Commission determine that the proposed use or structure:

- i.** Is consistent with the Comprehensive Plan;
- ii.** Complies with the applicable temporary uses and structures standards in Section 3.4;
- iii.** Complies with all other applicable standards in this UDC;
- iv.** Complies with all requirements and conditions of approval for any prior development permits or approvals;
- v.** Is compatible with the character, density, and use of structures and uses in the surrounding neighborhood; and⁶⁷³
- vi.** Impacts associated with access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, and odor have been adequately mitigated.⁶⁷⁴

4. Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 6.3.6 shall apply with the following additions or modifications:

a. Effect of Approval

A temporary use permit authorizes establishment, construction, or installation of the approved temporary use or structure pursuant to the terms and conditions of the permit.

b. Expiration of Approval⁶⁷⁵

- i.** A temporary use permit shall be valid for the time period indicated on the permit. In no case shall a temporary use permit be valid for more than 180 days.
- ii.** An extension of a temporary use permit, including an extension beyond the 180-day limitation, may be granted by the Town Administrator with a written request to the Town Administrator. Only one extension for a temporary use permit shall be granted. The Town Administrator shall review a request for an extension using the approval criteria in 6.5.3.C.3.c.

Section 6.6 Subdivision

Commentary:

This section includes the subdivision approval procedures previously located in the 2010 Development Code. One of the advantages of this UDC is that both subdivision and other development procedures are treated similarly, both referencing back to the common review procedures without repeating information.

Several procedures were modified and/or consolidated. For example, resubdivisions (including corrections and boundary adjustments) are now included in a new "minor subdivision" procedure that allows for administrative review of these types of applications. For applications that are larger and more complex, they will follow the sketch plan/preliminary plat/final plat procedure currently required for intermediate and major developments. The sketch plan was revised to eliminate official action by the Town. Instead, the Planning and Zoning Commission will provide advisory recommendations prior to an applicant's preparation of a preliminary plat application. The Planning and Zoning Commission is proposed as the final

⁶⁷² New criteria, and some carried forward from 16-63(8) as noted.

⁶⁷³ From 16-63(8)b.

⁶⁷⁴ From 16-63(8)c, d, e, and f.

⁶⁷⁵ From 16-63(10), revised for clarity.

approval authority for preliminary plats, and final plats are proposed for staff approval, since they simply check compliance with the preliminary plat and other UDC standards.

6.6.1. Minor Subdivision⁶⁷⁶

A. Purpose

The minor subdivision procedure provides a process to evaluate proposed subdivisions that will create few lots or will involve minor adjustments to approved final plats. The minor subdivision procedures also provide a mechanism for addressing plat errors and apply minor adjustments to lot boundaries when necessary.

B. Applicability

The minor subdivision procedure shall apply to:

1. Subdivisions creating fewer than 10 lots; or
2. Consolidation of two or more lots into fewer lots on an approved final plat; or
3. Lot line or boundary adjustments to an approved final plat; or
4. Correction of errors on an approved final plat.

C. Minor Subdivision Procedure

Figure 6.I identifies the applicable steps from the common review procedures in Section 6.3 that apply to the review of minor subdivision applications. Additions or modifications to the common review procedures are noted below.

Figure 6.I: Summary of Minor Subdivision Procedure



1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

The minor subdivision application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.

⁶⁷⁶ These new procedures include correction plats, boundary adjustments, and other minor changes currently processed using the resubdivision procedure in 17-66. This minor subdivision procedure also captures new subdivisions with fewer than six lots – aligning with the new site plan review procedures for administrative site plans. Because the current code uses the terms “development” and “subdivision” interchangeably, we have clarified the procedures by dividing minor developments into minor subdivisions and administrative (staff) or major site plan (P&Z) review.

3. Staff Review and Action

a. Public Notice⁶⁷⁷

- i. When an application for a minor subdivision is deemed complete, the Town Administrator shall notify all property owners within 300 feet of the subject parcel(s) via first class mail. Such notice shall indicate that comments will be accepted for a period of 10 days following the date of the notice.
- ii. The Town Administrator shall not take official action on the minor subdivision application until the 10-day comment period has lapsed.

b. Review and Decision

- i. Any minor subdivision application requiring the dedication of public improvements to the Town, or requiring a public improvements agreement, shall be forwarded to the Board of Trustees for consideration of the public improvements agreement and/or dedication prior to the Town Administrator taking action on the minor subdivision.
- ii. The Town Administrator may refer a minor subdivision application for a proposed subdivision creating fewer than 10 lots to the Planning and Zoning Commission or to the Board of Trustees for a final decision at his or her discretion.
- iii. Any application referred to the Board of Trustees shall first require a public hearing before the Planning and Zoning Commission to provide a recommendation on the application and shall be noticed pursuant to Section 6.3.4.
- iv. Once paragraphs i through iii above have been satisfied, if applicable, the Town Administrator shall review the minor subdivision application and any public comments received and shall approve, approve with conditions, or deny the minor subdivision based on the criteria in paragraph b below.

c. Minor Subdivision Approval Criteria

A minor subdivision shall be approved if the Town Administrator determines that the proposed minor subdivision:

- i. Is consistent with the intent of the underlying zoning district;
- ii. Complies with applicable dimensional, development, and design standards in this UDC;
- iii. Does not affect a recorded easement without approval from the easement holder; and
- iv. Will not limit the Town's ability to provide adequate and sufficient facilities or services.

4. Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 6.3.6 shall apply. Additionally, minor subdivisions shall be recorded with the Chaffee County Clerk and Recorder as soon as practicable following approval by the Town Administrator.

⁶⁷⁷ New since Module 2.

6.6.2. Sketch Plan⁶⁷⁸

A. Purpose

The sketch plan procedure provides a process for preliminary evaluation of a proposed development prior to committing considerable resources toward engineering, design, and construction drawings. The sketch plan procedure results in early identification of potential impacts and solutions, without any official approval and/or denial from the Town.

B. Applicability

The sketch plan procedure is required for any new subdivision that does not meet the eligibility criteria for a minor subdivision pursuant to 0. Review through the sketch plan procedure is required prior to submitting an application for preliminary plat approval. The sketch plan procedure is optional for all other subdivision applications.

C. Sketch Plan Procedure

Figure 6.J identifies the applicable steps from the common review procedures in Section 6.3 that apply to the sketch plan procedure. Additions or modifications to the common review procedures are noted below.

Figure 6.J: Summary of Sketch Plan Procedure



1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

The sketch plan application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.

3. Staff Review and Action

Staff shall review the sketch plan application and prepare a staff report and recommendation pursuant to Section 6.3.3.

⁶⁷⁸ This procedure was revised substantially to provide clarity on the process and to require a hearing with the Planning and Zoning Commission. The Board of Trustees is currently included in sketch plan review through a joint meeting with the Planning and Zoning Commission. The Board of Trustees review was not carried forward. The procedure was also revised to eliminate any official action by the Town, which shall be reserved until preliminary platting.

4. Scheduling and Notice of Public Hearings

The sketch plan application shall be scheduled for a public hearing before the Planning and Zoning Commission, and noticed pursuant to Section 6.3.4.

5. Planning and Zoning Commission Review and Recommendation

a. Review and Recommendation

The Planning and Zoning Commission shall review the sketch plan application and make recommendations according to the criteria in subsection b, below. The recommendations shall be considered by the applicant while preparing an application for a preliminary plat.

b. Sketch Plan Review Criteria

The Planning and Zoning Commission shall evaluate the sketch plan application to determine whether the proposed subdivision:

- i.** Complies with applicable use, density, development, and design standards of this UDC;
- ii.** Provides lots, roads, driveways, utilities, drainage facilities, and other services are designed to minimize the amount of land disturbance, maximize connectivity, maximize the amount of open space, and preserve sensitive areas;
- iii.** Provides adequate mitigation to areas in natural hazard areas and that proposed uses of these areas are compatible with such conditions;
- iv.** Provides evidence of public water and sewer system connections;
- v.** Provides open space in accordance with Town requirements;
- vi.** Provides a clear assumption of responsibility for maintaining roads, open spaces, and other public and common facilities in the subdivision; and
- vii.** If applicable, provides a rational phasing plan for phased development as it relates to infrastructure capacity.

6. Post-Decision Actions and Limitations⁶⁷⁹

The applicant shall submit an application for a preliminary plat within one year of sketch plan review by the Planning and Zoning Commission. The preliminary plat application shall be substantially similar in configuration and shall not include lots outside of the area indicated during sketch plan review; otherwise, the applicant shall resubmit a sketch plan application pursuant to Section 6.6.2.C.

6.6.3. Preliminary Plat⁶⁸⁰

A. Purpose

The preliminary plat procedure provides a process for the Town to review an overall plan for a proposed subdivision to ensure compliance with this UDC and the Comprehensive Plan.

B. Applicability

A preliminary plat is required when one or more of the following conditions exist:

⁶⁷⁹ The current code Section 17-30(d)1 requires resubmittal of a sketch plan if a preliminary plan has not been submitted within 120 days after approval. This one year expiration offers greater flexibility.

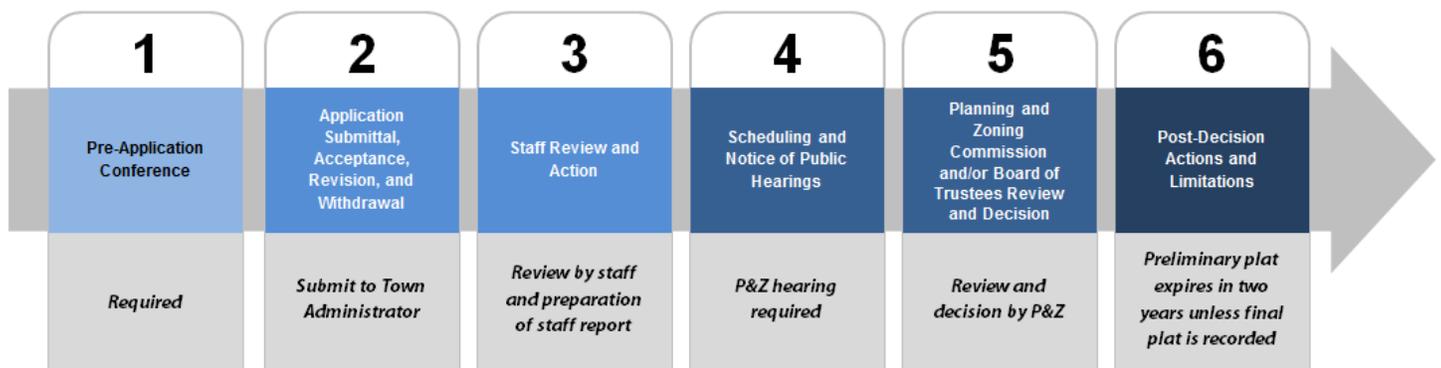
⁶⁸⁰ After review of the other procedures, and division of the site plan review procedures, it seemed logical to require P&Z review and approval for preliminary plats, which would only apply to major developments. The final plat can be processed by staff since that is mostly checking for compliance with the preliminary plat.

1. The proposed subdivision will produce 10 or more lots;
2. The proposed subdivision will include the dedication of public right-of-way, other public tracts, or public improvements not determined to be eligible for minor subdivision processing; or
3. The proposed subdivision is not eligible to be processed as a minor subdivision, pursuant to Section 6.6.1.B.

C. Preliminary Plat Procedure

Figure 6.K identifies the applicable steps from the common review procedures in Section 6.3 that apply to the preliminary plat procedure. Additions or modifications to the common review procedures are noted below.

Figure 6.K: Summary of Preliminary Plat Procedure



1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

The preliminary plat application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2. An application for a preliminary plat may be submitted concurrently with a sketch plan with approval of a written request to the Town Administrator.

3. Staff Review and Action

Staff shall review the preliminary plat application and prepare a staff report and recommendation pursuant to Section 6.3.3.

4. Scheduling and Notice of Public Hearings⁶⁸¹

The preliminary plat application shall be scheduled for a public hearing before the Planning and Zoning Commission, and noticed pursuant to Section 6.3.4.

⁶⁸¹ Current code 17-30(d)3(a) states that public notice is not required for P&Z review of the preliminary plan. Because the P&Z is recommended to be the final decision authority, public notice is required for their public hearing.

5. Planning and Zoning Commission Review and Decision⁶⁸²

a. Preliminary Plat Review

The Planning and Zoning Commission shall review the preliminary plat application pursuant to Section 6.3.5 and the criteria below and shall approve, approve with conditions, or deny the preliminary plat. The Planning and Zoning Commission may also remand the preliminary plat back to the Town Administrator for further consideration.

b. Conditions of Approval

If the preliminary plat is approved with conditions, such conditions shall be met prior to approval of a final plat.

c. Preliminary Plat Approval Criteria⁶⁸³

The Planning and Zoning Commission may approve a preliminary plat if it is determined that the subdivision:

- i. Is consistent with the Comprehensive Plan;
- ii. Complies with the underlying zoning district standards;
- iii. Complies with the use, dimensional, design, and other development standards in this UDC;
- iv. Provides lots, roads, driveways, utilities, drainage facilities, and other services are designed to minimize the amount of land disturbance, maximize connectivity, maximize the amount of open space, and preserve sensitive areas;
- v. Provides adequate mitigation to areas in natural hazard areas and that proposed uses of these areas are compatible with such conditions;
- vi. Provides evidence of public water and sewer system connections;
- vii. Provides open space in accordance with Town requirements.
- viii. Provides a clear assumption of responsibility for maintaining roads, open spaces, and other public and common facilities in the subdivision; and
- ix. If applicable, provides a rational phasing plan for phased development as it relates to infrastructure capacity. The phasing plan, if applicable, shall be included with application submittal.⁶⁸⁴

6. Post-Decision Actions and Limitations⁶⁸⁵

Post-decision actions and limitations in Section 6.3.6 shall apply with the following additions or modifications:

- a. A preliminary plat shall expire three years from the date of approval if a final plat has not been recorded at that time.
- b. The Planning and Zoning Commission may extend the expiration time period once, for a period up to 12 months. Such extension shall require written request to the Town Administrator, who shall forward the request and a recommendation to the Planning and Zoning Commission for action at any regular or special meeting.

