

## CHAPTER 16

### Zoning

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## **ARTICLE I**

### **General and Introductory Provisions**

#### **Sec. 16-1. Title and citation.**

The various sections herein contained constitute the Zoning Chapter of the Town and may be so cited. (Prior zoning regulation 101; Ord. 1-1992, § 1)

#### **Sec. 16-2. Purpose and intent.**

The purpose and intent of this Chapter shall be to:

- (1) Promote the public health, safety, morals and general welfare.
- (2) Protect the access of the citizens of the Town to air and light.
- (3) Promote the use of land in a manner that supports and encourages a safe and efficient network of transportation facilities in the Town.
- (4) Promote a pattern of land uses that are in harmony with one another.
- (5) Prevent overcrowding of land and undue concentration of population.
- (6) Facilitate the adequate provision of public requirements.
- (7) Conserve the value of buildings. (Prior zoning regulation 102; Ord. 1-1992, § 1)

#### **Sec. 16-3. Authority.**

This Chapter is adopted pursuant to, inter alia, Section 29-20-101, et seq., C.R.S., and Section 31-23-101, et seq., C.R.S. (Prior zoning regulation 103; Ord. 1-1992, § 1)

#### **Sec. 16-4. Warning and disclaimer of liability.**

This Chapter is based upon sound principles of Town planning. Nuisances or damages beyond the scope of or unanticipated by this Chapter may occur on rare occasions. This Chapter shall not create liability on the part of the Town or of any of its officers, employees, servants or agents thereof or any such nuisances or damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder. This Chapter shall not be construed to hold the Town responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein, or failure to inspect, or by reason of issuing a building permit as herein provided. Nothing in this Chapter shall be construed to create any liability or to waive any of the immunities, limitations on liability or other provisions of the Governmental Immunity Act, Section 26-10-101 et seq., C.R.S., or to waive any immunities or limitations on liability otherwise available to the Town or its officers, employees or agents. (Prior zoning regulation 804; Ord. 1-1992, § 1)

**Sec. 16-5. Rules of construction.**

The following rules shall apply throughout this Chapter:

- (1) The particular controls the general.
- (2) In case of any difference of meaning or implication between the text of this Chapter and the titles of each section, the text shall control.
- (3) The word *shall* is always mandatory and not directory. The word *may* is permissive.
- (4) Words used in the present tense include the future, unless the context clearly indicates the contrary.
- (5) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
- (6) A *building* or *structure* includes any part thereof. A *building or other structure* includes all other structure of every kind, regardless of similarity to buildings.
- (7) The phrase *used for* includes *arranged for, designed for, intended for, maintained for* and *occupied for*. (Prior zoning regulation 104; Ord. 1-1992, § 1)

**Sec. 16-6. Interpretation and applicability.**

(a) This Chapter applies to applications to engage in development, to change a use or to modify or enlarge an existing use within the corporate limits of the Town. Any use of any building, structure or land and the erection, construction, reconstruction, alteration, repair, moving or structural alteration of any building, structure or part thereof shall be subject to the provisions of this Chapter.

(b) Any person seeking to engage in development, to change a use or to modify or enlarge an existing use within the corporate limits of the Town shall obtain the approval of the Town pursuant to this Chapter before engaging in such activity. Except as hereinafter provided, no building, structure or land shall be used, and no building, structure or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with the regulations herein specified for the zoning district in which it is located, nor shall a yard, lot or open space be reduced in dimension or area to an amount less than the minimum requirements set forth herein.

(c) Adjustments may be made by recommendation of the Planning and Zoning Commissions and Board of Trustees approval, upon special circumstances. In their interpretation and application, the provisions of this Chapter shall be regarded as the minimum requirements for the protection of the public health, safety, morals and general welfare. This Chapter shall, therefore, be regarded as remedial and shall be literally construed to further its underlying purposes. (Prior zoning regulation 105; Ord. 1-1992, § 1)

### **Sec. 16-7. Exemptions.**

The provisions of this Chapter shall not apply to a nonconforming use existing on the date this Chapter becomes effective, according to the provisions of Section 16-84. No other uses shall be exempted from any of the provisions of this Chapter, except as permitted in Article VII of this Chapter subject to the decision of the Board of Adjustment and approval of the Board of Trustees. (Prior zoning regulation 106; Ord. 1-1992, § 1)

### **Sec. 16-8. Relationship to other local, county, state and federal requirements.**

(a) Nothing in this Chapter shall be construed as exempting an applicant from any other requirements of the Town or other local, county, state or federal laws and regulations.

(b) This Chapter is not intended to repeal, abrogate or impair any existing applicable requirements, easements, covenants, permits or deed restriction which impose more restrictive requirements than this Chapter. Where this Chapter and any other regulations, requirements, easements, covenants, permits or deed restrictions conflict or overlap, the more restrictive requirements shall control. (Prior zoning regulation 107; Ord. 1-1992, § 1)

### **Sec. 16-9. Amendments to this Chapter.**

The regulations and restrictions set forth herein may from time to time be amended, supplemented, changed or repealed in accordance with the procedures set forth below.

(1) **Initiation.** Amendments to this Chapter may be initiated by either the Planning and Zoning Commissions or the Board of Trustees.

(2) **Public Hearing.** No amendments to this Chapter shall be effective until after a public hearing before the Planning and Zoning Commissions and the Board of Trustees for which a public notice has been given, in accordance with Section 16-148.

(3) **Recommendations and approval.** The Planning and Zoning Commissions shall make recommendations to the Board to Trustees on the proposed amendments. The Board of Trustees shall approve or disapprove the amendments. (Prior zoning regulation 806; Ord. 1-1992, § 1)

### **Sec. 16-10. Definitions.**

The following words, when used in this Chapter, shall have the following meanings:

(1) *Accessory building* means a detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land on which it is located, which does not exceed in area thirty percent (30%) of the rear yard area of the property and is not closer than six (6) feet to a structure, and which is no higher above grade than the existing principal building. Accessory buildings require a building permit and shall be constructed in accordance with applicable codes. The term *accessory building* does not include utility sheds.

(2) *Accessory use* means a use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the premises.

(3) *Alley* means a public way permanently reserved as a secondary means of access to abutting property.

(4) *Appurtenant structure* means a garage, shed or other structure directly connected to and part of a principal structure. Structures connected only by breezeways, walkways, porches, patios or fences will not be considered appurtenant structures.

(5) *Board of Adjustment* means the Board of Adjustment of the Town.

(6) *Boarding and rooming house* means a building or portion thereof which is principally used to accommodate, for compensation, five (5) or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The compensation shall include compensation in money, services or other things of value. The term includes a guest house or a lodging house, but not a motel or hotel.

(7) *Building* means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, not including advertising sign boards or fences.

(8) *Building height* means the vertical distance measured from the established curb level to the highest point of the underside of the ceiling beams for a flat roof; to the deck line for a mansard roof; and the main level of the underside of the rafters between the eaves and the ridge for a gable, hip or gambrel roof. Chimneys, spires, towers, elevator penthouses, tanks and similar projections other than signs shall not be included in calculating the height.

(9) *Child care center* means a facility maintained solely for the care of five (5) children or more, and that provides less than twenty-four (24) hour care. Such facility regardless of number shall be subject to and regulated by the State Department of Social Services Rules and Regulations. (NOTE: The number of children allowed is determined by available square footage at such facility, as stated in the State Department of Social Services Rules and Regulations.)

(10) *CMRS telecommunication provider* means a public or private company providing any type of CMRS or other related technology.

(11) *CMRS telecommunications equipment shelter* means an unattended structure such as a small building or cabinet used to house equipment for a CMRS telecommunications facility associated with either a freestanding CMRS telecommunications facility or a structure- or building-mounted CMRS telecommunications facility.

(12) *Commercial Mobile Radio Services (CMRS) telecommunications* means any use of property for antennae, equipment and equipment shelters employed in the reception, switching and/or transmission of wireless telecommunication services including, but not limited to, paging, enhanced specialized mobile radio, personal communications services, microwave link antenna, cellular telephone and other related technologies.

(13) *Conventionally built dwelling* means a dwelling constructed element by element at the site, as opposed to a dwelling that is prefabricated by systems, or a mobile home.

(14) *Day care home* means a dwelling where a maximum of five (5) children, not related to the principal occupants, are received for care. Such dwelling shall be subject to and regulated by the State Department of Social Services Rules and Regulations.

(15) *Development* means any change in the actual use of land or improvements thereon, including but not limited to: the construction of any improvements which require a building permit; a change in use or intensity of use on the land or in improvements thereon; enlargement, reconstruction or renovation of improvements; or demolition of improvements. Notwithstanding this provision, the following are not development activities:

a. Any change from one (1) agricultural use or crop to another.

b. Normal maintenance and repair of improvements which does not involve a change in use or intensity of use.

c. Nonstructural interior improvements.

(16) *Drainage* means the drainage required as per the Town's Standards Specification Manual.

(17) *Dwelling* means a building or portion thereof which is used as a private residence or sleeping place of one (1) or more human beings, but not including hotels, motels, tourist courts, resort cabins, clubs or hospitals. In addition, all dwellings shall be constructed as permanent buildings and shall comply with the standards established by the Uniform Building Code as adopted by the Town.

(18) *Dwelling, single-family* means a building designed exclusively for occupancy by one (1) family.

(19) *Dwelling, multiple-family* means a building, or portion thereof, designed for or occupied by three (3) or more families living independently of each other.

(20) *Dwelling, two-family* means a building designed exclusively for occupancy by two (2) families living independently of each other.

(21) *Dwelling unit* means one (1) or more rooms in a dwelling, designed for occupancy by one (1) family for living or sleeping purposes and having not more than one (1) kitchen.

(22) *Easement* means authorization by a property owner for the use by the public, a corporation or persons of any designated part of his or her property for specific purposes.

(23) *Family* means an individual or two (2) or more persons related by blood, marriage or adoption, or a group of not to exceed five (5) persons (excluding servants) living together as a single housekeeping unit in a dwelling unit.

(24) *Floor area* means, for the purposes of determining the floor area ratio, conversions of existing structures and maximum size of business establishments, the sum of the gross horizontal areas of several floors measured in square feet, including the basement floor, but not including the cellar floor of the building, measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The floor area of a building shall also include elevator shafts and



stairwells at each floor; floor space used for mechanical equipment, except equipment (open or enclosed) located on the roof; penthouses; attic space having headroom of seven (7) feet ten (10) inches or more; interior balconies and mezzanines; enclosed porches; and floor area devoted to accessory uses; provided that any space devoted to off-street parking or loading shall not be included in floor area.

(25) *Floor area ratio* means the numerical value obtained through dividing the gross floor area of a building or buildings by the net lot area on which such building or buildings are located.

(26) *Freestanding CMRS telecommunications facility* means a facility that consists of a stand-alone support structure such as a lattice tower or monopole, antennae and associated equipment storage shelters.

(27) *Home occupation* means any use conducted principally within a dwelling and carried on only by the inhabitants, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Home occupations may be conducted within appurtenant structures. Any uses conducted within accessory buildings or other nonappurtenant structures may be considered home occupations upon meeting the conditions set forth in Section 16-82 of this Code.

(28) *Junk* means any manufactured goods, appliances, fixtures, furniture, machinery, motor vehicle or trailer which is abandoned, demolished, dismantled or so worn or deteriorated, or in such condition to be unusable in its existing state or salvage materials, scrap metal, waste, bottles, tin cans, paper, boxes, crates, rags, used lumber and building materials, motor vehicles and machinery parts, and used tires.

(29) *Kenel* means any lot or premises used in whole or part for the purpose of boarding, breeding, buying, selling, trading, training or producing pet animals for compensation or profit. This does not include veterinary medical facilities, licensed research facilities or government agencies.

(30) *Livestock* means horses, mules, cattle, burros, swine, sheep, goats and rabbits.

(31) *Lot* means a parcel of real property as shown with a separate and distinct number or letter on a plat recorded with the County Clerk and Recorder, or when not so platted, in a recorded subdivision, a parcel of real property abutting upon at least one (1) public street and held under separate ownership.

(32) *Lot area* means the total horizontal area within the lot lines of a lot.

(33) *Lot line, front* means the property line dividing a lot from a street. On a corner lot only one (1) street line shall be considered as a front lot line.

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

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

(36) *Lot width* means the distance parallel to the front lot line measured between side lot lines through the part of the building or structure where the lot is most narrow.

(37) *Microwave link antenna* means any antenna which emits microwave signals, except for receivers otherwise regulated in this Code.

(38) *Motel* or *hotel* means a building designed for occupancy as the temporary abiding place (thirty [30] days or less) of individuals who are lodged with or without meals and with such building having six (6) or more guest rooms.

(39) *Nonconforming structure or use* means a structure or use lawfully existing at the time the ordinance codified in this Chapter or any amendment thereto becomes effective and which, after the effective date of such ordinance or amendment, does not conform with the building regulations or the regulations applicable in the zone district in which it is located. This term does not include accessory uses.

(40) *Occupied* includes arranged, designed, built, altered, converted, rented or leased, or intended to be occupied.

(41) *Off-street parking space* shall be a space located on specific premises with minimum dimensions of ten (10) feet wide by twenty (20) feet long.

(42) *Open space* means open space on a building site, including pedestrian ways, space for active and passive recreation and landscaping, exclusive of space devoted to vehicular streets, drives, parking areas, carports, patios, signs or is overlaid by buildings or any other type of structure.

(43) *Open and unobstructed* means having open space, open areas, not being blocked, clogged, covered or enclosed by any type of temporary or permanent materials or devices for any length of time.

(44) *Operable motor vehicle* means a motor vehicle in such physical and mechanical condition so as to perform the function or purpose for which it was originally constructed or manufactured.

(45) *Panel antenna* means any antenna with both a vertical and horizontal plane designed to receive, transmit, direct or aim CMRS telecommunications signals. Panel antennae are commonly mounted to a building or other support structure for the transmission or reception of wireless communications signals.

(46) *Paved* means asphalt, concrete or other sealed hard surface.

(47) *Person* shall also include association, firm, copartnership or corporation.

(48) *Planned Unit Development* means a unified development in single ownership of control, which is subdivided and developed according to a comprehensive plan and where the specific requirements of a given district may be modified.

(49) *Planning and Zoning Commissions* means the Planning and Zoning Commissions of the Town.

(50) *Poultry* means chickens, ducks, geese, guineas, peacocks and pigeons.

(51) *Powers of the Board of Adjustment* are to hear, review and decide appeals concerning the enforcement of this Chapter and to hear, review and make recommendations to the Board of Trustees on requests for special exceptions in accordance with all of the requirements of this Chapter.

(52) *Powers of the Planning and Zoning Commissions* are to hear and review applications made to the Town as required by this Chapter and to make recommendations to the Board of Trustees on such applications. These powers do not include the power to make final decisions on any applications; such power rests solely with the Board of Trustees.

(53) *Powers of the Board of Trustees* are to hear, review and decide upon any applications made to it in accordance with the requirements of this Chapter and in such decision process to consider all information, including recommendations by the Planning and Zoning Commissions, Board of Adjustment and other interested or affected parties; to amend this Chapter; and any other powers granted to the Board of Trustees.

(54) *Principal use* means the main use of land or of a structure as distinguished from a subordinate or accessory use.

(55) *Public hearing* means a meeting called by a public body for which public notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.

(56) *Roof line* means the highest point on any building where an exterior wall encloses usable floor area, including floor area provided for housing mechanical equipment.

(57) *Room* means a subdivided portion of the interior of a dwelling unit, excluding bathrooms, kitchens, closets, hallways and service porches.

(58) *Signs* means a visual means of communication, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising purposes. Any outdoor advertising device, display, figure, painting, drawing, message, placard, poster, structure or any other contrivance designed, intended or used to advertise or to give information in the nature of advertising and having the capacity of being seen from the travel way of any road, street, highway or other public right-of-way. Classes of signs are:

a. *Awning sign* is a sign which is mounted on a temporary shelter supported entirely from the exterior wall of a building.

b. *Banner* is a strip of fabric which is used as a sign stretched across two (2) points and is temporary in nature.

c. *Canopy sign* is a sign which is mounted on a permanently roofed shelter covering a sidewalk, driveway or other similar area, which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.

d. *Flush wall sign* is any sign attached to or erected against the wall of a building with the sign face in a plane parallel to the plane of said wall and which does not extend more than twelve (12) inches from the building fascia.

e. *"For Sale" or "For Rent" sign* is a sign indicating the availability for sale, rent or lease of the specific lot, building or portion of a building upon which the sign is erected or displayed.

f. *Freestanding sign* is a detached sign which is supported by one (1) or more columns, uprights, poles or braces extended from the ground or from an object on the ground, or a detached sign which is erected on the ground, provided that no part of the sign is attached to any part of any building, structure or other sign.

g. *Ground sign* is a type of freestanding sign which is erected on the ground and which contains no free air space between the ground and the top of the sign.

h. *Pennant* is a triangular, square or rectangular shaped flag attached in a string type manner. Pennants are in plain color and do not contain any words, logos or emblems.

i. *Permanent sign* is a sign which is permanently affixed or attached to the ground or to any structure.

j. *Political sign* is a sign which advertises a candidacy for public office or issues to be considered in a public election.

k. *Portable sign* is a sign which is not permanently affixed or attached to the ground or to any structure.

l. *Projecting wall sign* is any sign other than a flush wall sign which projects from and is supported by a wall or a building. Such sign requires special review by the Planning and Zoning Commissions and, if applicable, the Board of Trustees.

m. *Rooftop sign* is a sign erected upon or above a roof or above a parapet wall of a building. Such sign requires special review.

n. *Sign face* is the surface of the sign upon, against or through which the message is displayed or illustrated.

o. *Sign, illegal* is any sign which was erected in violation of any of the ordinances of the Town governing the same at the time of its erection and which sign has never been in conformance with such ordinance, including Article V of this Chapter, and which shall include signs which are posted, nailed or otherwise fastened or attached to or painted upon structures, utility poles, trees, fences or other signs.

p. *Sign, legal nonconforming* is any sign which was lawfully erected and maintained prior to the enactment of Article V and any amendments thereto and which does not conform to all the applicable regulations and restrictions of Article V.

q. *Sign with backing* is any sign that is displayed upon, against or through any material, color surface or backing that forms an integral part of such display and differentiates the total display from the background against which it is placed.

r. *Sign without backing* is any word, letter, emblem, insignia, figure or similar character or group thereof that is neither backed by, incorporated in nor otherwise made a part of any larger display area.

s. *Special event sign* is a temporary sign, including but not limited to, banners, posters, A-frames (sandwich board), hot air balloons and pennants that contain words, logos or emblems which remain on one (1) parcel or building facade.

t. *Under-canopy sign* is a sign which is located beneath a permanent roofed shelter covering a sidewalk, driveway or other similar area, which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.

u. *Wind-driven sign* is any sign consisting of one (1) or a series of two (2) or more banners, flags, pennants, ribbons, spinners, streamers, captive balloons or other objects or material fastened in such a manner as to move, upon being subjected to pressure by wind or breeze.

(59) *Special use permit* means a permit granted to an individual, group or organization so as to allow an event to occur for a designated period of time which may or may not be compatible with the particular zone. Clean-up bonds or other special restrictions may be associated with issuance of this permit as deemed necessary by the Planning and Zoning Commissions and the Board of Trustees.

(60) *Street* means a public thoroughfare which affords the principal means of access to abutting property.

(61) *Structure* means anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences less than six (6) feet in height, poles, lines, cables or other transmission or distribution facilities of public utilities.

(62) *Structure- or building-mounted CMRS telecommunications facility* means any CMRS facility, antenna or equipment attached to or mounted upon any structure or equipment attached to or mounted upon any structure or building. Structure- or building-mounted CMRS telecommunications do not include freestanding CMRS telecommunication facilities as defined by this Section. All structure- or building-mounted CMRS telecommunications facilities shall be deemed an accessory use of the property to which the facility is attached or mounted.

(63) *Temporary use permit* means that a temporary use shall have all of the restrictions and regulations as does the definition of *home occupation*, except that this temporary use may be conducted in an accessory building or other appurtenant structure. In addition to all other restrictions, the following also apply:

- a. Uses are subject to a minimum of a six (6) month review; and
- b. No sewer connections or water taps may be granted for those uses.

(64) *Trustee* means an elected member of the Board of Trustees.

(65) *Use* means the purpose for which land or building and/or structure is designed, arranged, utilized or intended, or for which either is or may be occupied or maintained.

(66) *Utility shed* means a structure which shall be used for the sole purpose of storage and shall not exceed one hundred twenty (120) square feet of projected roof area, not to exceed ten (10) feet in height and shall be at least six (6) feet from any structure. Utility sheds are not considered accessory buildings.

(67) *Variance* means a finding that a proposed development implements only the spirit, and not the letter, of a provision of this Chapter, granted by the approving agency after finding that the failure to implement the provision is only of insignificant proportions and to implement the letter of the provision would work a hardship as defined by law.

(68) *Whip antenna* means any antenna cylindrical in shape that emits signals in a three hundred sixty degree (360°) horizontal plane for the transmission or reception of wireless communications signals.

(69) *Yard* means an open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter.

(70) *Yard, front* means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

(71) *Yard, rear* means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

(72) *Yard, side* means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building or accessory building attached thereto. (Prior zoning regulation Article 9; Ord. 1-1992, § 1; Ord. 1-1998, § 1)

**Secs. 16-11--16-30. Reserved.**

## **ARTICLE II**

### **Zoning District and Official Zoning Map**

**Sec. 16-31. Establishment of zoning districts and adoption of schedules.**

(a) In order to carry out the purposes of this Chapter, the Town is hereby divided into the following zoning districts:

- (1) R-1 Low Density Residential District.
- (2) R-2 Medium Density Residential District.
- (3) R-3 High Density Residential District.

- (4) CBD Central Business District.
- (5) C Commercial District.
- (6) I-1 Light Industrial District.
- (7) I-2 Heavy Industrial District.
- (8) P Park and Open Space District.
- (9) PUD Planned Unit Development District.

