



**TOWN OF ELK MOUNTAIN ZONING
ORDINANCE**

Adopted

1970

Effective

1970

Amended

August 11, 2008

Amended

November 24, 2008

Amended

March 9, 2009

Amended

September 28, 2009

Replaced

Oct __, 2021

PREFACE

This Town ode of the Town of Elk Mountain contains ordinances up to and including ordinance _____, passed October 2020. Ordinances of the town adopted after said ordinance supersede the provisions of this Town Code to the extent that they are in conflict or inconsistent therewith. Consult the Town office in order to ascertain whether any particular provision of the Code has been amended, superseded or repealed.

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TITLE 13 ZONING REGULATIONS

CHAPTER 1 TITLE AND PURPOSE

SECTION:

- 13-1-1: TITLE OF ORDINANCE
- 13-1-2: AUTHORIZATION
- 13-1-3: PURPOSE
- 13-1-4: CONTINUATION OF EXISTING USES
- 13-1-5: RESTRICTIVE COVENANTS NO SUBSTITUTE
- 13-1-6: HIGHER OR MORE RESTRICTIVE STANDARDS
- 13-1-7: RENT, SALE OR LEASE IN VIOLATION
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- 13-1-10: RELATIONSHIP TO OTHER LAWS
- 13-1-11: JURISDICTION
- 13-1-12; APPLICABILITY OF REGULATIONS
- 13-1-13: TITLE CONFORMANCE
- 13-1-17: LOT REDUCTION
- 13-1-18: COMBINATION OF LOTS
- 13-1-19: OFFICIAL ZONING MAP
- 13-1-20: FEES

13-1-1: TITLE OF ORDINANCE: This title shall be known and may be cited as the ELK MOUNTAIN ZONING ORDINANCE. (1970 Code § 29-12)

13-1-2: AUTHORIZATION: This title is adopted pursuant to and in accordance with the authority vested in the Council by Sections 15-1-601 through 15-1-612, and 15-1-701 through 15-1-709, Wyoming Statutes, as amended.

13-1-3 PURPOSE: The purpose of this title is to promote public health, safety, morals, and the general welfare of the community, and to further:

1. Guide and regulate the orderly growth, development, and redevelopment of the town in accordance with a comprehensive plan of long-term objectives, principles, and standards deemed beneficial to the interests and welfare of the people;
2. Protect the established character and the social and economic well-being of both private and public property;
3. Promote, in the public interest, the utilization of land for the purposes for which it is most appropriate;
4. Secure safety from fire, panic, and other dangers,

and provide adequate light, air, and convenience of access;

5. Prevent overcrowding of land or buildings, and avoid undue concentration of population;
6. Lessen and, where possible, prevent traffic congestion on public streets and highways;
7. Conserve the value of buildings and enhance the value of land throughout the town;
8. Encourage elimination of nonconforming uses. (1970 Code § 29-14)

13-1-4: CONTINUATION OF EXISTING USES: The enactment of the title codified in this title, shall not prohibit the continuance of the use of any land, building or structure for the purpose for which such land, building or structure is used at the time the title takes effect, and it shall not be necessary to secure any permit or certificate permitting such continuance; provided, however, that any significant alteration of or addition to any existing building or structure within any area subject to the provisions of these regulations shall be regulated or prohibited.

13-1-5: RESTRICTIVE COVENANTS NO SUBSTITUTE: The existence of restrictive covenants or agreements shall not be a substitute for these zoning regulations. The Town is not a party to and will not enforce private covenants.

13-1-6: HIGHER OR MORE RESTRICTIVE STANDARDS: Wherever higher or more restrictive standards are established by the provisions of any other applicable title, statute, resolution or regulation, such other title, statute, resolution or regulation shall apply.

13-1-7: RENT, SALE OR LEASE IN VIOLATION: No person, firm or corporation and no officer or employee thereof shall knowingly sell, rent or lease, or offer to sell, rent or lease, any land or structure for any use or purpose contrary to the provisions of this title.

13-1-8: EFFECTIVE DATE: This title shall be in full force and effect, as adopted by the Council.

13-1-9: SEVERABILITY: All parts and provisions of this title are hereby declared to be severable, If any clause, section, subsection, sentence, paragraph, part, word, phrase or provision of this title shall, for any reason, be adjusted

by any court of competent jurisdiction to be invalid, illegal or unconstitutional, such judgment shall be confined in its operation to the clause, section, subsection, sentence, paragraph, part, word, phrase or provision directly involved in the controversy in which such judgment shall have been rendered.

- 13-1-10: RELATIONSHIP TO OTHER LAWS: Where this title imposes greater restrictions upon the use of buildings or land than are imposed or required by existing provisions of law or resolution, this title shall prevail. Compliance with this title does not presume to give authority to violate or cancel the provisions of any federal, state or local law. This title shall supersede and repeal all previously adopted conflicting zoning related ordinances.
- 13-1-11: JURISDICTION: These regulations apply to all subdivision of land within the jurisdictional area of the Governing Body of the Town of Elk Mountain in accordance with the applicable state law and the boundary provisions under the Code of the Town of Elk Mountain.
- 13-1-12: APPLICABILITY OF REGULATIONS: These regulations shall apply to any and all lands within the Town of Elk Mountain.
- 13-1-13: TITLE CONFORMANCE: No land shall be used or occupied, and no structure shall be located, erected, used, occupied, constructed, reconstructed, enlarged, changed, maintained or altered, except in conformity with all provisions of this title.
- 13-1-17: LOT REDUCTION: No platted lot of record or unplatted lot of land which is existing at the time of the passage of this title shall be reduced in dimensions or area below the minimum requirements set forth herein. Lots created after the effective date of this title shall meet or exceed the minimum requirements established by this title and shall comply with the Town subdivision regulations.
- 13-1-18: COMBINATION OF LOTS: No portion of any lot which has been designated or used to satisfy the minimum lot size required for an existing or proposed structure shall be included as a portion of the minimum lot size required for another structure.
- 13-1-19: OFFICIAL ZONING MAP: There are two parts to this title 1) the text and 2) the map. The official zoning map of the Town of Elk Mountain will be maintained by the Town, shall be available at the Town Hall and the latest version noted by date.

13-1-20:

FEES: The fees for site plans, Special Permits, variances and amendments including zone changes, are set by the Council, by resolution, as amended from time to time. The Town Clerk maintains the fee schedule.

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CHAPTER 2 ADMINISTRATION AND ENFORCEMENT

SECTION:

- 13-2-1: Planning and Zoning Commission
- 13-2-2: Powers and Duties of Administering Office
- 13-2-3: Enforcement
- 13-2-4: Violations
- 13-2-5: Penalty

13-2-1: PLANNING AND ZONING COMMISSION: A planning and zoning commission known as "Planning Commission," hereinafter referred to in this title as the "Commission."

- A. Composition, appointment, terms of and removal from office, vacancies, rules, secretary - The membership of the Commission shall consist of three members appointed by the Council all of whom shall reside, own property or manage a business, in the town. The terms of office of members appointed shall be for a period of three years. Commissioners may serve two consecutive three-year terms. Any member of the Commission may be removed from office for cause, other than politics or religion, after a public hearing by the Council. If a vacancy occurs in the Commission, the Council shall fill the vacancy by appointment for the unexpired term. The Commission shall adopt rules for the transaction of its business. The Town Clerk or a designee shall serve as secretary of the Commission.
- B. The Commission shall elect, from its own membership, a chairman and vice-chairman who shall serve annual terms and who may succeed themselves.
- C. Meetings of the Commission shall be held at the call of the Chairman and at such other times as the Commission may determine. For the conduct of any meeting, public hearing or the taking of any action, a quorum of three members is required. An affirmative vote of the majority of the members present at the meeting is required to authorize any action of the Commission. In the case of a tie vote, the matter shall be forwarded to the Council without a recommendation. The Commission shall render decisions and forward such decisions to the Council. The Commission shall keep minutes of its proceedings showing the vote of each member upon each action. All meetings, records and accounts of the commission shall be public.
- D. The Commission shall have the following powers and duties:

1. To adopt rules and regulations for the conduct of its own business.
2. To hear and make recommendations on applications for variances, zone changes and amendments to this title.
3. To prepare and amend the Comprehensive Land Use Plan and certify the plan to the council.
4. To make recommendations on land use planning decisions, such as subdivisions and annexations, etc.
5. Any powers and duties granted by the council.

13-2-2:

POWERS AND DUTIES OF ADMINISTERING OFFICE: The Zoning Officer of the Town of Elk Mountain, or other appointee of the Mayor, shall have the power and duty to administer this title. In the performance of these duties, the Zoning Officer or appointee will:

- A. Administer rules and procedures, which include the development of necessary forms and permits, development of procedures not described by this title and coordinate with other officials and departments as directed by the council.
- B. Receive all applications for variances, Special Permit uses, zone changes and amendments to the title, refer such applications to the proper agencies for examination, and submit to the Commission and Council all such applications together with the recommendations of the examining agencies and the recommendations of the Zoning Officer.
- C. Participate, when deemed appropriate, in public hearings or meetings before the Commission and the Council on variances, Special Permits, zone changes or amendments to this title.
- D. Maintain the official zoning map or maps showing the current zoning classification of all lands with the town.
- E. Propose to the Commission and the Council any changes to this title or the official zoning map that may, from time to time, be desirable or necessary. All such changes shall be subject to the amendment procedures set forth in this title.
- F. Maintain such records and files as may be necessary in the efficient conduct of the above duties.
- G. Establish and collect fees, as approved by the council.

H. All Commission actions are recommendations to the council, and not appealable.

I. If no Commission is established to execute the administration and duties listed in Chapter 2, by default, the Council shall fulfill the administration and duties of the Commission as required.

13-2-3: ENFORCEMENT: This title shall be enforced by the Zoning Officer or designee, which shall have the authority to grant zoning certificates, building, occupancy and other required permits, to make inspections and to make all decisions necessary to properly carry out the provisions of this title. No mistake, oversight or dereliction on the part of any official or employee of the town shall legalize, authorize or excuse the violation of any provisions of this title.

13-2-4: VIOLATIONS: No person shall use or occupy any land or locate, erect, occupy, construct, reconstruct, enlarge, change, maintain or alter any building or structure in violation of the provisions of this title. Persons found to be in violation of any provision of this title shall be notified, in writing, by the zoning enforcement officer of the nature of the violation and the need to remedy or correct said violation. Within ten working days of such notification, the violation shall be remedied or corrected. If the violation is not remedied or corrected within the ten-day period, the matter may be referred for legal action by the office of the Town Attorney or the Elk Mountain Police Department.

In the event of a violation or threatened violation of this title, the planning and building staff, the council or any adjacent property owner, or other property owner who would be damaged by such violation, in addition to the other remedies, may institute an injunction, mandamus, or other appropriate action in proceeding to prevent, restrain, correct or stop such violations or threatened violations.

13-2-5: PENALTY: Any person violating any provision of this title shall be guilty of a misdemeanor and upon conviction, may be fined up to \$750 for each offense according to Chapter 1 of the Code of Elk Mountain.

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CHAPTER 3 PERMITS

SECTION:

- 13-3-1: Zoning Certificate
- 13-3-2: Building Permits
- 13-3-3: Revocation of Permits
- 13-3-4: Certificates of Occupancy
- 13-3-5: Non-Liability for Damages
- 13-3-6: Permitted and Special Permit Use Definition Interpretation
- 13-3-7: Application Forms
- 13-3-8: Application Fees
- 13-3-9: Issuance
- 13-3-10: Expiration

13-3-1: ZONING CERTIFICATE:

- A. No building shall be commenced, erected or altered nor any building, electrical or plumbing permit issued until a zoning certificate has been issued by the town staff certifying that the proposed building(s) or mobile home(s) complies with all of the provisions of this title. Accessory buildings, that are less than 150 square feet in floor area, do not require a permanent foundation, are not fixed to a permanent location on the ground, and are not attached to a building containing a permitted use, shall not require a zoning certificate. However, all such accessory buildings shall meet all minimum setback requirements.
- B. Staff shall act promptly upon any zoning certificate application filed; and shall grant said certificate in cases where the proposed construction or use complies with the requirements of this title, and other applicable rules and regulations. If the application is denied, the reason for such denial shall be specified in writing and the applicant notified of his right of appeal to the Council.
- C. Any future modifications of existing buildings or changes of use of any building or land area, excluding internal renovations that do not represent a change in use, shall require a zoning certificate.
- D. A zoning certificate shall be valid up to one year from the date of issuance. If rezoning is proposed for property for which a zoning certificate has been issued, the use for which the zoning certificate was issued must be in existence on the property prior to the date of approval of the new zoning by the council.