⁶⁸² Currently approved by the Board of Trustees.

⁶⁸³ New criteria for approval, substantially expanded from current 17-30(d)4.

⁶⁸⁴ This simple provision replaces 17-30(e)7, which requires strict adherence to phasing requirements such as each phase containing 25 percent of the lots.

⁶⁸⁵ The current effective period is one year from the date that the preliminary plan is approved. This two year period offers greater flexibility.

6.6.4. Final Plat

A. Purpose

The final plat procedure completes the subdivision process and ensures compliance with the approved preliminary plat and all applicable standards in this UDC.

B. Applicability

The final plat procedure applies to all subdivisions in the Town of Buena Vista unless otherwise stated in this UDC.

C. Final Plat Procedure

Figure 6.L identifies the applicable steps from the common review procedures in Section 6.3 that apply to the final plat procedure. Additions or modifications to the common review procedures are noted below.

Figure 6.L: Summary of Final Plat Procedure



1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

The final plat application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2. In addition:

- a. All sanitary sewer design plans shall be approved by the Buena Vista Sanitation District prior to submittal of a final plat application.
- b. The final plat application shall be submitted within three years of preliminary plat approval.
- c. The final plat may reflect the entire preliminary plat or any part if phasing.
- d. A final plat application may be submitted concurrently with a preliminary plat application with approval of a written request to the Town Administrator.

3. Staff Review and Action⁶⁸⁶

a. Town Administrator Review and Decision

The Town Administrator shall review the application and shall approve, approve with conditions, or deny the final plat based on the criteria below.

b. Final Plat Approval Criteria

The Town Administrator shall approve a final plat that complies with the following criteria:

- i. The final plat conforms to the preliminary plat, including any conditions of approval;
- ii. The development will comply with all requirements of this UDC; and
- iii. The development will comply with the applicable technical standards and specifications adopted by the Town.

4. Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 6.3.6 shall apply with the following additions or modifications:

a. Signing and Recordation⁶⁸⁷

- i. Following final plat approval, the plat shall be signed by the Town Administrator and acknowledged by the Town Clerk. Approval of the final plat shall include and constitute acceptance of all proposed dedications contained in the plat by the Town of Buena Vista.
- ii. The final plat shall be recorded with the Chaffee County Clerk and Recorder as soon as practicable following approval, subject to any conditions of approval, which shall be satisfied prior to recordation.
- iii. No person shall sell, transfer, convey, lease or rent, or negotiate the same, any lot or other property within the development until the plat has been recorded.
- iv. The Town Clerk shall also record the public improvements agreement and any agreement for dedications, if applicable, together with legal documents as may be required to be recorded by the Town Attorney.⁶⁸⁸
- v. The applicant shall bear the cost of all recordation fees.

b. Public Improvements⁶⁸⁹

- i. The construction of public improvements to be installed as part of a subdivision shall be secured by cash escrow, irrevocable letter of credit, or other security instrument as approved by the Town, and shall be identified in a public improvements agreement pursuant to Section 5.4, *Public Improvements Agreements*, executed by the applicant and the Town as a condition of approval.
- ii. All public improvements shall be subject to warranty after construction and acceptance. No building permit shall be submitted or reviewed by the Town for any development prior to approval of final construction plans for all development

⁶⁸⁶ Final plats are currently approved by the Board of Trustees following recommendation from the Planning and Zoning Commission. This change to staff review and decision is recommended based on the final plat simply checking for compliance with the UDC and the preliminary plat.

⁶⁸⁷ From 17-30(e)6(a), revised for clarity.

⁶⁸⁸ From 17-30(e)6(c), revised for clarity.

⁶⁸⁹ From 17-30(e)5, divided into separate provisions and revised for clarity.

infrastructure and improvements as required by the terms and conditions of the development approval and/or the terms of this UDC.

- iii. No certificate of occupancy shall be issued prior to the complete and satisfactory installation of all development infrastructure and improvements necessary to serve any lot for which a building permit has been sought. Required water and sewer improvements shall be installed prior to issuance of a building permit and according to the terms of the public improvements agreement.
- iv. All costs reasonably incurred by the Town in reviewing and approving final construction plans, inclusive of engineering and legal fees, shall be paid by the applicant.

6.6.5. Condominiumization

A. Purpose

The condominium procedure provides a process by which the Town reviews creation of condominium subdivisions and conversions and evaluates them for compliance with this UDC and other Town codes.

B. Applicability⁶⁹⁰

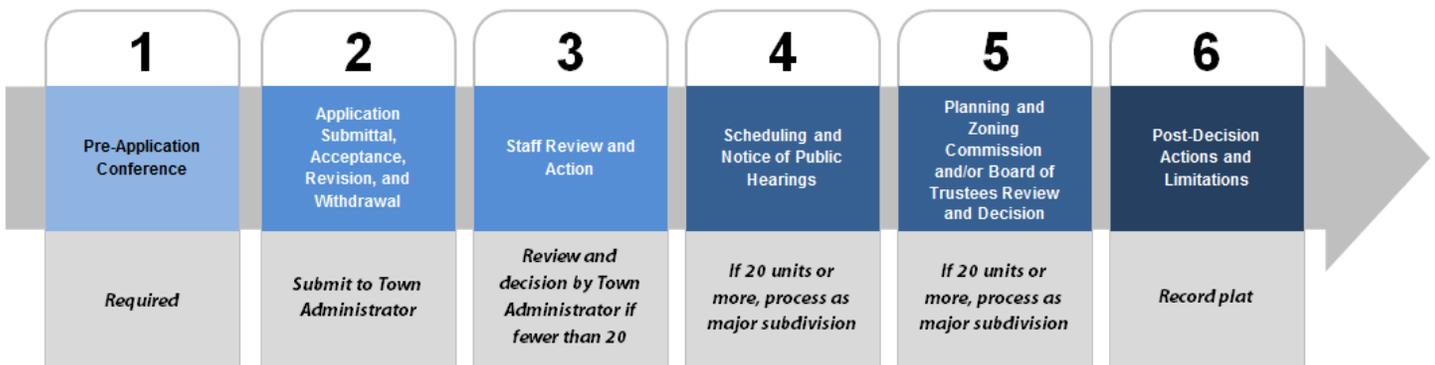
The applicable review procedure shall be determined by the number of condominium units created, as follows:

1. Developments with fewer than 20 condominium units shall be processed as a minor subdivision pursuant to Section 6.6.1.
2. Developments with 20 or more condominium units shall not be eligible for the minor subdivision procedure and shall prepare a sketch plan, preliminary plat, and final plat.

C. Condominiumization Procedure

Figure 6.M identifies the applicable steps from the common review procedures in Section 6.3 that apply to the condominiumization procedure. Additions or modifications to the common review procedures are noted below.

Figure 6.M: Summary of Condominium Procedure



⁶⁹⁰ From 17-26(e)1(b) and (c), revised for clarity. Did not carry forward requirement for a public hearing for condominium developments with fewer than 20 units.

1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

The condominiumization application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2. The application shall either be processed as a minor subdivision or shall follow the procedures for a sketch plan (Section 6.6.2), preliminary plat (Section 6.6.3), and final plat (Section 6.6.4) procedures.

3. Condominiumization of Fewer than 20 Units

a. Review and Decision

The Town Administrator shall review the condominiumization in accordance to the common review procedures in Section 6.3 and the procedures for minor subdivisions in Section 6.6.1.C.

b. Condominiumization Approval Criteria

A condominiumization shall be approved if the Town Administrator determines that the proposed condominiumization meets the approval criteria for minor subdivision in Section 6.6.1.C.3.c, and the applicant has provided adequate documentation for compliance with the standards and terms of the Condominium Ownership Act and the Colorado Common Interest Ownership Act, C.R.S. § 38-33-101, et seq., as may be amended.⁶⁹¹

4. Condominiumization of 20 or More Units

Condominiumization applications for developments with 20 or more units shall be processed using the sketch plan (Section 6.6.2), preliminary plat (Section 6.6.3), and final plat (Section 6.6.4) procedures.

5. Condominiumization Conversions⁶⁹²

An applicant proposing to condominiumize an existing building is exempt from these procedures with the following exceptions:

- a.** The applicant shall submit a condominium conversion inspection report to the Building Official describing the structural condition of the building, the proposed condominium units, and their compliance with all building and fire safety codes.
- b.** The applicant shall make the building and all proposed condominium units available for inspection by the Building Official if the Building Official deems such inspection necessary to evaluate compliance of the building and/or units with building and fire safety codes. The cost of such inspections shall be borne by the applicant.
- c.** The conversion of an existing structure to multiple ownership interests shall not be permitted if the use of the structure is nonconforming pursuant to Section 1.5.2.
- d.** The applicant shall comply with the post-decision actions and limitations below.

⁶⁹¹ From 17-26(e)2(c).

⁶⁹² From 17-26(e)3, revised for clarity.

6. Post-Decision Actions and Limitations⁶⁹³

Post-decision actions and limitations in Section 6.3.6 shall apply. Additionally, after buildings have been constructed and final as-built surveys have been completed, the applicant shall submit an amended condominium plat showing graphically and dimensionally the subdivision of buildings into volumetric spaces and the relationship of these spaces with the boundaries of the site and other appurtenances on the site.

6.6.6. Vacation of Right-of-Way or Easement⁶⁹⁴

A. Purpose

The vacation of right-of-way or easement procedure provides a process for vacating rights, interests, or title of the Town in and to any right-of-way or easement dedicated to the Town located in the Town of Buena Vista. Title to vacated roadways shall be in accordance with Colorado law.

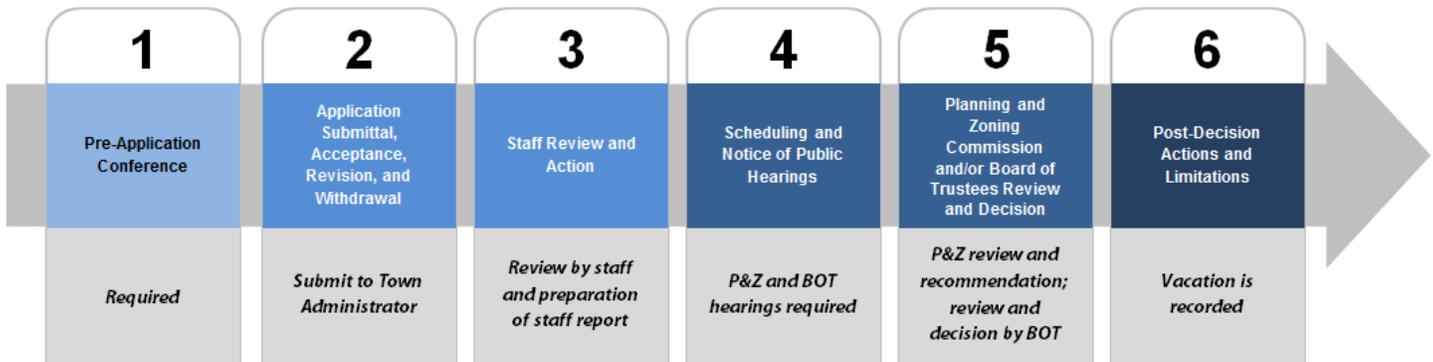
B. Applicability

This procedure applies to any request to vacate rights, interests, or title of right-of-way or an easement vested in the Town.

C. Vacation of Right-of-Way or Easement Procedure

Figure 6.N identifies the applicable steps from the common review procedures in Section 6.3 that apply to the vacation of right-of-way or easement procedure. Additions or modifications to the common review procedures are noted below.

Figure 6.N: Summary of Vacation of Right-of-Way or Easement Procedure



1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

⁶⁹³ From 17-26(e)2(e), simplified.

⁶⁹⁴ This is a new procedure that replaces the current plat vacation procedure from 17-67. The current procedure focuses on vacating entire plats and/or subdivisions or portions thereof. This new procedure is related to only the rights-of-way or easements on final plats as necessary for future development. Eliminating or consolidating lots in existing subdivisions would now be considered minor subdivisions or would follow the platting process using the sketch plan, preliminary plat, and final plat process.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

The vacation of right-of-way or easement application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2. Applications shall include a scaled survey from a Colorado registered surveyor or engineer that indicates the rights-of-way and adjacent properties subject to the vacation or easement.

3. Staff Review and Action

- a.** For vacation of easements, staff and utility providers shall review and approve, approve with conditions, or deny the application according to the approval criteria in Section 6.6.6.C.6.
- b.** For vacation of right-of-way, staff shall review the application and prepare a staff report and recommendation pursuant to Section 6.3.3.

4. Scheduling and Notice of Public Hearings

The vacation of right-of-way application shall be scheduled for public hearings before the Planning and Zoning Commission and Board of Trustees, and noticed pursuant to Section 6.3.4.