(b) The schedules included in Articles III, IV and V of this Chapter which indicate uses permitted, minimum area of lot, minimum width of lot, minimum front yard, minimum rear yard, minimum side yard, height of structure, parking, sign, accessory building and use, and home occupation regulations for the various zoning districts are hereby adopted and declared to be a part of this Chapter and may be amended in the same manner as any other part of this Chapter, subject to the requirements of Section 16-81 of this Chapter. (Prior zoning regulation 201; Ord. 1-1992, § 1)

**Sec. 16-32. Official Zoning Map and district boundaries; adoption and interpretation.**

(a) The boundaries of the zoning districts listed in Section 16-31 are established as shown on a map entitled "Zoning Map," which map is hereby made a part of this Chapter.

(b) Unless otherwise defined on the Zoning Map, district boundary lines are as follows:

- (1) Lot lines;
- (2) Center lines of streets, alleys, railroad right-of-way or such lines extended;
- (3) Municipal corporate lines;
- (4) Center lines of stream beds or irrigation ditches; and
- (5) Other lines drawn to scale on the Zoning Map.

(c) Where a lot is divided at the time of enactment of this Chapter or by subsequent amendments by a zoning district boundary line, the less restrictive zoning requirements may be extended not more than twenty-five (25) feet into the more restrictive zoning district adjacent to the zoning district boundary line.

(d) Where interpretation is needed as to the exact location of the boundaries of a zoning district, the Board of Trustees shall make the necessary interpretation. (Prior zoning regulation 202; Ord. 1-1992, § 1)

**Sec. 16-33. Amendments to the Official Zoning Map.**

Any amendments to the Zoning Map of the Town shall require that the applicant, the Planning and Zoning Commissions and the Board of Trustees follow the requirements of Section 16-142 of this

Chapter. The procedure to amend the Zoning Map may be initiated by the Board of Trustees or by a qualified applicant as described in Article VI of this Chapter. The Planning and Zoning Commissions shall periodically make a comprehensive study and review of the Zoning Map for the purpose of maintaining the Zoning Map on a current basis. (Prior zoning regulation 203; Ord. 1-1992, § 1)

**Sec. 16-34. Zoning conditioned upon development.**

(a) Statement of purpose. The purpose of this Section is to encourage the development of land in the commercial and industrial zones, and to discourage the rezonings of land to uses where there is no serious intent to develop the property. This Section is not intended to have any application to any residential district and is not intended to affect those rezonings which are done with a seriousness of intent to develop the land.

(b) This Section shall apply where property has been rezoned, or is to be rezoned, to the following zone districts: CBD, Commercial, I-1 or I-2.

(c) This Section shall not apply to land rezoned prior to, but shall not restrict the Town's authority to initiate rezoning on such parcels of land according to the procedures listed in Section 16-142.

(d) Land which is conditionally rezoned after the effective date of the ordinance codified in this Section shall remain in its prior zoning category if construction and development have not occurred within two (2) years of the final passage of the conditional rezoning ordinance.

(1) After the effective date of the ordinance codified in this Section, any ordinance rezoning land to a category to which this Section applies, as set forth in Subsection (b) above, shall include the language: "This Ordinance shall take effect at such time as construction and development on the above described property occurs, as defined by Section 16-34(e) of the Town Zoning Ordinance. If such construction and development does not occur within two (2) years of the effective date of this Ordinance, this Ordinance shall be void and of no further force and effect." The above language will refer to each individual ordinance rezoning land and not to the Town Zoning Ordinance itself.

(2) Because these ordinances, subsequent to the effective date of the ordinance codified in this Section, shall only take effect upon construction and development, it is at that time that rezoning will be considered to occur. If construction and development have not occurred, the ordinance shall not take effect and, thus, no hearing shall be required under Section 16-142.

(3) Written notice that the two (2) year time period is going to expire shall be given to the property owner not less than thirty (30) days prior to such expiration.

(4) Extensions may be made to the two (2) year time period as specified in Subsection (1) above. Such extensions may be granted by the Board of Trustees after the Planning and Zoning Commissions have reviewed and made a recommendation to the Board of Trustees, where the applicant has demonstrated to the satisfaction of the Board of Trustees that development plans for the property are proceeding and shall commence within the additional time period, or has demonstrated to the Board of Trustees that the zoning is consistent with the Master Plan of the Town and that there has been no significant change in the surrounding neighborhood. Each individual extension granted by the Board of Trustees under this authority may be for a period of up to two (2) years, and such extension shall be granted by ordinance.



(5) If no zone district of the Town existed on the land prior to the current effective zone district, then the Town shall have thirty (30) days within which to initiate zoning to a new category, following the expiration of the two (2) year time period.

(e) The obtaining of a building permit for the development of principal structures on the property shall be evidence of commencement of construction and development, as required by this Section. If the time period provided by Subsection (d) above has expired and subsequent to that date the building permit on the property expires, failure to have a valid building permit shall be deemed to be a failure to commence development and construction and the provisions of this Section shall apply. (Prior zoning regulation 204; Ord. 1-1992, § 1)

#### **Sec. 16-35. Special uses.**

(a) Special uses authorized. Upon approval by the Board of Trustees, the Town Clerk or a designee may issue a special use permit for the following uses, notwithstanding the existence of any prohibitory provisions in this Chapter, provided that under no circumstances shall any exception or special use permit be granted so as to permit a commercial use to be granted in a residentially zoned area:

(1) A requested use in a zone district within the Town where such use is not permitted in the underlying zone, either as a permitted use or as a use subject to a public hearing. Maximum time period: thirty (30) days per year.

(2) Merchandising from other than a permanent structure. Maximum time period: fifteen (15) consecutive days per calendar month, and shall only be issued three (3) times in a calendar year to the same applicant.

(3) Private use of a public right-of-way by placement of a sign, advertisement or merchandise within the right-of-way. Maximum time period: nine (9) consecutive days per calendar month, and shall only be issued three (3) times in a calendar year to the same applicant.

(4) Use of the public roadway for purposes of conducting a parade, or organized nonvehicular use, including but not limited to walkathons, jogathons, bikeathons, etc. Maximum time period: two (2) days per year.

(b) Special use permit application. Application for a special use permit shall be made in accordance with the procedures set forth in Section 16-147 of this Chapter. (Prior zoning regulation 205; Ord. 1-1992, § 1)

#### **Sec. 16-36. Temporary uses.**

(a) Temporary uses authorized. In nonresidential zone districts, a permit may be granted for temporary trailers, offices and structures necessary for construction purposes, only upon written approval of the Board of Trustees. Such approval shall be limited to a maximum of six (6) months, and may be renewed upon separate applications. Failure to remove any such trailers, offices or structures after the expiration of such permit, or after completion of construction on a site, notwithstanding the fact that the permit has not expired, shall be in violation of this Section.

(b) Temporary use permit application. Application for a temporary use permit shall be made in accordance with the procedures set forth in Section 16-147 of this Chapter. (Prior zoning regulation 205; Ord. 1-1992, § 1)

**Secs. 16-37--16-50. Reserved.**

### **ARTICLE III**

#### **Zoning Districts and Use Regulations Thereto**

##### **Sec. 16-51. R-1 Low Density Residential.**

(a) Statement of purpose. The purpose of the Low Density Residential District, herein called the R-1 District, shall be to:

(1) Recognize and protect those developing, developed and underdeveloped areas of the Town where conventionally built single-family residential uses are in accordance with the Master Plan.

(2) Implement the Master Plan by encouraging the development of single-family dwellings in these areas.

(3) Promote and encourage a suitable environment for family life where children are members of most families.

(4) Provide for adequate light and air for structures on contiguous properties.

(5) Allow for construction of single-family dwellings.

(6) Prohibit all activities of a commercial nature, except customary home occupations where approved by the Board of Trustees.

(b) Uses permitted:

(1) Single-family, detached dwellings;

(2) Accessory buildings and uses; and

(3) Public utilities: mains, transmission and distribution lines, substations and exchanges only.

(c) Uses permitted subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees:

(1) Child care centers;

(2) Day care homes;

(3) Home occupations;

- (4) Public schools, libraries, parks, playgrounds and recreational areas;
- (5) Private schools;
- (6) Churches, synagogues, chapels and temples; and
- (7) Private golf courses, tennis clubs and country clubs.

(d) Site plan requirements. Site plans shall be required for all developments in this district, other than single-family detached dwellings, pursuant to this Chapter, and shall be submitted in accordance with Article VI.

(e) Minimum area of site per dwelling unit: six thousand (6,000) square feet.

(f) Maximum density: five and eight-tenths (5.8) dwelling units per acre.

(g) Minimum lot width:

(1) Per detached building, sixty (60) feet.

(2) The minimum frontage of sixty (60) feet may be reduced to a minimum of fifty (50) feet if the location of the lot is situated on a cul-de-sac or similarly curved frontage; provided that, at the required front yard setback line, the width of the lot shall be at least equal to the specified minimum frontage of sixty (60) feet.

(h) Minimum front yard (also see Section 16-89):

(1) Principal buildings — twenty-five (25) feet;

(2) Accessory buildings — shall not extend beyond the front of the principal building located thereon; and

(3) Utility sheds — prohibited in front yard.

(i) Minimum side yard:

(1) Principal buildings — five (5) feet on each side, except when abutting a street — fifteen (15) feet;

(2) Accessory buildings — five (5) feet on each side, except when abutting a street - fifteen (15) feet; and

(3) Utility sheds — none, except if a utility shed is within six (6) feet of another structure, in which case a minimum setback of five (5) feet shall apply.

(j) Minimum rear yard (also see Section 16-90):

(1) Principal buildings — twenty-five (25) feet;

(2) Accessory buildings — five (5) feet on each side, except when abutting a street - fifteen (15) feet; and

(3) Utility sheds — none.

(k) Floor area ratio: not to exceed four-tenths (0.4).

(l) Minimum open space: thirty percent (30%) of lot area.

(m) Building and/or structure height:

(1) Maximum:

a. Principal buildings — thirty-five (35) feet;

b. Accessory buildings — no higher than principal building; and

c. Utility sheds — ten (10) feet.

(2) Minimum — one (1) story above ground.

NOTE: Also refer to Article IV and Article VI of this Chapter. (Prior zoning regulation 301; Ord. 1-1992, § 1)

#### **Sec. 16-52. R-2 Medium Density Residential.**

(a) Statement of purpose. The purpose of the Medium Density Residential District, herein called the R-2 District, shall be to:

(1) Recognize and protect those developing, developed and underdeveloped areas of the Town where both single-family and multiple-family residential uses are in accordance with the Master Plan.

(2) Implement the Master Plan by encouraging the development of both single-family and multiple-family dwellings in these areas.

(3) Promote and encourage a suitable environment for family life where children are members of many families.

(4) Make available a housing type which will appeal to those persons desiring to live in low to moderate density living conditions with an adequate amount of useable open space.

(5) Provide for adequate light and air for structures on contiguous properties.

(6) Encourage the location of these districts so that they will act as a transition in density between the R-1, R-3 and Commercial or compatible Industrial areas and so that they will help reinforce the economic viability of the Central Business District (CBD).

(7) Prohibit all activities of a commercial nature, except customary home occupations where approved by the Board of Trustees.

(b) Uses permitted:

- (1) Any uses permitted in the R-1 District;
- (2) Attached single-family dwellings;
- (3) Two-family dwellings; and
- (4) Multiple-family dwellings.

(c) Uses permitted subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees:

- (1) Any uses permitted subject to a public hearing in the R-1 District; and
- (2) Rooming and boarding houses

(d) Site plan requirements: Site plans shall be required for all developments pursuant to this Chapter, and shall be submitted in accordance with Article VI.

(e) Minimum area of site per dwelling unit:

- (1) Single-family dwelling — five thousand (5,000) square feet;
- (2) Two-family dwelling — five thousand (5,000) square feet; and
- (3) Multiple-family dwelling:
  - a. Three (3) bedrooms or over — five thousand (5,000) square feet;
  - b. Two (2) bedrooms — three thousand five hundred (3,500) square feet; and
  - c. One (1) bedroom or efficiency — two thousand five hundred (2,500) square feet.

(f) Maximum density: eight and seven-tenths (8.7) dwelling units per acre.

(g) Minimum lot width:

- (1) Single-family dwelling — fifty (50) feet;
- (2) Two-family dwelling — seventy-five (75) feet; and
- (3) Multiple-family dwelling — one hundred (100) feet.

(h) Minimum front yard (also see Section 16-89):

- (1) Principal buildings — twenty-five (25) feet;
  - (2) Accessory buildings — shall not extend beyond the front of the principal building located thereon; and
  - (3) Utility sheds — prohibited in front yard.
- (i) Minimum side yard:
- (1) Principal buildings — five (5) feet on each side, except when abutting a street — fifteen (15) feet;
  - (2) Accessory buildings — five (5) feet on each side, except where abutting a street - fifteen (15) feet; and
  - (3) Utility sheds — none, except if a utility shed is within six (6) feet of another structure, in which case a minimum setback of five (5) feet shall apply.
- (j) Minimum rear yard (also see Section 16-90):
- (1) Principal buildings — twenty-five (25) feet;
  - (2) Accessory buildings — five (5) feet on each side, except where abutting a street - fifteen (15) feet; and
  - (3) Utility sheds — none.
- (k) Floor area ratio: not to exceed five-tenths (0.5).
- (l) Minimum open space: twenty-five percent (25%) of the total development.
- (m) Building and/or structure height:
- (1) Maximum:
    - a. Principal buildings — thirty-five (35) feet;
    - b. Accessory buildings — no higher than principal building;
    - c. Utility sheds — ten (10) feet.
  - (2) Minimum — one (1) story above ground.

NOTE: Also refer to Article IV and Article VI of this Chapter. (Prior zoning regulation 302; Ord. 1-1992, § 1)

**Sec. 16-53. R-3 High Density Residential.**

(a) Statement of purpose: The purpose of the High Density Residential District, herein called the R-3 District, shall be to:

(1) Recognize and protect those developing, developed and underdeveloped areas of the Town where high density single-family and multiple-family residential uses are in accordance with the Master Plan.

(2) Implement the Master Plan by encouraging the development of high density single-family and multiple-family dwellings in these areas.

(3) Promote and encourage a suitable environment for family life where children may be members of many families.

(4) Make available a housing type which will appeal to those persons desiring to live in moderate to high density living conditions with an adequate amount of useable open space.

(5) Provide for adequate light and air for structures on contiguous properties.

(6) Encourage the location of these districts in a position so that they will act as a transition in density between R-1/R-2 and Commercial and compatible Industrial areas, and so that they will help reinforce the economic viability of commercial development.

(7) Prohibit all activities of a commercial nature, except customary home occupations where approved by the Board of Trustees.

(b) Uses permitted. Any uses permitted in the R-1 and R-2 Districts; all uses permitted in the R-1 and R-2 Districts must conform to the requirements set forth in Section 16-51 or 16-52, respectively, of this Chapter.

(c) Uses permitted subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees:

(1) Any uses permitted subject to a public hearing in the R-1 or R-2 District.

(2) Hospitals, sanitariums, philanthropic, and eleemosynary institutions, provided that no such use shall be established or permitted on a parcel of land less than two (2) acres in area, and provided that no main building shall be less than one hundred (100) feet from the property line of any other lot in a residential district.

(3) Nursing or rest homes, provided that two hundred (200) square feet of defined outside recreational space shall be supplied and maintained for each two (2) beds of the maximum bed capacity of the building, which required space shall be in addition to required off-street parking area and minimum setback area.

(4) Medical clinics.

(5) Institutions for higher education.

(d) Site plan requirements. Site plans shall be required for all developments pursuant to this Chapter, and shall be submitted in accordance with Article VI.

(e) Minimum area of site per dwelling unit: two thousand (2,000) square feet.

(f) Density:

(1) Minimum — eight and seven-tenths (8.7) dwelling units per acre; and

(2) Maximum — fourteen (14.0) dwelling units per acre.

(g) Minimum lot width: ninety (90) feet.

(h) Minimum front yard (also see Section 16-89):

(1) Principal buildings — twenty-five (25) feet;

(2) Accessory buildings — twenty-five (25) feet; and

(3) Utility sheds — prohibited in front yard.

(i) Minimum side yard:

(1) Principal buildings — ten (10) feet on each side, except when abutting a street — fifteen (15) feet;

(2) Accessory buildings — ten (10) feet on each side, except where abutting a street - fifteen (15) feet; and

(3) Utility sheds — none, except if utility shed is within six (6) feet of another structure, in which case a minimum setback of five (5) feet shall apply.

(j) Minimum rear yard (also see Section 16-90):

(1) Principal buildings — twenty-five (25) feet;

(2) Accessory buildings — five (5) feet on each side, except where abutting a street - fifteen (15) feet; and

(3) Utility sheds — none.

(k) Floor area ratio: none.

(l) Minimum open space: twenty-five percent (25%) of the total development.

(m) Building and/or structure height:



- (1) Maximum — fifty (50) feet; and
- (2) Minimum — one (1) story above ground.

(n) Landscaping. Planting and landscaping suitable to the Planning and Zoning Commissions and the Board of Trustees shall be provided in areas required as setback under the provisions of this Chapter, and in accordance with Subsections (h) and (i) and Section 16-92.

NOTE: Also refer to Article IV and Article VI of this Chapter. (Prior zoning regulation 303; Ord. 1-1992, § 1)

**Sec. 16-54. CBD Central Business District.**

(a) Statement of purpose. The Central Business District is intended to reinforce downtown as the center of the commercial activity in the Town. It is directed toward pedestrian-oriented business.

(b) Uses are permitted pursuant to the provisions of this Chapter and shall be submitted in accordance with Article VI:

- (1) Retail uses, except for those outlined in Subsection (d) below;
- (2) Financial offices;
- (3) Professional and general business offices;
- (4) Medical and dental clinics;
- (5) Personal service shops; and

(6) Residential uses of a density of fifteen (15) units per acre or greater, or when they are provided in conjunction with a commercial use, are designed as a unified complementary whole, and are functionally integrated to the use of vehicular and pedestrian access and parking areas.

(c) Uses permitted subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees:

- (1) Membership clubs;
- (2) Schools and cultural facilities;
- (3) Hotels and motels;
- (4) Theaters, night clubs, bars, taverns and lounges;
- (5) Public utilities;
- (6) Restaurants;

(7) Boarding and rooming houses;

(8) Amusement and recreation facilities; and

(9) Any drive-up facility where occupants of a vehicle may make use of the service or retail business without leaving their vehicles.

(10) Any uses allowed by right and any uses permitted subject to a public hearing in the R-1, R-2 or R-3 districts.

(d) Retail uses not permitted in the Central Business District Zone. The following land intensive commercial uses shall not be permitted within the Central Business District Zone:

(1) New and used car sales;

(2) Trailer sales;

(3) Building material sales; and

(4) Junkyard and salvage operations.

(e) Site plan requirements. Site plans shall be required for all developments pursuant to this Chapter, and shall be submitted in accordance with Article VI.

(f) General requirements:

(1) Goods sold shall consist primarily of new merchandise, and any goods produced on the premises shall be sold at retail on the premises unless otherwise permitted herein for special uses.

(2) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, junk, dust, smoke, cinders, gas, noise, vibration, refuse matter or water-carried wastes, as determined by the Board of Trustees.

(g) Minimum lot area: none.

(h) Minimum lot width: none.

(i) Minimum front yard: none, unless frontage of one (1) side of a street between two (2) intersecting streets is zoned partly as residential and partly as business, then the setback requirement of twenty-five (25) feet shall apply.

(j) Minimum side yard: none, unless one (1) side of a street between two (2) intersecting streets is zoned partly as residential and partly as business, then a setback requirement of twenty-five (25) feet shall apply.

(k) Minimum rear yard: none.

(l) Maximum building and/or structure height: fifty (50) feet.

(m) Landscaping. Planting and landscaping suitable to the Planning and Zoning Commissions and the Board of Trustees shall be provided in areas required as setback under the provisions of this Chapter, and in accordance with Subsections (h) and (i) and Section 16-92.

(n) Storage. No outside storage of any kind shall be allowed, except items arranged and displayed for sale.

NOTE: Also refer to Article IV and Article VI of this Chapter. (Prior zoning regulation 304; Ord. 2-1995, § 1)

**Sec. 16-55. C Commercial.**

(a) Statement of purpose. The Commercial District is intended to ensure the provision of essential retail services to the Town, while differentiating between the function of outlying commercial areas and the Central Business District. The Commercial District is directed toward auto-oriented business.

(b) Uses permitted pursuant to provisions of this Chapter and shall be submitted in accordance with Article VI of this Chapter:

(1) Public utilities.

(2) Nurseries and greenhouses.

(3) Public and private schools.

(4) Police and fire stations.

(5) New and used car sales.

(6) Trailer sales.

(7) Building material sales.

(8) Any drive-up facility where occupants of a vehicle may make use of the service or retail business without leaving their vehicle.

(c) Uses permitted subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees:

(1) Membership clubs.

(2) Hotels and motels.

(3) Theaters, nightclubs, bars, taverns and lounges.

(4) Retail uses.

(5) Financial offices.