13-3-2: BUILDING PERMITS:

- A. It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove or convert any building or structure or cause the same to be done, without first obtaining the required permits for each building or structure from the Town. Accessory buildings, that are less than one hundred-fifty square feet (150 sq. ft.) in floor area, do not require a permanent foundation, are not fixed to a permanent location on the ground, and are not attached to a building containing a permitted use, shall not require a building permit.
- B. All applications for building permits shall be accompanied by an approved zoning certificate, a legal description of the property, a plot plan showing the dimensions of the lot to be built upon, the dimensions and location of any existing buildings or structures on the lot, the dimensions and location of the proposed building and structure, and any other such information as may be necessary to provide for the enforcement of the provisions of this title.
- C. The Zoning Officer shall act promptly upon any permit application filed with it and shall review permits to ensure that the proposed construction or use complies with the requirements of this title. After review and upon approval by the Council, the Town shall issue the building permit. If construction has not been started within one year from the date of the issuance of the building permit, the permit shall become void.
- D. A copy of all issued permits shall be filed by the Town Clerk and shall be available for examination.

13-3-3: REVOCATION OF PERMITS: If the Town finds that any work is not in accordance with the information supplied on the permit application or is in violation of this or any other pertinent regulations, or should the department find that there has been any misrepresentation in connection with the application for the permit, the Town shall notify the owner or owner's representative of such findings and notify him that the violation must be corrected. The owner or owner's representative shall have seven (7) working days in which to reply to such notification. If such reply or correction is not made, the Town shall revoke the permit and shall serve written notice on the grounds therefore and of the right of appeal to the Council upon the owner or owner's representative. No person shall proceed with any part of

such work after such notice is received.

13-3-4: CERTIFICATES OF OCCUPANCY: No newly constructed building shall be used or occupied and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until a certificate of occupancy has been issued by the Town stating that the entire building and proposed use complies with the provisions of this title, the IBC (formerly the Uniform Building Code,) and Carbon County Health Department Regulations, if required. Certificates of occupancy must be signed by all applicable inspectors.

13-3-5: NON-LIABILITY FOR DAMAGES: This title may not be construed to hold the Town of Elk Mountain or its officers, agents or employees responsible for any damage to persons, property or business interests resulting from any inspection or any failure to inspect, from the issuance, denials, suspension or revocation of any permit or from the institution of any enforcement action.

13-3-6: PERMITTED AND SPECIAL PERMIT USE DEFINITION INTERPRETATION:

- A. The Town Staff shall make the determination as to whether a proposed use not listed as a permitted or Special Permit use meets the intent of the permitted or Special Permit use sections of each zoning district.
- B. Any applicant may appeal the Town Staff's decision in writing to the Council for review, who will uphold or overrule the Town Staff's decision.

13-3-7: APPLICATION FORMS:

- A. Applications for permits shall be made on the forms approved by the Council. A filing shall not be accepted until all information required is provided.
- B. Contents: Each such application shall:
 - 1. Identify and describe the work to be covered by the permit for which application is made;
 - 2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely

locate the proposed building or work;

3. State the valuation of the work to be done;
4. Be signed by permittee, or his authorized agent, who may be required to submit evidence to indicate such authority;
5. Give such other data and information as may be required by the town clerk-treasurer. (Ord. 60, 7-9-1984)

13-3-8: APPLICATION FEES: The fee for each permit shall be established by Resolution, by the Town Council.

13-3-9: ISSUANCE: The application shall be reviewed by the town zoning officer and if it is determined that the proposed construction is not in violation of the zoning ordinance and the appropriate fee has been paid, the permit shall be issued. If there is some potential violation of the zoning ordinance, the building permit application shall be referred to the zoning board for consideration of any necessary zone changes. (Ord. 60, 7-9-1984; amd. 2008 Code)

13-3-10: EXPIRATION:

A. Term: Every permit issued by the town clerk-treasurer under the provisions of this chapter shall expire by limitations and become null and void if the building or work authorized by the permit is not commenced within one hundred eighty (180) days from the date of the permit, or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days. Before the work can be recommenced, a new permit shall first be obtained to do so, and the fee therefor shall be one-half (1/2) the amount required for a new permit for the work, provided no changes have been made or will be made in the original plans and specifications for the work; and provided further, that the suspension or abandonment has not exceeded one year.

B. Extension: Any permittee holding an unexpired permit may apply for an extension of the time within which they may commence work under that permit when they are unable to commence work within the time required by this chapter for good and satisfactory reasons. The town clerk-treasurer may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) days upon written request by the permittee

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CHAPTER 4 DEFINITIONS

SECTION:

13-4-1: General:

13-4-1: GENERAL: The words and terms defined in this Chapter shall be interpreted in the same manner throughout this title. In general, the word "shall" is always mandatory; the word "may" is permissive. Words used in the present tense include the future tense, and words used in the singular shall include the plural. Words not defined shall have the meaning that is typically given to them.

ACCESSORY BUILDING: A subordinate building, the use of which is incidental to that of the principal building located on the same lot, parcel or tract. Accessory buildings shall include detached garages, noncommercial greenhouses, carports and garden and/or tool sheds.

ACCESSORY USE: A use dependent upon or pertaining to the principal use or main use. Such use must be incidental to the principal use or main use; and, (a) constitute a use which is secondary to significance to the principal or main use; and, (b) be reasonably related to the main use.

ALLEY: A public or private thoroughfare that provides only a secondary access to abutting property.

AMBIENT LIGHT: The existing light condition surrounding an area. The light source may be sunlight, or artificial light, or a combination of both.

ANTIQUES, ANTIQUE SHOP: Any article which, because of age, rarity or historical significance, has a monetary value greater than the original value, or which has an age recognized by the United States Government as entitling the article to an import duty less than that prescribed for contemporary merchandise. A store or shop selling only such articles or offering them for sale shall be considered as an antique shop or store, and not considered as a dealership handling used or secondhand merchandise.

APARTMENT: A suite of two or more rooms in a multiple-family dwelling, or in any other building excluding a single-family dwelling and suitable for occupancy as a dwelling unit for one family.

ARTERIAL STREET: A street or highway which are principally intended to provide a high degree of travel mobility, serving the

through movement of traffic and providing transportation service between major subareas of an urban area or through the area.

ASSISTED LIVING: A dwelling or rooming house operated by a person, firm or corporation engaged in the business of operating a facility for the purpose of letting rooms for rent and providing meals, personal daily living care and limited nursing care for persons not related to the owner.

AUTOMOBILE BODY REPAIR: Restoration, repair, and painting of the external bodies of passenger vehicles and pick-up trucks rated at one and one-half tons or less.

AUTOMOBILE REPAIR: Repair of internal, mechanical components of passenger vehicles and pick-up trucks rated at one and one-half tons or less.

AUTOMOBILE SALES: Sales of new and used passenger vehicles automobiles and pick-up trucks rated at one and one-half tons or less.

AUTOMOBILE SERVICE: Minor repair, tune-up, and routine servicing of passenger vehicles and pick-up trucks rated at one and one-half tons or less.

BED AND BREAKFAST: A private owner-occupied home where a portion is used to provide accommodations to registered guests for up to 30 consecutive days for a charge. Four or less lodging units may be provided, and one or two-family style meals must be provided for the guests in a 24-hour period. Signage shall comply with signs allowed for home occupations. A bed and breakfast shall require an approved Special Permit and shall not impair the residential character of the neighborhood in which it is located.

BUILDING: Any covered structure permanently affixed to the ground intended for the shelter, housing, or enclosure of persons, animals, or goods.

BUILDING FRONTAGE: The façade of a structure containing a permitted use that is generally parallel to and closest to the front line of a lot.

BUILDING HEIGHT: Vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof of the top story; in the case of a flat roof, to the deck line of a mansard roof, and to the average height between the plate and ridge of a gable, hip, or gambrel roof.

BULK PLANT: A storage facility for products refined from petroleum, mineral resources, or any other combustible substance.

CARPORT: An accessory structure used to shelter cars, trucks, boats, ATVs and other recreational vehicles. If the structure is not connected to the primary structure, the application must indicate tie downs or other mechanisms to prevent loss of property due to high winds. The height of the carport cannot exceed the height of the primary structure. Where the accessory building is attached to a main building, it shall be subject to, and must conform to, all regulations applicable to the main building except as provided within this section.

1. Carports can be built from a pre-designed "kit" (manufacturer's instructions must be available at the time of permit application) or may be designed by an engineer. A carport shall not shelter more than three licensed vehicles, and no unlicensed vehicles shall be stored or sheltered, and shall not exceed twenty-four feet on its longest dimension.
2. All pre-manufactured metal buildings / carports placed or constructed prior to December 1, 2019 will be treated as pre-existing nonconforming uses, and may not be enlarged, modified, altered or expanded.
3. Carports must comply with the setbacks established by the Town of Elk Mountain Zoning Code for Accessory Structures.

COMMERCIAL STORAGE FACILITY: A building or group of buildings containing varying sizes of individual stalls or lockers for the storage of articles or goods. This use does not include retail uses or any other activities conducted within the structure or structures, other than the temporary storage of articles or goods. All storage shall be totally contained within the building, with no outdoor storage allowed. No hazardous materials shall be allowed to be stored. A 'mini-storage' facility is included in this definition.

COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES: Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

COMMISSION: Planning and Zoning Commission.

CONDOMINIUM: A multiple dwelling or development containing individually owned units and jointly owned and shared areas and facilities, subject to the provisions of this title.

CONVENIENCE STORE: A facility associated with the sale of gasoline products that also offers prepackaged food items and tangible consumer goods, primarily for self-service by the consumer.

CORNER LOT: A lot situated at the intersection of two or more streets. (See Figure 4.2)

CORRECTIVE ACTION MANAGEMENT UNIT (CAMU): An area permitted by the Wyoming Department of Environmental Quality (WDEQ) to accept both hazardous and non-hazardous remediation waste generated in association with voluntary Solid Waste Management Unit (SWMU) and soil remediation activities.

COUNCIL: Town Council

DAY CARE: A facility operated for the purpose of providing care for individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses. It excludes public and private educational facilities or any facility offering care for a full 24-hour period. The activity shall be regulated by the Wyoming Department of Family Services and the town.

DISSOLVE: A mode of message transition on an Electronic Message Center Sign accomplished by varying the light intensity or pattern, where the first frame/message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second frame/message.

DUPLEX: A building comprised of two dwelling units with separate entrances located on one parcel of property.

DWELL TIME: The interval of time that an Electronic Message Center Sign or a frame remains static before transitioning to a new message.

DWELLING UNIT: One or more rooms and a single kitchen designed as a unit for occupancy by only one family unit for cooking, living and sleeping purposes.

EASEMENT: A right of an entity/entities to use in some way the land of another for a special purpose.

ELECTRONIC MESSAGE CENTER SIGN (EMC): means on-premises, changeable-copy (automatic) sign which uses light emitting display technologies or a combination of lights, or lighted or unlighted panels which are controlled electronically to produce words, symbols, pictures or messages. Includes cathode ray, light emitting diode (LED) display, plasma

screen, liquid crystal display (LCD), fiber optic, video boards and other similar electronic technology.