5. Planning and Zoning Commission and/or Board of Trustees Review and Decisions

a. Planning and Zoning Commission Review and Recommendation

The Planning and Zoning Commission shall review the vacation of right-of-way application and recommend approval, approval with conditions, or denial in accordance with Section 6.3.5 and the criteria in subsection 6, below.

b. Board of Trustees Review and Decision

The Board of Trustees shall review the vacation of right-of-way application and approve, approve with conditions, or deny the rezoning pursuant to Section 6.3.5 and the criteria in subsection 6, below. The Board of Trustees may also remand the vacation back to the Planning and Zoning Commission or Town Administrator for further consideration.

6. Vacation of Right-of-Way or Easement Approval Criteria

The Board of Trustees may approve a vacation of right-of-way, and staff may approve a vacation of easement, if determined that the vacation:

- a.** Is consistent with the Comprehensive Plan;
- b.** Will comply with the underlying zoning district; and
- c.** Will comply with the use, dimensional, design, and other development standards in this UDC.

7. Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 6.3.6 shall apply with the following additions or modifications:

- a.** The revised plat or ordinance showing the vacation of right-of-way or resolution for an easement shall be signed by the Town Administrator, the Planning and Zoning Commission and Board of Trustees, if applicable, and acknowledged by the Town Clerk.
- b.** The revised plat or ordinance showing the vacation of right-of-way or resolution for an easement shall be recorded with the Chaffee County Clerk and Recorder as soon as

practicable following approval, subject to any conditions of approval, which shall be satisfied prior to recordation.

Section 6.7 Adjustments, Vesting, and Appeals

6.7.1. Administrative Adjustment⁶⁹⁵

Commentary:

As recommended in the Assessment Memorandum, this new procedure gives staff greater flexibility to allow for deviations and/or modifications to numeric standards in the UDC. The intent is that such deviations will be used with discretion, and only when justified by special circumstances. The allowable administrative adjustments table is our initial proposal for the types and to what extent current standards in the UDC may be adjusted by staff.

A. Purpose

The administrative adjustment procedure provides a process for evaluating minor modifications or deviations from the dimensional or numeric standards of this UDC that may be permitted by the Town Administrator. The intent is to allow for greater flexibility when necessary without requiring a formal zoning amendment, UDC amendment, or variance. The administrative adjustment procedure is not intended to serve as a waiver of UDC standards or to circumvent the variance procedure.

B. Applicability

1. Generally

- a. The Town Administrator may approve an adjustment to any numeric dimensional, development standard in Articles 16.02 or 16.04, or adjustment to any numerical design standard in Article 16.04, up to a maximum of 20 percent.
- b. The administrative adjustment procedure shall not apply to any proposed modification that results in:
 - i. An increase in the overall project density;
 - ii. A change in allowable uses or mix of uses;
 - iii. A deviation from the use-specific standards in Section 3.2;
 - iv. A change to a development standard already modified through a separate administrative adjustment or variance; or
 - v. Requirements for public roadways, utilities, or other public infrastructure or facilities.

C. Administrative Adjustment Procedure

Figure 6.O identifies the applicable steps from the common review procedures in Section 6.3 that apply to the administrative adjustment procedure. Additions or modifications to the common review procedures are noted below.

⁶⁹⁵ This is a new procedure per the assessment memorandum to give staff greater flexibility to make minor modifications to development standards without requiring greater scrutiny of the Planning and Zoning Commission or Board of Trustees.

Figure 6.O: Summary of Administrative Adjustment Procedure



1. Pre-Application Conference

An applicant may request an optional pre-application conference, held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

- a. The administrative adjustment application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.
- b. An application for an administrative adjustment shall only be submitted and reviewed concurrently with an application for a special use permit, temporary use permit, site plan approval (administrative, minor, or major), or plat approval (preliminary or final).
- c. When the concurrently reviewed application is subject to review by the Planning and Zoning Commission and/or Board of Trustees, the Town Administrator shall review and decide the administrative adjustment application prior to distributing the staff report for the concurrently reviewed application.

3. Staff Review and Action

a. Public Notice⁶⁹⁶

- i. When an application for an administrative adjustment is deemed complete, the Town Administrator shall notify all property owners within 300 feet of the subject parcel(s) via first class mail. Such notice shall indicate that comments will be accepted for a period of 10 days following the date of the notice.
- ii. The Town Administrator shall not take official action on the administrative adjustment application until the 10-day comment period has lapsed.

b. Review and Decision

The Town Administrator shall review the administrative adjustment application and distribute the application to other reviewers as deemed necessary. Based on that review, and in response to any public comments received, the Town Administrator shall approve, approve with conditions, or deny the administrative adjustment based on the criteria below.

⁶⁹⁶ New since Module 2.

c. Administrative Adjustment Approval Criteria

An administrative adjustment shall be approved if the Town Administrator determines that the proposed adjustment:

- i. Is consistent with the Comprehensive Plan;
- ii. Is consistent with the purpose of the underlying zoning district;
- iii. Is consistent with adopted building and fire codes;
- iv. Will not result in incompatible development;
- v. Will not result in adverse impacts unless adequately mitigated; and
- vi. Is of a technical nature and is required to:
 - (a) Compensate for an unusual condition;
 - (b) Eliminate a minor inadvertent failure to comply with this UDC; or
 - (c) To protect a sensitive resource or natural feature.

4. Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 6.3.6 shall apply with the following additions or modifications:

a. Effect of Approval

Approval of an administrative adjustment authorizes only the particular adjustment of standards approved, and only to the subject property of the application.

b. Expiration of Approval

Approval of an administrative adjustment shall automatically expire if the associated development application is denied or if approval of the concurrently reviewed application expires, is revoked, or otherwise becomes invalid.

6.7.2. Variance⁶⁹⁷**A. Purpose⁶⁹⁸**

The variance procedure provides a process to grant limited relief from the requirements of this UDC for property where strict application of the UDC would result in an exceptional practical difficulty or undue hardship preventing the use of the land in a manner otherwise allowed by the UDC. The variance procedure is not intended to allow a use in a zoning district where it is not permitted, or to mitigate inconveniences or financial burdens that this UDC may impose on landowners.

B. Applicability

1. Any property owner seeking relief from this UDC may request a variance when the strict application of the UDC would result in an undue hardship and meet the approval criteria listed in Section 6.7.2.C.5.b.
2. The variance procedure shall not be used for:
 - a. Requests for uses not otherwise allowed in a particular zoning district by the UDC;

⁶⁹⁷ The proposed revisions to the variance procedure include review and decision by the Board of Adjustment, rather than the Planning and Zoning Commission and Board of Trustees. We understand that the variance process is currently overused for both hardship requests and minor modifications of the code for added flexibility. This new procedure clarifies when the variance procedure is appropriate.

⁶⁹⁸ Replaces the purpose statement in 16-62(a).

- b. Waiver or modification of parking surfacing requirements pursuant to Section 4.3.6.B; or
- c. Variances from regulations outside of this UDC.

C. Variance Procedure

Figure 6.P identifies the applicable steps from the common review procedures in Section 6.3 that apply to the variance procedure. Additions or modifications to the common review procedures are noted below.

Figure 6.P: Summary of Variance Procedure



1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

- a. The variance application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.
- b. The variance application may be initiated concurrently with other development applications when relief is sought by the applicant.

3. Staff Review and Action

Staff shall review the application and prepare a staff report and recommendation pursuant to Section 6.3.3.

4. Scheduling and Notice of Public Hearings

The variance application shall be scheduled for a public hearing before the Board of Adjustment, and noticed pursuant to Section 6.3.4.

5. Board of Adjustment Review and Action

a. Hearing, Review, and Decision

- i. The Board of Adjustment shall hold a public hearing as required by this UDC and shall be conducted pursuant to this UDC, any established bylaws of the Board of Adjustment, and in compliance with state law.
- ii. The Board of Adjustment shall consider the application, relevant supporting materials, staff report, and any public comments made at the public hearing, and shall approve, approve with conditions, or deny the variance based on the criteria below. The Board of Adjustment may also remand the application back to the Town Administrator for further consideration.

- iii. The Board of Adjustment's decision shall be based only on the record of the public hearing and shall be provided in writing, including findings of fact based on competent, material, and substantial evidence presented at the hearing, and shall reflect the determination of contested facts and state how the findings support compliance with applicable review standards.
 - iv. The Board of Adjustment shall clearly state the factors considered in making its decision, as well as the basis or rationale for the decision.
- b. Variance Approval Criteria⁶⁹⁹**
- A variance may be granted if the Board of Adjustment finds that all of the following exist:
- i. The variance is necessary due to unique physical conditions such as size, irregularity, narrowness or shallowness of a lot, location, surroundings, topography, or other peculiar conditions on the subject property;
 - ii. The strict application of the UDC standards for which the variance is sought would result in undue hardship;
 - iii. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 - iv. Such hardship was not created by the applicant or any previous owner of the property;
 - v. The variance is the minimum variance that will afford relief of the subject standards of the UDC;
 - vi. The variance will not result in substantial impacts to adjacent property or the character of the zoning district; and
 - vii. The variance is not related to purposes of convenience or financial burden.

6. Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 6.3.6 shall apply with the following additions or modifications:

a. Notice of Decision⁷⁰⁰

Any decision by the Board of Adjustment shall be provided in writing by the Town Administrator to the Board of Trustees at or before the next Board of Trustees public meeting or hearing.

b. Expiration of Variance⁷⁰¹

- i. If the property owner has not commenced development or obtained the required permits to carry out the approved variance within one year of the variance approval date, then the variance shall automatically expire; or
- ii. If the variance application is reviewed concurrently with another type of development application, and that other development application is denied, then the variance approval shall automatically expire.⁷⁰²

⁶⁹⁹ Replaces current variance criteria in 16-62(e); based on criteria used in other jurisdictions.

⁷⁰⁰ New standard since the Planning and Zoning Commission and Board of Trustees are not involved in the review and approval process for variances in this proposed draft.

⁷⁰¹ Replaces 16-62(h).

⁷⁰² New standard.

c. Non-Transferable

An approved variance shall apply only to the property or structure described in the approval and shall not be transferable to any other property or structure.

6.7.3. Vested Rights⁷⁰³

A. Purpose⁷⁰⁴

The vested rights procedure provides a process for review and approval of vested real property rights pursuant to state statutes C.R.S. Article 68 of Title 24, as amended. Nothing in this section is intended to create a vested property right, but only to implement the provisions of state law.

B. Applicability

1. Vested property rights shall be obtained through approval of the following site-specific development plans:
 - a. Final plat;
 - b. Administrative site plan;
 - c. Major site plan;
 - d. Planned Unit Development; or
 - e. A development agreement providing vested rights.
2. No other plan, plat, or similar document shall be considered a site-specific development plan.

C. Vested Rights Procedure

Figure 6.Q identifies the applicable steps from the common review procedures in Section 6.3 that apply to the vested rights procedure. Additions or modifications to the common review procedures are noted below.

Figure 6.Q: Summary of Vested Rights Procedure



1. Pre-Application Conference

A pre-application conference shall be held pursuant to Section 6.3.1.

⁷⁰³ Revised procedure from current 17-41.

⁷⁰⁴ From 17-41(a), revised for clarity.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

- a. The vested rights request shall be included with an application for the site-specific development plan, which application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2.
- b. If the applicant seeks approval of a site-specific development plan to create vested property rights, the plan shall include a statement that is being submitted for designation as a site-specific development plan. Failure to include such statement shall result in no vested property rights being created by the approval of the site-specific development plan.

3. Staff Review and Action

- a. Staff shall review the application and prepare a staff report and recommendation pursuant to Section 6.3.3. The recommendation for vested rights may be directly incorporated into the staff report for the applicable site-specific development plan.
- b. For applications decided by the Town Administrator, vested rights shall be included with the official decision per the applicable site-specific development plan procedure.

4. Scheduling and Notice of Public Hearings

If required, the applicable site-specific development plan application shall be scheduled for public hearings before the Planning and Zoning Commission and/or the Board of Trustees, and noticed pursuant to Section 6.3.4. Hearings on vested rights may occur concurrently with the applicable site-specific development plan.

5. Planning and Zoning Commission and/or Board of Trustees Review and Decision**a. Planning Commission Review, Recommendation, and/or Decision**

If required for a site-specific development plan, the Planning and Zoning Commission shall review the site-specific development plan application and make a recommendation and or decision in accordance with 6.3.5. If the Planning and Zoning Commission is the deciding authority, the Planning and Zoning Commission shall make one of the decisions according to the procedures for that site-specific development plan.

b. Board of Trustees Review and Decision

If required for a site-specific development plan, the Board of Trustees shall review the site-specific development plan application and make a decision in accordance with 6.3.5. The Board of Trustees shall make one of the decisions according to the procedures for that site-specific development plan.

6. Post-Decision Actions and Limitations⁷⁰⁵

Post-decision actions and limitations in Section 6.3.6 shall apply with the following additions or modifications:

a. Effective Approval

- i. A site-specific development plan and vested property right shall only be deemed established upon the final action of the reviewing body or official designated under this UDC with authority to grant final development approvals. The effective date of a

⁷⁰⁵ From current 17-41(f) and (h), revised for clarity.

site-specific development plan and vested property right shall be the date on which the site-specific development plan has been approved.