- (6) Professional and general business offices.
  - (7) Medical and dental clinics.
  - (8) Restaurants.
  - (9) Schools and cultural facilities.
  - (10) Personal service shops.
  - (11) Amusement and recreation facilities.
  - (12) Boarding and rooming houses.
  - (13) Small animal hospitals or clinics.
  - (14) Gasoline sale and servicing stations.
  - (15) Repair and servicing facilities such as vehicles, appliances, etc.
  - (16) Flea markets, pawnshops or any facility for the sale of secondhand merchandise, excluding used vehicles.
  - (17) Any uses allowed by right and any uses permitted subject to a public hearing in the R-1, R-2 or R-3 Districts.
- (d) Uses not permitted in the Commercial District Zone: Junkyard and salvage operations.
- (e) Site plan requirements. Site plans shall be required for all developments pursuant to this Chapter, and shall be submitted in accordance with Article VI.
- (f) General requirements:
- (1) Goods sold shall consist primarily of new merchandise, and any goods produced on the premises shall be sold at retail on the premises unless otherwise permitted herein for special uses.
  - (2) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, junk, dust, smoke, cinders, gas, noise, vibration, refuse matter or water-carried wastes, as determined by the Planning and Zoning Commissions.
- (g) Minimum lot area: none.
- (h) Minimum lot width: fifty (50) feet.
- (i) Minimum front yard (also see Section 16-89): twenty-five (25) feet.
- (j) Minimum side yard:

- (1) None, except when abutting street — twenty-five (25) feet;
- (2) Interior side yard:
  - a. None;
  - b. Between commercial and residential zoned districts — twenty-five (25) feet.
- (k) Minimum rear yard (also see Section 16-90):
  - (1) None, except when abutting street — twenty-five (25) feet;
  - (2) Between commercial and residential zoned districts — twenty-five (25) feet.
- (l) Maximum floor area:
  - (1) Per unit for motels and hotels — three hundred (300) square feet;
  - (2) Per occupant for rooming and boarding houses — two hundred (200) square feet; and
  - (3) All other permitted uses — three hundred (300) square feet.
- (m) Maximum building and/or structure height: fifty (50) feet.
- (n) Landscaping. Planting and landscaping suitable to the Planning and Zoning Commissions and the Board of Trustees shall be provided in areas required as setback under the provisions of this Chapter, and in accordance with Subsections (h) and (i) and Section 16-92.
- (o) Storage. No outside storage of any kind shall be allowed, except items arranged and displayed for sale.

NOTE: Also refer to Article IV and Article VI of this Chapter, (Prior zoning regulation 305; Ord. 1-1992, § 1; Ord. 2-1995, § 1; Ord. 6-2004, § 1)

**Sec. 16-56. I-1 Light Industrial.**

- (a) Statement of purpose. The Light Industrial District is intended for storage and warehousing of goods assembled at a heavy industrial site or the manufacture of parts without the use of heavy equipment.
- (b) Uses permitted pursuant to provisions of this Chapter and submitted in accordance with Article VI:
  - (1) The manufacture of parts without the use of heavy equipment.
  - (2) Sale at wholesale or storage. The sale at wholesale, the warehousing and/or storage of any commodity, except live animals, junkyards, salvage operations, commercial explosives or aboveground bulk storage of flammable liquids or gases, unless and only to the extent that such

storage of liquids or gases is directly connected to energy or heating devices on the premises or to serve adjacent railroad locomotives.

(3) Sale at retail. The sale at retail of hardware; any commodity manufactured, processed, fabricated or warehoused only on the premises, equipment, supplies and materials (except commercial explosives) for agriculture, mining, industry, business transportation, building and other construction, except junkyards and salvage operations.

(4) Repair, rental and servicing. The repair, rental and servicing of any commodity.

(5) Laboratory.

(6) Office.

(7) Parking or storage of operable motor vehicles; need not be enclosed but any unenclosed portion shall meet all specifications for maintenance of off-street parking space.

(8) Railroad facilities need not be enclosed. This does not include shop facility areas.

(9) Telephone exchange.

(10) Ambulance service.

(c) Uses permitted subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees:

(1) Any uses permitted or uses permitted subject to a public hearing in the Commercial District.

(2) Restaurant.

(3) Small animal hospital, clinic or kennel.

(4) Any uses allowed by right and any uses permitted subject to a public hearing in the R-1, R-2 or R-3 districts.

(d) Site plan requirements. Site plans for utilization of I-1 zoned lots shall be required, shall conform to this Chapter and shall be submitted in accordance with Article VI, with the following additions (also see Subsection (n) below):

(1) A landscape plan, pursuant to the requirements of this Chapter, and in accordance with Subsection (j) below, and Section 16-92.

(2) Documentation of mitigation procedures for vibration, heat, glare and fumes, pursuant to Subsection (e)(2) and (3) below.

(e) Limitations on external effect of uses. Every use in the I-1 District shall be made to comply with the following limitations:

(1) Enclosure of uses. Every use, unless expressly exempted by this Section, shall be operated in its entirety within a completely enclosed structure or screened area; the exemption of a use for the requirement of enclosure will be indicated by the phrase "need not be enclosed" appearing after any use exempted.

(2) Vibration generated. Every use shall be operated so that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the zone lot on which the use is located.

(3) Emission of heat, glare, radiation and fumes. Every use shall be so operated that it does not emit any obnoxious or dangerous degree of heat, glare, radiation or fumes beyond any boundary line of the zone lot on which the use is located.

(4) Outdoor storage and waste disposal shall be prohibited.

(f) Maximum gross area in structures. The sum total of the gross floor area of all structures on a zone lot in an I-1 District, excluding the gross floor area of off-street parking garage space, shall not exceed one-half ( $\frac{1}{2}$ ) of the zone lot on which the structures are located.

(g) Maximum building and/or structure height: fifty (50) feet. EXCEPTION: There shall be no height restrictions for any building/structure in an I-1 District if said building/structure lies one thousand (1,000) feet or more from a residentially zoned parcel, or ground measured by a straight line drawn from the nearest zone lot line. Nothing contained in this exception shall abrogate those applicable requirements found in the Uniform Building Code.

(h) Approach drives. Curb cuts for approach drives or for other purposes in I-1 Districts will not be allowed on streets which separate residential zones from industrial zones.

(i) Setbacks. The space resulting from the following setbacks shall be open and unobstructed in I-1 Districts, except for provisions of Subsection (j) below:

(1) Minimum front yard: twenty-five (25) feet.

(2) Minimum side yard:

a. None, except when abutting street — twenty-five (25) feet; and

b. Interior side yard: none, except between industrial and residential zoned districts — twenty-five (25) feet.

(3) Minimum rear yard: None, except when abutting a street or between industrial and residential zoned districts — twenty-five (25) feet.

(j) Landscape requirements. Planting and landscaping suitable to the Planning and Zoning Commissions and the Board of Trustees shall be provided in areas required as setback under the provisions of this Chapter, and in accordance with Subsections (i)(1) and (2) above and Section 16-92.

(k) Accessory uses permitted. Incidental only to a permitted use, any use which complies with all of the following conditions may be operated as an accessory use in the I-1 District:

- (1) Is clearly incidental and customary to and commonly associated with operation of the permitted use;
- (2) Is operated and maintained under the same ownership, or lessees or concessionaires thereof, and on the same zone lot as the permitted use;
- (3) Does not include structures or structural features inconsistent with the permitted use;
- (4) Does not include residential occupancy, except for caretakers or watchmen;
- (5) If operated partially or entirely in detached structures, such detached structures shall be limited to a gross floor area of not more than ten percent (10%) of the area of the zone lot on which the permitted use is located; and
- (6) If operated partially or entirely within the structure containing the permitted use, the gross floor area within such structure utilized by accessory uses (except garages, loading docks and company dining rooms) shall not be greater than ten percent (10%) of the gross floor area of the structure.

(l) Public utilities. Public utility facilities may be constructed and maintained in any industrial district.

(m) Noise. Every use in the I-1 District shall be so operated that the volume of sound inherently and recurrently generated does not exceed the following conditions as measured from any point of the boundary line of the zone lot on which the use is located:

	<u>7:00 a.m. to 7:00 p.m.</u>	<u>7:00 p.m. to 7:00 a.m.</u>
I-1 abutting residential	70 dba	60 dba
I-1 abutting commercial	80 dba	65 dba
I-1 abutting industrial	90 dba	70 dba

(n) Additional requirements. The application for the I-1 District use shall be accompanied by the following additional information:

- (1) Location of storage areas and waste disposal area.
- (2) Plans for disposal of sewage or other wastes.
- (3) Plans for water supply.
- (4) Plans showing drainage and drainage facilities.
- (5) Architectural elevations of any proposed buildings.



(6) Proposed number of shifts to be worked and maximum number of employees per shift. (Prior zoning regulation 306; Ord. 1-1992, § 1; Ord. 2-1995, § 1)

**Sec. 16-57. I-2 Heavy Industrial.**

(a) Statement of purpose. The Heavy Industrial District is intended for the manufacture or assembly of goods with heavy equipment which omits noise or pollution.

(b) Uses permitted. All uses are subject to a public hearing. See Subsection (c) below.

(c) Uses permitted subject to a public hearing pursuant to this Chapter, and submitted in accordance with Article VI. A lot, parcel or tract of land may be used, and/or buildings or structures may be erected, altered or remodeled and used for a use that is determined by the Planning and Zoning Commissions and approved by the Board of Trustees. This use shall not be injurious and offensive to the occupants of adjacent premises by reason of emission or creation of excessive noise, vibration, smoke, dust or other particulate matter, toxic, noxious materials, radiation, odors, fire or explosive hazards, glare or heat, and shall be in compliance with all other ordinances and/or codes of the Town.

(d) Site plan requirements. Site plans for utilization of I-2 zoned lots shall be required, shall conform to this Chapter, and shall be submitted in accordance with Article VI, with the following addition (also see Subsection (n) below):

(1) A landscape plan, pursuant to the requirements of this Chapter, and in accordance with Subsection (j) below and Section 16-92.

(2) Documentation of mitigation procedures for vibration, heat, glare and fumes pursuant to Subsection (e)(2) and (3) below.

(3) Documentation of outdoor storage and waste disposal measures pursuant to Subsection (e)(4) below.

(e) Limitations on external effects of uses. Every use in the I-2 District shall be made to comply with the following limitations:

(1) Enclosure of uses. Every use, unless expressly made exempt by this Section, shall be operated in its entirety within a completely enclosed structure or screened area; the exemption of a use for the requirement of enclosure will be indicated by the phrase "need not be enclosed", appearing after any use exempted.

(2) Vibration generated. Every use shall be operated so that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the zone lot on which the use is located.

(3) Emission of heat, glare, radiation and fumes. Every use shall be so operated that it does not omit any obnoxious or dangerous degree of heat, glare, radiation or fumes beyond any boundary line of the zone lot on which the use is located.

(4) Outdoor storage and waste disposal:

a. No highly inflammable or explosive liquids, solids or gases shall be stored in bulk above ground. Tanks or drums of fuel directly connected with heating devices or appliances located on the same lot on which the tanks or drums of fuel are excluded from this provision.

b. All outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property.

c. No materials or wastes shall be deposited upon a zone lot in such form or manner that they may be transferred off the zone lot by natural causes or forces.

d. All materials or wastes which might cause fumes or dust, which constitute a fire hazard, or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

(f) Maximum gross area of structures. The sum total of the gross floor area of all structures on a zone lot in an I-2 District, excluding the gross floor area of off-street parking garage space, shall not exceed one-half ( $\frac{1}{2}$ ) of the zone lot on which the structures are located.

(g) Maximum building and/or structure height: fifty (50) feet. EXCEPTION: There shall be no height restrictions for any structure in an I-2 District if said structure lies one thousand (1,000) feet or more from a residentially zoned parcel or ground measured by a straight line drawn from the nearest zone lot line. Nothing contained in this exception shall abrogate those applicable requirements found in the Uniform Building Code.

(h) Approach drives. Curb cuts for approach drives or for other purposes in I-2 Districts will not be allowed on streets which separate residential zones from industrial zones.

(i) Setbacks. The space resulting from the following setbacks shall be open and unobstructed in I-2 Districts, except for provisions of Subsection (j) below.

(1) Minimum front yard: twenty-five (25) feet.

(2) Minimum side yard:

a. None, except when abutting street: twenty-five (25) feet; and

b. Interior side yard: none, except between industrial and residential zoned districts: twenty-five (25) feet.

(3) Minimum rear yard: none, except when abutting a street or between industrial and residential zoned districts: twenty-five (25) feet.

(j) Landscape requirements: Planting and landscaping suitable to the Planning and Zoning Commissions and the Board of Trustees shall be provided in areas required as setback under the provisions of this Chapter, and in accordance with Subsections (i)(1) and (2), and Section 16-92.

(k) Accessory uses permitted. Incidental only to a permitted use, any use which complies with all of the following conditions may be operated as an accessory use in the I-2 District:

(1) Is clearly incidental and customary to and commonly associated with operation of the permitted use.

(2) Is operated and maintained under the same ownership, or lessees or concessionaires thereof, and on the same zone lot as the permitted use.

(3) Does not include structures or structural features inconsistent with the permitted use.

(4) Does not include residential occupancy except for caretakers or watchmen.

(5) If operated partially or entirely in detached structures, such detached structures shall be limited to a gross floor area of not more than ten percent (10%) of the area of the zone lot on which the permitted use is located.

(6) If operated partially or entirely within the structure containing the permitted use, the gross floor area within such structure utilized by accessory uses (except garages, loading docks and company dining rooms) shall not be greater than ten percent (10%) of the gross floor area of the structure.

(l) Public utilities. Public utility facilities may be constructed and maintained in any industrial district.

(m) Noise. Every use in the I-2 District shall be so operated that the volume of sound inherently and recurrently generated does not exceed the following conditions as measured from any point of the boundary line of the zone lot on which the use is located:

	<u>7:00 a.m. to 7:00 p.m.</u>	<u>7:00 p.m. to 7:00 a.m.</u>
I-1 abutting residential	70 dba	60 dba
I-1 abutting commercial	80 dba	65 dba
I-1 abutting industrial	90 dba	70 dba

(n) Additional requirements. The application for the I-2 District use shall be accompanied by the following additional information:

(1) Location of storage areas and waste disposal area.

(2) Plans for disposal of sewage or other wastes.

(3) Plans for water supply.

(4) Plans showing drainage and drainage facilities.

(5) Architectural elevations of any proposed buildings.

(6) Proposed number of shifts to be worked, and maximum number of employees per shift. (Prior zoning regulation 307; Ord. 1-1992, § 1)

**Sec. 16-58. P Parks and Open Space.**

(a) Statement of purpose. The Parks and Open Space District is intended for large open land areas which, by reason of topographic features, proximity to a natural drainage course, or other natural or man-made features, may be either unsuitable for customary density of construction or use, or suitable for preservation as a park or as an open space area.

(b) Uses permitted:

- (1) Public parks, playgrounds and recreational areas; and
- (2) Public and private open space areas.

(c) Uses permitted subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees:

- (1) Any open uses intended to provide amusement, entertainment or recreation on the payment of a fee or admission charge;
- (2) Plant husbandry and sale of produce and plants raised on the premises;
- (3) Plant and tree nurseries and greenhouses;
- (4) Governmental reservations;
- (5) Campgrounds;
- (6) Cemeteries, crematories, mausoleums and columbariums;
- (7) Riding academies; and
- (8) Accessory uses: all uses which are incidental only to the permitted use and which comply with all of the following conditions, may be operated as an accessory use in any Parks and Open Space District:

- a. Is clearly incidental and customary to and commonly associated with the permitted use;
- b. Is operated and maintained under the same ownership and on the same building site as the permitted use;
- c. Does not include structures or structural features inconsistent with the permitted use; and
- d. Does not include residential occupancy except by domestic employees employed on the premises.

(d) Minimum area of site: two (2) acres.

(e) Minimum lot width: one hundred seventy-five (175) feet.

- (f) Minimum front yard: twenty-five (25) feet.
- (g) Minimum side yard: twenty-five (25) feet.
- (h) Minimum rear yard: twenty-five (25) feet.
- (i) Maximum building and/or structure height: thirty-five (35) feet. (Prior zoning regulation 308; Ord. 1-1992, § 1)

**Sec. 16-59. A Agricultural.**

(a) Statement of purpose. The Agricultural District is intended for agricultural uses which are compatible with surrounding uses. The district encourages low intensity development on the periphery of the Town to provide a transition between rural and urban uses.

(b) Uses permitted:

- (1) Crop production;
- (2) Grazing;
- (3) Greenhouse;
- (4) Nursery;
- (5) Sod (turf) farming;
- (6) Truck farming;
- (7) Storage of farm products and farm equipment appurtenant to the agricultural use;
- (8) Farm dwelling or building appurtenant to the agricultural use;
- (9) Single-family detached dwellings; and
- (10) Parks and open space.

(c) Uses permitted subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees:

- (1) Small animal hospitals, clinics or kennels;
- (2) Public utilities — mains, transmission and distribution lines, substations and exchanges only;
- (3) Single-family attached dwellings;
- (4) Public and private schools;

- (5) Home occupations;
- (6) Two-family dwellings;
- (7) Multiple family dwellings; and
- (8) Child care centers.

(d) Site plan requirements. Site plans shall be required of all uses subject to a public hearing before the Planning and Zoning Commissions, shall conform to this Chapter, and shall be submitted in accordance with Article VI, with the exception of home occupations which requires no site plan.

(e) Livestock limitations:

(1) It shall be unlawful for any person to keep or maintain more than one (1) head of livestock per one-quarter (¼) acre of area held in single ownership.

(2) The maximum number of livestock provided for in this Section may be increased by the natural increment of each animal maintained thereon, and the offspring of such animal so quartered may be kept to the age of seven (7) months.

(f) Minimum area of site and site per dwelling: five (5) acres.

(g) Minimum lot width: one hundred seventy-five (175) feet. The minimum lot width of one hundred seventy-five (175) feet may be reduced to a minimum of sixty (60) feet if the location of the lot is situated on a cul-de-sac or similarly curved frontage, provided that at the required front yard setback line, the width of the lot shall be at least equal to the specified minimum frontage of one hundred seventy-five (175) feet.

(h) Minimum front yard (also see Section 16-89): fifty (50) feet.

(i) Minimum side yard: twenty-five (25) feet, except on corner lots — fifty (50) feet from the principal building.

(j) Minimum rear yard (also see Section 16-90): twenty-five (25) feet.

(k) Maximum building and/or structure height: thirty-five (35) feet. (Prior zoning regulation 309; Ord. 1-1992, § 1)

**Sec. 16-60. PUD — Planned Unit Development.**

(a) Statement of purpose. The Planned Unit Development is intended to allow land to be designed and developed as a unit by taking advantage of modern site planning techniques in order to produce an environment of stable, desirable character which will be in harmony with existing or potential development of the surrounding neighborhood.

(b) Zoning regulations. The zoning regulations governing the area included in a Planned Unit Development District are contained in Article VII, Chapter 17 of this Code. (Prior zoning regulation 310; Ord. 1-1992, § 1)

**Secs. 16-61--16-80. Reserved.**

## ARTICLE IV

### Regulations Applicable to All Zoning Districts

**Sec. 16-81. Changes to lists of permitted uses.**

Amendments to the provisions of any zoning districts may be initiated by the Planning and Zoning Commissions, the Board of Trustees or any person having an interest in real property located within the Town. All proposals will be referred to the Planning and Zoning Commissions for study, fact-finding hearing, consideration and recommendation prior to final action by the Board of Trustees. Nothing herein shall preclude the Planning and Zoning Commissions from reviewing and making recommendations to the Board of Trustees on other provisions of the zoning regulations. (Prior zoning regulation 401; Ord. 1-1992, § 1)

**Sec. 16-82. Home occupations and accessory uses.**

(a) Home occupations may be permitted as an accessory use of any dwelling in any residential zoned district or any zoned district where residences exist and are maintained as such, whether or not authorized as a named accessory use by this Chapter if the following conditions are met and continuously exist:

- (1) No more than one (1) home occupation shall be allowed as any accessory use of any dwelling unit.
- (2) The use shall not pass on to a new inhabitant, owner, lessee or tenant.
- (3) Any person carrying on the occupation must be a regular inhabitant of the dwelling unit.
- (4) Such use shall be incidental and secondary to the residential purposes of the dwelling unit, and the occupation activity shall be harmonious with the residential use.
- (5) The total area used for such purpose shall not exceed three hundred (300) square feet of the dwelling unit.
- (6) There shall be no advertising display or other indication of home occupation on the premises except as specified in Section 16-114(4).
- (7) Merchandise sold out of the home occupation shall not be the main source of income. The main intent of the home occupation shall not be retail sales.
- (8) There shall be no offensive noise, vibration, smoke, dust, odor, heat or glare noticeable at or beyond the property line which would not exist but for the home occupation.

(9) There shall be no exterior storage for display or sale of material, goods, supplies or equipment related to the operation of such home occupation, nor any highly explosive or combustible materials.

(10) Such use may not adversely affect the traffic flow and parking in the surrounding residential areas.

(11) A home occupation shall not be interpreted to include the following: clinic, hospital, nursing home, animal hospital, restaurant, antique shop, mortuary or minor or major vehicle or boat repair (including painting). This is not intended to be a complete listing. All uses are subject to review by the Planning and Zoning Commissions and approval by the Board of Trustees.

(12) No water or sewer taps are allowed in accessory or nonappurtenant structures.

(13) All home occupations in existence at the effective date of the ordinance codified in this Chapter shall be allowed to continue at their present levels of activity and within their present confines.

(b) Utility sheds are not considered accessory buildings.

(c) Only a use which is incidental only to the permitted use and which complies with all of the following conditions may be operated as an accessory use:

(1) The use is clearly incidental and customary to and commonly associated with the permitted use.

(2) It is operated and maintained under the same ownership and on the same building site as the permitted use.

(3) It does not include structures or structural features inconsistent with the permitted use.

(4) It does not include residential occupancy except by domestic employees employed on the premises.

(d) No use which is prohibited as a home occupation is permitted as an accessory use in a Residential District. No accessory use is permitted in a Commercial District or a Central Business District. All accessory uses are subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees. (Prior zoning regulation 402; Ord. 1-1992, § 1)

### **Sec. 16-83. Off-street parking requirements.**

(a) Intent. Off-street parking requirements are provided to lessen congestion upon the public streets of the Town by requiring the owners and operators of land, structures and uses to provide parking on their own premises in accordance with the demand generated by such land, structure or use. These regulations are minimum requirements and shall apply to all uses in all districts. ALL OFF-STREET PARKING SHALL BE PAVED.



(b) Application. No land shall be used or occupied, no structure shall be designed or erected, and no use shall be operated unless the off-street parking and/or loading space herein required is provided and maintained in the manner herein set forth. However, off-street parking and/or loading spaces need not be provided for land or structures as in use on the effective date of the ordinance codified in this Chapter, but shall be provided for any additions or expansion to the use. Off-street parking and/or loading space which has been provided prior to such effective date shall not be permanently reduced or infringed upon in any manner creating conditions not in conformance with the requirements of this Section.

(c) Location. The off-street parking area shall be located in the respective zones as hereafter provided:

(1) Residential zones: the off-street parking area shall be located on the same legal lot as the principal use for which the off-street parking is being provided.