- FADE:** A mode of message transmission on an Electronic Message Center Sign accomplished by varying the light intensity, where the first message/frame gradually reduces intensity to the point of not being legible (i.e. fading to black) and the subsequent message/frame gradually increases intensity to the point of legibility.
- FAMILY UNIT:** A group of persons related by blood, marriage, adoption, living together and, normally but not always, consisting of one or two parents and their children, or persons living together in the relationship and for the purpose of guardian, ward or foster family who may not necessarily be related by blood or marriage to the head of the household, or a group of not more than four unrelated persons living together in a dwelling unit, except that a family shall not, with the exception of adjudicated delinquent children in foster care, include more than one individual, or two more individuals related by blood or marriage.
- FOOT-CANDLE:** The English unit of measurement for illuminance, which is equal to one lumen, incident upon an area of one foot.
- FRAME:** A complete, static display screen on an Electronic Message Center Sign.
- FRONT LOT LINE:** Any boundary line of a lot parallel to and abutting the right-of-way line of an officially approved street or highway. In residential zoning districts this shall be the property line separating the narrowest street frontage of the lot from the street right-of-way. (See Figure 4.1)
- FULL MOTION VIDEO:** A sign feature with simulated continuous movement created by the display of a series of images, typically consisting of a recorded actual event or scene.
- GAS STATION:** A retail establishment engaged in the sale of automotive fuels, motor oil or other automobile accessories and providing incidental services, including minor mechanical work and repairs but not painting or body work.
- GROUP HOME:** An establishment used to provide twenty-four (24) hour care or supervision, by persons living on the premises, of not more than ten (10) persons who, by reason of circumstances, require daily care or supervision. "Care" is defined as room and board, and the provision of a planned treatment program. "Planned Treatment" means a previously determined program of counseling, therapy, or other rehabilitation social service which provides for a group of persons of similar or compatible circumstances or

conditions.

HABITABILITY: The conformance of a residence or abode to the implied warranty of functioning systems, including but not limited to:

1. Plumbing, Heating and Electrical systems are in safe working order.
2. Walls are free of substantial openings not designed and are structurally sound.
3. Exterior doors and Windows are in place and will open and close.
4. Floor and roof is free of substantial openings not designed and is structurally sound.
5. Fire blocking is installed where applicable.
6. Smoke detector(s) installed and operational.
7. The home is free of other defects, damage or deterioration which creates a dangerous situation or condition.

HABITABILITY: A process that may be completed by a Town official or agent or may be required to be completed by a licensed contractor with a license and expertise in the particular area of question.

HOME OCCUPATION: An occupation conducted in a dwelling unit or accessory structure by the resident, provided that the use is limited in extent and clearly incidental to the use of the dwelling for residential purposes and does not change the outside character of the dwelling or accessory structure.

ILLUMINANCE: The photometric quality most closely associated with the perception of brightness and a measurement of the intensity of light falling on a surface at a given distance from the light source. Illuminance can be measured with a foot-candle meter, also known as a lux meter.

JUNKYARD: A lot, land, or structure used primarily for the collecting, storage, and sale of wastepaper, rags, scrap metal or discarded material; or for the collection, dismantling, storing, and salvaging of machinery or vehicles not in running condition, or for the sale of their parts. Junkyards are neither a permitted nor a Special Permit use.

LOADING AREA OR SPACE: Space within the main building or on the same lot that provides for the standing, loading, or unloading of a

vehicle.

LOT: A single parcel of contiguous land occupied or intended to be occupied by structures and/or uses, as permitted by this title, together with the open spaces required; all lots shall abut on a public street or an officially approved access way.

MANUFACTURED HOME: A structure, transportable in one or more dependent sections, constructed in conformance with the National Manufactured Housing Construction and Safety Standards Act of 1974 as updated, which is built on a permanent chassis and designed to be used as a single family residential dwelling unit.

MOBILE HOME: A structure, transportable in one or more sections, designed for use as a single family residential dwelling unit, built on a permanent chassis and not in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974. All mobile homes 20-years or older must be inspected prior to being moved into the Town of Elk Mountain. Upon submittal of an application to set up a mobile home in the Town of Elk Mountain, the Zoning Officer will make a recommendation as to whether the structure is required to meet a habitability inspection to verify the quality of the home, prior to approval of relocation.

MOBILE HOME PARK: Two or more mobile homes located on one parcel under single ownership.

MOBILE/MANUFACTURED HOME SUBDIVISION: A subdivision consisting of two or more lots and meeting all of the requirements of the Subdivision Regulations of the Town of Elk Mountain, the lots of which are intended to be sold, leased or assigned for use by mobile/manufactured homes to create a place for long term residential occupancy.

MODULAR HOME: A structure, transportable in one or more dependent sections, designed for use as a single family residential dwelling unit, not built on a permanent chassis, capable of being transported from place of fabrication to the site on which it is to be erected, where it is placed on a permanent foundation and, when assembled, meets all of the provisions of the Uniform Building Code (IBC) or International Residential Code for residential dwelling units.

MOTOR VEHICLE SALVAGE: See "Junkyard".

MOTOR VEHICLE: Passenger vehicles, light pick-up trucks and any other motorized heavy equipment, commercial trucks, buses, semi-

tractor trailers, tractors, farm implements and other utility vehicles.

MOTOR VEHICLE, LICENSED OR REGISTERED: Operable vehicle with a currently valid registration affixed to that vehicle.

MOTOR VEHICLE, UNLICENSED OR INOPERABLE: A motor vehicle which does not have a valid state license, is not mechanically able to operate, or which cannot otherwise legally operate on the highway. Only one inoperable or unlicensed vehicle is permitted per premises.

MULTIPLE FAMILY DWELLING: A structure containing three or more dwelling units on one lot.

NONCONFORMANCE, LEGAL: Any legally established use, structure, or development standard, which was lawfully allowed in the past, but is now not in conformance with the current Code.

NONCONFORMING USE: Any use, structure, lot, condition, or development that does not conform to any of the provisions of the current Code or that was not approved by the Town through the appropriate decision-making process required under this Code.

OPEN SPACE: Portion of a lot that is not occupied by a structure, or utilized for parking, or occupied by an impervious surface.

PARCEL: See "Lot"

PARKING SPACE: An off-street space available for the parking of one motor vehicle which has a hard surface of gravel, pavement, or concrete and is at least nine feet in width and eighteen feet in length, exclusive of passageways and driveways.

PASSENGER VEHICLE: Cars, light trucks, vans, motorcycles, RV's or any other vehicles intended to transport persons and light cargo.

PERMITTED USE: An allowed use listed for a zoning district.

PET SUPPLY SHOP: A retail establishment offering pet accessories, supplies, food, and/or small animals, fish, or birds for sale as pets and where all such creatures are housed within the building.

PREMISES: Any lot or combination of lots or parcels used as one entity under single ownership.

PUBLIC UTILITY: All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and

include facilities for the generation of electricity.

REAR LOT LINE: The lot line that is opposite and most distant from the front lot line; the rear lot line of an irregular or triangular lot shall be a line entirely within the lot at least 10 feet long and parallel to and most distant from the front lot line.

RECREATIONAL FACILITIES: Land, structures, and accessory equipment that is designed and utilized for leisure time activities taking place indoors or outdoors and being of a more specific purpose than passive, park-like open space.

RECREATIONAL VEHICLE: A vehicular-type unit designed as temporary living quarters for recreational, camping, living, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Use of recreational vehicles as permanent dwellings or as a primary residence on a lot shall comply with the other sections of the code.

RECREATIONAL VEHICLE PARK/CAMPGROUND: A tract of land having two or more recreational vehicles or tent sites for lease, established or maintained for transient occupancy by the general public.

RECYCLING CENTER: A structure or storage area whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled, or handled, including, but not limited to, scrap aluminum, paper, plastic and bottles are processed.

RESTAURANT: An establishment whose principal business is the sale of prepared food and beverages for consumption within the restaurant building; a convenience food restaurant is an establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer, ready to be consumed on or off premises.

SCINTILLATE OR SCINTILLATING: means visual effects such as light flashes, light sparkling, light starbursts, light twinkling, light pulsating, or any other image transition effect or animation in which an image instantly and repeatedly changes for the purpose of attracting attention.

SCROLLING MESSAGE: A mode of message transition on an Electronic Message Center Sign where the message appears to move vertically or horizontally across the display surface. For the purpose of regulating Electronic Message Center Signs scrolling shall refer to text only, and not images or symbols which shall instead, be considered either animated signs or full motion video signs.

SETBACK LINE: The lines defining the buildable area of the lot and the inside limits of the required yards. (See Figures 4.1 and 4.2)

SIDE LOT LINE: Any boundary of a lot that is not a front line or a rear line. (See Figures 4.1 and 4.2).

SIGN, CHANGEABLE COPY (AUTOMATIC): "Automatic changeable copy sign" means a sign or electronic message center on which the copy or image changes automatically on a lamp bank or display through a programmed or remote electronic or mechanical means.

SIGN, FLASHING: "Flashing sign" means any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light, or where the identical message, or a portion of the message is repeated at a rapid interval (less than every two seconds) for the purpose of drawing attention to the sign.

SIGN, ANIMATED: "Animated sign" means any sign which includes simulated movement, action or motion created by the display of a series of pictures or images.

SPOT ZONING: The singling out of a particular property or small groups of properties for different treatment from that accorded to similar surrounding land; which is contrary to the general pattern of zoning in the surrounding geographic area and is not in accordance with an approved comprehensive plan; and, which is designed solely for the economic benefit of the owner of the property receiving special treatment.

STATIC MESSAGE: A sign message/frame that does not have movement, or the appearance or optical illusion of movement during the display period.

STRUCTURE: Anything constructed or erected that requires a more or less permanent location on the ground; fences, signs, monuments, statues, flagpoles, and bridges shall be considered structures for the purpose of this title.

TEMPORARY USE: Seasonal or transient use which is non-permanent in nature and does not alter the intent of the district. Temporary use permits for any district shall require a Special Permit as regulated in Chapter 8.

TOWN: Town of Elk Mountain, Wyoming.

TOWNHOUSE: A row house or other unit of a building containing two or more units on separate lots, in which generally persons own their own units and hold separate titles to their land and unit, but under which they may jointly own the common areas

and facilities; townhouse units may consist of one or more stories.

TRANSITION: The visual effect of changing from one frame/message to another frame/message on an Electronic Message Center Sign.

TWIN HOMES: A single family dwelling attached to one other single family dwelling by a common wall, each of which is located on an individually owned, and separately platted subdivision lot, and sharing one common lot line.

UNIT: That portion of a condominium or townhouse building designated for separate ownership on a recorded plat.

YARD: A space on the same lot with a main building that is open, unoccupied, and unobstructed by buildings or structures.

ZONING OFFICER: Zoning Officer or designee.

FIGURE 4.1 - Typical Normal Lot

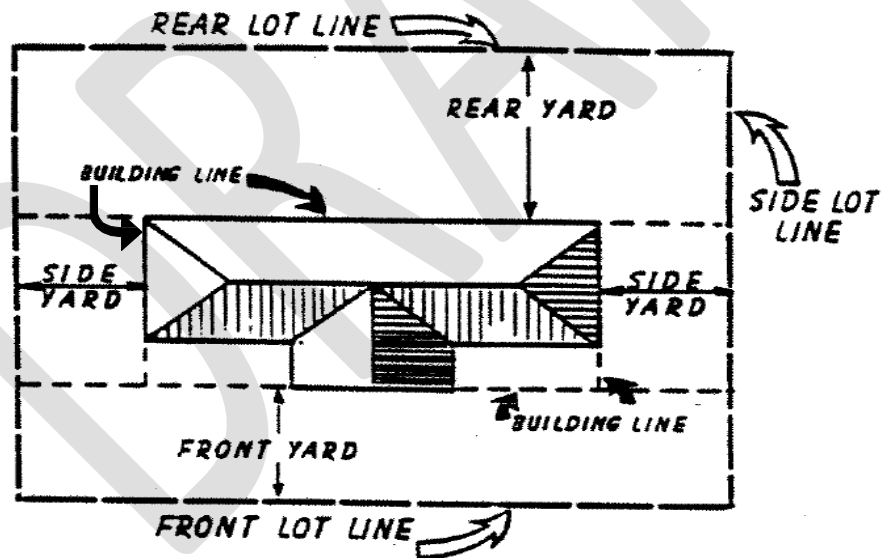
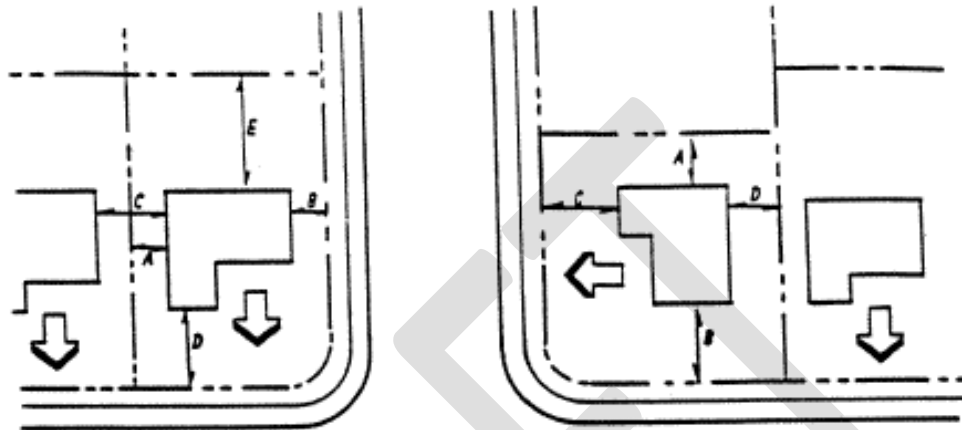