- ii. A site-specific development plan that has received final approval subject to conditions shall result in a vested property right unless there is a failure to abide by such conditions, in which case the vested property right shall be forfeited.

b. Expiration of Vested Rights

A site-specific development plan that has been vested as provided under this section shall remain vested for three years from the plan's effective date. A longer initial vesting period, or an extension in the vesting period, may be granted upon a finding that a longer or extended vesting period will serve the public interest and welfare in view of all pertinent circumstances, including the size and phasing of any given development, economic cycles, or market conditions.

c. Modification of Site-Specific Development Plan

In the event of amendments to a site-specific development plan, the effective vesting date of any amendment shall be the date of the approval of the original plan unless otherwise specifically provided in the action or document approving the amendment.

d. Published Notice of Vested Rights⁷⁰⁶

- i. As soon as practicable following approval of a vested site-specific development plan, but in no case later than 15 days following approval, notice shall be published in a newspaper of general circulation in the Town generally advising the public of the approval and identifying the property where vested rights were approved. Such notice shall be substantially in the following form:
- ii. Notice is hereby given to the general public of the approval of a site specific development plan and the creation of a vested property right pursuant to Title 24, Article 68, Colorado Revised Statutes and the Buena Vista Municipal Code pertaining to the following-described project and/or property: (Description of property)
- iii. The property shall be generally described in the notice and identify the ordinance or resolution granting such approval. The costs of publishing such notice shall be borne by the applicant.

e. Referendum and Judicial Review⁷⁰⁷

A vested site-specific development plan shall be subject to all rights of referendum and judicial review, except that the 30-day period in which to exercise such rights shall not begin to run until the publication of the notice of approval as provided for in this section.

6.7.4. Appeal⁷⁰⁸

A. Purpose

The appeal procedure provides a process whereby persons claiming to have been aggrieved by a decision of the Town Administrator or other administrative officer or agency in administering this UDC may appeal that decision.

⁷⁰⁶ From 17-41(j), revised for clarity. Notice changed from 14 to 15 days for consistency with other noticing requirements in BV.

⁷⁰⁷ From 17-41(k).

⁷⁰⁸ These procedures are mostly new. The current code mentions appeals procedures for a few types of development applications, mostly required to be heard by the Board of Trustees (acting as the Board of Adjustment). This proposed approach requires applications to be heard by either by the Board of Adjustment, the Planning and Zoning Commission, or the Board of Trustees, depending on the application type.

B. Applicability

Any person may appeal any decision of any administrative officer or agency made in the administration or enforcement of this UDC. Appeals shall be made to the appropriate body as indicated in Table 6.1, *Summary of Review Procedures*, modified as follows:

1. Appeals of Administrative or Other Boards or Commission Decisions, Generally

Appeals of administrative decisions or decisions by boards or commissions other than the Board of Adjustment or the Planning and Zoning Commission shall be made to the Board of Trustees, unless stated otherwise in this UDC.

2. Appeals of Administrative Site Plans

Appeals of decisions on administrative site plans shall be made to the Planning and Zoning Commission.

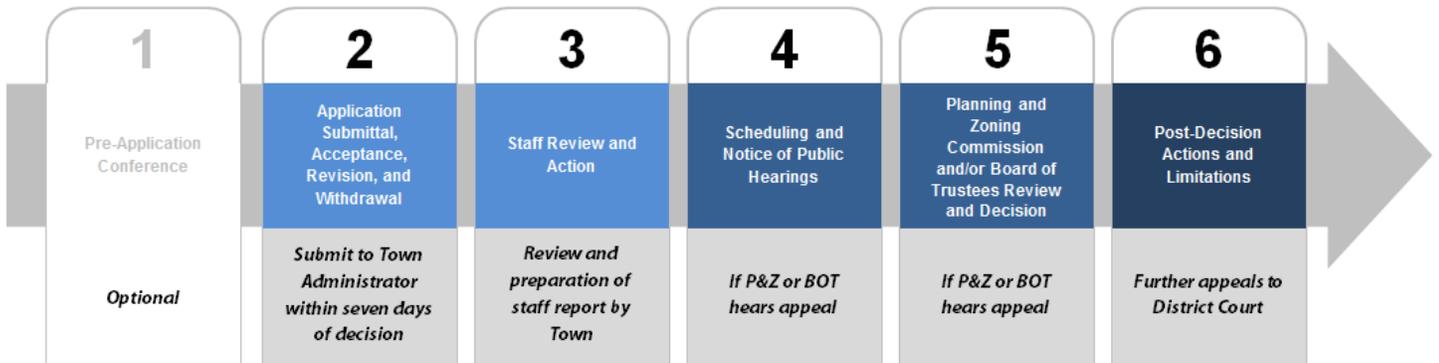
3. Appeals of Board of Adjustment, Planning and Zoning Commission, or Board of Trustees Decisions

Appeals of decisions by the Board of Adjustment, Planning and Zoning Commission, and the Board of Trustees shall be made to the District Court in accordance with state law.

C. Appeal Procedure

Figure 6.R identifies the applicable steps from the common review procedures in Section 6.3 that apply to the appeal procedure. Additions or modifications to the common review procedures are noted below.

Figure 6.R: Summary of Appeal Procedure



1. Pre-Application Conference

An applicant may request an optional pre-application conference, held pursuant to Section 6.3.1.

2. Application Submittal, Acceptance, Revisions, and Withdrawal

An appeal application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 6.3.2, with the following modifications:

a. Burden of Proof on Appellant

The appellant has the burden of proving the necessary facts to warrant approval of an appeal by the appropriate decision-making body. Such proof shall be provided at time of a

written application with the non-refundable application fee. If the appellant fails to provide facts warranting an appeal, the application shall be rejected.

b. Time limit

Appeals shall be made in writing and filed with the Town Administrator within seven days of the action or decision being appealed.

c. Stay of Proceedings

An appeal stays all proceedings from further action unless the Town Administrator determines that a stay would create adverse impacts to the health, safety, and welfare of the Town or subject neighborhood.

3. Staff Review and Action

Staff shall review the application and prepare a staff report pursuant to Section 6.3.3, with the following modifications:

- a. Staff shall only review the application to confirm that it is complete and that the appeal is heard by the appropriate review body.
- b. The staff report shall not make a formal recommendation, but rather shall include only the necessary facts to warrant an appeal, which shall be provided by the appellant.

4. Scheduling and Notice of Public Hearings⁷⁰⁹

An appeal shall be scheduled for a public hearing before the Board of Adjustment, Planning and Zoning Commission, or Board of Trustees, and noticed pursuant to Section 6.3.4.

5. Planning and Zoning Commission or Board of Trustees Review and Decision

- a. The appropriate decision-making body shall consider the following in determining whether to affirm, reverse, or amend the decision or interpretation made by another decision-making body:
 - i. The facts stated in the application, as presented by the appellant and/or the Town Administrator;
 - ii. The UDC was applied incorrectly; and
 - iii. Consistency with the Comprehensive Plan.
- b. The appeal decision-making authority may reverse a previous decision in whole or in part, or may modify the order, requirement, decision, or determination appealed from.
- c. The appeal decision-making authority may attach conditions of approval on any appeal to ensure the health, safety, and welfare of the Town.

6. Post-Decision Actions and Limitations

Any further appeals from the appropriate appeal decision-making authority shall be made as provided by law.

⁷⁰⁹ Did not carry forward 16-6(b), which required 15 days for newspaper, 10 days for posting, 10 days for letter mailings, and 5 days for hand-delivered letters.

Section 6.8 Review and Decision-Making Bodies

Commentary:

This new section cross-references and/or describes the powers and duties, membership, and some basic meeting procedures for the various review and decision-making bodies for development applications. Much of the specific meeting procedures refer back to other sections of the Buena Vista municipal code. The Board of Adjustment procedures are substantially different than the current code, which assigns the Board of Trustees to act as the Board of Adjustment.

6.8.1. Purpose

This section establishes and prescribes the basic duties and operating procedures of the administrative entities responsible for administering and enforcing this UDC.

6.8.2. Board of Trustees⁷¹⁰

See Chapter 2, Article II of the Buena Vista Municipal Code.

6.8.3. Planning and Zoning Commission

See Chapter 2, Article IX of the Buena Vista Municipal Code.

6.8.4. Board of Adjustment

A. Powers and Duties⁷¹¹

1. The Board of Adjustment shall have the power and duties set forth in Table 6.1, *Summary of Review Procedures*.
2. The Board of Adjustment shall not have the power to change the terms of this UDC, change the zoning district map of the Town, or grant a variance that allows a land use that is not permitted in the zoning district in which the subject land use will be located.
3. A majority vote from members of the Board of Adjustment present shall be necessary to reverse any order, requirement, decision, or determination of any Town officer or agency, or to decide in favor of the applicant on any matter that is required to pass under this UDC.
4. All decisions of the Board of Adjustment shall be in writing, and shall include a plain statement of the grounds and reasons for such decision. The decision shall be delivered to the appellant/applicant and all other interested persons requesting such decision.

B. Membership and Meetings

1. The Board of Adjustment shall consist of the same membership as the Planning and Zoning Commission.⁷¹²
2. The term of office for members of the Board of Adjustment shall be the same as the Planning and Zoning Commission.⁷¹³
3. The chair of the Planning and Zoning Commission shall serve as the chair of the Board of Adjustment.⁷¹⁴

⁷¹⁰ In this draft, we cross-referenced the locations of the municipal code related to the Board of Trustees and the Planning and Zoning Commission. The highlighted text should be hyperlinked to the specific location in the municipal code following adoption of the UDC.

⁷¹¹ Partly from 16-42, revised for clarity.

⁷¹² New.

⁷¹³ New.

⁷¹⁴ From 16-41 (b), revised to remove reference to Mayor serving as chair and to reference the Planning and Zoning Commission.

4. All meetings shall be open to the public. Members of the Board of Adjustment shall be notified at least 24 hours prior to the time of the meetings. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Town Clerk and shall be a public record.⁷¹⁵
5. At least three Board of Adjustment members shall be present at any meeting to constitute a quorum and conduct business.⁷¹⁶

6.8.5. Town Administration

A. Town Administrator

See Chapter 2, Article III, Sections 2-46 through 2-48 of the Buena Vista Municipal Code.

B. Code Enforcement Officer

See Chapter 2, Article III, Section 2-53 of the Buena Vista Municipal Code.

⁷¹⁵ From current 16-41(c); did not carry forward "Meetings of the Board of Adjustment shall be held at the call of the Mayor."

⁷¹⁶ From current 16-41(a).

Article 16.07: Rules of Construction and Definitions

Commentary:

This article includes general rules of construction and defined terms. Most of the general rules of construction are new, as noted. Some definitions were carried forward from the existing Buena Vista code, with minor changes for clarity and style. There are many new definitions provided in this draft, which are highlighted in yellow. Those new definitions are based on definitions that we have drafted for other jurisdictions, and then tailored for Buena Vista.

Section 7.1 General Rules of Construction⁷¹⁷

The following shall apply for construing or interpreting the terms and provisions of this UDC.

7.1.1. Meanings and Intent

All provisions, terms, phrases, and expressions in this UDC shall be construed according to the general purpose set forth in Section 1.2 and the specific purpose statements elsewhere in this UDC. If a specific section provides a different meaning of a term defined for general purposes in this Article, the specific section's meaning and application shall control.

7.1.2. Headings, Illustrations, and Text

In case of any difference of meaning or implication between the text of this UDC and any heading, caption, figure, illustration, table, or map, the text shall control.

7.1.3. Lists and Examples

Unless otherwise indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar are intended to provide examples and are not exhaustive lists of all possibilities.

7.1.4. Computation of Time⁷¹⁸

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday, the deadline shall be the next day that is not a Saturday, Sunday, or holiday. References to "days" are calendar days unless otherwise stated.

7.1.5. Public Officials and Agencies

All public officials, bodies, and agencies referred to in this UDC are those of the Town of Buena Vista, Colorado unless otherwise stated.

⁷¹⁷ New standards, except for Subsection 6.1.4, which replaces the current computation of time in Section 17-15.

⁷¹⁸ Replaces current Section 17-15 from the development code.

7.1.6. Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation to comply. The words "may" and "should" are permissive in nature.

7.1.7. Conjunctions

Unless the context clearly suggests otherwise, conjunctions shall be interpreted as follows:

- A.** "And" indicates that all connected items apply; and
 - B.** "Or" indicates that one or more of the connected items apply.
-

7.1.8. Tenses, Plurals, and Gender

- A.** Words used in the present tense include the future tense, unless the context clearly indicates otherwise.
- B.** Words used in the singular number include the plural number, and words used in the plural number include the singular number, unless the context clearly indicates otherwise.
- C.** Words used in the masculine gender shall include the feminine gender, and words used in the feminine gender shall include the masculine gender.

Section 7.2 Definitions⁷¹⁹

Abandoned sign

A sign that, for a period of 90 consecutive days, has not advertised a business on the premises where such sign is located or for which a special or temporary sign permit has expired.

Above-ground bulk storage tank

Any one or combination of tanks (including underground pipes connected thereto) of 55 gallons or greater that is used to contain an accumulation of potential groundwater contaminants and the volume of that occurring mostly above the surface of the ground.

Access

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

Accessory dwelling unit

An attached or detached dwelling unit that is accessory and subordinate in size and character to a principal building situated on the same lot or parcel, and that otherwise satisfies the requirements contained in this UDC.

Adjacent

The condition where two or more parcels share common property lines or where two parcels are separated only by an alley, easement, or street. For corner properties, adjacent properties include all other corner properties at the subject intersection.