(2) Commercial, CBD and Industrial zones: the off-street parking area shall be located within two hundred (200) feet of the property line, as measured by a straight line between the two (2) closest points under consideration, exclusive of street and alley widths, of the principal use for which the off-street parking is being provided, and shall be located only in Commercial, CBD or Industrial Districts.

(d) Joint parking facilities. Whenever two (2) or more uses are located together in a common building, shopping center or other integrated building complex, the parking requirements may be complied with by providing a common parking facility, cooperatively established and operated, which contains the required number of spaces for each use. The total number of spaces provided shall not be less than the sum of the individual requirements. However, if the uses would not be operated during the same hours, the number of automobile parking spaces shall be determined by the use with the highest parking demand.

(e) Off-street parking. To figure the minimum amount of off-street parking spaces required, take the square footage of each specific area in the building/structure and divide it by the factor to the right. Any fraction will be considered one (1) parking space.

EXAMPLE:

Total Area of Building	Use	Footage	Factor	Parking Spaces
10,050	Office	400	200	2
	Warehouse	9650	1000	10

TOTAL PARKING SPACES REQUIRED - 12

	Use	Factor
(1)	Auction rooms	14
(2)	Assembly areas-auditoriums, churches, dance floors, lobby accessory to assembly area, lodge rooms, reviewing stands, stadiums	14
(3)	Waiting areas	6
(4)	Assembly areas-conference rooms, dining rooms, drinking establishments, exhibit rooms, gymnasiums, lounges, stages	30
(5)	Bowling alleys	

(6)	Children's homes and homes of the aged	160
(7)	Classrooms	40
(8)	Courtrooms	80
(9)	Dormitories	100
(10)	Dwellings – Single (minimum of 2 required)	1000
(11)	Exercising room	100
(12)	Garage, parking	400
(13)	Hotels and apartments (Multi-family dwelling)	400
(14)	Kitchen - commercial	400
(15)	Library reading room	100
(16)	Locker rooms	100
(17)	Manufacturing areas	400
(18)	Mechanical equipment rooms	600
(19)	Day care - nurseries for children	70
(20)	Offices	200
(21)	School shops and vocational rooms	600
(22)	Skating rinks	
	(rink area)	100
	(deck area)	30
(23)	Storage - stock rooms	600
(24)	Stores - retail sales room	
	Basement	60
	Ground floor	60
	Upper floor	120
		<u>Use</u>
		<u>Factor</u>
(25)	Swimming pools	
	(pool area)	100
	(deck area)	30
(26)	Warehouses	1000
(27)	All others	200

\*See Handicapped Subsection (g)(2) below for required number of spaces.

(f) Off-street loading spaces in Commercial, CBD and Industrial Districts shall be governed by the following provisions:

(1) Off-street loading space shall be located on the same zone lot as the building/structure for which it is provided.

(2) There shall be off-street loading space required as specified in the following table:

a. Minimum size in Commercial or CBD Districts:

10 feet wide  
20 feet long

b. Minimum size in Industrial Districts:

10 feet wide  
 65 feet long  
 14 feet high

<u>Square Feet of Gross Floor Area</u>	<u>Minimum Required Number of Spaces</u>
Less than 10,000 sq. ft.	0
10,000 to 20,000 sq. ft.	1
20,001 to 30,000 sq. ft.	2
30,001 to 40,000 sq. ft.	3

For each additional 10,000 square feet over 40,000 square feet, the minimum required number of spaces shall be increased by one (1) space.

(g) Off-street parking space construction, landscaping and maintenance.

(1) Access and circulation. Curbcuts shall be limited to the fewest number necessary to provide workable access. In general, curbcuts shall be spaced at intervals greater than one hundred (100) feet, unless this would preclude access to an independent property. Curbcuts shall also meet the minimum requirements shown in Figure 1 (Commercial Curbcut Standards) or in Figure 2 (Residential Curbcut Standards).

(2) Parking stall dimensions. Parking spaces for automobiles shall meet the specifications as set forth below:

a. Standard spaces. Parking spaces for standard vehicles shall conform with the following dimensions:

10 feet wide  
 20 feet long

b. Handicapped spaces. Parking spaces for the physically handicapped shall have a stall width of twelve (12) and length of twenty (20) feet. Any such spaces shall be designated as being for the handicapped with raised standard identification sign and shall be located as close as possible to the handicapped access to the structure. The following federal guideline table shall be used to determine the minimum required number of handicapped spaces:

<u>Total Parking Spaces in Lot</u>	<u>Required Minimum # of Accessible Spaces</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5

c. Vehicular overhang. The stall dimensions indicated above may be modified with respect to vehicular overhang as indicated in Figure 3.

(3) Layout. Parking lots shall provide well-defined circulation for both vehicles and pedestrians.

a. Standard traffic control signs and devices shall be used to direct traffic where necessary within a parking lot.

b. Landscaped islands with raised curbs shall be used to define parking lot entrances, the ends of all parking aisles and the location and pattern of primary internal access drives.

c. The layout shall specifically address the interrelation of pedestrian and vehicular circulation and provide specific treatment at points of conflict such as signs, painted crosswalks and raised pedestrian walks or landings.

(4) Bicycle parking. Commercial, industrial and multiple-family residential uses shall provide bicycle parking facilities.

a. Location. For convenience and security, bicycle parking facilities shall be located near building entrances rather than in remote automobile parking areas. They shall not, however, be located so as to impede pedestrian or automobile traffic flow nor so as to cause damage to plant material from bicycle traffic.

b. Design. Bicycle parking facilities shall be designed to allow both the bicycle frame and both wheels to be securely locked to the parking structure. The structure shall be of permanent construction, such as heavy gauge tubular steel with angle bars permanently attached to the pavement foundation. A typical bicycle space shall be two (2) to three (3) feet in width and five and one-half (5½) to six (6) feet in length with an additional back-out or maneuvering space of approximately five (5) feet.

(5) Landscaping.

a. Plant material. Existing mature healthy trees shall be preserved wherever possible. All new plant material shall meet specifications as delineated in Section 16-92, and pursuant to all other landscaping requirements of this Chapter.

b. Parking lot setbacks. Parking lot setback areas required by this Chapter shall be landscaped with trees, shrubs and ground covers or turf grasses. Nonliving ground cover shall not exceed twenty percent (20%) of areas required to be landscaped. Parking setback landscaping along a street may be located in and shall be incorporated with landscaping in the street right-of-way. All landscaping shall comply with this Chapter and shall be in accordance with Sections 16-91 and 16-92.

c. Screening. Parking lots shall be screened from adjacent residential lots so as to prevent any obnoxious or dangerous degree of glare or excessive illumination beyond any boundary line of which the use is located. These screening performance standards may be met in any number of different ways, but winter seasonal condition of plant material shall be considered when it is used in meeting screening performance standards. Where screening from the street is required, plans submitted for review shall include a graphic depiction of the parking lot screening as seen from the street.

d. Visibility. To avoid landscape material from blocking driver sight distance at driveway-street intersections, signs, fences, walls, hedges and other landscaping materials located in the

Clear Vision Zone (see Section 16-91) shall be a maximum two (2) feet in height. All materials exceeding two (2) feet in height, measured from the immediately adjacent ground level, shall not be located within the twenty-five (25) foot flow lines.

e. Internal landscaped area. Landscaping of internal islands shall be dispersed so as to improve parking lots by providing visual relief with vertical landscape elements and physical relief with seasonal tree shading. This landscaping shall meet ordinance requirements, that six percent (6%) of the interior of parking lots be landscaped and shall comply with Sections 16-91 and 16-92, and all other landscaping requirements of this Chapter.

f. Landscaped islands. Each landscape island shall include one (1) or more full size trees, shall be of length greater than eight (8) feet in its smallest dimension, shall include at least eighty (80) square feet of ground area per tree to allow for root aeration, and shall have raised concrete curbs. (Prior zoning regulation 403; Ord. 1-1992, § 1)

#### **Sec. 16-84. Nonconforming building and uses.**

(a) Continuation of use. Except as provided in this Section, the lawful use of any building or land existing at the time of enactment of this Chapter or of any amendments to this Chapter may be continued even though such use does not conform to the requirements of this Chapter.

(b) Repairs and maintenance. Ordinary repairs and maintenance of a nonconforming building shall be permitted.

(c) Restoration. If a nonconforming building is damaged by fire, elements or otherwise to the extent of fifty percent (50%) of its assessed value or less, such nonconforming building may be rebuilt or restored only if the proposed use of such structure is conforming with the provisions of the Uniform Building Code.

(d) Abandonment. Whenever a nonconforming use has been discontinued for a period of one (1) year, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this Chapter.

(e) Change in use. A nonconforming use shall not be changed to a use other than that of the zoning district in which it is located.

(f) Extensions. A nonconforming use shall not be extended, either in intensity of use, in floor area or lot area.

(g) Moving. No building or structure which does not conform to all of the regulations of the district in which it is located shall be moved in whole or in part to another location unless every portion of such building or structure is moved, and the use thereof is made to conform to all regulations of the district into which it is moved.

(h) Unlawful use. Nothing in this Section shall be interpreted as authorization for or approval of a continuance of the use of a structure or premises in violation of the Zoning Regulations in effect at the time of the effective date of the ordinance codified in this Chapter. (Prior zoning regulation 404; Ord. 1-1992, § 1)

**Sec. 16-85. Nonconforming lots.**

Where an individual lot was held in separate ownership from adjoining properties or was platted prior to the effective date of this Chapter in a recorded subdivision approved by the Board of Trustees, and has less area or width than required in other Sections of the ordinance codified in this Chapter, such a lot may be occupied according to the permitted uses provided for the district in which such lot is located. (Prior zoning regulation 405; Ord. 1-1992, § 1)

**Sec. 16-86. Fences.**

(a) General. All fences and enclosures of any type or design in residential districts shall conform to the provisions of this Section and Section 16-91 below, except for fences and barricades around construction sites, which are governed by the Building Code.

(b) Permit required.

(1) For every new fence constructed or upon the replacement of an existing fence, a building permit shall be obtained from the Town Clerk prior to the beginning of construction.

(2) The fee for such permit shall be regulated by the fees then in effect as set forth in the Building Code as adopted by the Town and as from time to time amended.

(3) No permit shall be issued for a fence exceeding six (6) feet in height unless the Board of Trustees first approves a variance for such a fence and approves such permit.

(c) Restrictions.

(1) Subject to the restrictions herein contained, a fence may extend around both side yards and the backyard of a lot. No fence or enclosure shall extend beyond the front of the principal building located thereon or, in the event of a vacant lot, then no closer than twenty-five (25) feet to the front property line.

(2) Front yard fences where allowed shall not exceed fifty percent (50%) of the length of the front yard lot lines, and no material shall exceed the height of thirty-six (36) inches.

(3) No fence shall be constructed closer than three (3) feet from a curb if no sidewalk is in place behind the curb. A fence may abut a Town sidewalk if such exists. If no Town curb or sidewalk is in place, a fence shall be placed at least one and one-half (1½) feet inside the property line of the lot.

(4) All fences shall be placed on the owner's property, except when an agreement between adjoining owners has been reached.

(5) If the owner places a fence on property on which the Town has an easement of any type, then the owner assumes all responsibility for loss if it becomes necessary to remove such fence in order for the Town to exercise its rights pursuant to that easement, including but not limited to gaining access to or repair of the utilities contained or placed in such easement.

(6) No barbed wire or electrified fences shall be permitted as separate fences or as an attachment to an existing or newly constructed fence.

(7) All materials and substances used in the construction of a fence must be approved at the time of the issuance of the building permit.

(8) Fences shall be constructed of manufactured fencing products and shall not be constructed of materials that are not traditionally used for fences, including but not limited to pallets, automobile parts or any type of refuse.

(d) Definitions.

(1) It is the intention of this Chapter that the definition of a *fence* shall include not only the enclosure of the property or a portion of the property, but shall also be defined as any material or substance that constitutes a barrier or impedes the normal flow of traffic to and from the property in any direction. No material or substance causing a barrier or impeding the normal flow of traffic to and from a property shall create a situation which could endanger public safety.

(2) *Front yard lot line* means the total front lot line and the portion of the side lot lines extending from the front of the principal building to the front yard lot line.

(e) Exceptions. The following addresses within the Town's boundaries are allowed to maintain a fence or enclosure which is nonconforming with the terms of this Section. Such fences or enclosures shall be permitted until the time they are removed or become dilapidated, decayed, neglected or beyond repair. No replacement shall be permitted of fences or enclosures that are removed or become dilapidated, decayed, neglected or beyond repair.

207 North 2<sup>nd</sup> Street  
329 North 3<sup>rd</sup> Street  
325 North 4<sup>th</sup> Street  
125 South 1<sup>st</sup> Street  
320 South 3<sup>rd</sup> Street  
330 South 3<sup>rd</sup> Street  
306 South 3<sup>rd</sup> Street Court  
127 South 4<sup>th</sup> Street  
243 South 5<sup>th</sup> Street (side lot)  
111 Elm Street  
301 Johnson Drive  
279 Ley Drive  
132 Main Street  
406 Railroad Drive  
220 Sunset Drive  
224 Sunset Drive

305 East Taylor Avenue  
125 West Taylor Avenue  
137 West Taylor Avenue  
226 Todd Avenue  
316 South Walnut  
320 South Walnut

(Ord. 1-2003, § 1)

**Sec. 16-87. Prohibition of animals and poultry.**

No animals, livestock or poultry shall be housed, kept or sheltered within zone districts R-1, R-2, R-3, CBD and Commercial, provided that such prohibition shall not extend to household pets. Household pets shall only include those animals customarily domesticated as a pet. (Prior zoning regulation 407; Ord. 1-1992, § 1)

**Sec. 16-88. Structures in required yards - projecting architectural features.**

Eaves, chimneys, canopies, cornices, fire escapes and similar architectural features may extend into any required yard for up to two (2) feet, notwithstanding any other provision of this Chapter. (Ord. 1-1992, § 1)

**Sec. 16-89. Structures in required yards - front.**

The only structures permitted in required front yards are driveways, sidewalks, signs and retaining walls. All regulations pertaining to driveways, sidewalks, signs and retaining walls shall be complied with. In addition, porches and patios attached to the principal building may extend into the required front yard up to ten (10) feet, provided that the portion extending into the required front yard remains at least ninety percent (90%) open and unobstructed on three (3) sides. (Ord. 1-1992, § 1)

**Sec. 16-90. Structures in required yards - rear.**

Driveways, sidewalks, signs, retaining walls and fences are permitted in required rear yards, provided that all requirements of this Chapter are met. Patios and porches, whether or not covered by a roof, may be extended into required rear yards up to fifteen (15) feet, provided that the portion extending into the required rear yard remains at least sixty-five percent (65%) open and unobstructed on three (3) sides. (Ord. 1-1992, § 1)

**Sec. 16-91. Clear Vision Zone.**

Signs, fences, walls, hedges and other landscaping materials located in the Clear Vision Zone of corner lots shall not exceed two (2) feet in height, measured from the flow line of the adjacent streets. The Clear Vision Zone of a corner lot is a triangle formed by the flow lines along the intersecting streets or along the intersecting railroad and street, and a straight line drawn through points on the flow lines located twenty-five (25) feet in distance from the intersection of the flow lines. (Ord. 1-1992, § 1)



## **Sec. 16-92. Landscaping.**

(a) Intent. The Town hereby finds that it is in the public interest for all developments to provide landscaping improvements for the purpose of complimenting the natural landscape, improving the general appearance of the community and enhancing its aesthetic appeal, preserving the economic base, improving the quality of life, delineating and separating use areas, increasing the safety, efficiency and aesthetics of use areas and open space, screening and enhancing privacy, mitigating the adverse effects of climate, aspect and elevations, conserving energy, abating erosion and stabilizing slopes, deadening sound and preserving air and water quality.

(b) Application. Planting and landscaping suitable to the Planning and Zoning Commissions and the Board of Trustees shall be provided as required by this Chapter. Such landscaping shall be maintained in a neat, clean and healthy condition. This shall include proper pruning, mowing, weeding, removal of litter, fertilizing, replacement of plants when necessary and the regular watering of all plants.

(c) Maintenance. To ensure that landscaping is provided and maintained, the following requirements for the installation, maintenance and protection of landscaping areas are required to be met for every proposal submitted under this Chapter.

(1) All plantings shall be maintained in a healthy and attractive condition. Maintenance shall include, but not be limited to, water, fertilizing, weeding, cleaning, pruning, trimming, spraying and cultivating.

(2) Landscaping structural features such as fencing, planter boxes, etc., shall be maintained in a sound structural and attractive condition.

(3) Whenever plants are removed or die, they shall be replaced as soon as possible by planting materials that meet the original intent of the approved landscaping design.

(d) Requirements. Existing mature healthy trees and shrubs shall be preserved wherever possible. A mix of shade trees and evergreen shrubs is encouraged. All new plant material shall meet the American Standard for Nursery Stock. Trees may be spaced irregularly in natural groupings rather than uniformly spaced. Parking lot setback areas landscaped along a street may be located in and shall be incorporated with landscaping in the street rights-of-way. For nonresidential uses, trees shall generally be provided in numbers equal to one (1) tree per twenty-five (25) lineal feet along a public street and one (1) tree per fifty (50) lineal feet along a side lot line parking setback area. (Ord. 1-1992, § 1)

## **Sec. 16-93. Change of use and/or intensity.**

Any change in use, expansion or increase in intensity of a use shall require review by the Planning and Zoning Commissions and approval by the Board of Trustees. (Ord. 1-1992, § 1)

## **Sec. 16-94. CMRS telecommunications.**

(a) Design and performance criteria for all CMRS telecommunications sites. All CMRS telecommunications sites are subject to a design review process. The review process varies according to the type of facility proposed and the zone district in which the facility is located. Applicants should refer to Subsections (d) and (e) below to determine the review process applicable to their proposed installation

of a CMRS telecommunication site. The purpose of design review for CMRS telecommunications sites is to ensure that the necessary antennae, equipment and equipment shelters are sited in a location and screened in a way that minimizes visual and physical impacts on the surrounding area. The following design criteria and requirements shall apply to all CMRS telecommunication antennae, equipment and equipment shelters:

(1) All CMRS telecommunication antennae, equipment and equipment shelters shall be designed to be compatible with surrounding buildings and existing or planned uses in the area. This may be accomplished through the use of compatible architectural elements such as color, texture, scale and character.

(2) Siting and installation of CMRS telecommunications antennae, equipment and equipment shelters shall preserve or enhance the existing character of the topography and vegetation of a site. Existing vegetation, if any, and if suitable with natural features, should be preserved and/or improved to provide screening for the facility. If existing topography of the site does not adequately screen equipment from view, fencing may be required. Fencing should not be used exclusively but instead be supplemented with vegetation. Any security fencing shall be of a design which blends into the character of the existing environment and meet the height limitation for the zone district in which the fencing is located.

(3) All CMRS antennae and equipment shall be no taller than necessary for the efficient operation of the CMRS antennae and equipment.

(4) Applicants shall demonstrate that the CMRS telecommunications site is a necessary component of the applicant's overall communication network and communication plan for the community. Such demonstration shall require that the applicant establish at least one (1) of the following criteria: a) the site is necessary to provide appropriate signal coverage quality; b) the site is made necessary pursuant to the applicant's FCC license; and/or c) the site is necessary to handle increased capacity due to caller volume. In addition, the applicant shall demonstrate: a) existing topography and/or structures in the surrounding area preclude other locations in the same area; and b) technical and engineering factors require the site to be in the desired location in relation to other existing sites and system constraints such as frequency requirements, availability of electric power and interconnection to telephone land lines and site access.

(5) All CMRS telecommunication antennae, equipment and equipment shelters shall be sited, designed and screened to minimize the visibility of such equipment from surrounding properties, public streets and neighborhoods.

(6) The colors of all CMRS telecommunication antennae, equipment and equipment shelters shall minimize the visibility of the facility.

(7) To minimize the visual and physical impact on the surrounding area caused by freestanding and building-mounted CMRS telecommunications facilities, the Town encourages innovative and multiple uses of building and structures for the location of CMRS telecommunication facilities, antenna and equipment.

(b) Design and performance standards for structure- or building-mounted CMRS telecommunications facilities. All structure- or building-mounted CMRS antennae and equipment shall be designed and

constructed to blend with and enhance the architectural characteristics of the accompanying building or structure.

(1) Panel antennae standards.

a. Panel antennae shall not protrude horizontally more than two (2) feet from the building wall and shall be painted or treated to match the building or structure to which the panel is attached.

b. Panel antennae attached to the side of a building shall not exceed the height of the parapet or the roof line, whichever is greater.

c. Panel antennae mounted on an existing penthouse or existing rooftop-mounted service equipment for the building shall not exceed the height of the penthouse or service equipment to which the antennae is attached.

d. Panel antennae shall not be mounted in a freestanding, sled or rack-mounted fashion on the top of a building unless: 1) there exists unscreened service equipment on the roof which will be screened from view along with the panel antennae; and 2) the screening of the antennae and equipment will be architecturally compatible with the building; and (3) a waiver is obtained from the Board of Trustees. The construction of artificial penthouses or artificial service equipment on a roof for the purpose of attaching CMRS telecommunication facilities is prohibited.

e. No panel antenna shall exceed the maximum height limitation for the zone district in which the panel is located.

(2) Whip antennae standards.

a. Single whip antennas shall not extend more than fifteen (15) feet above the building height.

b. Where more than one (1) whip antenna is attached to one (1) building, such antennae shall maintain a minimum separation of fifteen (15) feet between antenna owned by different CMRS telecommunication providers.

c. No whip antenna height when taken in conjunction with the building it is attached to shall exceed the maximum height limitation for the zone district in which the antenna is located.

(c) Design and performance standards for freestanding CMRS telecommunication facilities. All freestanding CMRS telecommunications facilities shall be subject to a site plan review and all other requirements of subparagraph (e) below. The following design and performance standards shall apply to all freestanding CMRS telecommunication facilities:

(1) The height of any freestanding CMRS communication facility shall conform to the height limit of the zone district in which the facility is located unless a height exception is granted by the Board of Trustees.