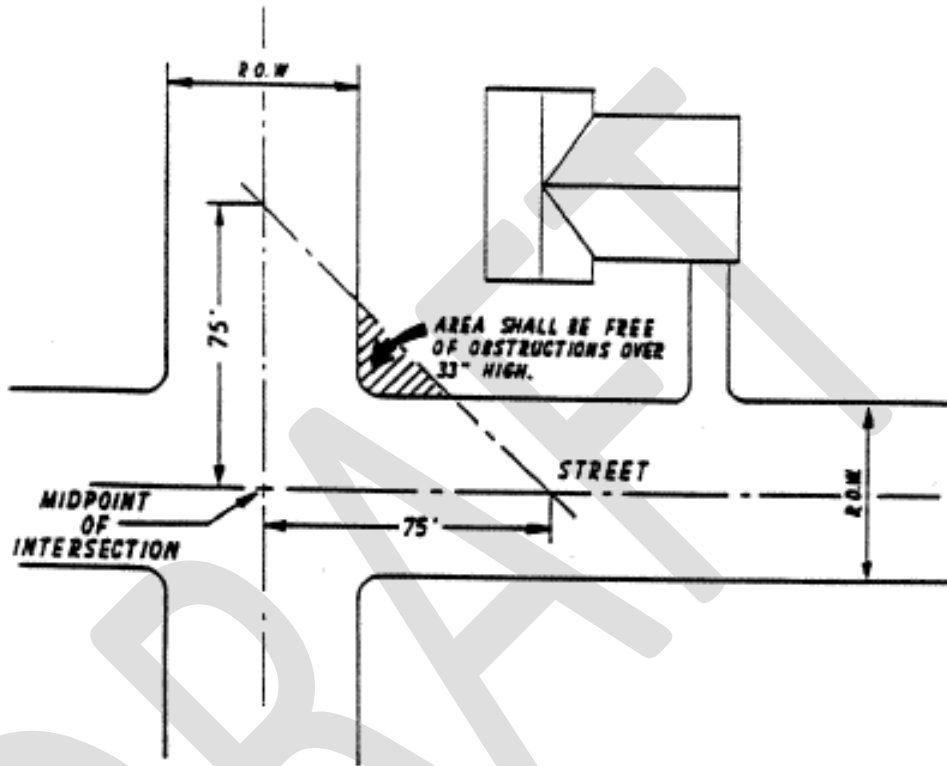
FIGURE 4.2 - Setbacks



REGULAR CORNER LOT
A & B SIDE YARDS
C DISTANCE BETWEEN BUILDINGS
D FRONT YARD
E REAR YARD

REVERSE CORNER LOT
A SIDE YARD
B STREET SIDE YARD
C FRONT YARD
D REAR YARD

FIGURE 4.3 - Sight Distance Triangle



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CHAPTER 5 - ZONING DISTRICTS

SECTION:

- 13-5-1: District Classifications
- 13-5-2: Residential District Uses and Regulations
- 13-5-3: Bulk Regulations for Residential Zoning Districts
- 13-5-4: Commercial and Industrial Zoning Districts Uses and Regulations
- 13-5-5: Bulk Regulations for Commercial and Industrial Zoning District
- 13-5-6: Public (P) District Uses and Regulations

13-5-1: DISTRICT CLASSIFICATIONS

R-1: Single Family Residential District: This district is for single family units that have been constructed on-site and are conventional, stick-built residences.

R-2: Single Family, Twin Homes and Duplex Residential District: The district is for single family, twin homes, and duplex residential units, including houses constructed on-site and manufactured and modular houses.

R-3: Multi-Family Residential District: Multi-family units are permitted in this district. Single family residences are also allowed, along with modular homes.

R-4: Mobile Home Residential District: The district is intended for mobile homes, including subdivisions specifically designed for manufactured and mobile housing. Conventional single family residences and manufactured and modular homes are allowed as a permitted use. Mobile home parks are allowed as a Special Permit use.

UA: Urban Agriculture: district is to establish and preserve areas for semi-rural, low density residential, and related or compatible uses. It is also the intent to provide within this zone, an adequate amount of space for livestock and poultry, as is essential to meet appropriate health standards.

C: Commercial District: This district is intended for retail, commercial, office, and institutional (public or semipublic) uses meant to serve the community and surrounding area.

I: Industrial District: This district allows industrial uses and the manufacture of finished products or parts, including the processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of products. The manufacturing conducted in this zoning district is primarily from previously prepared materials and excludes basic industrial processing. These processes shall not be detectable beyond the

property line.

P: Public District: The Open Space and Public District is intended to provide for public land areas and public and semi-public institutional uses, including land reserves for future public and institutional use and for the preservation of publicly established historic sites.

13-5-2: RESIDENTIAL DISTRICT USES AND REGULATIONS

A. R-1 Single Family Residential District: The purpose of this district is to provide an area for single family units that have been constructed on-site and are conventional, stick-built residences, free from other conflicting uses.

Permitted Uses:

1. Single family dwelling, not including mobile homes;
2. Buried underground utility lines and facilities and overhead electrical transmission lines only if they exclusively serve the town and its residents;
3. Churches and Sunday schools;
4. Public parks and playgrounds;
5. Public schools.

Special Permit Uses (See Chapter 8 of this Title):

1. Boarding or lodging house;
2. Crop and garden uses;
3. Daycare centers;
4. Hospital;
5. Membership clubs;
6. Nursing, rest, and convalescent homes;
7. Up to two (2) off-street, occupied recreational vehicles allowed to be on the premises;
8. Where the primary use is residential, accessory commercial usage may be permitted if it is found that

the following factors are substantially met:

- a. There is adequate parking in the neighborhood.
- b. The appearance of the neighborhood would not be adversely affected.
- c. The noise level in the neighborhood would not be significantly adversely affected.
- d. The traffic in the neighborhood would not be significantly adversely affected.
- e. The commercial usage would create no fire danger to surrounding homes.
- f. Public health would not be adversely affected.
- g. The proposed accessory commercial use is not incompatible with usage by the adjoining landowners.

Accessory Uses:

1. The use is clearly incidental and secondary to the operation of the permitted use;
2. The use is commonly associated with the operation of the permitted use;
3. It is operated and maintained under the same ownership and on the same lot as the permitted use;
4. Does not include structures or structural features inconsistent with the permitted use;
5. The gross floor area of a separate, detached structure from a permitted use shall not exceed the gross floor area of the permitted use;
6. Does not include residential occupancy.

B. R-2: Single Family, Twin Homes and Duplex Residential District

The district is for single family, twin homes and duplex residential units, including houses constructed on-site and modular houses.

Permitted Uses:

1. Single family dwelling, including conventional unit, manufactured home, and modular units, not including mobile homes;
2. Duplex;
3. Twin Home.

Special Permit Uses (See Chapter 8 of this Title:

1. Bed and Breakfast;
2. Public Utilities;
3. Townhouses;
4. Churches;
5. Up to two (2) off-street, occupied recreational vehicles allowed to be on the premises.

Accessory Uses:

1. The use is clearly incidental and secondary to the operation of the permitted use;
2. The use is commonly associated with the operation of the permitted use;
3. It is operated and maintained under the same ownership and on the same lot as the permitted use.
4. Does not include structures or structural features inconsistent with the permitted use;
5. The gross floor area of a separate, detached structure from a permitted use shall not exceed the gross floor area of the permitted use;
6. Does not include residential occupancy.

C. R-3 Multi-Family Residential District

Duplex and multi-family units are permitted in this district. Single family residences are also allowed, including manufactured and modular homes.

Permitted Uses:

1. Multiple Family Dwelling
2. Duplex
3. Single Family Dwelling, including conventional unit, , and modular units, not including mobile homes/ manufactured home.

Special Permit Uses (See Chapter 8 of this Title)

The following uses may be allowed upon review and approval of a Special Permit by the Commission and Council. The requirements of Chapter 8 of this title must be met.

1. Bed and Breakfast
2. Churches
3. Group Home
4. Public Utilities
5. Townhouses

Accessory Uses:

1. The use is clearly incidental and secondary to the operation of the permitted use;
2. The use is commonly associated with the operation of the permitted use;
3. It is operated and maintained under the same ownership and on the same lot as the permitted use.
4. It does not include structures or structural features inconsistent with the permitted use;
5. The gross floor area of a separate, detached structure from a permitted use shall not exceed the gross floor area of the permitted use;
6. It does not include residential occupancy.

D. R-4 Mobile Home Residential District

The district is intended for mobile homes, including

subdivisions specifically designed for manufactured and mobile housing.

Permitted Uses:

1. Mobile Homes
2. Single family dwelling, including conventional, manufactured, modular units, and mobile homes

Special Permit Uses (See Chapter 8 of this Title):

1. Mobile home park
2. Public utility structures
3. Churches

Accessory Uses:

1. The use is clearly incidental and secondary to the operation of the permitted use;
2. The use is commonly associated with the operation of the permitted use;
3. It is operated and maintained under the same ownership and on the same lot as the permitted use.
4. It does not include structures or structural features inconsistent with the permitted use;
5. The gross floor area of a separate, detached structure from a permitted use shall not exceed the gross floor area of the permitted use;
6. It does not include residential occupancy.

E. UA Urban Agriculture

The district is intended for site-built single-family dwelling, modular and manufactured homes, .

Permitted Uses:

In an AG district, no building, structure, or other land use shall be permitted or used except for the following:

1. The keeping and raising of food animals and pleasure animals; and the cultivation of gardens, orchards, and crops;
2. Conventional site-built single-family dwellings and manufactured homes with siding material consisting of wood or wood products, stucco, brick, rock, or horizontal lap wood, steel or vinyl siding;
3. Bed and breakfast;
4. Greenhouses and nurseries;
5. Parks, playgrounds, historical sites, golf courses, and other recreational facilities;
6. Tree farms, commercial;
7. Neighborhood assembly uses;
8. Church;
9. Up to two (2) off-street, occupied recreational vehicles allowed to be on the premises.

Special Permit Uses (See Chapter 8 of this Title):

1. Kennels;
2. Lighted recreational facilities;
3. Personal service shops;
4. Public utility and public service installations and facilities, excluding business offices and repair and storage facilities;
5. Riding academies;
6. Stables;
7. Other agricultural and nonagricultural uses compatible with this district and as approved by the Council.

Accessory Uses:

1. The use is clearly incidental and secondary to the operation of the permitted use;
2. The use is commonly associated with the operation of the permitted use;
3. It is operated and maintained under the same ownership and on the same lot as the permitted use.
4. It does not include structures or structural features inconsistent with the permitted use;
5. The gross floor area of a separate, detached structure from a permitted use shall not exceed the gross floor area of the permitted use;
6. It does not include residential occupancy.