Administrative adjustment

A development approval authorizing limited deviations from certain provisions of this UDC's dimensional or numerical development standards that is reviewed by the Town Administrator pursuant to 6.7.1.

Administrative manual

A manual containing the details regarding the development review process, information for potential applicants, and development review forms.

Adult entertainment establishments

See "sexually-oriented business."

Agricultural or animal-related services

Agricultural and farming activities, including nurseries and facilities for processing and selling agricultural products. Agricultural uses involve farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal husbandry. Animal-related uses include the boarding and care of animals on a commercial basis. Accessory uses may include confinement facilities for animals, parking, and storage areas.

Alley

A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

All-weather hardened surface

A hardened surface used for parking and/or other paved areas meant to withstand the impacts of rain, snow, and other runoff. Such surfacing materials include concrete, asphalt, pavers, compacted or

⁷¹⁹ Since Modules 1 and 2 all definitions were combined into a single section rather than separated by "use categories" "specific use types" and "other terms defined."

compressed stone, gravel, or other approved surfacing materials approved by the Town Administrator.

Alternative tower structure

Man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflage or conceal the presence of antennas and/or towers. This term also includes any antenna or antenna array attached to the alternative tower structure.

Animated or moving sign

A sign or other display with either kinetic or illusionary motion powered by natural, manual, mechanical, electrical or other means, including but not limited to flags having commercial messages, garrison flags and all pennants, banners, streamers, propellers and discs, as well as flashing signs, signs with illuminated elements that are used to simulate the impression of motion, searchlights and signs with emissions such as smoke, vapors, sound or odor.

Antenna

Any structure, including but not limited to a monopole antenna, tower, parabolic, and/or disk-shaped device in single or multiple combinations of either solid or mesh construction, intended for the purpose of receiving or transmitting communication to or from another antenna, device or orbiting satellite, as well as supporting equipment necessary to install or mount the antenna.

Antenna tower

Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas. This includes guyed mast, lattice towers, monopole antennas, alternative antenna tower structures and towers taller than 10 feet constructed on top of another building, along with any separate building on the lot used to house any supporting electronic equipment.

Applicant⁷²⁰

A person who submits a development application requesting a development permit or approval authorized by this UDC.

Area of copy

The entire area within a single continuous perimeter composed of squares, rectangles, circles, ovals or any other geometrical shape which enclose the extreme limits of the message, announcement or decoration on a wall, projecting or freestanding sign.

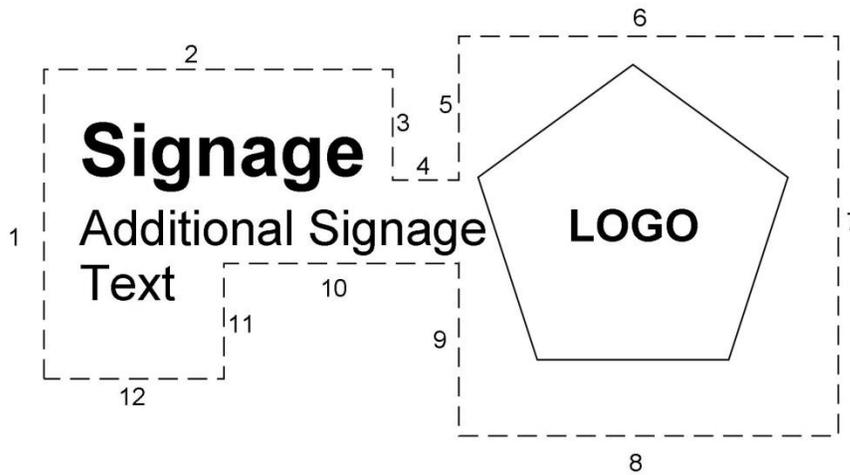
Area of sign

The area of the largest single face of the sign within a perimeter which forms the outside shape, including any frame, or forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module (as in the case of wall and awning signs), all areas will be totaled. A maximum of 12 perpendicular lines shall be used to determine the total sign area.⁷²¹

⁷²⁰ Revised for clarity.

⁷²¹ Revised to include maximum of 12 perpendicular lines to measure the area of signs.

Figure 7.A: Measuring Area of Signs



Assembly hall

A commercial or non-profit facility intended to accommodate large groups of persons for entertainment, conferences, conventions, exhibitions, weddings, and similar activities.

Assisted living facility

A state-licensed facility regulated as a personal care boarding home, as defined in C.R.S. §25-27-101. Such facilities do not offer diagnosed medical or psychological treatment under professional medical supervision, but may offer physical therapy, occasional medical or nursing care to address non-chronic and non-recurring conditions such as colds, flu, or household injuries, and assistance with routine living activities not aimed at recovery from a specific diagnosed condition.

Automobile leasing or sales

The sale, display, lease, rental, or storage of light motor vehicles, including automobiles, vans, light trucks, and light trailers. This shall not include salvage operations, scrap operations, vehicle impound yards, or commercial parking lots available for short-term use.

Automobile service, major

A facility that provides general automobile service, rebuilding, painting, or reconstruction of engines, transmissions, or other systems, steam cleaning, or painting or detailing services for automobiles or trailers.

Automobile service, minor

An establishment for the retail sale of products and supplies for automobile and light motor vehicles, including lubricants and minor accessory parts, and with or without retail of fuel. This use may also include minor parts installation, towing, servicing, and minor repairs of vehicles; and vehicle washing facilities and trailer rental when secondary to the above activities. Accessory uses may include convenience retail, refreshments, and ice. Major repairs and/or sale of vehicles are expressly excluded.

Awning

A roof-like cover made of pliable material over a window or doorway that is attached to the outer wall or fascia of a building.

Banner

A temporary sign composed of lightweight material .

Bar or tavern

An establishment providing or dispensing by the drink for on-site consumption fermented malt beverages, and/or malt, special malt, vinous or spirituous liquors, and in which the sale of food products such as sandwiches and light snacks is secondary. A bar/tavern may include provision of live entertainment and/or dancing; however, a bar/tavern shall not include any sexually-oriented business use.

Bed and breakfast

A portion of an owner- or manager-occupied residence made available to paying guests for short-term lodging.

Bioretention

Use of shallow, vegetated depressions and engineered soils to collect, filter, and store stormwater runoff as it percolates into the ground.

Block⁷²²

A tract of land bounded by streets, or by a combination of streets and alleys, public parks, civic property boundaries, or boundary lines of municipalities.

Board or Board of Trustees

The Board of Trustees of the Town of Buena Vista, Colorado.

Building

Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or property of any kind.

Building coverage

The portion of the surface of a lot or other unit of land covered, or permitted to be covered, by buildings measured on a horizontal plane from the exterior foundation walls of all buildings at ground level, and sometimes known as *lot coverage* or *site coverage*.

Building materials sales and storage

An establishment for the sale of materials and hardware customarily used in the construction of buildings and other structures, which includes facilities for storage.

Building, accessory

A detached building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building but not for dwelling purposes and located on the same lot as the principal building.

Canopy sign

A sign attached to a permanent covered area that extends over the public sidewalk, or over fueling stations on private property.

Cemetery

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries.

Certificate of occupancy

A document issued by the Town building official certifying a building's compliance with applicable building codes and other laws, and indicating the building to be in a condition suitable for occupancy.

⁷²² Revised to exclude references to cemeteries and railroad.

Church or place of worship

A structure or group of structures that is intended for regular gatherings of people to attend, participate in, or conduct religious services and other related activities and associated accessory uses.

Civic organization, club, or lodge

A building or portion of a building or premises owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit or to render a service that is customarily carried on as a business.

Clear sight triangle

See standard in Section 4.4.6.F.

Co-housing

A residential development that combines small individually-owned units on a single lot with common open space and sometimes including larger community kitchen and dining room intended for communal use on a regular basis. The residents in a co-housing development agree to share in the provision of communal services such as cooking meals, maintenance of grounds, and child care.

College or university

An institute of higher education authorized by the State to award baccalaureate or higher degrees, which may include on-site student, faculty, and/or employee housing facilities.

Co-location

Locating one or more antennas for more than one provider on a single antenna tower or alternative antenna tower structure on a single lot.

Common open space⁷²³

A parcel of land, an area of water, or a combination of land and water, within the site designated for a planned unit development, co-housing development, or subdivision, designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned unit development, co-housing development, or subdivision. Areas included in driveways or otherwise required to move cars in or out of parking spaces shall not be considered common open space.

Common ownership

Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Community and cultural facilities

Uses including buildings, structures, or facilities owned, operated, or occupied by a governmental entity or nonprofit organization to provide a service to the public.

Community center

A facility used for recreational, social, educational, and cultural activities. This definition includes private nonprofit recreational and social facilities, recreational buildings and facilities, and community centers operated by public agencies.

Community garden

A public or not-for-profit area for cultivation of food crops and/or ornamental plants by more than one person or family with the crops shared among the participants or members and sometimes sold to the general public.

⁷²³ Revised to include co-housing and subdivisions per staff comments.

Comprehensive Plan

The comprehensive plan for development of the Town prepared and adopted by the Planning Commission and Board of Trustees, pursuant to Part 2 of Article 23 of Title 31, C.R.S., and including any part of such plan separately adopted and any amendment to such plan.

Condominium

A common interest community defined by C.R.S. §§ 38-33.3-103(1) and 38-33.3-103(9), in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership by the owners of the separate ownership portions.

Continuum of care or nursing home

A facility providing independent living that may or may not be affiliated with or located near health care facilities or a facility for individuals who require specialized nursing care on a regular basis but who do not need to be hospitalized. A continuum of care facility may include a large scale facility that provides continuing care for retirement-age persons with graduating levels of assistance required over time.

Cul-de-sac

A local street with only one outlet that terminates in a paved vehicular turnaround and has an appropriate terminal for the safe and convenient reversal of traffic movement.

Customer premises equipment

Equipment employed on the premises of an individual telecommunications service end-user or customer to receive or transmit personal telecommunications.

Cut-out-letter sign

The sign area considered to be that of a single rectangle or square encompassing all of the letters used to convey the message of the sign, including the open space between letters of words within that rectangle or square.

Day care home

A state-licensed dwelling or residence providing less than 24-hour care to groups of five or more children under the age of 18 years, or five or more developmentally disabled or mentally ill adults, or five or more adults 60 years of age or older, who are not related to the owner, operator, or manager of the dwelling.

Dead-end

A street that has only one connection to any other existing through street or planned through street.

Developer

The owner of land proposed to be developed or its representative responsible for any undertaking that requires review and/or approval under this UDC.

Development

The construction of a building or structure and/or any clearing, grading, excavation, or other movement of land.

Development agreement

A written contract between a developer and the Town memorializing terms and conditions associated with the approval of a subdivision or other development project and which may specify required improvements and vest property rights.

Development site

Land used or proposed to be used for development, consisting of either a single lot or multiple contiguous lots.

Directional sign

Any sign commonly associated with and limited to information and directions necessary and convenient for persons coming on the property, including signs marking entrances, parking areas, one-way drives, rest rooms, and pickup and delivery areas.

Disturbed area⁷²⁴

Land that is cleared, grubbed, and/or graded for construction purposes, not including the addition of vegetated areas.

Dormitories

A building oftentimes associated with an educational facility, providing housing for a number of unrelated persons utilizing common entrances and hallways, single or group sleeping accommodations and shared bath and toilet facilities.

Double-faced sign

A two-faced sign utilizing both sides or surfaces for display purposes.

Drive-through sign

A freestanding sign intended to convey information to vehicles in drive-through lanes.

Driveway

A paved or unpaved area used for the ingress and/or egress of vehicles, and allowing access from a street to a building or other structure.

Dwelling or dwelling unit

A building, or a portion of a building, designed and intended to be used by a person or family for private residential purposes and which has its own separate entrance and is equipped with facilities for sleeping, bathing, and cooking and has permanent plumbing.

Dwelling, multifamily

A building designed and constructed to contain three or more dwelling units where not all of the units are in separate legal ownership.⁷²⁵

Dwelling, single-family attached

A building designed and constructed to contain three or more single-family dwelling units in a side-by-side configuration in which each unit is in separate legal ownership. Includes townhomes and rowhouses separated by a fire-resistant common wall.

Dwelling, single-family detached

A detached building containing only one dwelling unit.

Dwelling, two-family

A building designed and constructed to contain two dwelling units on one property separated by a fire-resistant common wall in a side-by-side, front-to-back, or over-under stacked configuration, each with its own separate exterior entrance.

Easement

Authorization by a property owner for another to use the owner's property for a specified purpose.

⁷²⁴ From current definition of "disturbance."

⁷²⁵ Revised to clarify that these are not for separate ownership, to further distinguish these from single-family attached dwellings.

Education facilities

Public, private, and religious institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools, that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

Elementary or secondary school

Public schools, elementary and secondary, private schools with curriculum equivalent to that of a public elementary or high school, and related facilities such as including gymnasiums, stadiums, and dormitories if located on the campus.

Enclosed storage

The stockpiling or keeping of materials, products, equipment or goods within a fully enclosed building utilized in association with a principal use.⁷²⁶

Energy and utilities

All lines, buildings, easements, passageways, or structures used or intended to be used by any public or private utility related to the provision, distribution, collection, transmission, or disposal of power, oil, gas, water, sanitary sewage, communication signals, or other similar services at a local level.

Equipment sales

The display and sales or rental of products and services primarily used for home improvement projects.