(2) All freestanding CMRS telecommunications facilities shall meet the landscaping requirements set forth in Section 16-92 of the Code including screening of such facilities with vegetation. As a condition of approval of any freestanding CMRS telecommunication facility, the

Town may require the applicant to provide a performance bond or other surety to the Town which is adequate to ensure the completion of all planned and required landscaping and screening associated with the approved CMRS telecommunication facility. Where the CMRS telecommunications facility is located on a parcel of land that is leased by the applicant and which is part of a larger parcel of land under single ownership, reasonable landscaping improvements in accordance with Section 16-92 of the Code may be required within the larger unleased parcel where such improvements will bring the facility into conformance with the requirements of the ordinance codified herein, mitigate the impacts of the telecommunication facility or enhance the visual qualities and aesthetics of the larger parcel.

(3) A freestanding CMRS telecommunications facility, as defined by Section 16-10 of this Code, shall not be located closer than one thousand (1,000) feet from any other freestanding CMRS telecommunications facility established or proposed by the same or another provider unless a waiver from this requirement is obtained from the Board of Trustees. Co-location of CMRS telecommunication facilities on the same freestanding facility is therefore strongly encouraged. No facility owner or lessee or employee thereof shall act to exclude or attempt to exclude any other provider from the same location. A service provider or lessee or employee thereof shall cooperate in good faith to achieve co-location of antennae with other providers. Town staff can be used as a resource to facilitate this co-location. Should co-location not be acceptable to existing providers, the service provider wanting to locate on the existing facility shall be required to prove to the satisfaction of the Board of Trustees that co-location is not feasible.

To obtain a waiver from the requirements of this subsection, the applicant shall demonstrate: a) the site is necessary to provide appropriate signal coverage quality; b) the site is made necessary pursuant to the applicant's FCC license; c) the site is necessary to handle increased capacity due to caller volume; d) existing topography and/or structures in the surrounding area preclude other locations in the same area; and e) technical and engineering factors require the site to be in the desired location in relation to other existing sites and system constraints such as frequency requirements, availability of electric power and interconnection to telephone land lines, and site access; and f) screening and design of the freestanding facility will make the site compatible with surrounding land uses.

(4) All freestanding CMRS telecommunication facilities shall be designed and constructed to permit the facility to accommodate the attachment of at least two (2) CMRS telecommunication providers on the same freestanding facility.

(d) Design and performance standards for telecommunication equipment shelters. All CMRS telecommunications equipment shelters shall be screened to minimize the visibility of such equipment from surrounding properties, public streets and neighborhoods.

(1) Equipment shelters associated with structure- or building-mounted CMRS antennae. Shelters associated with roof or building-mounted antennae are encouraged to be located in one (1) of the following areas, which are listed in order of preference from most (a) to least (g) preferred:

- a. Inside the building or structure to which the panel or whip antennae are attached.
- b. Inside an existing equipment penthouse on a roof of a building whenever possible.

c. Immediately adjacent to the exterior of an existing equipment or elevator penthouse if the shelter can be visually incorporated into the penthouse structure by the use of screening of similar style or color to the penthouse.

d. If no penthouse exists, consideration may be given to the creation of a penthouse, or a screen which is deemed architecturally compatible with the associated building, that screens both the equipment shelter and the existing service equipment associated with the building, such as heating and air conditioning equipment.

e. Outside of a penthouse on the roof of a building if a parapet exists that is taller than the CMRS equipment shelter. If the parapet is not taller than the CMRS equipment shelter, consideration will be given to increase the height of the parapet, provided that the building materials used are the same as those existing and if the design of the parapet is approved by the Town Board and the parapet extension is architecturally compatible with the building.

f. Painted or treated the same color and located in such a manner that an additional protrusion is not created on the roof.

g. On the ground and screened according to the design criteria for CMRS telecommunications facilities.

(2) Equipment shelters associated with freestanding CMRS antennae. CMRS telecommunications equipment shelters associated with freestanding CMRS telecommunications facilities shall:

a. Either be located in an enclosed building that is architecturally compatible with the surrounding environment; or

b. Be screened completely with an architecturally compatible wall or fence so the shelter is not visible from adjacent properties, streets or public areas; and in addition, all CMRS telecommunication equipment shelters associated with freestanding CMRS telecommunication facilities shall:

1. Have enclosed buildings, walls or fencing, the appearance of which is enhanced by vegetation;

2. Be grouped as closely as technically possible to each other and the freestanding facility;

3. Cover a surface area not to exceed four hundred fifty (450) square feet per provider;

4. Use designs, materials and colors compatible with structures and vegetation on the same parcel and adjacent parcels; and

5. Not reduce the parking or landscaped areas below the minimum district requirements for other principal uses on the parcel.

(e) Approval procedures for all CMRS telecommunications facilities districts. CMRS telecommunication facilities shall be permitted as provided in the following schedule:

<b>Zone District</b>	<b>Structure- or Building-mounted Facility</b>	<b>Freestanding Facility</b>
R-1 (low residential)	Not Permitted	Not Permitted
R-2 (medium density residential)	Not Permitted	Not Permitted
R-3 (high density residential)	Board Approval <sup>1</sup> Site Plan and Conditional Use Review	Not Permitted
CBD (central business district)	Board Approval <sup>1</sup> Site Plan and Conditional Use Review	Not Permitted
C (commercial)	Board Approval Site Plan and Conditional Use Review	Board Approval <sup>2</sup> Site Plan and Conditional Use Review
I-1 (light Industrial)	Board Approval Site Plan and Conditional Use Review	Board Approval <sup>2</sup> Site Plan and Conditional Use Review
I-2 (heavy industrial)	Board Approval Site Plan and Conditional Use Review	Board Approval <sup>2</sup> Site Plan and Conditional Use Review
A (agricultural)	Board Approval Site Plan and Conditional Use Review	Board Approval <sup>2</sup> Site Plan and Conditional Use Review
P (parks & open space)	Board Approval Site Plan and Conditional Use Review	Board Approval <sup>2</sup> Site Plan and Conditional Use Review
PUD (planned unit development)	Board Approval <sup>4</sup> Site Plan and Conditional Use Review	Board Approval <sup>2</sup> Site Plan and Conditional Use Review
Unzoned Land within Town Boundaries	Board Approval Site Plan and Conditional Use Review	Board Approval <sup>2</sup> Site Plan and Conditional Use Review

<sup>1</sup> Structure- or building-mounted telecommunications facilities are permitted on nonresidential structures within multi-family residential districts and also permitted on multi-family residential buildings, provided that the antenna and equipment are located no closer to a dwelling unit than the distance deemed safe or appropriate by the Federal Communication Commission or other appropriate federal regulatory agency for radio frequency radiation or emissions.

<sup>2</sup> Any freestanding CMRS telecommunication facility in C, I-1, I-2, A, P, PUD or unzoned land within Town boundaries shall be entirely enclosed within an attached architectural element of a building or structure that is compatible in design, color and materials with the adjacent uses to the CMRS telecommunications site.

<sup>3</sup> All site plans and conditional use reviews shall meet the requirements set forth in Section 16-143 and 16-146 of this Code.

<sup>4</sup> For CMRS telecommunication sites proposed within a PUD district, the PUD district shall be reviewed by the Board of Trustees to determine the appropriate review process based on the underlying zoning classification and proposed or established land uses of the PUD zone property.

(f) Exceptions and requirements for particular uses.

(1) CMRS telecommunications facilities mounted on church or school buildings or other nonresidential structures located within any residential zone district may be permitted and shall be subject to Board of Trustees review and approval.

(2) Public utility transmission facilities, structures and transmission poles may be utilized as a CMRS telecommunication site if: a) the utility company has granted approval of the use of the facility, structure or pole; and b) where located in a residential zone district the CMRS

telecommunication facility is granted a conditional use pursuant to Section 16-146 of this Code; or where located in a zone district other than residential, the telecommunication facility is granted a conditional use pursuant to Section 16-146 and has received Board of Trustees review and approval; and c) where the CMRS telecommunication facility does not exceed the height of the existing transmission structure or pole by fifteen (15) feet.

(3) In all zone districts in which telecommunications facilities are permitted, freestanding or tower facilities, panels, antennae and equipment shelters which are completely enclosed and contained entirely within a sign or other structure shall meet all requirements of Sections 16-143 and 16-146 of this Code and shall be subject to Board of Trustees review and approval, providing that the tower, panel, antennae and shelter are not visible.

(4) In all zone districts in which CMRS telecommunication facilities are permitted, any proposal to co-locate or otherwise mount new CMRS facilities on an existing freestanding CMRS telecommunication facility shall meet all requirements of this Section and Sections 16-143 and 16-146 of this Code and shall be subject to Board of Trustees review and approval.

(g) Application for approval of CMRS telecommunication facilities. All applications for approval of a CMRS telecommunication facility shall be accompanied by a nonrefundable application fee as established by resolution of the Board of Trustees. The application must be completed and submitted by the owner of the property upon which the CMRS telecommunication facility is proposed for location or the owner's authorized representative. In addition, where the site for the CMRS telecommunication facility will be leased to a CMRS telecommunication provider, the application must include the provider's consent and approval.

All CMRS telecommunications facility applications shall comply with the requirements of Section 16-143 of this Code and all other requirements of the Codes and include such plans, drawings, photographs and specifications as are necessary for the Town to determine that the proposed installation is consistent with the standards set forth in the design review and performance standard sections of the ordinance codified herein. Such application shall include, describe or illustrate the dimensions, location and appearance of:

(1) All proposed CMRS telecommunications facilities and associated equipment shelters for the proposed site.

(2) All buildings and/or structures to which the proposed CMRS telecommunications equipment shelter and antenna will be attached.

(3) The proposed methods for minimizing the visibility of the proposed CMRS telecommunication facility, including but not limited to all screening, landscaping, cladding materials and paint color or other treatment samples.

(4) Proof of ownership (deed or title documentation) or a letter of authorization from the property owner of the real property on which the CMRS telecommunications facility is proposed to be located.

(5) Evidence acceptable to the Board of Trustees that the property owner and the CMRS telecommunication provider shall remove, at the property owner's and CMRS telecommunication provider's cost and expense, the CMRS telecommunication facility and all equipment and restore the

property to a condition substantially similar to that existing before the installation following abandonment of the facility or nonuse for a period of six (6) months. Such removal shall not, however, include removal of any installed landscaping unless approved by the Board of Trustees. Such evidence may be in the form of an executed agreement between the telecommunication provider and the property owner which is approved by the Board of Trustees. Such an agreement shall provide that the agreement may not be terminated without the Town's written consent, and the agreement shall be enforceable by the Town against the property owner and the CMRS telecommunication provider.

(6) Evidence that the CMRS provider has obtained or secured a performance bond, letter of credit or other surety ("performance guarantee") acceptable to the Town Attorney in an amount of one hundred twenty percent (120%) of the estimated cost and expense of removing the CMRS telecommunication facility following abandonment of the facility or nonuse of the facility for a period of six (6) months. All performance guarantees shall authorize the Town to obtain the funds secured by the guarantee upon the Town's determination that the CMRS telecommunication facility is abandoned or no use of the facility has been made for a period of six (6) months. The amount of such performance guarantee shall be based upon an estimate obtained by the CMRS telecommunication provider which shall be subject to review and approval of the Board of Trustees. In the event that the Board of Trustees rejects an estimate as inaccurate, incomplete or incorrect, the Board of Trustees may obtain, at its cost and expense, an estimate which shall be used for purposes of determining the amount of the performance guarantee. The CMRS telecommunication provider shall take all action necessary to keep such performance guarantee valid and in effect at all times. Expiration of a performance guarantee may, at the option of the Town and following notice to the CMRS provider, result in the expiration of the Town's approval of the CMRS telecommunication facility.

(7) Proof of insurance to insure adjacent property owners and the public against personal and property damage resulting from negligent installation and/or damages caused by or arising from the operation and maintenance of the CMRS telecommunication site.

(h) Review procedures and requirements for approval.

(1) Conditional use review. If a proposed installation requires a conditional use review, the regulations listed in Section 16-146 of this Code shall be applicable. In addition to these requirements, the proposed installation shall have to meet the performance standards for CMRS telecommunications facilities in this Section.

(2) Site plan. Applications requiring a site plan shall be submitted in conformance with the requirements of Section 16-143 of this Code.

a. In addition to the appropriate application fee, all CMRS telecommunication facilities are subject to building permit review and other fees established by the Town.

b. All required applications, permits, and plans shall be submitted and approved prior to commencing construction for any CMRS telecommunication facility or equipment.

(i) Waivers and exceptions. The Board of Trustees shall have the authority to grant waivers and exceptions which are expressly permitted by provisions of this Section. An applicant requesting a waiver or exception shall submit a written application to the Town Clerk, and the application shall specify the provision for which the waiver or exception is requested. The Town Clerk is authorized to promulgate



forms and require additional information from the applicant which may be necessary to provide sufficient information to the Board of Trustees to evaluate the applicant's request for a waiver or exception. (Ord. 1-1998, §2)

**Secs. 16-95--16-110. Reserved.**

## ARTICLE V

### Signs

**Sec. 16-111. Applicability.**

The requirements of this Article shall apply to any writing (including letter, word or numeral), pictorial representation (including illustration or declaration), form (including shapes resembling any human, animal or product form), emblem (including any device, symbol, trademark, object or design which conveys a recognizable meaning, identity or distinction) or other figure or similar character which is a structure of any part thereof or is written, painted, projected upon, printed, designed into, constructed or otherwise placed on a building, board, plate or upon any material, object or device whatsoever, which by reason of its form, color, working, stereotyped design or otherwise attracts or is designed to attract attention to the subject thereof or is used as a means of identification, advertisement or announcement. The determination of the conformance of any and all signs with the provisions of this Article shall be made by the Planning and Zoning Commissions and the Board of Trustees. (Prior zoning regulation 701; Ord. 1-1992, § 1)

**Sec. 16-112. Exceptions.**

The requirements of this Article shall not apply to any of the following:

- (1) Flags, pennants or insignia of nations or an organization of nations, states or cities, fraternal, religious and civic organizations or any educational institutions, except when such flags are used in connection with a commercial promotion or as an advertising device.
- (2) Window displays incorporating placards, pennants, merchandise, pictures or models of products or services.
- (3) Works of fine art which in no way identify a product or business and which are not displayed in conjunction with a commercial enterprise, which enterprise may benefit or realize direct commercial gain from such display.
- (4) One (1) nameplate per public entrance per business, provided that such sign shall be limited to two (2) square feet per face and which is suspended under a canopy.
- (5) Temporary decorations or displays clearly incidental and customary and commonly associated with national, local or religious holiday celebrations.
- (6) Signs not visible beyond the boundaries of the lot or parcel upon which they are located or from any public thoroughfare or right-of-way.

- (7) Traffic and other official signs of any public or governmental agency.
- (8) On-site traffic directional signs which do not exceed four (4) square feet per face or ten (10) feet in height and which do not carry any commercial message other than identification.
- (9) Temporary interior paper window signs.
- (10) Signs over gas pumps which indicate gas prices, provided that such signs shall be limited to one (1) double-faced sign per pump island and shall be no larger than four (4) square feet per face.
- (11) One (1) flush wall nameplate per business, not to exceed two (2) square feet in area, to be located at or near the rear entrance of such business. (Prior zoning regulation 702; Ord. 1-1992, § 1)

**Sec. 16-113. Signs - accessory uses.**

Signs shall be permitted in the various districts as accessory uses in accordance with the regulations contained in this Article. (Prior zoning regulation 703; Ord. 1-1992, § 1)

**Sec. 16-114. Limitations for residential districts and uses.**

Signs in the R-1 and R-2 Districts, or for any residential use subject to being shown on a Planned Unit Development plan defined, processed and approved in accordance with Section 16-60 of this Chapter, may include and shall be limited to the following:

- (1) One (1) identification sign per one-family or two-family dwelling, provided that such sign does not exceed two (2) square feet in area per face and is unlighted.
- (2) One (1) identification sign per multiple-family building, provided that such sign does not exceed twenty (20) square feet in area per face and has only indirect illumination.
- (3) One (1) "For Sale" or "For Rent" sign per lot, provided that such sign does not exceed six (6) square feet in area per face and is unlighted.
- (4) One (1) sign advertising a home occupation per dwelling, provided that such sign does not exceed three (3) square feet in area and is unlighted.
- (5) Identification signs during the construction of a development, provided that the placement and use of all such signs shall be governed by and shall be within the following limitations:
  - a. The maximum size for identification signs shall be one hundred (100) square feet in area per face.
  - b. All such signs shall be located within the development, and shall be located along arterial roads adjacent to the development and subject to the limitations set forth in the following subsections:
    - 1. No more than two (2) such signs shall be permitted on any single arterial boundary of the development.

2. When such signs are not located at the same intersection, they shall be at least one thousand (1,000) feet apart.

c. When a development has no frontage on an arterial road, identification signs may be located along collector streets adjacent to the development, except that not more than one (1) such sign shall be permitted on any single collector boundary of the development.

d. Identification signs shall be removed when the subdivision sales office closes.

(6) One (1) identification sign per public or semi-public use, provided that such sign does not exceed thirty-five (35) square feet in area per face and has only indirect illumination.

(7) One (1) identification sign per entrance to the property identifying a subdivision or housing project, provided that such sign does not exceed thirty-five (35) square feet in area per face and has only indirect illumination.

(8) Political signs shall not exceed eight (8) square feet in area per face, shall be unlighted and shall be removed within two (2) weeks following election day.

(9) One (1) identification sign per child care center, provided that such sign does not exceed ten (10) square feet in area per face and is unlighted.

(10) One (1) identification sign per subdivision sales office, provided that such sign does not exceed ten (10) square feet in area per face and is unlighted. (Prior zoning regulation 704; Ord. 1-1992, § 1)

#### **Sec. 16-115. Limitations for nonresidential districts and uses.**

Signs in the Commercial, CBD or Industrial Districts, or any business, commercial or industrial use subject to being shown on a Planned Unit Development plan as defined, processed and approved pursuant to this Chapter, and in accordance with Section 16-60, may include and shall be limited to the following:

(1) Such signs as are permitted in the Residential Districts.

(2) Placement and use of flush wall signs, projecting wall signs, window signs, freestanding signs and ground signs shall be governed by, shall be within the following limitations, and shall be subject to all other provisions as defined in this Article:

a. No sign shall be erected at the intersection of any street or road in such manner as to obstruct clear vision (see Section 16-91), nor shall any sign be erected at a location where, by reason of its position, shape or color, it may interfere with, obstruct the view of or be confused with any traffic sign or signal or traffic control device.

b. The maximum total sign area permitted shall be equal to one (1) square foot of sign area for each linear foot of lot frontage length.

(3) In Commercial, CBD and Industrial Districts, rooftop signs shall be uses permitted only by special review of the Planning and Zoning Commissions and approval of the Board of Trustees.

(4) In the Central Business District, projecting wall signs shall be uses permitted only by special review of the Planning and Zoning Commissions and approval of the Board of Trustees. (Prior zoning regulation 705; Ord. 1-1992, § 1)

**Sec. 16-116. Measurement of signs.**

The following rules shall apply to the measurement of signs in all districts:

(1) The total surface area of all sign faces, which shall include all frames and backing, shall be counted and considered a part of the maximum total surface area allowance.

(2) The area of all signs without backing or background that is part of the overall sign display shall be measured by determining the sum of the area which creates the smallest single continuous perimeter enclosing the extreme limits of each work, written representation (including any series of letters), logo, figure or similar character. (Prior zoning regulation 706; Ord. 1-1992, § 1)

**Sec. 16-117. Ground and freestanding sign requirements.**

In zones where ground and freestanding signs are permitted, the following rules shall apply to ground and freestanding signs:

(1) Signs within fifty (50) feet (measured along the street right-of-way) of the intersection of a street with a street or driveway, which exceed forty-two (42) inches in height, shall be set back at least fifteen (15) feet from the street right-of-way line or shall maintain free air space between a height of forty-two (42) inches above the adjacent street elevation and a height of seventy-two (72) inches above said elevation. A freestanding sign shall not be construed to have free air space if such sign has a base which is greater than fifty percent (50%) of the width of its face or three (3) feet wide, whichever is smaller.

(2) When electrical service is provided to ground and/or freestanding signs, all such electrical service shall be underground.

(3) Size, height and location:

a. Ground and freestanding signs shall comply with the following requirements with respect to size, height and location.

Distance from Street ROW/ Property Line (feet)	Maximum Height Above Grade (feet)	Maximum Size Allowed per Side (square feet)
0	10	20
5	12	30
10	14	40
15	16	50
20	18	60
25	20	70
30	22	80
35	24	90
40	24	100
45	24	110
50 and more	24	120

b. The maximum size for ground and freestanding signs shall be one hundred twenty (120) square feet per side.

c. The maximum height for ground and freestanding signs shall be twenty-four (24) feet above grade.

d. No ground or freestanding sign shall be built within fifteen (15) feet of any interior side lot line.

e. Single-faced ground and freestanding signs shall be set back from the street right-of-way line according to the provisions of this Section. Any such setback shall be measured from the street right-of-way/property line at the street to which the sign face is most nearly parallel.

f. Double-faced ground and freestanding signs shall be set back from the street right-of-way line according to the provisions of this Section. Any such setback shall be measured from the street right-of-way/property line at the street to which the sign faces are most nearly perpendicular.

g. When any ground or freestanding sign is placed at a forty-five degree (45°) angle on property located at the intersection of two (2) dedicated public streets, the required setback may be measured from either of the street right-of-way/property lines involved.

(4) No more than one (1) freestanding sign per street frontage shall be permitted for any property.

(5) No ground or freestanding sign shall contain more than three (3) cabinets or modules. (Prior zoning regulation 707; Ord. 1-1992, § 1)

#### **Sec. 16-118. Flush wall signs.**

The placement and use of such signs shall be governed by and be within the following limitations:

(1) The maximum sign area permitted for each wall shall not exceed thirty percent (30%) of the area of that wall.