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Zoning District	Minimum Lot Size	Minimum Setbacks	Maximum Height
R-1	7,000 square feet Minimum Lot Width: Sixty-five feet	Front: 25' *Side: 5' *Rear: 20' for permitted use 5' for accessory structures *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'
R-2	5,000 square feet (single family and duplex) 3,500 square feet (twin homes and townhouses) Minimum Lot Width: 50 feet (35 feet for twin homes and townhouses)	Front: 25' *Side: 5' *Rear: 10' for permitted use 5' for accessory structures *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'
R-3	5,000 square feet, plus, 1,500 square feet for each unit in a multi-family dwelling with 3 or more units Minimum Lot Width: Forty feet for all except townhouses; Twenty feet for townhouses	Front: 25' *Side: 5' *Rear: 10' for permitted use 5' for accessory structures *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'
R-4	4,000 square feet for each space in a mobile home park or subdivision; 5,000 square feet for all other dwellings Minimum Lot Width: Forty feet	Front: 25' *Side: 5' *Rear: 5' for permitted use 5' for accessory structures *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'

UA

One half acre

Front: 25'

'35

*Side: 10'

Rear: 20' for permitted use;
5' for accessory structures
with 10' between buildings on
the same or adjacent lots.

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F. Additional Requirements:

Corner Lots:

Minimum setbacks for all residential corner lots shall be:

- Front - 25'
- Side adjacent to street - 15'
- Side not adjacent to street - 5'
- Rear - Refer to specific district

Open Space: Single family dwellings located in all residential zoning districts shall maintain fifty (50) percent of their lot area as unobstructed open space. Duplexes and multi-family dwellings shall maintain 750 square feet of unobstructed open space for each dwelling unit.

Mobile Home Parks: The requirements addressing mobile home parks found in Section 13-6-7 of this Title must be complied with.

G. Lot Requirements for Lots Without Public or State Approved Water or Sewage System: Minimum lot area and width for lots without either a public or state approved community water supply or sewage treatment system:

1. One acre per dwelling unit;
2. One hundred fifty-foot (150') lot width.

13-5-4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS USES AND REGULATIONS:

A. C - Commercial District: The district is intended for retail, commercial, office, and institutional (public or semipublic) uses meant to serve the community and surrounding area.

Permitted Uses:

1. Antique shop, with all merchandise displayed and sold inside a building;
2. Apparel and accessory store;

3. Appliance store, household;
4. Assisted Living
5. Athletic clubs, health and exercise center, or commercial recreation;
6. Automobile and pick-up trucks rated at one and one-half tons or less sales, service and repair, new and used;
7. Automobile and truck washing establishment;
8. Auto supply store;
9. Bank, savings and loan institutions;
10. Bar, liquor store, or lounge;
11. Barbershop and beauty shop;
12. Bed and Breakfast
13. Bicycle sales, service and repair shop;
14. Boat sales, service and repair;
15. Bookstore or stationary store;
16. Business and office machine sales, service, and repair shop;
17. Business, technical, or vocational school, including music and dance;
18. Cafes and coffee shops
19. Church and parish house;
20. Convenience store;
21. Dance Studio
22. Drugstore and prescription shop;
23. Dry cleaning and laundry;
24. Electrical shop;
25. Florist and gift shop;
26. Furniture and home furnishing store;
27. Garden shop;
28. Gas station;
29. Miniature golf course;
30. Government building;
31. Grocery store, including retail meat market, produce store, delicatessen, and catering
32. Hardware and paint store;
33. Heating and air conditioning shop;
34. Hobby and craft store;
35. Hotel and motel;
36. Locksmith;
37. Medical, dental, optician, optometrist, or health clinic;
38. Mortuary;

39. Office; General and Professional
40. Office supply and equipment;
41. Package liquor store;
42. Pawn shop;
43. Pharmacy
44. Plumbing shop;
45. Private club or lodge;
46. Public or private school;
47. Recreational vehicle sales;
48. Rental store;
49. Repair shop, for household appliances;
50. Restaurant and convenience food restaurant;
51. Self-service laundry;
52. Sporting and athletic goods store;
53. Tire sales and repair;
54. Thrift shops
55. Travel agency;
56. Other commercial uses, similar to listed uses and approved by the Town.

Special Permit Uses (See Chapter 8 of this Title):

1. Childcare center;
2. Gaming/gambling: Provided said use is located in excess of 300' from any school or church;
3. Group Home
4. Parking Lots
5. Pet Stores; Pet Supplies
6. Sale and service and repair of heavier motor vehicles;
7. Veterinary clinic and animal boarding;
8. Other potentially compatible uses provided they are not contrary to the intent of the district.

Accessory Uses:

1. The use is clearly incidental and secondary to the operation of the permitted use;
2. The use is commonly associated with the operation of the permitted use;
3. It is operated and maintained under the same ownership and on the same lot as the permitted use.

B.

I - Industrial District: The I-L district allows non-obtrusive industrial uses and the manufacture of finished products or parts, including the processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of products. The manufacturing conducted in this zoning district is primarily from previously prepared materials and excludes basic industrial processing.

Permitted Uses:

1. Assembly or fabrication of materials already processed or manufactured into final product;
2. Automobile and truck repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
3. Automotive washing facilities;
4. Boat sales, service and repairs, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
5. Building material storage or sales;
6. Bulk storage of non-explosive or non-caustic liquids;
7. Carpenter, cabinet, plumbing or sheet metal shop;
8. Contractor's yard for vehicles, equipment, and supplies, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
9. Convenience store;
10. Dry cleaning and laundry;
11. Feed, grain and fertilizer retail sales;
12. Frozen food locker;
13. Gas station;
14. Grain elevator and grain mill;
15. Greenhouse;
16. Heavy equipment sales, service, and repair, provided

it is enclosed by a six- foot solid fence if adjacent to property zoned residential or commercial;

17. Machinery and implement sales, service and repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
18. Monument making and sales;
19. Motor vehicle sales, service, repair, and storage, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
20. Oil and gas field supply, sales, and storage, provided it is enclosed by a six- foot solid fence if adjacent to property zoned residential or commercial;
21. Office;
22. Radio or television transmitting station;
23. Railroad tracks;
24. Recreational Vehicle Parks;
25. Recycling Centers;
26. Restaurant and convenience food restaurant;
27. Trampoline Park
28. Truck terminal;
29. Veterinary clinic and animal boarding;
30. Vocational or training school;
31. Warehousing or mini-warehousing or inside storage;
32. Welding shop;
33. Wholesale business;
34. Other industrial uses, similar to those listed and approved by the Council.

Special Permit Uses (See Chapter 8 of this Title):

1. Outside storage excluding junkyards as defined in 4.1 of this title.

2. Railroad yard.
3. Security Quarters: Apartments, as a part of the main structure, or manufactured homes (mobile) necessary for safety or security reasons, in conjunction with the principal use, occupied only by persons responsible for security in the principal use and employed by the industry or business conducting the principal use;
4. Oil or gas storage facilities.
5. Other potentially compatible uses provided they are not contrary to the intent of the district.

Accessory Uses:

1. The use is clearly incidental and secondary to the operation of the permitted use;
2. The use is commonly associated with the operation of the permitted use;
3. It is operated and maintained under the same ownership and on the same lot as the permitted use.

13-5-5: BULK REGULATIONS FOR COMMERCIAL AND INDUSTRIAL ZONING DISTRICT

Zoning District	Minimum Lot Size	Minimum Setbacks	Maximum Height
C	No Minimum	Front: 0' 20' if there is no direct access *Side: 0' *Rear: 0' *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'
I	No Minimum	Front: 25' *Side: 5' *Rear: 20' *There shall be a minimum of	35'

between buildings on the same
or adjacent lots

Note: In cases where commercial or industrial zones abut a residential zoning district, the side or rear setbacks abutting the residential district shall be 20'.

13-5-6:

PUBLIC (P) DISTRICT USES AND REGULATIONS: The Public District is intended to provide for major public land areas and public and semi-public institutional uses, including land reserves for future public and institutional use, and for the preservation of publicly established historic sites.

Permitted Uses:

1. Hospitals;
2. Municipal, county, state and federal uses, facilities, services and buildings;
3. Parks, playfields, playgrounds, and golf courses operated by a public agency;
4. Schools;
5. Publicly established historical sites and buildings;
6. Public utility uses, facilities services and buildings.

Special Permit Uses: These uses may be allowed upon review and approval of a Special Permit use permit by the Commission and Council. The requirements of Chapter 8 of this title must be met.

1. Churches;
2. Private facilities such as golf courses;
3. Other potentially compatible uses provided they are not contrary to the intent of the district.

Accessory Uses: A use that complies with all of the

following may be operated as an accessory use to a permitted use in the P district:

1. The use is clearly incidental and secondary to the operation of the permitted use;
2. The use is commonly associated with the operation of the permitted use;
3. It is operated and maintained under the same ownership and on the same lot as the permitted use.

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CHAPTER 6 DEVELOPMENT STANDARDS

SECTION:

- 13-6-1: FENCES, HEDGES AND WALLS
- 13-6-2: OFF-STREET PARKING
- 13-6-3: SIGNS
- 13-6-4: HOME OCCUPATIONS
- 13-6-5: DAY CARE
- 13-6-6: ACCESSORY BUILDINGS
- 13-6-7: MOBILE HOME PARKS
- 13-6-8: SANITATION:
- 13-6-9: SUBDIVISIONS
- 13-6-10: COMMERCIAL AND INDUSTRIAL DEVELOPMENT

- 13-6-1: FENCES, HEDGES AND WALLS

A fence, hedge, wall, column, pier, post or any similar type structure, or any combination of such structures, may be permitted in the required yards of the zoning districts, subject to the following conditions and requirements. It is intended that these conditions and requirements shall provide privacy and protection without unduly interfering with the view from neighboring properties or jeopardizing the safety of pedestrians and vehicles.

1. All fences and walls are subject to Code requirements.
2. It shall be the responsibility of the property owner to locate all property lines and to certify their location to the Town.
3. No fence, hedge, or wall may extend beyond or across a property line unless in joint written agreement with the abutting property owner.
4. No electrical fences shall be permitted.
5. No barbed wire or other sharp or pointed fence shall be permitted, without approval of the Council except within the Heavy Industrial (I) District.
6. No fence between the building front and the front property line shall exceed 48 inches.
7. In a residential zone, no rear yard fence shall exceed eight feet (8') in height from the finished grade if

constructed of wood or chain-link. Stone, block or masonry fences are restricted to no greater than six feet (6') in height from the finished grade; however, a stone, block or masonry fence may exceed six feet (6') in height from finished grade provided that adequate plans showing foundations and reinforcing are submitted to the designated individual and receive his approval, in writing, before building permits are issued.

8. Wood, chain-link, stone, block or masonry, wrought iron, or woven wire are considered acceptable fencing materials. As a general rule, the type of fencing material shall reflect the aesthetics of the neighborhood and shall be in keeping with already established fences in the area. (1970 Code § 29-104)
9. Any fence, hedge or wall shall not obstruct the visibility of the intersection of a public sidewalk (or proposed location of such walk) and an alley or driveway, within a 15-foot visual clearance distance from said intersection. Fences placed within 15 feet of an intersection of a public sidewalk and an alley or driveway shall not restrict or obscure the visibility through such fence, hedge, or wall by more than 25 percent, of total visibility, or if solid must be 48 inches in height or less. For purposes of this provision, vinyl coated chain link shall qualify. In no case shall a fence exceed eight (8) feet in height, regardless of location.
10. In the Industrial(I) District chain link fence, eight (8) feet in height may be constructed along all lot lines. Excepting however, if the use is an automobile and truck repair, boat sales, service and repair, contractor's yard for vehicles, equipment, and supplies, heavy equipment sales, service, and repair, machinery and implement sales, service and repair, motor vehicle sales, service, repair, and storage, oil and gas field supply, sales, and storage, business, including outside storage, and auto wrecker services, those uses must provide, at a minimum, an enclosed six-foot solid fence if adjacent to property zoned residential or commercial.
11. Fences should not block entry to meter locations or fire hydrants or be constructed in easements where periodic access for maintenance or drainage precludes blocking. Gates need to be provided for access to utility meters.

12. Utility easements provide the Town of Elk Mountain with the ability to install and maintain service lines for water, sewer and other utilities. The Town allows for the construction of fencing within the utility easement. If fencing is built within the utility easement, it is the responsibility of the owner to replace or repair any fencing removed or damaged during installation or repair of utility lines.
13. Tree branches which overhang the public sidewalk shall be kept trimmed to a height of at least 8 feet above the sidewalk level.
14. Tree branches which overhang the public street shall be kept trimmed to a height of not less than 14 feet above the street.
15. The Commission may recommend a waiver of any of the above requirements where cause can be shown that the need of security or safety would be served by variance of the requirements. Subsequent approval by the Council is also required.