Establishment providing transportation for the general public

A facility associated with a transportation system, such as bus stops, transit centers, or trails designated as a regional, community connector, or local access trails, and similar facilities, but excluding public or private streets.

External illumination

Illumination of a sign from a source of light not contained within the sign itself.

FAA

Federal Aviation Administration

Feather flag

A temporary fabric sign intended to be inserted directly into the ground or into a mounting device that sits on the ground, often with a feather-like shape. Other common names for feather flags include blade flags, sail flags, quill flags, and flutter flags.

⁷²⁶ Revised to apply to all principal uses, not just commercial or other nonresidential uses.

Figure 7.B: Feather Flag



Fence or wall⁷²⁷

A manmade barrier constructed or installed to demarcate or create a boundary, partition, or enclosure, to restrict or prevent access to an area, to conceal or screen an area, and/or for decorative purposes. A fence may be open or solid and generally includes materials such as wood, metal, or other permitted materials and is usually connected by boards, rails, panels, and wires. A wall is generally solid and consists of masonry, stone, brick, tile, concrete, or plaster. The definition of fence or wall shall also include trellises, or other man-made structures intended to support vines, flowers, and other vegetation, or as a decorative element, when erected in such position to enclose, partially enclose, surround, or separate areas on a property or between properties.

Fire or police station

Facilities for the provision of local rapid response emergency services such as policing, firefighting, and mobile medical emergency services, including areas for the storage and maintenance of emergency vehicles and equipment and housing and feeding of emergency personnel.

Flag

Any fabric not exceeding three feet by five feet when hung from a building; or five feet by seven feet when hung from a pole.

Flea market or auction house

An indoor or outdoor premises where the main use is the sale of new or used household goods, personal effects, tools, art work, small household appliances, and similar merchandise, objects, or equipment in small quantities, sold in individual stalls, lots, or parcels, not in bulk, for the use or consumption by the immediate purchaser in a building.

Flood hazard area

Land adjacent to a watercourse that includes the streambed, floodway, flood fringe, and the floodplain. See Flood Regulations in Chapter 18, Article IX.

⁷²⁷ Revised for clarity and to include trellis regulations in the definition.

Floor area/space, gross

The sum of all horizontal floor areas within a building measured from the interior faces of the exterior building walls or from the interior faces of common walls separating buildings.

Food and beverage services

Establishments involved in serving prepared food or beverages for consumption on or off the premises. Accessory uses may include food preparation areas, offices, and parking.

Footcandle

A unit of surface illumination that is equal to one lumen per square foot as measured by a properly calibrated digital light meter. Footcandles shall be measured at a height of three feet above finished grade directly under the illumination source.

Freestanding sign

A sign permanently anchored directly to the ground or supported by one or more posts, columns or other vertical structures or supports and not attached to or dependent for support from any building.

Frontage, business

The linear distance of the exterior building wall of a business facing a public right-of-way that contains the main entrance to the business.

Fueling station

A place where gasoline and petroleum products are sold. Accessory uses may include convenience retail, refreshments, and ice.

Full cutoff fixture⁷²⁸

A light fixture that prevents distribution of light above a horizontal lane through the lowest point of the bulb or lens, diffuser, reflective passing enclosure, or other parts intended to distribute light.

Fully shielded

A light fixture equipped with internal and/or external shields or louvers or opaque lensing to prevent brightness and glare at normal viewing angles by directing illumination and light downward.

Geothermal facility, large

A facility, land area, and equipment used for the conversion of natural geothermal energy into energy for beneficial use, including geothermal heat pumps for nonresidential use and electricity generation of 10 kilowatts (kW) or greater.

Geothermal facility, small

A facility, land area, and equipment used for the conversion of natural geothermal energy into energy for beneficial use, including geothermal heat pumps for on-site use or electricity generation up to 10 kilowatts (kW).

Golf course

A tract of land typically laid out for at least nine holes for playing the game of golf that may include a clubhouse, dining and snack bars, pro shop, and practice facilities.

Grade

The slope of a road, street, or other public way specified in percentage terms.

⁷²⁸ Replaces current definition.

Greenhouse, nursery, or garden supply store

An establishment, including a building, part of a building or open space, for the growth, display and/or sale of plants, trees, and other materials used in indoor or outdoor planting for retail sales and incidental wholesale trade.

Grocery store

A retail establishment that primarily sells food for off-site consumption, but also may sell other convenience and household goods for off-site consumption. Accessory uses may include but are not limited to sales of food or beverages for on-site consumption, grocery delivery services, florists, and pharmacy services.

Group home

An owner-occupied or nonprofit residential facility operated or licensed by the state to provide housing and services for up to eight developmentally disabled or mentally ill persons, or up to eight persons 60 years of age or older, along with one or more resident professional staff persons; but excluding halfway houses or other facilities for persons transitioning from a jail or prison back into the community, and excluding facilities for sex offenders.

Group living

Uses characterized by residential occupancy of a structure by a group of people who do not meet the definition of "household living." Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a family. Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not also reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff.

Guyed mast towers

A guyed mast is a tall thin vertical structure that receives support from guy lines.

Healthcare facilities

Uses characterized by activities focusing on medical services, particularly licensed public or private institutions that provide primary health services and medical or surgical care to persons suffering from illness, disease, injury, or other physical or mental conditions. Accessory uses may include laboratories, outpatient, or training facilities, and parking, or other amenities primarily for the use of employees in the firm or building.

Heat island

Urbanized area typically having warmer temperatures than surrounding average ambient temperatures due to surfacing materials or building coverage on a property.

Height, antenna tower

The distance measured from the anchored base of a tower, at grade, to the highest point of the structure inclusive of any antennas placed on the top of the tower.

Historical sign⁷²⁹

A legally approved sign that is at least 30 years in age.

Home occupation

A lawful use conducted in or on the premises of a dwelling unit, said use being secondary to the use of the dwelling for dwelling purposes.

⁷²⁹ Revised to add "legally approved."

Hospital

An institution providing health services, primarily for in patients and medical or surgical care of the sick or injured, including related facilities such as laboratories, out-patient facilities, training facilities, central service facilities, and staff offices.

Hotels, motels, and other forms of public lodging and boarding

An establishment that provides lodging and other services for travelers and other paying guests.

Household living

Uses characterized by residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis (lodging where tenancy may be arranged for a period of less than 30 days is classified under the “lodging facilities” category). Common accessory uses include recreational activities, raising of pets, gardens, personal storage buildings, hobbies, and parking of the occupants’ vehicles.

Illegal sign

Any sign for which a valid and current Town sign permit has not been obtained and which is not exempt from the provisions of this Section.

Illuminance

The measure of light intensity striking a surface, measured in footcandles.

Indoor recreation or entertainment

A facility providing entertainment or recreation activities where all activities take place within enclosed structures, but not including a theater or a convention or event center, which are considered assembly halls. Examples include bowling alleys, trampoline centers, video arcades, climbing wall centers, recreation center, gym, and paintball or laser tag centers.

Infill development

Development designed to occupy scattered or vacant parcels of land which remain after the majority of development has occurred in an area.

Internal illumination

Illumination of a sign from a source of light contained within the sign itself, including sign letters created with neon tubing.

Kennel

A facility licensed to house dogs, cats, or other household pets and/or where grooming, breeding, boarding, or training or selling of animals occurs.

Lattice antenna tower

A self-supporting tower with multiple legs and cross bracing of structural steel.

Library

A facility for storing and loaning books, periodicals, reference materials, audio and video media, and other similar media. A library may also include meeting rooms, offices for library personnel, and similar support facilities.

Live-work

An integrated dwelling unit and working space occupied and used by a single household in either a single-family dwelling or multifamily dwelling that has been designed or structurally modified to accommodate joint residential occupancy and work activity. A live-work space shall include a complete kitchen space and sanitary facilities, and working space reserved for and regularly used by one or more occupants of the unit.

Lodging facilities

Facilities where lodging, meals, and the like are provided to transient visitors and guests for a defined period.

Long-term storage of recreational/camping vehicles⁷³⁰

Indoor or outdoor storage facility or area designed for storage of recreational vehicles for a period of more than two weeks when not in use. This definition does not include short-term parking of recreational/camping vehicles.

Lot⁷³¹

An area of land to be built upon or developed that has been created:

1. Within a legal subdivision per this UDC; or
2. By a valid and recorded instrument of conveyance effective prior to adoption of a previous Subdivision Code Ordinance; or
3. By the sale or exchange of parcels of land between owners of adjoining properties for the purpose of adjusting boundaries that did not create additional lots and that the original parcels or lots were not reduced below the minimum size requirement. These lots were permitted through July 27, 2010; or
4. Prior to annexation to the Town of Buena Vista; or
5. As otherwise permitted by law.

Lot area

The total horizontal area within the lot lines of a lot or other parcel of land.

Lot depth

The average distance measured on a horizontal plane between the front and rear lot lines.

Lot line, front

The property line closest to and normally dividing a lot or other unit of land from the street or street right-of-way upon which the lot or land abuts, and which street or street right-of-way is used and referenced in assigning a street number or address for the subject lot or land.

Lot line, rear

The lot line opposite the front lot line, or in the case of an irregularly shaped lot, that lot line which is determined by the Town from the lot's orientation and any existing structures to be the rear lot line.

Lot line, side

The lot lines defining a lot other than the front and rear lot lines.

Lot of record

A lot which is part of a legally authorized subdivision recorded in the records of the County Clerk and Recorder, or a lot that was legally created and/or defined and illustrated on a plat, map or deed that was recorded in the records of the County Clerk and Recorder prior to the adoption of subdivision regulations by the Town or County.

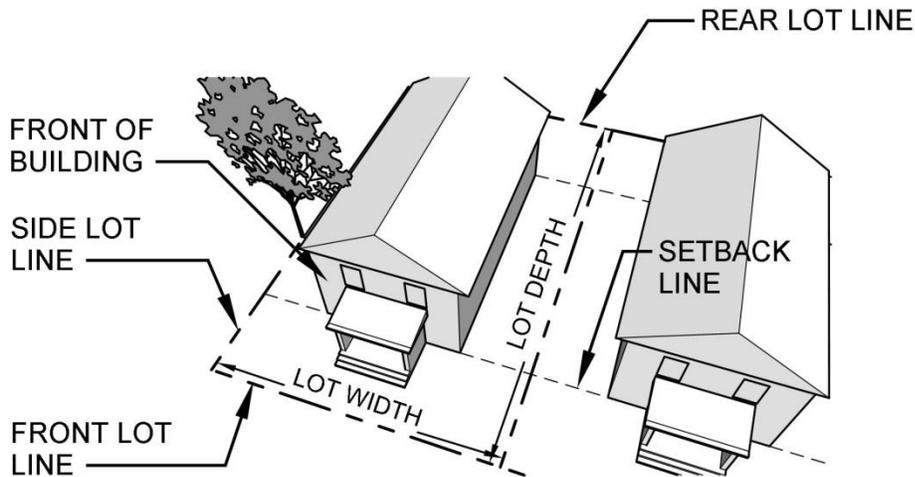
Lot width

The distance between the side lot lines measured on a horizontal plane along the front yard setback line or building line, whichever is longer.

⁷³⁰ New definition to match use table. The short-term parking and long-term storage of RV/camping vehicles were split into individual uses.

⁷³¹ This new definition replaces definitions of "lot" from Chapters 16 and 17.

Figure 7.C: Lot Descriptions



Lot, double-frontage

A lot having frontage on two parallel or almost parallel streets.

Lot, reverse-corner

A lot that has three sides along a public street.

Low-Impact Development (LID)⁷³²

Systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration, or use of stormwater in order to protect water quality and associated aquatic habitat.

Luminance

Surface brightness or the amount of light an object gives off.

Major development⁷³³

A development or subdivision of property for 11 or more lots for 11 or more single-family or two-family dwelling units.

Manufactured home

Any wheeled vehicle, exceeding either eight feet in width or 32 feet in length, excluding towing gear and bumpers, without motive power, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which may be drawn over the public highways by a motor vehicle (Section 42-1-102, C.R.S.).

Manufactured home park

Any premises one or more acres in size that is used or set apart for the purpose of supplying to the public parking space for manufactured homes for living or sleeping purposes, and which includes any buildings, structures, vehicles or enclosures used or intended for use as part of such manufactured home park (includes trailer coaches).

⁷³² From the EPA, accessed here: <http://www.epa.gov/polluted-runoff-nonpoint-source-pollution/urban-runoff-low-impact-development>

⁷³³ From Ordinance 2016 No. 1, slightly revised for clarity.

Manufactured home site

A designated area of land intended for location of an individual manufactured home for residential occupancy within a manufactured home park.

Manufacturing

Uses including all transformative processes, regardless of whether or not the new product is finished or semi-finished. Production is typically for commercial wholesaling rather than for direct sales.

Manufacturing, light

An establishment engaged in fabrication, assembly, processing, or manufacturing that generally does not create significant impacts on surrounding areas. Products of such establishments include bedding; boots or shoes; carpet; cloth products; finished wood products; small household appliances, business machines, etc.; lithographing; musical instruments; orthopedic and medical appliances; pottery and ceramics; rope, cord, and twine; sporting goods; and wearing apparel.

Manufacturing, medium or heavy

An establishment engaged in fabrication, assembly, processing, or manufacturing that has the potential to create significant impacts on surrounding areas due to the types of materials used, byproducts created, hours of operations, volumes of heavy truck or rail traffic, or other factors. Products of such establishments include abrasives; agricultural implements, equipment, or vehicles; large appliances; asphalt products; brick or structural clay products; and cosmetics. This use also includes processes such as electroplating and chemical processing.