(2) There shall be no painting of signs directly on the wall surface. (Prior zoning regulation 705; Ord. 1-1992, § 1)

#### **Sec. 16-119. Projecting signs.**

(a) Signs projecting over private property shall not project more than six (6) feet from the face of the building, nor beyond the minimum required building setback for the zone in which located. Such signs shall not exceed fifteen (15) square feet per face.

(b) No sign may project over a public right-of-way in any district, except that signs eight (8) feet or more above grade may project up to forty-eight (48) inches from the face of the building but shall not be closer than two (2) feet from the vertical plane of the curb line. (Prior zoning regulation 708; Ord. 1-1992, § 1)

**Sec. 16-120. Canopy signs.**

- (a) No canopy sign shall project above the top of the canopy upon which it is mounted.
- (b) No canopy sign shall project from the face of a canopy.
- (c) Under-canopy signs which are perpendicular to the face of the building shall be deemed to be projecting wall signs.
- (d) Under-canopy signs which are parallel to the face of the building shall be a minimum of eight (8) feet above grade and shall be deemed to be flush wall signs. (Prior zoning regulation 709; Ord. 1-1992, § 1)

**Sec. 16-121. Awning signs.**

- (a) No awning sign shall project above the top of the awning upon which it is mounted.
- (b) No awning sign shall project from the face of an awning.
- (c) Awnings on which awning signs are mounted may extend over a public rights-of-way no more than six (6) feet from the face of a supporting building, but shall not be closer than two (2) feet from the vertical plane of the curb line.
- (d) Awnings on which awning signs are mounted shall be at least eight (8) feet above any public rights-of-way, except that any valance attached to an awning may be only seven (7) feet in height above a public right-of-way. (Prior zoning regulation 710; Ord. 1-1992, § 1)

**Sec. 16-122. General regulations.**

The following rules shall apply with respect to signs in all districts under this Chapter:

- (1) The erection, remodeling or alteration of any sign shall require a permit from the Town Clerk, except that no permit shall be required for the erection, remodeling or alteration of any sign regulated by Section 16-112(1), (2) and (7).
- (2) All sign permit applications shall be accompanied by detailed drawings indicating the dimensions, location and engineering of the particular sign, and plot plans when applicable.
- (3) All exterior signs shall be permanent in nature, except for "for sale" or "for rent" signs and political signs, which shall not exceed six (6) square feet and eight (8) square feet respectively in a residential zone, and which shall not exceed thirty-two (32) square feet in all other zones. No political sign shall be allowed on a lot in any zone for longer than ninety (90) days in any twelve (12) month period, and political signs shall be removed within two (2) weeks following election day. Any person desiring a political sign to remain on a lot in any zone longer than ninety (90) days may apply to the Planning and Zoning Commissions for a variance to extend the ninety (90) day time period. The Commissions shall determine, based upon factors other than agreement or disagreement with the contents of the particular political sign, whether there is sufficient reason for an extension of time and the exact amount of time to be extended, taking into consideration the purpose for which the sign was

erected, whether or not that purpose would still be served by allowing the sign to remain on the lot for an additional period of time, and the appropriate amount of time necessary to effectuate that purpose.

(4) All signs which project above the fascia wall, portable signs, revolving and rotating signs, strings of light bulbs not permanently mounted on a rigid background used in connection with commercial premises for commercial purposes (other than traditional holiday decorations), posters and wind-driven signs (except banners and pennants) are prohibited in all zones.

(5) Flashing, moving, blinking, chasing or other animation effects are prohibited on all signs, except a sign displaying "time and temperature" only.

(6) Every electric sign shall have affixed thereon an approved "testing agency" label, and all wiring connected to such sign shall comply with all provisions of this Code relating to electrical installations.

(7) Signs which identify businesses, goods or services no longer provided on the premises shall be removed within ninety (90) days after such business ceases.

(8) Banners, pennants, special event signs and/or wind-driven signs shall not be used in any zone. Any person who desires to make use of banners, pennants, special event signs and/or wind-driven signs in connection with a special event may apply to the Town Clerk for a specific permit, accompanied by the fee as required in Section 16-201, to allow the use of such sign for a limited period of time not to exceed ten (10) days. The Town Clerk shall grant such permit for the use of banners, pennants, special event signs and/or wind-driven signs in locations which the Town Clerk determines will not cause unreasonable annoyance or inconvenience to adjoining property owners or other persons in the area, and upon such conditions as the Town Clerk determines necessary to protect adjoining premises and the public. In the event any such permit is granted, the person applying for the permit shall remove the banners, pennants, special event signs and/or wind-driven signs erected pursuant thereto on or before the time the permit expires.

(9) All signs shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant metals. The Building Inspector, or his or her authorized representative, shall inspect and shall have authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

(10) Illuminated signs shall avoid concentration of illumination. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard, or is otherwise detrimental to the public health, safety or welfare.

(11) All existing signs with flashing, moving, blinking, chasing or other animation effects not in conformance with the provisions of this Article and located on property annexed to the Town after the effective date of the ordinance codified in this Article shall be made so that such flashing, moving, blinking, chasing or other animation effects shall cease within sixty (60) days after such annexation.

(12) All other existing nonconforming signs located on property annexed to the Town after the effective date of the ordinance codified in this Article shall be removed or made to conform to the

provisions of this Chapter no later than five (5) years after the effective date of such annexation, or five (5) years after the effective date of the ordinance codified in this Article, whichever is later.

(13) All nonconforming signs located on property within the Town boundaries at the effective date of the ordinance codified in this Article shall be removed or made to conform to the provisions of this Chapter no later than five (5) years after the effective date of the ordinance codified in this Article. (Prior zoning regulation 711; Ord. 1-1992, § 1)

**Sec. 16-123. Off-premises signs.**

(a) Signs may be located on premises to which they do not relate, provided that such signs shall comply with all applicable requirements of this Chapter.

(b) Off-premises signs shall be removed or made to conform to the provisions of this Chapter within five (5) years after the effective date of the ordinance codified in this Article. Any nonconforming sign which has been damaged by fire, wind or other cause in excess of fifty percent (50%) of its original cost shall not be restored except in conformance with the provisions of this Chapter. (Prior zoning regulation 712; Ord. 1-1992, § 1)

**Secs. 16-124--16-140. Reserved.**

## ARTICLE VI

### Procedures and Submittal Requirements

**Sec. 16-141. Determination of appropriate procedures and submittal requirements.**

Zoning regulates the use of land. It determines potential uses for specific sites, the intensity of those uses and the minimum lot size and dimensions.

(1) Uses allowed by right. The interpretation of what constitutes a use allowed by right in CBD, Commercial and Industrial Districts shall be made by the Planning and Zoning Commissions or their designated official as outlined in subparagraph a1 through 7 and b below. If the owner of a specific parcel desires to change the use of the property (from single-family residential to retail, for example) or to expand the existing use, the proposed use shall be a use which is allowed in the zoning district in which the property is located.

a. *Designated official* means the Town Clerk, Secretary to the Planning and Zoning Commissions and/or the Building Inspector who may determine if a use is allowed by right only upon determining that all of the following criteria factors are found to be in compliance:

1. The proposed use is a use permitted in the designated district.
2. Site plan requirements have been met.
3. Density, lot width, setbacks, open space and building/structure height have been met.



4. Parking requirements have been met.

5. The signage proposed has been found to be in compliance with this Chapter and the plans submitted.

6. All other requirements found in Article IV of this Chapter have been met.

7. All other applicable ordinances and regulations have been met.

b. If the aforementioned are found to be in compliance, the designated official may grant approval of the use and may waive the appearance before the Planning and Zoning Commissions. The designated official shall provide the Planning and Zoning Commissions, at the next regular meeting, with copies of the proposal and inform the Commissions in writing of all action taken. If any one (1) of the aforementioned requirements is not found to be in compliance, a review by the Planning and Zoning Commissions at the next regular meeting shall be required.

(2) Uses allowed subject to a public hearing. If the use is not permitted by right, the use may be allowed subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees. Such uses are delineated in Article III of this Chapter. Uses which are subject to a public hearing are considered to have the potential for greater impact on surrounding land uses and therefore are reviewed in an attempt to identify and mitigate potential negative impacts. If the use is permitted only subject to a public hearing, then the owner shall follow the provisions of Section 16-145 of this Chapter.

(3) Conditional use review. Inasmuch as this Chapter attempts to classify all likely land uses into zoning districts, certain land uses are permitted in particular zoning districts as a "use permitted," a "use permitted subject to a public hearing" or an "accessory use." If this Chapter does not identify a land use as a "use permitted," a "use permitted subject to a public hearing" or an "accessory use," the use may be identified as a "conditional use." A conditional use shall not be permitted until authorization has been obtained from the Board of Trustees pursuant to Section 16-146.

(4) Change of zoning designation. The property owner, Planning and Zoning Commissions or the Board of Trustees may wish to apply to have the zoning designation of the property reviewed and considered for an amendment to either a more restrictive or a less restrictive designation (Section 16-142) or may initiate proceedings to have the provisions of the district amended (Section 16-81). The Planning and Zoning Commissions and the Board of Trustees will apply several criteria in reviewing these requests:

a. The consistency of the proposed change with the Town's Master Plan.

b. The occurrence of a clerical or administrative error in the application of the Zoning Regulations, which if corrected shall allow the proposed use.

c. The demonstration of a substantial change in the character of the area which has occurred since the adoption of the Zoning Ordinance and which would allow the proposed use to be consistent with the character of the neighborhood to which the zoning designation is applied.

d. The Town should avoid distinctive zoning for isolated parcels of land which can create a patchwork of potentially incompatible uses.

(5) Site plan review. When the proposed use is permitted by the zoning district, the specific characteristics of the proposed use are reviewed by the Planning and Zoning Commissions and the Board of Trustees for their consistency with the Master Plan. All developments, except the construction of single-family dwellings in the Low Density Residential District, shall submit site plans for review by the Planning and Zoning Commissions and the Board of Trustees as described in Section 16-143 of this Chapter.

(6) Building Code. The LaSalle Building Code controls the design, construction, alteration, repair, quality of materials, use and occupancy and related factors of any building or structure within the Town's jurisdiction as described in Section 16-144 of this Chapter.

(7) Submittal requirements. Applicants shall comply with the submittal requirements within the applicable sections of this Chapter. (Prior zoning regulation 501; Ord. 1-1992, § 1)

**Sec. 16-142. Change of zoning designation - procedures and submittal requirements.**

(a) Requests. The Planning and Zoning Commissions shall consider and make recommendations to the Board of Trustees on requests for rezoning as have been submitted in compliance with the provisions of this Section and all other applicable sections of this Chapter. Such requests shall be considered at the regularly scheduled Planning and Zoning Commissions meeting. If the Planning and Zoning Commissions determine that additional information and study are required for any proposed zoning change, they may defer final consideration of such proposal to the next regular meeting. All information and requirements as set forth in this Section shall be submitted to the Town Clerk.

(b) Applications. Applications for rezoning shall be prepared on application forms as furnished by the Town Clerk. The applicant shall complete the forms, submit them together with additional information, as may be required by the Town, filing fees determined according to the schedule of fees in Section 16-201, and comply with the submittal time as set forth in this Section in order to be placed on the agenda of the Planning and Zoning Commissions meeting. Each zone district change shall require a completely separate application and filing fee, regardless of any or all of the following circumstances:

- (1) The properties are contiguous.
- (2) The properties are under the same or different ownership.
- (3) The properties are to be a part of one (1) single development project.
- (4) The proposed rezonings are being applied for at the same time.

(c) Submittal requirements. Aside from the information requested on the application form, the applicant shall furnish the following:

- (1) Location map showing adjacent streets and alleys, and adjacent zone districts.

(2) Proof of ownership, satisfactory to the Town, shall be established in one (1) of the following forms: title policy, title opinion, title memorandum, deed or current tax receipt.

(d) Filing fees. Accompanying all applications for rezoning shall be a filing fee to be determined according to the schedule of fees in Section 16-201. In addition, applicants shall pay all costs of posting and recording fees. In no event shall all or any portion of the filing fee be refunded.

(e) Submittal time. All applications, additional information and filing fees as set forth in this Section shall be submitted to the Town Clerk not less than thirty (30) days prior to consideration by the Planning and Zoning Commissions.

(f) Fact-finding hearing required. No rezoning shall be considered and no ordinance rezoning any property shall become effective until after a fact-finding hearing before the Planning and Zoning Commissions and public hearing before the Board of Trustees in relation thereto.

(g) Board of Trustees action. The Board of Trustees, within sixty (60) days following consideration and recommendation by the Planning and Zoning Commissions, shall consider the zoning change.

(h) Basis for approval. The Planning and Zoning Commissions and the Board of Trustees shall give consideration to and satisfy themselves to the following:

(1) That the applicant has demonstrated that there has been a substantial change in the character of the neighborhood and that the character of the neighborhood is now consistent with the zoning requested.

(2) That a need exists to correct a clerical or administrative error by the proposed amendment.

(3) That the applicant has demonstrated that the proposed amendment is consistent with the spirit and intent of the Town's Master Plan and that it shall not be contrary to the general welfare and economic prosperity of the Town or the immediate neighborhood. (Prior zoning regulation 502; Ord. 1-1992, § 1)

**Sec. 16-143. Site plan review - procedures and submittal requirements.**

(a) Applications. Applications for approval of a site plan shall be prepared on forms furnished by the Town Clerk. The applications shall be filed in full and submitted along with all additional requirements set forth hereunder to the Town Clerk. Such application shall be made by the owners of the entire land area to be included within the site plan. Proof of ownership, satisfactory to the Town, shall be established in one (1) of the following forms: title policy, title opinion, title memorandum, deed or current tax receipt.

(b) Filing fees. Accompanying all applications shall be a filing fee to be determined according to the schedule of fees in Section 16-201. In addition, applicants shall pay all costs of recording fees. In no event shall all or any portion of the filing fees be refunded.

(c) Submittal requirements. All applications shall include the following information:

(1) Title by which the proposed development is to be referred.

- (2) Scale, north point and date of preparation.
- (3) Location of municipal boundaries at or near the development.
- (4) Parcel size in gross and net acres and square feet.
- (5) Total number, type and density per type of dwelling units.
- (6) Total bedrooms per each dwelling unit type.
- (7) Residential density (gross and net).
- (8) Estimated total floor area and estimated ratio of floor area to lot size, with a breakdown by land use.
- (9) Proposed coverage of buildings and structures, including the following:
  - a. Percentage and square footage of building coverage;
  - b. Percentage and square footage of driveway and parking;
  - c. Percentage and square footage of public street right-of-way;
  - d. Percentage and square footage of open space or landscaped area; and
  - e. Percentage and square footage of "active recreational use" area.
- (10) Number and location of off-street parking, including guest, handicapped, bicycle and motorcycle parking, including typical dimensions of each.
- (11) Topographic contours at two (2) foot intervals.
- (12) Watercourses, water bodies and irrigation ditches.
- (13) Floodplain.
- (14) Unique natural features, significant wildlife area and vegetative cover, including existing trees and shrubs, having a diameter greater than two and one-half (2½) inches by species.
- (15) Tentative location, floor area and three-dimensional envelopes of existing and proposed buildings.
- (16) Proposed lot lines and dimensions.
- (17) Boundary and square footage of each area designed as active recreational use.
- (18) Location and acreage of common open areas and all public and semi-public land uses, including public parks, recreation areas, school sites and similar uses.

(19) Maximum building heights of all structures.

(20) The existing and proposed circulation system of streets, including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way, including major points of ingress and egress to the development. Notations of proposed ownership, public and private, shall be included where appropriate. Width of rights-of-way and paved surface for each street shall be shown.

(21) Existing zoning.

(22) The proposed treatment of the perimeter of the development, including materials and techniques used, such as screens, fences, walls and other landscaping.

(23) Proposed signage.

(24) The area shown on the site plan shall extend beyond the property lines of the proposal to include a survey of the area and uses within one hundred fifty (150) feet of the proposal at the same scale as the proposal and including the following:

- a. Land uses and location of principal structures;
- b. Densities of residential uses;
- c. Existing trees and major features of landscape;
- d. Topographic contour at two (2) foot intervals; and
- e. Traffic circulation system.

(d) Action before the Planning and Zoning Commissions. All applications under this Section shall be reviewed for completeness by the Town Clerk and, if found to be complete, shall be transmitted to the Planning and Zoning Commissions for study, fact-finding public hearing, consideration and recommendation prior to final action by the Board of Trustees. Any approval hereunder may establish necessary conditions and limitations.

(e) Board of Trustees action - plan filed. After completing their review of an application under this Section, the Planning and Zoning Commissions shall forward such application and all pertinent data, together with their recommendations for approval or disapproval, to the Board of Trustees for action as follows:

(1) The Board of Trustees shall, within sixty (60) days after receipt of the recommendations from the Planning and Zoning Commissions, consider the proposed site plan. If the Board of Trustees shall disapprove the site plan, such disapproval may either be final or the Board of Trustees may disapprove the site plan and refer the same back to the Planning and Zoning Commissions for further consideration in conformity with the recommendation of the Board of Trustees.

(2) Upon approval of the proposed site plan by the Board of Trustees, the Town Clerk shall register a copy of the approved plan among the Town Clerk's records.

(f) Submittal time. All applications, additional information and filing fees, to be determined according to the schedule of fees in Section 16-201, shall be submitted to the Town Clerk not less than thirty (30) days prior to consideration by the Planning and Zoning Commissions.

(g) Basis for approval. The Planning and Zoning Commissions shall give consideration to and satisfy themselves to the following:

(1) That the applicant has demonstrated that the proposed site plan is consistent with the spirit and intent of the Town's Master Plan and with applicable Town standards and criteria.

(2) That the site plan would not be contrary to the general welfare and economic prosperity of the Town or the immediate neighborhood. (Prior zoning regulation 503)

**Sec. 16-144. Building review procedures.**

(a) Application. Application forms for a building permit are available from the Town Clerk and shall be submitted with the appropriate fees and supporting information to the Town Clerk.

(b) Compliance with zoning district provisions. Applications for a building permit shall be reviewed by the Building Inspector for compliance with the appropriate zoning district provisions.

(c) Issuance of a permit. The Building Inspector, or his or her authorized representative, shall have the authority to issue building permits, upon finding compliance of the application with the appropriate zoning district provisions and with the adopted Building Regulations. (Prior zoning regulation 504; Ord. 1-1992, § 1)

**Sec. 16-145. Uses permitted subject to a public hearing.**

(a) Authority. Certain uses, as specified in this Chapter, are permitted only subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees. When authorization for such a use is sought, the procedure shall be as set forth in this Section.

(b) Application. Applications for approval of a use permitted subject to a public hearing shall be filed with the Town Clerk not less than thirty (30) days prior to consideration by the Planning and Zoning Commissions. Applications shall be prepared on forms furnished by the Town Clerk. Such application shall include the following information. An authorized representative of the Town may exclude any of the following information if based on his or her opinion it would not be necessary to process the application:

(1) The use being sought and a description of the manner of use.

(2) A legal description and address of the premises on which the use is to be conducted.

(3) The name and address of the applicant, who shall be the owner of the described premises, and proof of such ownership, satisfactory to the Town, in one (1) of the following forms: title policy, title opinion, title memorandum, deed or current tax receipt. If the application is being made by someone other than the owner, the applicant shall submit evidence, satisfactory to the Town, of his or her right of possession and authorization from the owner of the proposed use and application.

(4) A plot plan drawn to scale and complete in detail which shall show the following:

a. The land area, in feet, which is included within the premises, the present zoning classification of the designated area and all public and private rights-of-way and easements bounding and intersecting the designated area.

b. The location of each existing and each proposed structure and the distance in feet to all property lines in the designated area, the use or uses to be contained therein, the number of stories, gross floor area and approximate location of entrances and loading points thereof.

c. The location of outside facilities for waste disposal.

d. All curbcuts, driving lanes, parking areas with parking spaces marked, loading areas, public transportation points and illumination facilities for the same.

e. All pedestrian walks, malls and open areas for use by tenants or members of the public.

f. The location and height of all walls, roof screening, fences and screen planting.

g. The location, size, height, orientation of all signs and distance in feet to all property lines.

h. The types of surfacing, such as paving, turfing or gravel, to be used at the various locations.

i. The location and type of landscaping.

(c) Costs. The applicant shall be responsible for all costs of advertising, processing, posting, recording fees and other outside costs incurred by the Town. The Town Clerk shall be responsible for maintaining records and billing the applicant.

(d) Action before the Planning and Zoning Commissions. All applications under this Section shall be reviewed for completeness by the Town Clerk and, if found to be complete, shall be transmitted to the Planning and Zoning Commissions for study, fact-finding and/or public hearing, consideration and recommendation prior to final action by the Board of Trustees. Any approval hereunder may establish necessary conditions and limitations. The following criteria factors shall be applied by the Planning and Zoning Commissions in reviewing each application:

(1) Is the proposed land use consistent with the master plan?

(2) Is the proposed land use compatible with the surrounding land uses in the specific area? Is the proposed land use substantially dissimilar from existing land uses? Is the density compatible?

(3) Will the proposed activity create any adverse environmental influences on the surrounding area? For example: Will the proposed use generate excessive dust, odors, fumes, noise glare or vibration?

(4) Does the proposed land use create adverse ecological or environmental impacts?

(5) Will the proposed activity generate additional traffic and congestion in the area? Will existing transportation systems be overburdened by the intended activity? Are egress and ingress areas appropriately and safely located?

(6) Have the minimal required number of parking spaces been provided for off-street parking? Is the internal circulation plan convenient and safe for residential traffic, pedestrian ways, landscaping, delivery service and fire and police protection?

(7) Is arrangement of buildings and vehicular open spaces such that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic?

(8) Will the proposed activity cause an unreasonable service demand on municipal services such as police and fire protection, water, sewer and drainage facilities?

(9) Have adequate water, sewer and drainage facilities been provided?

(10) Is there proper arrangement of signs and lighting devices with respect to traffic control devices? Are lights and signs controlled to protect adjoining residential areas?

(11) For business or industrial uses near or abutting residential districts, fences, walls or year-round planting may be required when necessary to shield adjacent residential neighborhood character.