13-6-2:

OFF-STREET PARKING

- A. Purpose and Intent: In order to control the rate of precipitation runoff from impervious surfaces, lessen congestion in the streets, provide safe and orderly traffic flow, and otherwise promote general safety and welfare, off street parking standards are hereby established to require that each building or structure not exempted herein is provided with sufficient off-street parking, conscientiously designed to accommodate the traffic reasonably expected for its particular use.
- B. Acceptable Methods of Providing Off-Street Parking: Off-street parking may be provided by open air spaces, carports, service bays, and covered or enclosed garages. All off-street parking shall be provided in one of the following manners, after review by the Commission for a recommendation to be forwarded to the Council for final action:
 1. On the premises of a use requiring off street parking.
 2. Off premises, within five hundred feet (500') of the use served, provided that the off premises location

has a zone designation appropriate for the use requiring parking; the location of the off premises parking is not so distant that on-site parking facilities provided by other uses is adversely impacted; and, said off premises parking is guaranteed for such use, by agreement approved by the Commission and subsequently recorded in the office of the Elk Mountain Town Clerk.

3. Off street parking facilities for separate uses may be provided collectively on one connecting lot if the area can accommodate the total number of spaces required for each separate use and all other requirements can be met.
4. Up to one hundred percent (100%) of off street parking may be provided through the shared use of any parking facility, assuming the applicant can satisfy the Commission that the principal operating hours of such uses do not substantially conflict with each other, and required parking provided for present and subsequent uses is perpetually guaranteed by contract or agreement reviewed by the Commission and subsequently approved by the Council and recorded in the office of the Elk Mountain Town Clerk.

C. Minimum Off-Street Parking Standards: If varying standards apply, the greater shall prevail. Where two or more uses occur, the total of the activities computed separately shall prevail, except as allowed for under subsection 13-6-2 (C.1) of this section. When required parking calculation results in a fractional space, the fractional portion shall be deleted.

If a use is not specified herein or if ambiguity arises, the Zoning Officer shall determine the requirements for off street parking spaces by applying the formula(s) for the most comparable use. Appeals of the decision may be filed with the Commission.

One handicapped parking space per twenty parking spaces shall be designed to comply with ADA specifications for handicapped parking.

Commercial operations shall provide off-street loading spaces as determined by the Town.

1. Residential

Single-family dwellings / Two, three, and four-family dwellings / Manufactured (Mobile) homes:	Two spaces per unit
Multi-family dwellings with five or more units:	Two spaces per unit, plus one additional space per every three units

2. Business

Banks, , credit union, savings and loans:	A minimum of one space for each 300 square feet of gross floor area plus one space for each employee of the institution. Floor area not used by the institution shall be treated in the same manner as professional offices
Furniture and major appliance stores:	A minimum of one space for each 600 square feet of gross floor area
General retail and service structures:	A minimum of one space for each 300 square feet of gross floor area
Medical, dental and professional offices:	A minimum of one space for each 300 square feet of gross floor area
Motels and hotels:	One space per unit
Rentals and auto sales, boat sales or rentals, retail nurseries, and other open uses not in a building:	A minimum of one space for each employee and one space for each 2,000 square feet of gross land area devoted to open display and sales
Restaurants, cafes, drive-ins, nightclubs, private clubs, bars, and similar places dispersing food and/or beverages:	A minimum of one space for each three fixed seats or one space for every 50 square feet of gross floor area available for assembly where there are no fixed seats. Drive-up facilities, in addition to other requirements, shall provide a vehicle holding lane able to accommodate the number of vehicles anticipated for peak drive-up facility use

3. Public

Elementary and junior high schools:	A minimum of two spaces for each classroom plus one space per 1000 square feet of structure
High schools:	A minimum of two spaces for each classroom and one space for each

	four students in which the school is designed to accommodate
Libraries:	A minimum of one space for each 500 square feet of gross floor area
Other public buildings:	A minimum of one space for each 300 square feet of gross floor area.

4. Semi-Public

Churches:	A minimum of one space for each five seats.
Hospitals, convalescent hospitals or other establishments used for the care and treatment of the sick or injured;	A minimum of one space per four beds and one space for each member of the staff, or hospital employee
Rest homes, group homes, nursing homes or the care and treatment of the sick, other similar establishments used for the residences of aged persons:	A minimum of one space for each five residents in accordance with the resident capacity of the home listed on the required license or permit. If employee residence facilities are provided on the premises, an additional one space shall be provided for each two employees
Theaters, auditoriums, stadiums, sports arenas, gymnasiums, and similar places of public assembly:	A minimum of one space for each four seats or one space for each 30 square feet of floor assembly area where there are no fixed seats

5. Industrial

Industrial uses of all types except a building or portions of a building used for warehouse purposes:	A minimum of one space for each employee on the largest shift and one space for each vehicle operated or kept in connection with the use
Public utility facilities including, but not limited to, electric, gas, water, telephone, and telegraph facilities not having business offices on the premises:	A minimum of one space for each employee and one space for each vehicle operated or kept in connection with the use. In no case shall there be less than two spaces.
Warehouses, buildings or portions of buildings used exclusively for warehouse purposes:	A minimum of one space for each 1,000 square feet of gross floor area and one space for each vehicle which is operated or kept in connection with the use

D. Schedule of Allowances:

The following allowances may be applied to an increase in lot coverage associated with existing development, existing development choosing to landscape, new commercial or industrial development, or an intensification of use which increases parking requirements by two spaces or more for commercial or industrial activity within any business or industrial district. No more than twenty percent (20%) of the required parking for any use may be substituted by employing parking allowances below:

1. In addition to any landscaping required by the town , required parking for new development or more intense uses may be substituted with an equivalent area of landscape improvements designed to receive storm water runoff. The Commission will review the substitution of landscaping for required parking to determine if a decrease in parking will adversely affect traffic or pedestrian safety and will forward a recommendation to the Council for final action.
2. Existing parking required for present commercial and industrial use on developed property may be eliminated and replaced with an equivalent area of landscape improvements designed to receive storm water runoff. The Commission will review the elimination of parking and substitution of landscaping to determine if the elimination of parking will adversely affect traffic or pedestrian safety and will forward a recommendation on to the Council for final action.

E. Parking Lot Design Standards:

1. Backing Maneuvers: Parking areas designed for business, industrial, townhouse, condominium and multi-family residences (excepting single-, two-, three- and four-family dwellings placed singly on one lot) shall be designed so that vehicles are not permitted to back from the parking area directly on to any public street or right of way.
2. Alley Use: When an alley provides access to any parking area, the developer or property owner shall improve the alley or portions thereof subject to increased use from development, by providing a low maintenance and dust free surface conforming to grade and material suggested by a professional engineer and by the

Commission for a recommendation to be forwarded to the Council for final action.

3. Curb Cuts for Property Access: No curb cut shall exceed thirty feet (30') in length. No curb cuts for driveways or parking lot access shall be closer than thirty feet (30') to the curb line of an intersecting street, nor closer than ten feet (10') to a fire hydrant, storm drain or property boundary.
4. Stall Width: No parking stall shall measure less than ten feet by twenty feet (10' x 20'). Solitary handicap spaces shall measure thirteen feet by feet (13' x 20'). If an access aisle measuring no less than five feet (5') is provided between two adjacent handicap spaces, each space, excluding the five-foot (5') access aisle, may measure eight feet by twenty feet (8' x 20').
5. Travel Lanes: When a one-way traffic pattern is contemplated, the travel lane width shall be a minimum of fourteen feet (14'). The minimum two-way travel lane width shall be twenty-four feet (24').
6. Lighting: Parking lot lighting shall be arranged to reflect away from residential uses. Parking lot lighting structures shall not exceed twenty-five feet (25') in height and shall be covered so the light shines downward.
7. Bumper and Wheel Blocks: Elevated curb or suitable parking material shall be permanently installed to protect any building and pedestrian walkway from vehicular encroachment and/or damage.

F. Drainage, Surfacing and Maintenance:

1. Areas of land used to accommodate required parking shall be properly graded to provide on-site detention of precipitation runoff, and shall be surfaced with concrete, asphalt, paving block or other hard surfacing material. The Town Engineer and the Commission will review, and a recommendation to the Council for final action.

2. Precipitation runoff from impervious site surfaces shall be directed into on site retention areas or structures, landscape areas or other permeable surfaces.
3. Areas devoted to parking in addition to that required by the town's parking standards may have a gravel surface provided the substrate and gravel cover comply with minimum gravel surfacing requirements described within this section.
4. In any industrial district void of sidewalk, curb, gutter and street pavement, the Commission may forward to Council a recommendation to waive the hard surfacing requirement. The Council may take final action to allow gravel parking surface providing the surface conforms with minimum surfacing requirements, and the property owner, his heirs and assigns consent, by agreement, to form and participate in a pavement and/or improvement district at such time as the town deems necessary upon evaluating traffic, use, area development or construction of street-related infrastructure within the immediate area.
5. All parking related improvements including site grading, drainage, surfacing, striping, directional markings, signage, bumper, curb or wheel stops, lighting and landscaping, permitted or required by the town, shall be perpetually maintained including the removal of weeds, dirt, trash and debris, to ensure the safe, proper and attractive utilization of space for parking purposes.

G. Exemptions from Parking Requirements:

The following permitted uses shall be exempt from providing off street parking spaces understanding, however, that when parking is provided, it shall comply with all applicable provisions of this section:

1. Automobile, recreational vehicle and watercraft storage facilities.
2. Cemetery.
3. Contractor yard.
4. Municipal parks and playgrounds.

H. Restrictions on Use of Off-Street Parking Areas:

No off-street parking areas shall be used for the storage, repair or servicing of any vehicles, equipment, materials or supplies. In any zoning district, unlicensed, wrecked, partially dismantled or inoperable vehicles shall not be parked or stored unless fitted with an automobile cover, enclosed within a carport or garage, or completely screened from view from adjacent public right of way and adjoining property boundaries.

13-6-3: SIGNS

A. General:

1. The Town of Elk Mountain shall adopt the most recent edition of the Uniform Sign Code for the purpose of prescribing regulations to safeguard life, health, property and public welfare. From time to time, portions of the Code may be amended, modified, added or deleted which the Council shall adopt by ordinance.
2. A sign permit must be obtained before any sign is erected.
3. No signs or advertising devices shall be erected or maintained in any zoning district except in conformity with the requirements of this section. Signs adjacent to State or Federal highways shall conform to all State and Federal requirements in addition to the requirements of this section. In case of conflict, the more stringent requirement shall govern.
4. The requirements of this section shall not apply to signs restricting access to or the use of property, such as "no hunting" or "no trespassing" signs, or signs advertising property for sale or lease, not larger than two square feet in size, except that signs advertising subdivisions for sale shall conform to the provisions of this section. Traffic signs erected by the state, county or town or utility signs shall be exempt from the provisions of this section.
5. Both sides of a sign may be used for advertising purposes without affecting the permitted maximum size limitation.

6. Signs advertising subdivisions for sale in any zoning district shall be limited to two in number and together shall not exceed 24 square feet in size. Except for a sign mounted on a gate entrance, one free standing sign per parcel shall be permitted, not exceeding 8 feet in height measured to the top of the sign. Signs shall not be located closer than 10 feet to any road right of way or 25 feet to any public area. No illuminated signs shall be permitted.
7. Signs relating to home occupations in any zoning district shall be permitted not in excess of three square feet in size. The signs shall be placed flat against the wall of the building. No illuminated signs shall be permitted.
8. In Commercial and Industrial districts, as defined by the zoning and development regulations, permitted signs may be located on a lot such that no sign shall intrude into any public right-of-way and support shall be at least ten feet from any public right-of-way.
9. In the Commercial and Industrial districts any business use shall be permitted one wall sign for each side of a building fronting a public street. Wall signs shall project not more than one foot from the building wall and shall run parallel to the wall. Maximum area of a wall signs on a building side shall be one square foot of sign per two linear feet of street frontage to a maximum of 300 square feet per frontage.
10. In the Commercial and Industrial districts, free-standing signs are allowed by Special Permit.
11. One off-premise sign that does not exceed one hundred fifty square feet may be allowed on a parcel in lieu of, but not in addition to, a permitted free-standing business sign in Commercial and Industrial districts.
12. Off-premise signs/billboards greater than one hundred fifty square feet in size may only be allowed with an approved Special Permit Use Permit. Plans shall be submitted for review by the Planning Commission who shall review the application and make a recommendation to be forwarded to the Council for final action.