Marquee sign

Any sign attached to or under a covered structure projecting from a building which extends over the sidewalk, usually also supported by posts.

Mechanical equipment

Heating, ventilating and air conditioning systems, transformers, generators, utility meters, connection boxes, satellite dishes, antennas, tanks, and other similar features.

Medical or dental clinic, office, or laboratory

A building or group of buildings in which the primary use is the provision of health care services to patients or clients. Such services may include medical, dental, psychiatric, psychological, chiropractic, dialysis, acupuncture, reflexology, massage therapy, mental health professional, physical and/or occupational therapy, related medical services, vocational training, placement service and social and recreational activities suitable for disabled adults and children or similar service, or a laboratory which provides bacteriological, biological, medical, X-ray, pathological and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises, except the custom fabrication of dentures or similar dental appliances. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services.

Microbrewery, distillery, or winery

A commercial operation engaged in the production of beer, liquor, or wine that also may have retail sales for consumption on site or off the premises.

Minor development⁷³⁴

A development or subdivision of property for commercial, mixed-use, or multifamily uses, or for 10 or fewer lots for 10 or fewer single-family or two-family dwelling units.

⁷³⁴ From Ordinance 2016 No. 1, slightly revised for clarity.

Minor subdivision

Any subdivision meeting the applicability standards in Section 6.6.1.B.

Monopole antenna tower

A slender un-guyed self-supporting tower that does not include any lattice cross bracing structure, on which wireless antennas can be placed.

Monument sign

A freestanding sign with a base affixed to the ground, where the length of the base is at least two-thirds the horizontal length of the monument.

Motor sports facility

A facility providing raceways, speedways, and typical accessory uses to motor sports including dining and snack bars, and retail sales.

Mural

A painting or picture applied to and made part of a wall which may be pictorial or abstract and is characteristically visually set off or separated from the background color or architectural environment. A mural containing text or images related to a noncommercial or commercial message or advertisement is considered a sign.

Museum

An establishment operated as a repository for a collection of nature, scientific, literary curiosities, or objects of interest or works of art, not including the regular sale or distribution of the objects collected. Museums may include incidental retail and food/beverage sales.

Neon sign

Any sign that is illuminated by tubes filled with neon, argon, krypton and related inert gases, including any display of neon lighting tubes which is in view of the general public from a public right-of-way or from any public area, regardless of the shape, size, design, or configuration.

Noise Attenuation

The use of materials in the construction of new or redeveloped buildings in such a manner that aircraft noise is attenuated by the structure to an interior level that reasonably minimizes adverse impacts on the health, safety, and general welfare of the structure's residents.

Nonconforming sign

Any sign for which a valid sign permit was obtained when constructed but is not in compliance with the current sign regulations in this UDC.

Nonconforming site feature

Any site feature legally approved and installed or constructed that is not in compliance with the development standards in this UDC.

Office

Professional, governmental, executive, management or administrative offices of private organizations or government agencies, including government offices, administrative offices, legal offices, and architectural firms.

Offices and professional services

Uses that provide executive, management, administrative, or professional services, but do not involve the sale of merchandise except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices. Accessory uses may include

cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.

Off-premises sign

A sign not related to the premises where the sign is located.

Offsite improvements⁷³⁵

Any premises not located within the area of the property to be developed, whether or not in the common ownership of the applicant for development approval.

On-site

The term “on-site” shall include the lot, lots, or land on which a use is operating, but shall not include abutting public land or rights-of-way unless an encroachment license or permit has been issued by the Town or other public entity owning said abutting public land or right-of-way.

Outdoor entertainment facility⁷³⁶

An outdoor facility providing entertainment, with or without charge, including drive-in theaters, stages, and amphitheaters for public entertainment such as concerts and theatrical performances.

Outdoor operations

An area that is not fully enclosed by solid walls and a roof and where services are rendered or goods are displayed, sold, or stored.

Outdoor recreation facility

An outdoor facility providing recreation, with or without charge, including amusement parks, batting cages, golf driving ranges, miniature golf courses, go-cart tracks, skating rinks, skateboard parks, swimming pools, tennis courts, sports courts, water parks, zoological parks and similar uses, but not including auto or horse race tracks.

Parcel

Any part or portion of land.

Park and playground

A lot, tract, or development site designated and used by the public for active and/or passive recreation.

Parking area

An area, other than a street or alley, designed or used primarily for the temporary parking of vehicles.

Parking lot or structure

An off-street area or structure, other than the parking or loading spaces or areas required or permitted under this section, for the parking of automobiles and available to the public often for a fee.

Permanent sign

An exterior sign constructed of durable, permanent material, such as wood, metal, stone, or other durable material, not including paper, cloth, canvas, cardboard, wallboard, or banner plastic (unless the sign is part of an awning).

Personal service

Establishments that primarily engage in providing services generally involving the care of the person or his or her personal goods or apparel. Personal services may include, but are not limited to, barber

⁷³⁵ Based on current definition for “off-site.”

⁷³⁶ New use and definition since Module 1.

shops, beauty salons, dry cleaners, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.

Pervious pavement

Paving materials that provide surfaces able to absorb water or allow the passage of water through the paving material to the ground below.

Planned unit development (PUD)

An area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, residential, commercial, educational, recreational or industrial uses, or any combination of the foregoing. A PUD allows for flexibility in lot size, bulk or type of use, density, lot coverage, open space, or other standard in this UDC in exchange for a public benefit not otherwise achieved by this UDC.

Planned unit development (PUD) concept plan

A graphic depiction in plan form of the elements of a Planned Unit Development district that illustrates the development program and the district’s specific regulations where they differ from the base regulations of the UDC.

Planning Commission

The Planning and Zoning Commission of the Town of Buena Vista established pursuant to Article IX of Chapter 2 of the Buena Vista Municipal Code.

Planning department

The planning department for the Town of Buena Vista, Colorado.

Plat⁷³⁷

A printed instrument drawn to scale by a professional land surveyor registered or licensed under the laws of the State which accurately depicts the location, dimensions, and boundaries of lots or other units of land, along with adjacent public streets and rights-of-way and easements and other features relevant to the development of land pursuant to this UDC.

Pole sign

A freestanding sign with a base supported from the ground by a pole or a similar support structure of narrow width.

Porch

A covered structure attached to a building forming a covered entrance to a vestibule or doorway. It is external to the walls of the main building proper but may be enclosed by screen or latticework, extending from the main structure. For the purpose of measuring setback, the porch shall be counted as the start of the building edge. Front porches may encroach into required front setback according to the encroachment standards in Section 2.8.2.D.6.⁷³⁸

Primary access

The place of ingress and egress used, or intended to be used, most frequently by the public.

Primary building frontage

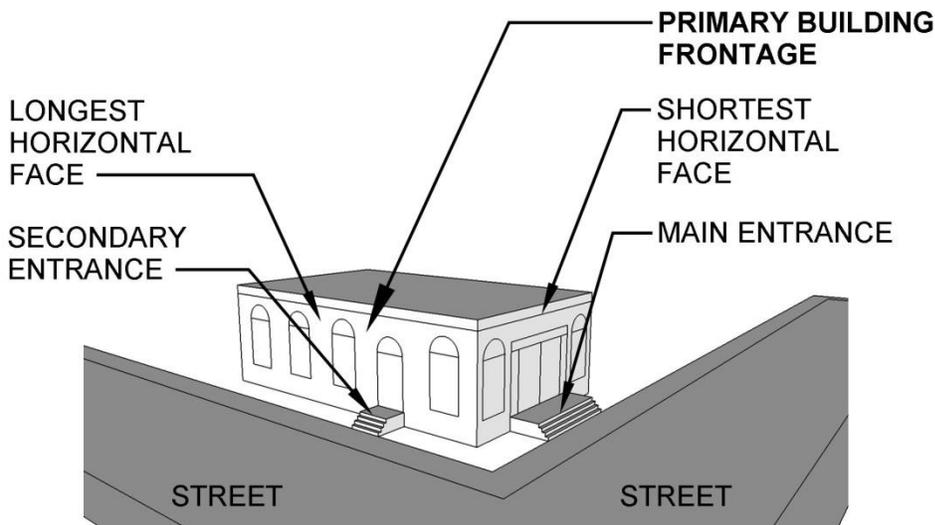
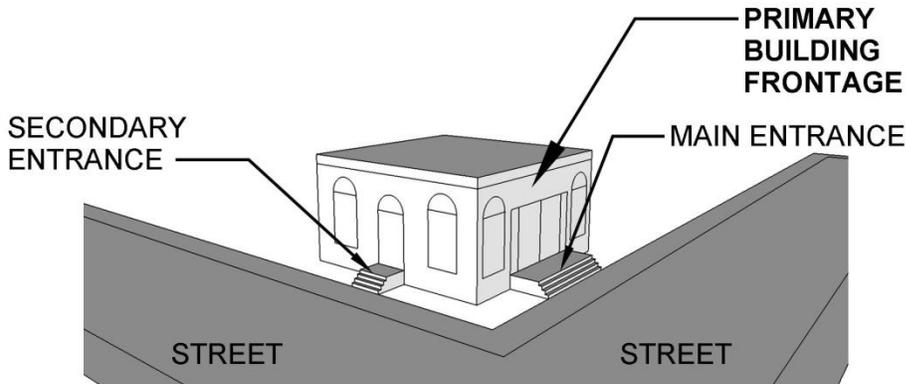
The longest horizontal linear dimension of a building that is adjacent to or fronts on a public street. The building wall fronting on a public street that includes or is closest to the main entrance of the

⁷³⁷ Revised to reference this UDC.

⁷³⁸ Revised to exclude broad windows or other light frame walls for porch enclosures, and to add cross-reference to new front porch encroachment standards.

structure shall be the primary building frontage for a square building situated on the corner of two public streets.

Figure 7.D: Primary Building Frontage for Square and Non-Square Buildings



Primary street frontage

Street frontage to which the primary building on the site is oriented, generally the street containing the primary pedestrian entrance to the building and/or the numbered street address of the building.

Primary surface

The surface longitudinally centered on the runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of the runway. The width of the primary surface is 550 feet.

Projecting sign

A sign that is supported by an exterior wall of a building or other structure and is constructed and displayed perpendicular to the face of the building or other structure so that both sides of the sign are visible. A projecting sign extends out from the building face.

Property owners association

An association or organization, whether or not incorporated, that operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a development is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.

Public hearing⁷³⁹

A formal hearing held under public notice, intended to inform and obtain public input.

Public improvements⁷⁴⁰

Any drainage, ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility that the local government may ultimately assume the responsibility for maintenance and operation, or that may affect an improvement for which local government responsibility is established.

Public utility distribution line, transmission line, or facility⁷⁴¹

A building, structure, or use of land for pipelines, power transmission lines, communication lines, water and sewer lines, railroad tracks, and such related public utility structure or station necessary for the installation and maintenance of franchised utility services.

Radio and television transmitting station and studio

A building or portion of a building used as a place to record and broadcast music, videos, television, and other oral and visual related media.

Railroad transshipment facility

An area and related facilities connected with the assembly or disassembly of trains, including without limitation passenger or freight terminals, operations and maintenance shacks, train sheds, and classification yards.

Recreation and entertainment

Uses providing recreation or entertainment activities inside a building or outside of an enclosed environment. Accessory uses may include concessions, snack bars, parking, and maintenance facilities.

Recreational vehicle

A vehicular or portable unit mounted on a chassis and wheels, which either has its own motive power or is mounted on, in or drawn by another vehicle, including but not limited to travel trailers, fifth wheel trailers, pop-up trailers, bed mounted truck campers, camping trailers, or motor homes. A recreational vehicle is not designed or intended for use as a permanent dwelling or sleeping place, but is to provide temporary living quarters for recreational, camping, or travel use.

Recreational vehicle and large equipment sales

Sale, retail or wholesale, and/or rental from the premises of recreational vehicles, boats, heavy construction equipment, farm equipment, trucks, and aircraft, together with incidental maintenance. Typical uses include heavy construction equipment dealers and tractor trailer sales. This use does not include use of a recreational vehicle as a dwelling unit, either for short-term or long-term.

Restaurant⁷⁴²

A business establishment where meals and/or refreshments may be purchased.

⁷³⁹ Revised for clarity.

⁷⁴⁰ Revised to replace "which" with "that" in a couple of instances.

⁷⁴¹ Removed "transformer" from the definition since Module 1.

⁷⁴² Revised to exclude "this also includes pubs, bars, breweries and taverns."

Retail

Uses involving the sale of a product directly to the final consumer for whatever purpose but not specifically or exclusively for the purpose of resale.

Retail display⁷⁴³

The on-site outdoor exhibition of products or merchandise for retail sale by a retail business, excluding home occupations.

Retail, general

A facility or area for the retail sale of general merchandise or food to the general public for direct use and not for wholesale. This use includes but is not limited to sale of general merchandise, clothing and other apparel, flowers and household plants, dry goods, convenience and specialty foods, hardware, liquor, and similar consumer goods.

Rezoning

A change in the zoning district classification applied to land by the Official Zoning Map, reviewed and decided by the Board of Trustees pursuant to Section 6.4.1.

Right-of-way

A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for any other special use. The usage of the term "right-of-way" for land platting and measurement of dimensional standards shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use on which such right-of-way is established.

Roof sign

A sign that is constructed to extend above the primary peak of the roofline.