(e) Board of Trustees action - plan filed. After completing their review of an application under this Section, the Planning and Zoning Commissions shall forward such application and all pertinent data, together with their recommendations for approval or disapproval, to the Board of Trustees for action as follows:

(1) The Board of Trustees shall, within sixty (60) days after receipt of the recommendations from the Planning and Zoning Commissions, consider the proposed use. If the Board of Trustees shall disapprove the proposed use, such disapproval may either be final or the Board of Trustees may disapprove the use and refer the same back to the Planning and Zoning Commissions for further consideration in conformity with the recommendation of the Board of Trustees.

(2) Upon approval of a proposed use by the Board of Trustees, the Town Clerk shall register a copy of the approved plot plan among the Town Clerk's records. (Prior zoning regulation 505; Ord. 1-1992, § 1)

**Sec. 16-146. Conditional use review.**

(a) Authority. Certain uses, not specified in this Chapter, are permitted as a conditional use and shall be subject to a public hearing before the Planning and Zoning Commissions and approval by the Board of Trustees. When authorization for such a use is sought, the procedure shall be as set forth in this Section.

(b) Application. Applications for approval of a conditional use shall be filed with the Town Clerk not less than thirty (30) days prior to consideration by the Planning and Zoning Commissions. Applications shall contain the following information:

(1) The use being sought and a description of the manner of use.



(2) A legal description and address of the premises on which the use is to be conducted.

(3) The name and address of the applicant, who shall be the owner of the described premises. Proof of such ownership, satisfactory to the Town, in one of the following forms: title policy, title opinion, title memorandum, deed or current tax receipt. If the application is being made by someone other than the owner, the applicant shall submit evidence, satisfactory to the Town, of the underlying property owner's consent to the proposed use, i.e., letter of consent, license, lease, permit, etc.

(4) Names of all owners of property within a three hundred (300) foot radius of the property in question.

(5) A plot plan drawn to scale in original ink and complete in detail which shall show the following:

a. The land area, in feet, which is included within the premises, the present zoning classification of the designated area, the land area of abutting properties and the present zoning classification thereof, all public and private rights-of-way and easements bounding and intersecting the designated area.

b. The location of each existing and each proposed structure and the distance in feet to all property lines in the designated area, the use or uses to be contained therein, the number of stories, gross floor area and location of ingress and egress and loading points thereof.

c. The location of outside facilities for waste disposal.

d. All curbcuts, driving lanes, off-street parking areas with parking spaces marked, loading areas, public transportation points and illumination facilities for the same.

e. All pedestrian walks, malls and open areas for use by members of the public.

f. The location and height of all walls, roof screening, fences and screen planting.

g. The location, size, height, orientation of all signs and distance in feet to all property lines.

h. The types of surfacing, such as paving, turfing or gravel, to be used at the various locations.

i. The location and type of landscaping.

(c) Filing fees. Accompanying all applications shall be a filing fee to be determined according to the schedule of fees in Section 16-201. In addition, applicants shall pay all costs of posting and recording fees. In no event shall all or any portion of the filing fee be refunded.

(d) Notice. Due notice to owners of property within a three hundred (300) foot radius of the property in question of the time, location and purpose of hearing shall be given. This notice shall be sent by certified mail at least five (5) days prior to the hearing or be hand-delivered at least five (5) days prior to the hearing. Failure to notify every property owner due to clerical omissions shall not affect the validity of any hearing or determination of the Planning and Zoning Commissions.

(e) Action before the Planning and Zoning Commissions. All applications under this Section shall be reviewed for completeness by the Town Clerk, and if found to be complete, shall be transmitted to the Planning and Zoning Commissions for study, fact-finding public hearing, consideration and recommendation prior to final action by the Board of Trustees. Any approval hereunder may establish necessary conditions and limitations. The following criteria factors shall be applied by the Planning and Zoning Commissions in reviewing each application:

- (1) Is the proposed land use consistent with the master plan?
- (2) Is the proposed land use compatible with the surrounding land uses in the specific area? Is the proposed land use substantially dissimilar from existing land uses? Is the density compatible?
- (3) Will the proposed activity create any adverse environmental influences on the surrounding area? For example: Will the proposed use generate excessive dust, odors, fumes, noise, glare or vibration?
- (4) Does the proposed land use create adverse ecological or environmental impacts?
- (5) Will the proposed activity generate additional traffic and congestion in the area? Will existing transportation systems be overburdened by the intended activity? Are ingress and egress areas appropriately and safely located?
- (6) Have the minimal required number of off-street parking spaces been provided? Is the internal circulation plan convenient and safe for residential traffic, pedestrian ways, landscaping, delivery service and fire and police protection?
- (7) Is arrangement of buildings and vehicular open spaces such that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic?
- (8) Will the proposed activity cause an unreasonable service demand on municipal services such as police and fire protection, water, sewer and drainage facilities?
- (9) Have adequate water, sewer and drainage facilities been provided?
- (10) Is there proper arrangement of signs and lighting devices with respect to traffic control devices? Are lights and signs controlled to protect adjoining residential areas?
- (11) For business or industrial uses near or abutting residential districts fences, walls or year-round planting may be required when necessary to shield adjacent residential neighborhood character.

(f) Board of Trustees action - plan filed. After completing their review of an application under this Section, the Planning and Zoning Commissions shall forward such application and all pertinent data, together with their recommendations for approval or disapproval, to the Board of Trustees for action as follows:

- (1) The Board of Trustees shall, within sixty (60) days after receipt of the recommendations from the Planning and Zoning Commissions, consider the proposed use. If the Board of Trustees shall disapprove the proposed use, such disapproval may either be final or the Board of Trustees may

disapprove the use and refer the same back to the Planning and Zoning Commissions for further consideration in conformity with the recommendation of the Board of Trustees.

(2) Upon approval of a proposed use by the Board of Trustees, the Town Clerk shall register a copy of the approved plot plan among the Town Clerk's records.

(g) CMRS telecommunication facility. See Section 16-94 for design criteria and performance standards. Conditional uses approved by the Board of Trustees for CMRS telecommunications facilities shall run with the property on which the facility is located. (Ord. 1-1992, § 1; Ord. 1-1998, § 3)

**Sec. 16-147. Procedures for special or temporary use permits.**

(a) Application. Application for a special or temporary use permit shall be made through the Town Clerk on a form which shall contain the following information:

- (1) The name and address of the applicant.
- (2) The address of the proposed activity.
- (3) The name and address of the underlying property owner. Application may be made by an individual other than the property owner, provided that there is evidence satisfactory to the Town of the underlying property owner's consent to the proposed activity, i.e., letter of consent, license, lease, permit, etc.
- (4) The length of time for which the special or temporary use is requested.
- (5) The underlying zone classification.
- (6) The distance in feet to the nearest fire hydrant.
- (7) The type and number of sanitary facilities to be provided at the location of the proposed use.
- (8) The type of water supply available.
- (9) The steps to be taken by the applicant to insure traffic control at the location of the proposed activity.
- (10) A brief description of the activity contemplated at the location.
- (11) Evidence, satisfactory to the Town, of general liability insurance coverage, in limits acceptable to the Town, with the Town as additional named insured, and the execution of a hold harmless agreement indemnifying the Town against suit for damages.
- (12) The description of any permanent structure located on the premises.

(b) Clean-up bond. Each applicant for a permit under Section 16-35 and 16-36 of this Chapter shall tender with the application a cash bond in an amount determined by the Board of Trustees to be reasonable under the circumstances, which bond shall be returnable at the conclusion of the proposed

activity so long as the site of the proposed activity is returned to its original condition within twenty-four (24) hours after the last day of the permitted use. If it is necessary to initiate clean-up operations due to the existence of trash, garbage or debris, which is attributable to the proposed activity, the cost of such clean-up operation shall be deducted from the cash bond. Nothing in this Section shall prohibit the Town from commencing appropriate legal proceedings against the applicant if the cost of the clean-up operations exceeds the cash bond.

(c) Issuance of permits.

(1) The Board of Trustees, after consultation with the Town Attorney, shall determine whether or not the permit should be granted. The Board of Trustees may impose any requirements relating to each of the following:

- a. Sanitary facilities;
- b. Adequate water supply;
- c. Steps to insure traffic control;
- d. Liability insurance coverage; and
- e. Clean-up bond.

(2) When the Board of Trustees finds and so determines that there is no danger to the health, safety or welfare of the public, the Board of Trustees may waive any or all of the above requirements.

(3) In granting or denying a special or temporary use permit, the Board of Trustees shall make a specific finding of fact as to the following:

- a. Will the use requested injure the appropriate use of the adjacent conforming property within the same zone or adjacent zone?
- b. Will the use requested endanger the health, safety or welfare of the public?

If the answer to either of the hereinabove questions is in the affirmative, as determined by the Board of Trustees, the use permit shall be denied.

(d) Termination of permit. Should any other use than that for which the permit was issued be found to exist, or should the applicant fail to abide by any of the conditions of the permit, the Board of Trustees shall immediately cause the permit to be terminated. This action shall be stated in writing and caused to be transmitted to the applicant or any of his or her agents, employees or contractors. The permit shall be revoked and rendered void upon service of a written statement to any of the above individuals. (Prior zoning regulation 506; Ord. 1-1992, § 1)

**Sec. 16-148. Notice of fact-finding hearing and public hearing.**

If deemed necessary by the Planning and Zoning Commissions and/or the Board of Trustees, a fact-finding hearing shall be held. Not less than ten (10) days' notice of the time and place of a fact-finding

hearing shall be given by publication at least one (1) time in the designated newspaper for legal publications of the Town. All appropriate state statutes pertaining to zoning shall be followed. The applicant shall deposit with the Town Clerk ten dollars (\$10.00) per sign, which deposit shall be returned to the applicant upon return to the Town Clerk of the sign and post on which the sign was mounted. It shall be the sole responsibility of the applicant to cause the posted notice to be placed at the location for the requisite period of time provided for herein. (Prior zoning regulation 507; Ord. 1-1992, § 1)

**Secs. 16-149--16-160. Reserved.**

## **ARTICLE VII**

### **Appeals, Special Exceptions and Variances**

#### **Sec. 16-161. Establishment of a Board of Adjustment.**

A Board of Adjustment is hereby established. The Board of Adjustment shall consist of five (5) members, all of whom are residents of the Town. Each member shall be appointed by the Mayor with the approval of the Board of Trustees and shall be appointed for a term of three (3) years, except for the first appointment, and shall serve until their successors are duly appointed and qualified. Members may be reappointed for an unlimited number of terms. The Board of Adjustment shall function under the provisions of the rules of procedure adopted by the Board of Adjustment. (Prior zoning regulation 601; Ord. 1-1992, § 1)

#### **Sec. 16-162. Powers and duties of the Board of Adjustment.**

(a) In harmony with the purpose and intent of this Article and in accordance with the public interest and the most appropriate development of the area, the Board of Adjustment shall have powers and duties which shall be subject to state laws and to appropriate safeguards and conditions.

(b) The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of the regulations established by this Article, and as provided in this Section and Section 16-163. The Board of Adjustment may hear and make recommendations to the Planning and Zoning Commissions and/or the Board of Trustees concerning all matters referred to it. (Prior zoning regulation 602; Ord. 1-1992, § 1)

#### **Sec. 16-163. Authority and restrictions of the Board of Adjustment.**

(a) The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by the administrative official, which was appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises pursuant to all provisions of this Chapter, and in accordance with Section 16-162. The Board of Adjustment retains all the powers of the officer from whom the appeal is taken.

(b) The Board of Adjustment shall adhere to the following restrictions:

(1) If the Board of Adjustment determines that a particular provision of the Zoning Ordinance is causing a hardship for property owners, it may recommend that the particular Ordinance provision be

reviewed and considered for amendment by the Planning and Zoning Commissions and the Board of Trustees. The Board of Adjustment shall not attempt to achieve this end through the wholesale granting of appeals.

(2) Where feasible, the Board of Adjustment may vary or modify the application of the regulations for the purpose of considering access to sunlight for solar energy devices.

(3) If through a change in circumstances, the provisions of a zoning district become inapplicable to a particular area within that district, then the Board of Adjustment shall recommend that the area be rezoned.

(4) The Board of Adjustment shall not assume any functions which are specifically delegated to the Planning and Zoning Commissions.

(5) Each appeal and special exception shall be determined on its own merits within the guidelines set by this Chapter. Any variances deemed appropriate under the circumstances shall be referred to the Planning and Zoning Commissions along with recommendations from the Board of Adjustment for review and recommendation to the Board of Trustees. (Prior zoning regulation 603; Ord. 1-1992, § 1)

**Sec. 16-164. Application procedure.**

(a) The Board of Adjustment shall hold a public hearing on all appeals and special exceptions. An appeal stays all proceedings in furtherance of action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal has been filed that by reason of facts stated a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed unless otherwise directed by a restraining order which may be granted by the Board of Adjustment or by the District Court on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(b) The applicant requesting an appeal hearing before the Board of Adjustment shall file within thirty (30) days with the office of the Town Clerk a Notice to Appeal and a statement requesting a hearing containing the following:

(1) Full name and address of the owner of the property in question.

(2) Address of property in question.

(3) Order, requirement, decision or determination being appealed.

(4) Grounds for the appeal.

(5) Names of all owners of property within three hundred (300) feet of the property in question.

(c) The Town Clerk shall at once transmit the statement to the Board of Adjustment and notify the officer from whom the appeal is taken.

(d) The officer from whom the appeal is taken shall at once transmit to the Board of Adjustment all papers consolidating the record upon which the action appealed from was taken.

(e) Upon receiving the statement, the Board of Adjustment shall fix a reasonable time for the hearing, and give due notice to the parties within three hundred (300) feet of the property in question of the time, location and purpose of the appeal hearing. This notice shall be sent by certified mail at least five (5) days prior to the hearing or be hand-delivered at least five (5) days prior to the hearing. Failure to notify every property owner due to clerical omissions shall not affect the validity of any hearing or determination of the Board of Adjustment.

(f) Filing fees. Accompanying all applications shall be a filing fee to be determined according to the schedule of fees in Section 16-201. In addition, applicants shall pay all costs of advertising, posting and processing. In no event shall all or any portion of the filing fee be refunded.

(g) Upon hearing, any party may appear in person, by agent or attorney. (Prior zoning regulation 604; Ord. 1-1992, § 1)

**Sec. 16-165. Requirements governing granting of appeals and special exceptions.**

(a) The Board of Adjustment shall decide the appeal or special exception within thirty (30) days of receiving the written request for an appeal hearing.

(b) The vote of at least four (4) members of the Board of Adjustment is necessary to reverse any order, requirement, decision or determination of any such administrative official, or to effect any special exception to this Chapter.

(c) Every decision of the Board of Adjustment shall be subject to review by certiorari by the Weld County District Court. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town. (Prior zoning regulation 605; Ord. 1-1992, § 1)

**Sec. 16-166. Meeting requirements.**

(a) Meetings of the Board of Adjustment shall be held pursuant to the Rules of Procedure as adopted and amended from time to time by the Board of Adjustment, or at such other time as the Board of Adjustment may determine necessary.

(b) The Board of Adjustment shall keep accurate and detailed records of its proceedings. While verbatim transcripts are not required of meetings, the Board of Adjustment shall make certain that the records reflect the key findings of fact and the reasoning on which each decision is based. (Prior zoning regulation 606; Ord. 1-1992, § 1)

**Sec. 16-167. Variances.**

(a) Requests for variances. The Planning and Zoning Commissions shall hold a public meeting, shall review and shall make recommendation to the Board of Trustees regarding requests for variances from the terms of this Chapter when, by reason of exceptional shape, size or topography of lot or other exceptional situation or conditions of such piece of property and not of the owner's making, practical difficulty or unnecessary hardship would result to the owner of said property from a strict enforcement of this Chapter, provided that such relief may be granted without substantial detriment to the public good without creating a condition incompatible with surrounding land uses and without substantially impairing

the intent and purposes of this Chapter. No variance shall authorize any use in a zoning district other than a use specifically permitted in such zoning district.

(b) Procedures for request.

(1) Application for a variance shall be made on forms furnished by the Town Clerk. Such application shall include the following:

- a. Name and address of the owner of the property or business requesting said variance.
- b. Applicable page and paragraph of the Zoning Regulations, and the requirement or requirements from which the applicant is requesting a variance.
- c. Precise variance which is being requested.
- d. Precise reason for such request.
- e. Signatures of surrounding property owners within a three hundred (300) foot radius of each property line of the particular property requesting such variance.
- f. Signature of the applicant.

(2) A plot plan drawn to scale shall be submitted concurrently with the completed variance request application, which shall include the following:

- a. Lot size in square feet.
- b. Existing building and/or structure, signs, parking or anything of a permanent nature, and distance in square feet to each property line.
- c. Location of the proposed request and distance in square feet to each property line.

(3) Action before the Planning and Zoning Commissions. All applications under this Section shall be reviewed for completeness by the Town Clerk and, if found to be complete, shall be transmitted to the Planning and Zoning Commissions for review and consideration, and recommendations to the Board of Trustees. Any recommendation for approval may require that the applicant meet and/or maintain certain reasonable requirements and/or conditions as a prerequisite to obtaining and/or retaining the variance.

(4) Any party may appear in person, or by agent or attorney at such public meeting.

(c) Unless otherwise determined for a particular variance, all rights granted by variances shall be exercised within six (6) months from the date the variance was granted.

(d) Rights granted by a variance may be limited in time at the discretion of the Board of Trustees.

(e) Board of Trustees action. The Board of Trustees shall review the recommendations from the Planning and Zoning Commissions and all other relevant information, and shall determine whether a



variance shall be granted. Under these provisions, the Board of Trustees may require the applicant to meet and/or maintain certain reasonable requirements and/or conditions as a prerequisite to obtaining and/or retaining the variance. All reasonable requirements, as stated on a zoning variance agreement, shall be fulfilled, and the signature of the requesting party shall be obtained on the zoning variance agreement prior to the variance being effective. The Board of Trustees may revoke the variance if it so determines that the requirements and/or conditions of the variance are not being fulfilled by the applicant. (Prior zoning regulation 607; Ord. 1-1992, § 1)

**Secs. 16-168--16-180. Reserved.**

## **ARTICLE VIII**

### **Administration, Enforcement and Penalties**

**Sec. 16-181. Administration.**

The provisions of this Chapter and any permits, approvals or variances issued hereunder shall be administered according to the provisions thereof. (Prior zoning regulation 801; Ord. 1-1992, § 1)

**Sec. 16-182. Inspection.**

(a) The Board of Trustees or its authorized representative is hereby empowered and directed to inspect and examine any development, change of use, modification, use or occupation of any building, structure or land, or the erection, construction, reconstruction, alteration, repair, moving or structural alteration of any building or structure subject to this Chapter for the purpose of determining from time to time whether any such use, occupation or activity is in violation of any of the provisions of this Chapter or any permit, approval or variance issued or required pursuant to these or other applicable regulations, or is contrary to the health, safety or welfare of the residents of the Town.

(b) Such empowerment and direction to inspect shall not relieve persons, prior to engaging in the aforementioned activities, from obtaining and complying with the requirements of any necessary permits, approvals or variances as prescribed by this Chapter. (Prior zoning regulation 802; Ord. 1-1992, § 1)

**Sec. 16-183. Permits and approval.**

(a) Any person engaging in development, change of use, modification or enlargement of use of any land, building or structure that is subject to this Chapter who does not obtain any necessary permits, approvals or variances as prescribed by this Chapter, who does not comply with permit, approval or variance requirements, who acts outside the authority of the permit, approval or variance, or who otherwise violates any of the provisions of this Chapter, may be enjoined by the Town from engaging in such activity and may be subject to the procedures and penalties described in Section 16-184.

(b) No building or structure shall be erected, moved or structurally altered unless a building permit therefor has been issued by the Building Inspector or his or her authorized representative. All permits shall be issued in conformance with the provisions of this Chapter and all other applicable regulations and shall be valid for a period of time not exceeding one (1) year from the date of issue.

(c) No land or building shall hereafter be changed in use, nor shall any new structure, building or land be occupied or used unless the owner shall have obtained a certificate of occupancy from the Building Inspector. Provided that the use shall be in conformance with the provisions of this Chapter and all other applicable regulations, a certificate of occupancy shall be issued within three (3) days of the time of notification that the building is completed and ready for occupancy. A copy of all certificates of occupancy shall be filed by the Building Inspector and shall be available for examination by any person with either proprietary or tenancy interest in the property or building.

(d) Any person seeking to engage in development, to change a use or to modify or enlarge an existing use within the corporate limits of the Town shall obtain the approval of the Town pursuant to this Chapter before engaging in such activity.

(e) The Building Inspector is empowered, pursuant to Section 16-182, to order in writing the remedy of any violation of any provision of this Chapter or cause a summons to be issued in his or her discretion, or both. After any such order has been served, no work on or use of any building, other structure or tract of land covered by such order shall proceed, except to correct such violation or comply with said order. (Prior zoning regulation 803; Ord. 1-1992, § 1)

**Sec. 16-184. Enforcement and penalties.**

(a) A person shall be guilty of a misdemeanor in any case where all of the following have occurred:

(1) Any violation of any of the provisions of this Chapter exists in any building, other structure or tract of land, or there exists a failure to comply with permit, approval or variance requirements.

(2) An order to remove any such violation has been served upon the owner, general agent, lessee or tenant of the building, other structure or tract of land (or any part thereof), or upon the architect, builder, contractor or any other person who commits or assists in any such violation.

(3) Such person shall fail to cease all work on the property except work which is directed toward correcting the violation described in the order.

(4) Such person shall fail to comply with such order within ten (10) days after the service thereof unless, by reason of the facts stated in such order, immediate compliance is necessary because imminent peril to life, property, health, safety or general welfare of the Town or its residents exists.

(b) Any second or subsequent violations of the provisions of this Chapter shall be a misdemeanor and shall be subject to a fine of not less than fifty dollars (\$50.00) and not more than three hundred dollars (\$300.00), which fine shall be mandatory and shall not be suspended in part or whole, or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Service of an order to remove or remedy such violation, or compliance period, as referred to in Subsection (a)(1) through (4) above is not a requirement before said violation can be found to exist.