13. In the Mobile and Manufactured Home Park district, one or more signs shall be permitted. The total size of all signs shall not exceed 24 square feet. Illuminated signs shall be permitted. One free standing sign per parcel, not exceeding 20 feet in height, measured to the top of the sign, shall be permitted.
14. Directional signs shall not exceed twelve square feet in area and eight feet in height. The sign shall not bear a commercial message other than identification and shall be located only at intersections and junctions.
15. One on-site directory sign identifying a development shall be permitted. The directory sign shall not be located closer than 10 feet to any road right of way or 25 feet to other public areas nor larger than 24 square feet in area. Included in or attached to the sign may be an additional one square foot area for each name and/or address of the occupants of said development. The total size of the directory sign and attachments shall not exceed 40 square feet. One free standing sign per parcel, not exceeding eight feet in height, measured to the top of the sign, shall be permitted.
16. Political campaign signs shall be allowed in any district. The size of the sign shall not exceed six square feet. The sign shall not be erected more than thirty days prior to the primary election and shall be removed within seven days after the general election.
17. Vehicles used as signs shall be prohibited in all districts. This does not include customary and incidental use of signs or logos on commercial vehicles used as such in normal business operations.
18. No sign shall be permitted in residential areas except those explicitly listed in this section.
19. Signs used for public facilities shall be permitted as follows:

	No. of	Sq. Ft.	Height
Churches	1	50	8'
Schools	1	40	8'
Daycare	1	6	8'

Other	1	6	8'
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20. One contractor's sign, not exceeding 12 square feet in size, located entirely on the parcel to which the sign refers, shall be permitted, provided that the sign is removed within seven days after the sale, rental or lease of the property has been accomplished.
21. No signs shall be permitted in any street or road right-of-way other than signs maintained pursuant to and in discharge of any governmental functions.
22. The area of a sign shall be the measurement of the face of the sign that is designed to present a message or attract attention. The area of the sign face shall be the area of the smallest standard geometric shape, or the sum total of the areas of more than one standard geometric shape, that encompasses the sign face. Two-sided signs shall be permitted, provided that neither side exceeds the maximum allowable area, and the two faces are back to back and are at no point further than two feet from one another. Otherwise, the area of all faces shall be included in determining the area of the sign.
23. No sign shall be permitted to obstruct vision of traffic or to create any unsafe distraction of motorists. Nor shall any sign be permitted that effectively obscures another sign or could negatively affect utilities or other necessary services.
24. Changeable Copy Sign (automatic). Signs on which the copy changes automatically through mechanical means, and electronic message center signs (EMC's) are allowed. Electronic message center signs (EMC.s) shall comply with the following:
 - a. EMC shall not utilize or consist of flashing elements or messages, which would meet the definition of a "flashing sign" found in section 13-4-1.
 - b. EMC shall not display full motion video.
 - c. EMC signs displaying animation "animated signs,"
25. EMC shall not utilize or project sound.

are permitted.

- d. EMC signs displaying scrolling messages are permitted.
 - e. EMC's shall be equipped with a sensor or other device that automatically determines the ambient illumination and shall be programmed to automatically adjust to ambient light conditions. The illuminance of an EMC shall not increase the ambient lighting conditions by more than 0.3 foot-candles when measured perpendicular to the EMC face at a distance determined by the following formula: measurement distance (in feet) = $\sqrt{\text{EMC sign face area (in square feet)} \times 100}$.
27. In no case shall an electronic message center sign (EMC) increase the ambient lighting level by more than 0.3 foot-candles, as measured at the property line of an adjacent residential-use property. An adjacent property does not have to abut the property on which the sign is located.

13-6-4:

HOME OCCUPATIONS:

A.

A home occupation shall be allowed as a permitted accessory use provided the following conditions are met:

- 1. Such use must be conducted entirely within a dwelling and carried on by not more than two individuals, one of whom is the principal occupant.
- 2. Such use must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.
- 3. The total area used for such purposes may not exceed one half the first floor area of the user's dwelling unit.
- 4. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, including displays; however non-illuminated signs relating to home occupations shall be permitted if placed flat against the wall and not in excess of three square feet in size.
- 5. There shall be no exterior storage of materials or

equipment used as part of the home occupation on the premises.

6. No equipment or process shall be used in such home occupation which creates any glare, fumes, odors, or other objectionable conditions detectable to the normal senses off the lot.
7. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
8. Off-street parking shall be provided for all home occupations adequate to accommodate the needs of the home occupation of not less than two parking spaces plus the parking spaces required by the dwelling unit. Such parking shall be provided on the same lot as the home occupation.
9. Under no circumstances shall any of the following be considered a home occupation: barber shop, beauty parlor, wig styling, clinic, mortuary, nursing home, restaurant, veterinarian's clinic, dancing studio, or use similar to the above as determined by the Commission.
10. Any home occupation shall be operated in compliance with all applicable local, state and federal laws.
11. Home occupations shall be permitted as an accessory use subject to the above requirements. If a complaint is filed with the Commission by a property owner within a radius of one hundred-forty foot (140') of the property, a public hearing before the Commission shall be required to determine the continuance of the home occupation with a recommendation to be forwarded to the Council for final action.

13-6-5:

DAY CARE:

A day care or childcare facility shall be allowed by Special Permit in residential districts provided the following conditions are met:

1. There shall be no change in the outside appearance of the building; however, a non-illuminated sign relating to the facility shall be permitted not in excess of six square feet in size.
2. Any facility shall be operated in compliance with all

applicable local, state and federal laws.

13-6-6:

ACCESSORY BUILDINGS:

1. Accessory buildings on residentially zoned lots legally described for the primary residence and recorded with the Carbon County assessor's office may be located in any residential zoning district in accordance with this section.
2. No accessory building, or portion thereof, shall be built upon a public easement.
3. A building permit is required for buildings over one hundred-fifty square feet in area as measured at the maximum exterior wall dimension. One story detached accessory buildings used as tool and storage sheds, playhouses and similar uses that measure less than one hundred-fifty square feet in area as measured at the maximum exterior wall dimension shall not require a fence/accessory building permit.
4. There shall be a residential (primary) building on-site before an accessory building may be constructed, or they may be constructed at the same time.
5. No private garage or other accessory building or parking area shall be within a required front yard, nor within a required side yard; except that in any nonresidential district, a parking area may utilize the portion of a side yard not otherwise required for a planting screen.
6. Required accessory parking areas and truck loading spaces shall have safe and adequate access to a public street either by a driveway on the same lot or by means of a permanent easement across an adjoining lot.
7. Any access driveway may be located within a required side yard or required front yard.
8. A Special Permit shall be required for accessory buildings that exceed twelve feet in an exterior wall building height above the finished floor, measured at the primary access to the building.
9. Where multiple lots of record have continuous frontage and are under single ownership, accessory buildings may not be constructed on a separate lot which is adjacent to and contiguous to the lot upon which the

principal building is located.

10. Accessory private garages may be constructed within or under any portion of a main building; provided, that the access driveway does not at any point have a grade in excess of ten percent (10%). (1970 Code § 29-101)

13-6-7:

MOBILE HOME PARKS:

A mobile home park, in any district where permitted, shall be subject to the following additional provisions: (1970 Code § 29-134)

- A. Density: A mobile home park shall not be developed at a residential density greater than eight (8) mobile home spaces per acre. (1970 Code § 29-134; amd. 2008 Code)
- B. Water and Sewer: Each mobile home space shall be connected to a water supply system and sewage treatment system which meets the state of Wyoming health standards. (1970 Code § 29-134)
- C. Road Width: All roads shall have a minimum width of thirty four feet (34'). (1970 Code § 29-134; amd. 2008 Code)
- D. Electric and Telephone Utilities: Electric and telephone utilities shall meet the uniform electrical Code and shall be underground.
- E. Water Lines: Adequate water lines, complying with the town standards, must be installed in each mobile home park. They must be connected to the town water and sewerage system with individual service connections to each lot. (Ord. 50, 1-6-1982; amd. 2008 Code)
- F. Water Supply Sampling: Samples for bacteriological (chemical examination required only once) examination shall be submitted regularly and routinely at the rate of not less than once per month, while the mobile home park is operating. This is in accordance with Wyoming Statutes section 35-4-221. (Ord. 50, 1-6-1982; amd. 2008 Code)
- G. Recreational and Open Space: Each mobile home park shall provide recreational and open area, exclusive of mobile home spaces, amounting to no less than ten percent (10%) of the total park site.
- H. Site Plan: A site plan of development shall be submitted with the application and shall show the design and arrangements of all the above requirements plus other

proposed facilities. (1970 Code § 29-134)

- I. Plans and Specifications: No corporation, municipality, association, institution, firm or person shall construct a "mobile home park" as defined in section 14-2-2 of this title without prior written approval of the health officer" (2). One copy of the complete plans and specifications for the construction and operation of the proposed mobile home park shall be submitted to the division of health and medical services, environmental surveillance and control services, Wyoming department of health and social services, Cheyenne, Wyoming, at least forty five (45) days prior to the proposed date for bid letting or the start of construction. All plans shall show the following:
1. The location, area, dimension and boundaries of the mobile home park site.
 2. A map or plat illustrating the number, location, size, designated use of all unit spaces, plus a designation as to specific usage.
 3. The location and width of surface materials of roadways and walkways.
 4. The location of the service buildings, if provided, plus any other proposed structures (storage buildings, garbage and trash stations, etc.) within the mobile home park.
 5. A floor plan of the service buildings, if provided, shall be prepared showing the number and location of toilets, service sinks, doors, windows, and all other pertinent information (walls, ceiling and floor finishes to be submitted).
 6. Plans and specifications of all other structures to be constructed or existing within the mobile home park.
 7. The above information shall also be submitted to the Planning Commission. The Planning Commission shall review the above information and make appropriate comments. They shall then make their recommendations and subsequent approval or disapproval.

13-6-8: SANITATION:

No zoning permit shall be issued for the erection, alteration or relocation of a building for human use or occupancy which will not be connected to a public or

community sewage system or will provide for a private or on lot sewage system (septic tank) which meets the standards and requirements of the state of Wyoming health department. No certificate of occupancy shall be issued until these requirements are met. (1970 Code § 29-138)

13-6-9: SUBDIVISIONS*:

A. Preliminary Plat:

1. Required; Number of Copies: No subdivision shall be allowed without a thorough analysis of its impact on the town water supply and distribution system, fire protection and streets. Subdivisions shall also be evaluated on their internal circulation and access system, storm water drainage and street maintenance costs, lot arrangement and layout, and their relationship to natural conditions of the soil, drainage and hydrology, slopes and other natural resource considerations. To accomplish this, a subdivision will not be approved without the submission of a preliminary plat and construction drawings. A minimum of five (5) copies of the preliminary plat must be submitted to the Planning Commission. (Ord. 50, 1-6-1982; amd. 2008 Code)
-

*See also title 12 of this Code.

2. Contents: The following items shall be included on the preliminary plat:
 - a. Name of subdivision, date, label "preliminary plat", graphic scale, north arrow.
 - b. Name and address of property owner, subdivider (if other than owner) and developer.
 - c. Name, address and seal of the registered professional engineer or land surveyor responsible for preparation of the plat.
 - d. Names of adjacent property owners of record and abutting subdivisions and streets.
 - e. The plat shall be drawn at a scale of not less than one inch equals one hundred feet (1" = 100'). Boundaries of the tract will be drawn to scale showing all bearings and distances to the nearest one-hundredth foot (0.01 ').
 - f. Location dimensions and names of existing streets, railroads, easements, municipal boundaries or other public properties and

significant features shall be shown within and adjacent to the plat.

- g. Zoning classification of the tract and adjacent property shall be shown.
- h. Radii of streets, points of curvature, length of arcs.
- i. Layout of proposed parcels of land including dimensions of lot lines, lot numbers, and building setback lines.