Rowhouse or townhouse

An attached single-family dwelling unit located on land owned by the unit owner and situated in a row of three or more similar horizontally attached dwelling units, each unit having its own separate access to the outdoors and its own separate water, sanitary sewer, ventilation and heating system, inclusive of separate utility service lines and meters, and which is separated from attached adjacent dwelling units by a fire-resistant common wall constructed in conformity with the Town's uniform fire and building codes.

Runway Protection Zone (RPZ)

The land area that lies under the approach surface from the end of the primary surface for a distance of 1,000 feet for all runways.

Screened storage

The stockpiling or keeping of materials, products, equipment or goods within an area enclosed by a fence, wall or other physical barrier designed to screen and obstruct the visual observation of the enclosed material by a person standing at ground level utilized in association with a principal use.⁷⁴⁴

⁷⁴³ Revised to exclude home occupations. Relocated language related to "on-site" meaning to Section 2.8, measurements and exceptions.

⁷⁴⁴ Revised to apply to all principal uses, not just commercial or other nonresidential uses.

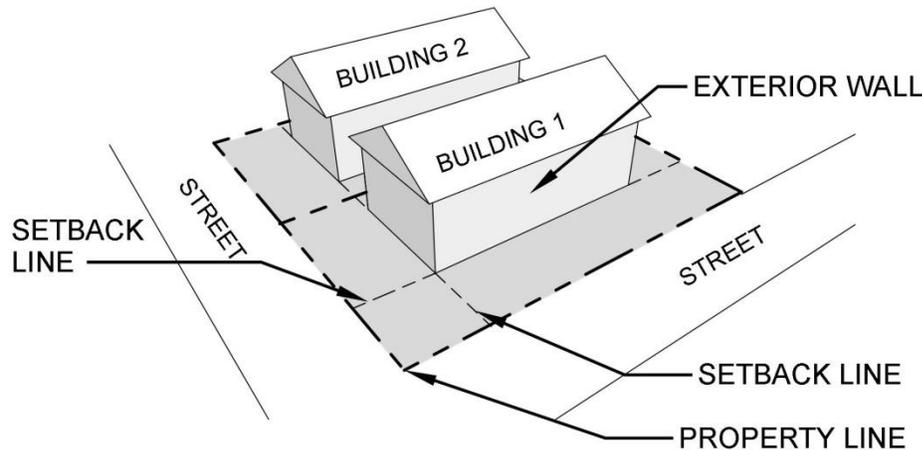
Screening

A method of visually shielding or obscuring one structure or use from another structure or use by installing fencing, walls, berms, gates, parapets, enclosures, features of a building, or vegetation.

Setback

The minimum horizontal distance required, in any given zoning district, to be maintained free of man-made structures between a lot line or property line (projected vertically) and the nearest point along or on an exterior wall or surface of a building or other structure.

Figure 7.E: Setback Lines



Setback line

A line running parallel to a lot line or property line defining the boundary of a setback which is projected on a vertical plane from the ground skyward.

Sexual encounter center

An establishment that as one of its purposes offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities or where one or more of the person is nude or semi-nude. This definition shall not include a licensed health care facility, or establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

Sexually-oriented business

An adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter center, or nude model studio.

Shooting range

An area or facility to be used for firearm target practice, competitions, or similar uses, including but not limited to archery, skeet, trap, and similar shooting activities, and including both indoor and outdoor facilities.

Short-term parking of recreational/camping vehicles

An outdoor facility designed for overnight accommodation of human beings in motorized vehicles, or trailers for recreation, education, naturalist, or vacation purposes. Office, retail, and other commercial uses commonly established in such facilities and related parking structures shall be allowed as

accessory uses and structures. This use does not include use of an individual recreational vehicle located on a property for use by the property owner as a dwelling unit.

Short-term rentals

A dwelling occupied by a paying guest on a temporary or transient basis, not exceeding 30 days, where kitchen and other food preparation facilities may be provided, and which is not owner-occupied. A short-term rental does not include bed and breakfast establishments, but does include cabins and similar structures designed and intended to be occupied by the traveling public for less than 30 consecutive days.

Sidewalk

A hard-surfaced walk or raised path and any curb ramps or blended transitions along and generally paralleling the side of the streets for pedestrians.

Sidewalk Sign

A sign intended to be located on or near a sidewalk with the ability to be readily moved, and that is not affixed to a building, vehicle, or the ground. Sidewalk signs include wheeled signs and A-frame signs.

Sign⁷⁴⁵

Any identification, illustration, means of communication, or device, illuminated or non-illuminated, that is visible from any public place or is located on private property and exposed to the public and that is intended to direct attention, advertise, announce, communicate, declare, demonstrate, or display a particular use, product, service, idea, interest, or message.

Site plan

A plan drawn to scale showing uses and structures proposed for a lot.

Site sign⁷⁴⁶

A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors and similar persons or firms having a role or interest with respect to the structure or project.

Site-specific development plan⁷⁴⁷

A plan that has obtained final development approval under the standards and procedures as contained in this UDC, and that describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, and includes all terms and conditions of approval. See Section 6.7.3.

Sketch plan⁷⁴⁸

A sketch preparatory to the preliminary plat for major subdivisions to enable the applicant to receive feedback from the Town of Buena Vista prior to committing considerable time and expenses toward engineering or construction drawings.

Solar energy facility, large

A solar energy conversion system with a nameplate generating capacity of 10 kW or greater including solar panels, arrays, and related equipment, pipes, and wiring that converts sunlight to heat or electricity for use either on-site or off-site for delivery to a power grid.

⁷⁴⁵ Revised for content neutrality.

⁷⁴⁶ Revised from construction sign to maintain content neutrality.

⁷⁴⁷ From 17-41.

⁷⁴⁸ Revised for clarity.

Solar energy facility, small

A roof-mounted panel, wall-mounted panel, or other solar energy device of less than 10 kW in total nameplate generating capacity, other than a solar array with the primary purpose of providing for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating on-site; however, any excess energy output may be delivered to a power grid to offset the cost of energy on-site.

Special event

A temporary commercial or festive activity or promotion at a specific location that is planned or reasonably expected to attract large assemblies of persons. Temporary special events include carnivals, festivals, circuses, music fairs or concerts, tent revivals, art shows, crafts shows, rodeos, corn mazes, civil war enactments, equestrian shows, and similar events.

Special use permit

A permit for a use as required for specified uses per Table 3.1, Table of Allowed Uses. Such uses may be permitted in a zoning district by special use permits, if specific provision for granting such special use permits is made in accordance with Section 6.5.2, *Special Use Permit*.

Staff

Employees of the Planning Department for the Town of Buena Vista.

Statuary sign

Any three-dimensional sign which is a modeled or sculptured likeness of a living creature or inanimate object.

Figure 7.F: Examples of Statuary Signs



Stealth design

The camouflaging of an antenna or other telecommunications facility to integrate the antenna or facility with a building or the landscape in terms of design, colors, materials, and height.

Storage and warehousing

Uses that are engaged in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will call pickups. There is little on site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, and maintenance areas.

Storage, outdoor

A principal or accessory use consisting of the open-air and unscreened stockpiling or keeping of materials, products, equipment or goods utilized in association with a principal commercial or other nonresidential use, but excepting the retail display of motor vehicles, trailers, agricultural

equipment or machinery, boats, recreational vehicles or equipment and mechanized equipment in an open sales yard or sales lot, and further excluding the outdoor parking of motor vehicles in designated off-street parking areas or spaces.

Storage, unenclosed

The unscreened stockpiling or keeping of materials, products, equipment or goods beyond or outside the confines of a fully-enclosed building utilized in association with a principal use.⁷⁴⁹

Street

A public thoroughfare that affords a principal means of access to abutting property.

Street tree

A tree located in the public right-of-way between the edge of the street and the edge of private or public property, and a tree located in street medians.

Structure

Anything constructed or erected 30 inches or more above grade, or anything attached to something having a permanent foundation or location on the ground; excepting fences, pole-mounted or pedestal bird feeders, movable yard ornaments, portable child play/recreational equipment, sidewalks, attached stairways, driveways and utility boxes or appurtenant fixtures serving public utilities. Disputes or interpretations regarding whether a particular item or structure constitutes a structure within the scope of this definition shall be resolved by the Town Administrator per Section 1.6, Enforcement.

Structure, temporary

A building or other structure that is not constructed on a permanent foundation and that may or may not be equipped with permanently installed utility lines or plumbing, including, by way of example, tents, trailers, vending carts, huts, portable buildings or seasonal structures.

Subdivision⁷⁵⁰

The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land. The term shall also include and refer to any division of land, lot line adjustment, and elimination of lot lines on previously subdivided or platted land.

Subdivision entrance sign

A sign that identifies a subdivision by name, logo, or other symbols.

Temporary office, contractor's quarters, or equipment storage

A facility or area used as a temporary office to sell or lease land or buildings or interests in land or buildings within a specified area for a temporary field construction office or temporary outdoor storage of construction equipment and materials associated with an active permit to demolish or construct buildings, structures or infrastructure.

Temporary sign⁷⁵¹

A sign intended for a limited period of display.

⁷⁴⁹ Revised to apply to all principal uses, not just commercial or other nonresidential uses.

⁷⁵⁰ Revised for clarity.

⁷⁵¹ Replaces the current definition: "A sign displayed for a fixed, terminable length of time and to be removed after the temporary purpose has been served or the term length has expired, whichever comes first."

Temporary use

A use that may or may not be permitted under the regulations for a given zoning district, but may be allowed on a nonpermanent and temporary basis following the procedures in Section 6.5.3, *Temporary Use Permit*.

Temporary Vendor

A use including the retail display or sale of merchandise through a temporary and non-permanent structure or vehicle not intended to be a permanent fixture on a lot, including any cart, table, equipment, or apparatus that is not a structure.

Town

The Town of Buena Vista, Colorado.

Town Administrator

The Town Administrator, or designee, for the Town of Buena Vista, Colorado.

Town Attorney

The licensed attorney designated by the Board of Trustees to furnish legal assistance for the administration of this UDC.

Tract

An area of land created by a plat that is designed for some purpose other than a building site or lot. Also known as an outlot. See definitions for “lot” and “parcel.”

Trade or vocational school

A school offering special training in a skill or trade.

Use

Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Use, accessory

A use located on the same lot with a principal use and clearly incidental or subordinate to and customary in connection with the principal use.

Use, nonconforming

Any use or activity that was lawfully established and conforming prior to the adoption or subsequent amendment of this UDC and has been continuously maintained since that time, but is not currently allowed and/or does not conform and comply with the requirements of the UDC.

Use, permitted

A specific use of land, buildings, or structures authorized and allowed by right in a given zoning district, as indicated in Table 3.1, Table of Allowed Uses.

Use, principal

The main use on a lot.

Variance⁷⁵²

A development permit authorizing a deviation from the standards of this UDC where strict application of the standard results in a hardship due to circumstances peculiar to a lot, and that is reviewed and decided by the Board of Adjustment pursuant to Section 6.7.2.

⁷⁵² Replaces current definition.

Vehicular and transportation

Uses include a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses may include incidental repair and storage and offices.

Vested property right

The right to undertake and complete the development and use of property under the terms and conditions of a site-specific development plan.

Veterinary hospital or clinic

A facility rendering surgical and medical treatment to large animals and/or household pets, including those that provide overnight accommodations, outdoor runs, or crematory facilities.

Walkway

A clearly defined path for pedestrian movement between buildings, structures, destinations, and/or other walkways on or adjacent to a site.

Walkway sign

A sign affixed to the underside, side, or top of a permanent cover or canopy above a walkway or public right-of-way.

Wall sign

A sign painted on or affixed to an exterior wall of a building or other structure and which is mounted parallel to the surface so that only one side is visible to the public.

Wholesale distribution, warehouse, or mini-warehouse

A facility engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, including a self-service storage (mini-warehouse) facility, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Wind energy facility, large

A Wind Energy Conversion System (WECS) 10 kilowatts (kW) or greater total nameplate generating capacity.

Wind energy facility, small

A Wind Energy Conversion System (WECS) of less than 10 kilowatts (kW) in total nameplate generating capacity.

Wireless telecommunication services facilities and/or equipment

Cellular telephone, paging, enhanced specialized mobile radio (ESMR), personal communication services (PCS), commercial mobile radio service (CMRS) and other wireless commercial telecommunication devices and all associated structures and equipment including transmitters, antennas, monopoles, towers, masts and microwave dishes, cabinets and equipment rooms. This definition does not apply to noncommercial satellite dish antennas, radio and television transmitters and antennas incidental to residential use.

1. Cellular means an analog or digital wireless communication technology that is based on a system of interconnected neighboring cell sites, each of which contains antennas.
2. Enhanced Specialized Mobile Radio (ESMR) means a digital wireless communication technology that specializes in providing dispatching services.
3. Personal Communication Services (PCS) means a digital wireless communication technology that has the capacity for multiple communications services and will provide a

system in which calls will be routed to individuals rather than places, regardless of location.

Xeriscape or xeriscaping

Landscaping characterized by the use of vegetation and other landscaping materials that are drought-resistant or water-conserving.

Yard

An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided in this UDC.

Yard, front

A yard across the full width of the lot extending from the front line of the building to the front line of the lot. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

Yard, rear

A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.

Yard, side

A yard on the same lot with a building between the building and the side line of the lot extending from the front of the building line to the rear of the building.

Figure 7.G: Lots and Yards