(c) A correction of offensive activity or a violation of this Chapter shall be required as part of the enforcement activity against the offender, unless the offender makes application for approval, permit or variance necessary for possible compliance. In addition, the court may order the offender to perform any community services or rehabilitative measure reasonably necessary to ensure compliance.

(d) In addition to any of the foregoing remedies, the Town Attorney, acting on behalf of the Board of Trustees, may maintain an action for an injunction to restrain any violation of this Chapter. Any and all attorney fees and/or costs incurred by the Town in connection with maintaining such action shall be recoverable, in addition to any other remedy imposed by the court.

(e) Each day that the violation exists shall be considered a separate offense. (Prior zoning regulation 803; Ord. 1-1992, § 1)

**Secs. 16-185--16-200. Reserved.**

## **ARTICLE IX**

### **Filing Fees**

**Sec. 16-201. Fees.**

(a) Procedures and submittal requirements for change of zoning designation:

- (1) For first five (5) acres or any portion thereof - forty dollars (\$40.00).
- (2) For each acre over five (5) or portion thereof - five dollars (\$5.00).

(b) Site plan review procedures and submittal requirements:

- (1) For each five (5) acres or any portion thereof - forty dollars (\$40.00).
- (2) For each acre over five (5) acres or any portion hereof - five dollars (\$5.00).

(c) Conditional use review:

- (1) For each five (5) acres or any portion thereof - forty dollars (\$40.00).
- (2) For each acre over five (5) acres or any portion thereof - five dollars (\$5.00).

(d) Appeal to Board of Adjustment: For each separate appeal - forty dollars (\$40.00).

(e) Special/temporary permit application/fee: For each separate event/application - forty dollars (\$40.00). (Prior zoning regulation Appendix "A"; Ord. 1-1992, § 1)

**Sec. 16-202. Cost of advertising and processing.**

When filing fees are required, the applicant shall, in addition, be responsible for all costs of advertising and processing. The Town Clerk shall be responsible for maintaining these records and billing the applicant. (Prior zoning regulation Appendix "A"; Ord. 1-1992, § 1)

**Secs. 16-203--16-220. Reserved.**

## **ARTICLE X**

### **Flood Control**

#### **Sec. 16-221. Building permit application review.**

The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement, including prefabricated and mobile homes, must:

- (1) Be designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Use construction materials and utility equipment that are resistant to the flood damage; and
- (3) Use construction methods and practices that will minimize flood damage. (Prior code 14.52.010; Ord. 1-1992, § 1)

#### **Sec. 16-222. Subdivision proposals.**

The Building Inspector shall review subdivision proposals and other proposed new developments to assure:

- (1) All such proposals are consistent with proposals and consistent with the need to minimize flood damage;
- (2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided as to reduce exposure to flood hazards. (Prior code 14.52.020; Ord. 1-1992, § 1)

#### **Sec. 16-223. Water supply systems.**

The Building Inspector shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize floodwaters into the systems and discharges from the systems into floodwaters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. (Prior code 14.52.030; Ord. 1-1992, § 1)

#### **Secs. 16-224--16-240. Reserved.**

## ARTICLE XI

### Mobile Homes and Mobile Home Parks

#### Sec. 16-241. Definitions.

For the purposes of this Article, the following words shall be defined as follows:

- (1) *Administrative Official* means the inspector legally designated by the Board of Trustees.
- (2) *Dependent mobile home* means a mobile home which does not have a flush toilet and a bathtub or shower.
- (3) *Independent mobile home* means a mobile home that has a flush toilet and a bathtub or shower.
- (4) *Mobile home* means any vehicle, or similar portable structure designed for use as a conveyance upon highways, having no foundation other than wheels and so designed or constructed as to permit occupancy for dwelling or sleeping purposes.
- (5) *Mobile home park* means any plot of ground held under single ownership and having central sanitation facilities upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.
- (6) *Mobile home space* means a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.
- (7) *Permit* means a written permit issued by the Administrative Official permitting the construction, alteration or operation of a mobile home park under this Article and regulations promulgated hereunder.
- (8) *Person* means any individual, firm, partnership, corporation, company or association.
- (9) *Service building* means a building housing toilet and bathtub facilities for men and women, with laundry facilities and such other facilities as may be required by this Article.
- (10) *Travel trailer* means a mobile home less than seven and one-half (7½) feet wide and less than twenty-five (25) feet in length designed for temporary occupancy, generally for vacation purposes during the summer months, and located no more than six (6) months in any one (1) mobile home park. (Prior code 14.44.010; Ord. 1-1992, § 1)

#### Sec. 16-242. Permit required.

It is unlawful for any person to construct, maintain, operate or alter any mobile home or mobile home park within the Town unless he or she holds a valid permit or license issued annually by the Administrative Official in the name of such person for the specific mobile home or mobile home park. All applications for permits shall be made to the Administrative Official who shall issue a permit upon compliance by the applicant with provisions of this Article and of any regulations adopted pursuant

thereto, and of any other applicable legal requirements. No permit shall be transferable. Every person holding such a permit shall give notice in writing to the Administrative Official within seventy-two (72) hours after having sold, transferred, given away or otherwise disposed of his or her interest in or control of any mobile home or mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home or mobile home park. (Prior code 14.44.020; Ord. 1-1992, § 1)

**Sec. 16-243. Original and renewable permits; application.**

(a) Applications for original permits shall be in writing, signed by the applicant and shall contain the following:

- (1) The name and address of the applicant;
- (2) The interest of the applicant in and the location and legal description of the mobile home space or mobile home park;
- (3) A plot plan of the mobile home space or complete plan of the mobile home park, showing compliance with all applicable provisions of this Article and regulations promulgated hereunder;
- (4) Such further information as may be requested by the Administrative Official or health officer to enable him or her to determine that the proposed mobile home or mobile home park will comply with legal requirements.

(b) Applications for renewal of permits or annual license shall be made in writing by the holder of the permit and shall contain the following:

- (1) Any change in the information submitted since the time the original permit was issued or the latest renewal granted;
- (2) Such other information as the Administrative Official may require. (Prior code 14.44.030; Ord. 1-1992, § 1)

**Sec. 16-244. Complete plan required prior to permit issuance.**

A complete plan for the purpose of obtaining a permit to be issued by the Administrative Official shall show:

- (1) The area and dimensions of the space or tract of land;
- (2) The number, location and size of the individual mobile home or all mobile home spaces, with designation as dependent or independent;
- (3) The location and width of roadways and sidewalks, curbs and gutters;
- (4) The location and size of automobile parking lots and recreation areas;
- (5) The location of service buildings and any other proposed structures;

- (6) Source of water supply and methods to be used for sewage and garbage disposal;
- (7) Plans and specifications of all buildings, utilities, power lines, telephone lines and other improvements constructed or to be constructed within the mobile home lot or mobile home park;
- (8) Plan and location of fire hydrants and radius of each service area; and
- (9) Plan, type and location of all tie-down devices. (Prior code 14.44.040; Ord. 1-1992, § 1)

**Sec. 16-245. Compliance with zoning and building codes.**

(a) The site for a mobile home or mobile home park shall be subject to all applicable zoning regulations of the Town and shall be allowed only in the designated zone.

(b) All buildings and utilities to be constructed, altered or repaired on a mobile home space or in a mobile home park shall comply with all applicable codes of the Town and State, including building, electrical, plumbing, petroleum gases and similar codes, and shall require a building permit. (Prior code 14.44.050; Ord. 1-1992, § 1)

**Sec. 16-246. Temporary permit for nondwelling mobile units.**

(a) All temporary mobile structure uses in the Town shall secure a temporary use permit for a period of one hundred sixty (160) days and pay a fee as established periodically by resolution of the Board of Trustees.

(b) All such applications shall be handled as in Section 16-243 but shall be reviewed by the Planning Commission and the Board of Trustees. (Prior code 14.44.060; Ord. 1-1992, § 1)

**Sec. 16-247. Permit fees.**

(a) The annual mobile home permit fee and annual mobile home park permit fee shall be in accordance with a periodic schedule of fees, established and amended periodically by resolution of the Board of Trustees, and shall be due and payable on or before March 15 of each and every year.

(b) The temporary permit fee for each one hundred sixty (160) day period shall be one-half ( $\frac{1}{2}$ ) of the annual permit fee.

(c) Special inspection fees and building permit fees shall be as authorized by a schedule of such fees as adopted by the Town. (Prior code 14.44.070; Ord. 1-1992, § 1)

**Sec. 16-248. Right of entry of Administrative Official.**

The Administrative Official is authorized and directed to determine the condition of mobile home parks and individual mobile homes parked on private lots, in order that he or she may perform the duty of safeguarding the health and safety of occupants of mobile homes and mobile home parks and of the general public. The Administrative Official shall have the power to enter, at a reasonable time, upon any private or public property for the purpose of inspecting and investigating conditions relating to the

enforcement of this Article or of regulations promulgated hereunder. (Prior code 14.44.080; Ord. 1-1992, § 1)

**Sec. 16-249. Location and land area generally.**

(a) Each mobile home park shall be reviewed as to location by the Planning Commission before consideration by the Board of Trustees, and before a permit or license is issued.

(b) Sparsely wooded sites providing shade trees are advantageous. Rock formations close to the surface should be avoided. The site shall be accessible to public utilities including water, sewer, electricity and natural gas. The mobile home park shall be buffered by a greenbelt planting strip, or other suitable means, for the benefit of occupants of mobile homes as well as other permitted uses adjacent to the park. (Prior code 14.44.090; Ord. 1-1992, § 1)

**Sec. 16-250. Location requirements.**

The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply. Park sites shall not be subject to flooding, fire or safety hazards and shall not be exposed to chronic nuisances such as noise, smoke, fumes or odors. The topography shall be favorable to minimum grading, mobile home placement and ease of maintenance. (Prior code 14.44.100; Ord. 1-1992, § 1)

**Sec. 16-251. Necessary land area.**

(a) The area of the mobile home park shall be large enough to accommodate:

- (1) The designated number of mobile home spaces;
- (2) Necessary streets and roadways; and
- (3) Parking areas for motor vehicles.

(b) Service and recreation areas should be provided to meet the anticipated needs of the people the mobile home park is designed to serve. (Prior code 14.44.110; Ord. 1-1992, § 1)

**Sec. 16-252. Site layout.**

(a) No dependent mobile home shall be allowed in any park or as a dwelling unit anywhere in Town. Each independent mobile home space shall contain a minimum of one thousand eight hundred (1,800) square feet and shall be at least twenty-eight (28) feet wide. Each mobile home space shall abut on a driveway or other clear area with unobstructed access to a public street. Such spaces shall be clearly defined. Mobile homes shall be parked in such spaces so that there will be a minimum of fourteen (14) feet between mobile homes and so that each mobile home will be at least ten (10) feet from any service road. No mobile home shall extend beyond the concrete slab provided for that mobile home. Mobile homes parked end-to-end may not have an end-to-end clearance of less than fifteen (15) feet. Enclosed additions shall be considered a part of the mobile home in measuring required yard distance. The required area for each mobile home space shall not include additional area required for service roads, off-street parking, service buildings, recreation areas, offices and similar mobile home park needs.



(b) It is unlawful to park a mobile home in any manner that any part of such mobile home will obstruct any roadway or walkway in a mobile home park.

(c) It is unlawful to allow:

(1) Any mobile home to be occupied in a mobile home park unless the mobile home is situated on a mobile home space;

(2) A dependant mobile home to be used as a dwelling in a mobile home park. (Prior code 14.44.120; Ord. 1-1992, § 1)

**Sec. 16-253. Access and service roads.**

The site shall have direct access to a public street or highway by a right-of-way at least thirty-five (35) feet in width. Service roads shall be provided to each mobile home space. (Prior code 14.44.130; Ord. 1-1992, § 1)

**Sec. 16-254. Walks, paving and lighting.**

Walkways not less than four (4) feet wide shall be provided from independent mobile home spaces to the service buildings. All service roads and walkways within the parks should be hard surfaced and lighted at night with a minimum illumination of at least six-tenths (0.6) foot-candles. (Prior code 14.44.140; Ord. 1-1992, § 1)

**Sec. 16-255. Off-street and on-street parking.**

Areas shall be provided for the parking of motor vehicles. Such areas shall accommodate at least two (2) times the number of vehicles equal to the number of mobile home spaces provided. No motor vehicles will be permitted to be parked between mobile homes, except for specially designed and constructed parking facilities. On-street parking may be permitted by widening service roads to provide such parking space as follows:

<u>Parking Facility</u>	<u>Road Width (in feet)</u>
Parallel parking, one side	30
Parallel parking, two side	40
Forty-five degree angle parking, both sides	60
Sixty-degree angle parking, both sides	60
Perpendicular parking, both sides	60

(Prior code 14.44.150; Ord. 1-1992, § 1)

**Sec. 16-256. Recreation areas.**

Each mobile home park containing fifteen (15) or more mobile home spaces shall provide one (1) or more locations protected from the main highway and from parking areas for recreational use. The area or

areas set aside for such purpose shall be restricted for recreation only and shall contain at least two hundred (200) square feet per mobile home space in the mobile home park. (Prior code 14.44.160; Ord. 1-1992, § 1)

**Sec. 16-257. Clothes drying area.**

Adequate outside drying space adjacent to the service building and at least one (1) automatic dryer for each ten (10) mobile home spaces shall be provided in the service building. Umbrella-type drying facilities may be installed on individual mobile homes spaces as a part of the basic facilities, provided that such drying units are standardized and properly located and installed. Such outside drying areas shall not be visible from any point off-site at grade elevation. (Prior code 14.44.170; Ord. 1-1992, § 1)

**Sec. 16-258. Fire protection.**

(a) Every park shall be equipped at all times with one (1) fire extinguisher in good working order for every four (4) trailer coach spaces, located not further than fifty (50) feet from each trailer coach space. No open fire shall be permitted at any place which would endanger life or property. No fires shall be left unattended at any time.

(b) There shall be fire hydrants meeting Town standards placed two hundred fifty (250) lineal feet apart through the entire project. (Prior code 14.44.180; Ord. 1-1992, § 1)

**Sec. 16-259. Service buildings.**

(a) Every mobile home park with fifteen (15) or more mobile home spaces shall accommodate only independent mobile homes and shall provide sanitary facilities for emergency use in a service building or office building. These facilities shall consist of at least one (1) flush-type toilet and one (1) lavatory for each sex.

(b) Business sales in a mobile home park are subject to applicable regulations for the R-1 zone.

(c) Service buildings shall:

(1) Be located thirty (30) feet or more from any mobile home space and, where dependent mobile homes are accommodated, not more than two hundred (200) feet from each dependent mobile home space;

(2) Be of permanent construction and be adequately lighted;

(3) Be of moisture-resistant material to permit frequent washing and cleaning;

(4) Have adequate heating facilities to maintain a temperature of seventy degrees (70°) during cold weather and to supply adequate hot water during times of peak hour demands;

(5) Have all rooms well ventilated, with all openings effectively screened; and

(6) Provide separate compartments for each bathtub or shower and flush toilet and a sound-resistant wall to separate male and female toilet facilities. (Prior code 14.44.190; Ord. 1-1992, § 1)

**Sec. 16-260. Water supply.**

An accessible, adequate supply of municipal water under pressure shall be provided in each mobile home park, capable of furnishing a minimum of two hundred fifty (250) gallons per day per mobile home space. The number of mobile home spaces to be occupied in a mobile home park shall be limited to the quantity of water available to supply each such mobile home space with the minimum requirements. The development of an independent water supply to serve the mobile home park shall not be allowed in the Town. At the option of the owner, he or she may have individual meters for each unit or may have a master meter to measure the quantity of water used. (Prior code 14.44.200; Ord. 1-1992, § 1)

**Sec. 16-261. Sewage disposal.**

(a) Mobile home parks shall be served by a public sewer system. The development of a private disposal system to serve the mobile home park shall be made only after express approval has been granted by the Town and plans and specifications for the disposal system have been approved by the Administrative Official and the State Department of Health. All sewage disposal apparatus, including appurtenances thereto, shall be provided, maintained and operated so as not to create a nuisance or health hazard.

(b) All plumbing in the mobile home park shall comply with Town and state plumbing laws and regulations. Each independent mobile home space shall be provided with at least a three (3) inch sewer connection. The sewer connection shall be provided with suitable fittings, so that watertight connections can be made between the mobile home drain and the sewer connection. Such individual mobile home connections shall be so constructed that they can be closed when not linked to a mobile home and shall be capped so as to prevent any escape of odors.

(c) The mobile home drain shall be watertight and self-draining. This drain shall be constructed of smooth plastic pipe or of other material approved by the LaSalle Plumbing Code. (Prior code 14.44.210; Ord. 1-1992, § 1)

**Sec. 16-262. Refuse disposal.**

The storage, collection and disposal of refuse in the mobile home park shall meet requirements of municipal codes and ordinances for service. (Prior code 14.44.220; Ord. 1-1992, § 1)

**Sec. 16-263. Electricity.**

An electrical outlet supplying at least one hundred twenty (120) volts or one hundred twenty/two hundred forty (120/240) volts for utility company three (3) wire meters, shall be provided for each mobile home space. The installation shall comply with all Town and state regulations. Such electrical outlets shall be weatherproof and all power lines and service connections shall be located in safe conduits below the surface of the ground. All service lines shall be installed underground. (Prior code 14.44.230; Ord. 1-1992, § 1)

**Sec. 16-264. Fuel.**

(a) Mobile homes using liquefied petroleum gas for cooking and/or heating units are subject to inspection for compliance with state law on liquefied petroleum gases. These units may be converted to

use natural gas. For the safety of occupants, it shall be the responsibility of the mobile home park owner or operator to insure that no gas heating units in a mobile home are connected or used until such gas heating units are inspected and approved by the Administrative Official or his or her authorized representative.

(b) All piping from outside fuel storage tanks or cylinders to heating units in mobile homes shall be copper or other acceptable metallic tubing and shall be permanently installed and securely fastened in place. All fuel storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath the mobile home or less than five (5) feet from any mobile home exit.

(c) Oil storage shall be permitted in tanks or containers, not exceeding two hundred eighty (280) gallons in capacity, mounted on an incombustible frame at the rear of the mobile home. Such container shall be vented and provided with a stopcock at the outlet of the container and another stopcock on the fuel line just before it enters the mobile home. (Prior code 14.44.240; Ord. 1-1992, § 1)

**Sec. 16-265. Alterations and additions.**

Porches, cabanas or awnings, open in the front and on at least one (1) side, may be added to mobile homes. No enclosed addition shall be built onto or become a part of any mobile home without approval of the Administrative Official and issuance of a building permit. Enclosed additions shall be considered a part of the mobile home in measuring required yard distance. Skirting of mobile homes is permissible, but such skirting shall not permanently attach the mobile home to the ground, provide a harborage for rodents or create a fire hazard. Racks or stabilizers may be placed under the frame of the home to prevent movement on the springs while the home is parked and occupied, and all homes shall have a minimum of four (4) tie-down eyes secured in concrete. Placing a mobile home on a foundation or removal of wheels in their entirety is strictly prohibited. (Prior code 14.44.250; Ord. 1-1992, § 1)

**Sec. 16-266. Registration and reporting of communicable diseases.**

(a) Every mobile home park owner or operator shall maintain a register containing a record of all mobile homes and occupants using the park. Such register shall be available to any authorized person inspecting the park and shall be preserved for a period of three (3) years. Such register shall contain:

- (1) The names and addresses of all mobile home occupants stopping in the park;
- (2) The make, model and license number of each motor vehicle and mobile home;
- (3) The state, territory or country issuing the mobile home license;
- (4) The dates of arrival and departure of each mobile home; and
- (5) Classification of each mobile home as dependent or independent.

(b) Every owner, operator, attendant or other person operating a mobile home park shall notify the local health officer immediately of any suspected communicable or contagious disease within the park. In the case of diseases diagnosed by a physician as quarantinable, such owner, operator, attendant or other person operating a mobile home park shall not permit the departure of a mobile home or its occupants or

the removal therefrom of clothing or other articles which have been exposed to infection without approval of the County Health Department. (Prior code 14.44.260; Ord. 1-1992, § 1)

**Sec. 16-267. Individual mobile home unit regulations.**

(a) General location. No mobile home shall be allowed except in an authorized park.

(b) On public right-of-way. No mobile home shall be parked or permitted to stand upon any public street, highway, road, alley or other such right-of-way for more than a twenty-four (24) hour period. If so parked for less than a twenty-four (24) hour period, it shall be parallel to the edge of the right-of-way out of the flow of moving traffic.

(c) Storage. No mobile home shall be stored in any required front, side or rear yard.

(d) Occupied on private property. Any existing individual mobile home parked on a private lot and occupied as a dwelling, on the effective date of the ordinance codified in this Article, must be abated within one (1) year. Hardship cases will be reviewed by the Planning and Zoning Commissions and the Board of Trustees upon request. (Prior code 14.44.270; Ord. 1-1992, § 1)

**Sec. 16-268. Animal control.**

All animals and regulations for the same shall be as those for the R-1 district. (Prior code 14.44.280; Ord. 1-1992, § 1)

**Sec. 16-269. Guarantee of completion of improvements.**

In order to assure that the improvements in the mobile home park or in the mobile home subdivision are completed according to Town standards, all of the required improvements for the area to be occupied by the mobile homes shall be installed prior to the renting of a lot. In lieu of such prior construction, the Board of Trustees may accept a surety bond or certified check sufficient to cover the estimated cost of all required improvements. (Prior code 14.44.290; Ord. 1-1992, § 1)

**Sec. 16-270. Compliance required; supervision of park by permittee.**

(a) The person to whom a permit for a mobile home park is issued shall at all times operate the park in compliance with this Article and shall provide adequate supervision to maintain the park and its facilities and equipment in good repair and in a clean and sanitary condition at all times. The permit issued by the Administrative Official shall be conspicuously posted in the office of, or on the premises of, the mobile home park at all times.

(b) The Administrative Official may revoke any permit to maintain and operate a mobile home park when the permittee has been found guilty by a court of competent jurisdiction of violating any provision of this Article. After such conviction, the permit may be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with the law. (Prior code 14.44.300; Ord. 1-1992, § 1)

**Secs. 16-271--16-290. Reserved.**