3. Construction Drawings: The following items shall be included in the construction drawings submitted with the preliminary plat:

- a. The drawings shall show all physical features such as streams, wooded areas and existing structures. (Ord. 50, 16-1982)
- b. Existing topographic contours at an interval of not greater than two feet (2') shall be shown. (Ord. 50, 1-6-1982; amd. 2008 Code)
- c. Location of existing sewers, water mains, storm drains, power transmission lines with capacities and direction of flow within and adjacent to the tract and showing proposed connections.
- d. Location, right of way and pavement width of proposed streets and utility easements laid out according to sound planning principles.

B. Utility and Facility Standards: No subdivision shall be approved until the following factors have been satisfactorily provided for:

- 1. Water Distribution Lines: The subdivider shall install water distribution lines within the subdivision and bring the lines to the property line of each lot. The lines shall be connected to the town water system and be built in accordance with town standards, as specified by the designated engineer, and in accordance with standards as set by the state of Wyoming department of environmental quality.
- 2. Costs of Extension, Expansion or Upgrading: The applicant shall bear the full cost of any extension, expansion or upgrading of town facilities, including streets and crosswalks, needed to accommodate the subdivision.

3. Inadequate Water Facilities; Rejection: A subdivision proposal may be rejected if the town water facilities are not adequate to serve the subdivision.
4. Installation of Utilities: All utilities shall be installed underground and brought to the property line during street surfacing. (Ord. 50, 1-6-1982)
5. Utility Right of Way: A utility right of way of fifteen feet (15') may be required along the lot lines.
6. Land Dedication: The subdivider shall dedicate an amount of land equal to six (6) acres per one thousand (1,000) persons in the subdivision for public uses as parks and/or open space. Population shall be calculated on the basis of subsection 12-6-26C of this Code. At the option of the town council, the town may require the developer to pay a fee in lieu of land dedication. Such fee shall be equal to the value of land which would otherwise be dedicated pursuant to this title. (Ord. 50, 1-6-1982; amd. 2008 Code)
7. Slope: Slope of building sites shall not exceed twenty percent (20%).
8. Conformance to Standards: All single-family dwellings shall conform to Section 13-5-2.
9. Fire Hydrants: Fire hydrants shall be installed. Such fire hydrants shall be of the type, size and number, and installed in such locations as determined by the town.
10. Streetlights: It is the responsibility of the developer to make appropriate arrangements with the local power company to have an adequate number of streetlights installed within the proposed subdivision.

C. Street and Alley Standards:

1. Natural Terrain: Roads or streets shall follow natural terrain to the extent feasible, and cuts and fills shall be minimized.
2. Layout, Design and Construction: The layout, design and construction of public roads, streets, and alleys shall be subject to Planning Commission approval.
3. Curb, Gutter and Storm Sewerage System: Curb, gutter and a storm sewerage system shall be installed for

storm drainage and shall be designed to adequately handle the runoff. The designated engineer must approve the design.

4. Access to Public Street: All subdivisions shall have direct safe access onto a public street.
5. Local Streets: All local streets shall have a minimum right of way of sixty feet (60') with an asphalt paved roadway of thirty four feet (34') and a public right of way of thirteen feet (13') on each side of the paved roadway. (See typical section for local streets found in the Section 1410-1 of this title.) Asphalt pavement materials and depth shall be approved by the Planning Commission through consultation with the designated engineer and ultimately approved by same.
6. Alleys: Alleys shall not be required; where provided, the right of way shall be twenty feet (20') in width.
7. Cui-De-Sacs; Dead End Streets: Cul-de-sacs shall have a turning circle of at least one hundred feet (100') in diameter at the end and shall be no longer than six hundred feet (600'). Dead end streets without a cul-de-sac shall not be permitted.
8. Surfacing: All public and private streets and private access rights of way within the proposed subdivision shall be graded and surfaced with asphalt pavement in accordance with the town standards.
9. Intersections: Streets shall intersect at ninety degrees (90°) whenever possible.
10. Street Name Signs: Street name signs shall be installed at all street intersections. The subdivider shall bear the cost of purchasing and installing the required street signs. Design and materials shall be approved by the Planning Commission.

D. Final Plat:

1. Contents: The following items shall be included on the final plat:
 - a. Name of subdivision or portion thereof, date, label "final plat", graphic scale, north arrow.
 - b. Name and address of property owner and subdivider (if other than owner).
 - c. Name, address and seal of registered professional

engineer or land surveyor responsible for preparation of the plat, and certification that the plat represents a survey by him and that all monuments shown actually exist, and their location, size and material are correctly shown.

- d. Names of adjacent property owners or subdivisions and abutting streets.
 - e. All exterior plat boundary lines with lengths of courses and bearings as determined by an accurate survey in the field. The plat shall be prepared at a scale of not smaller than one inch equals one hundred feet (1" = 100').
 - f. Exact location, rights of way, and names of all streets within and adjoining the plat.
 - g. Radii, internal angles, points of curvature, tangent bearings, lengths of arcs, and lengths and bearings of chords of all applicable streets within the plat area.
 - h. Location and dimensions of all easements or right of way when provided for or owned by public utilities, with the limitations of the easement rights definitely stated on the plat.
 - i. Location of lots and blocks showing dimensions to the nearest one-hundredth foot (0.01 '), bearing of lot lines, building setback and identification by consecutive lot number or letter designation.
 - j. Legal description of the tract being subdivided, reflecting the boundary survey and including the section, township and range.
 - k. Location of and dimensions of existing and proposed parks. (Ord. 50, 1-6-1982)
2. Submission: A minimum of five (5) copies of the final subdivision plat shall be submitted to the Planning Commission. The final plat should comply with all respects with the preliminary plat as approved. The final plat should include the entire subdivision and reflect the recommendations made by the Planning Commission. The final plat should be accompanied by the following: (Ord. 50, 1-6-1982; amd. 2008 Code)
- a. The governing body shall require the applicant to obtain and review recommendations from the local conservation districts regarding soil

suitability, erosion control, sedimentation, and flooding problems.

- b. All utilities should be shown on the final plat, plus statements from utility companies (water, sewer, electric, gas, telephone, etc.) as applicable, that service will be provided to the development and that the utility company or subdivider will provide necessary on-site and off-site improvements.
- c. Any private deed restrictions or covenants to be imposed on any property within the plat shall be submitted.
- d. A certificate signed and acknowledged by all parties having any recorded title in the land subdivided, offering for dedication all parcels of land shown in the final plat and intended for any public dedication, except those parcels other than streets which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.
- e. A certificate shall be signed by a registered land surveyor in the state of Wyoming, stating that he is responsible for the survey and that the final plat accurately depicts the subdivision or development and the survey. A statement by the land surveyor explaining how bearings were determined shall be included on the plat. The signature of such surveyor shall be accompanied by his registration number.
- f. Evidence satisfactory to the town council that:
 - (1) The subdivided land is free of all encumbrances and that the person who offers any part of the subdivision for sale or who solicits any offers for the purchase thereof, directly or through agents, may convey merchantable title, subject only to noted reservations or restrictions of record, but free of encumbrance and subject only to a proportionate share of real property taxes or assessments charged or assessed for the year in which any such sale may be legally effected.
 - (2) Binding arrangements have been made by the person who offers any part of the subdivision for sale, directly or through an agent, to assure purchasers of any part of the subdivision that

upon full payment of the purchase price a deed can and will be delivered conveying merchantable title subject only to noted reservations or restrictions of record and free of encumbrances not specifically assumed by the purchaser, subject only to a proportionate share of such taxes and assessments thereon as may be levied or assessed for the year in which such sale may be legally effected. (Ord. 50, 1-6-1982)

- g. If the subdivider proposes to utilize adjoining property for sewers, drainage, sewer lines, power lines or other utilities, the subdivider shall provide copies of the binding easements of not less than fifteen feet (15') in width for the proposed facilities from each property owner over whose land such services shall extend. (Ord. 50, 1-6-1982; amd. 2008 Code)
- h. Evidence satisfactory to the town council that adequate access has been provided and that all proposed streets, alleys and roadways within the subdivision conform to the minimum standards adopted by the town council and applied uniformly throughout the jurisdiction which shall not in itself constitute consent of the governing body to locate, repair or maintain roadways and facilities.
- i. The subdivider shall provide evidence satisfactory to the town council that he has adequate financial resources to develop and complete any facility proposed or represented to be the responsibility of the subdivider, including, but not limited to, water systems, sewerage systems, streets and roadways. The applicant shall provide a security assurance equal to one hundred twenty five percent (125%) of the cost of the required improvements to guarantee that any facilities proposed or represented to be part of the subdivision shall in fact be completed as proposed. The security assurance shall be based on the cost estimates for above said improvements as determined by the designated engineer. (See chapter 8 of this title regarding assurances for completion of improvements.)
- j. Any other information consistent with these regulations and the governing body's

published rules and regulations which the governing body deems pertinent or relevant to the evaluation of the application.

k. At the Planning Commission meeting, the Commission will give an opportunity to any interested persons to examine or comment upon the plat and construction plans. After the meeting, the Commission (1) shall, within forty five (45) days after closing of the meeting, approve, modify and approve, or disapprove the subdivision application by resolution which shall set forth in detail any conditions to which the approval is subject, or reasons for disapproval. In no event shall the period of time stipulated by the Commission for completion of required improvements exceed two (2) years from the date of the final resolution. One copy of the final subdivision plat shall be returned to the subdivider with the date of approval, conditional approval, or disapproval, noted thereon, and the reasons therefor accompanying the plat.

l. No vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the town council. All requirements, conditions, or regulations adopted by the town council applicable to the subdivision or to all subdivisions generally shall be deemed a condition for any subdivision prior to the time of the signing of the final plat by the town council.

3. Contractual Agreement and Approval Process:

a. A contract shall be prepared by the applicant and approved by the town attorney, specifying the exact nature of public improvements to be completed by the applicant. The contract shall stipulate the kind and quality of materials to be used and provide for continuing inspection by a designated engineer as work progresses. The guarantee of adequacy of improvements shall be contained in the contract and shall be binding for one year after the completion date assigning liability to the applicant for failure due to poor workmanship or materials. The contract may include provision for phasing improvements

subject to a plan approved by the council.

1. See also Section 12-4-3 of this Code.

b. Prior to approval of a final plat of any subdivision, the designated engineer shall make such inspections as are necessary to ensure that all provisions of the compliance permit and of the contract required in these performance standards have been fulfilled. Failure to fulfill any of these provisions shall subject the applicant to the penalties provided for in Section 14-3-1 of this title. No lots shall be conveyed until the final plat has been accepted by motion of the council as fulfilling all conditions of the compliance permit and contract, and the final plat recorded with the county clerk.

E. Approval, Signing and Recording of Plat; Issuance of Permit:

1. Town Council Approval: The town council shall approve or disapprove the subdivision application and issue a subdivision permit or ruling within forty five (45) days after the application was filed after receiving a report from the Planning Commission. If any part of the subdivision lies outside the limits of an incorporated city or town, but adjacent to or within one mile of the boundaries of the town, the approval of the town council must also be obtained in accordance with Wyoming Statutes 34-12-102.
2. Signing of Plat: The town council shall endorse approval on the plat after the security assurance has been approved by the governing body, and all the conditions of the resolution pertaining to the plat have been satisfied.
3. Recording of Plat:
 - a. The governing body will sign the reproducible Mylar original of the subdivision plat. The sepia prints will be returned to the applicant.
 - b. It shall be the responsibility of the administrative official to file the plat with the county clerk's office within thirty (30) days of the date of signature. Simultaneously with the filing of the plat, the chairman of the Planning Commission shall record the agreement of

dedication together with such legal documents as shall be required to be recorded by the town attorney. (Ord. 50, 1-6-1982; amd. 2008 Code)

13-6-10: COMMERCIAL AND INDUSTRIAL DEVELOPMENT:

A. Development Requirements: No commercial development will be permitted without a thorough analysis of the effects of that development on the town water supply and distribution system, fire protection, and streets. To accomplish this, the following information shall be provided by the applicant:

1. See also, Chapter 5, of this title for zoning regulations.
1. An estimate of the amount of water required by the development on a daily basis.
2. An estimate of the amount and type of sewage effluent to be generated daily.
3. An estimate of the amount of solid waste to be generated daily and a plan for its disposal.
4. An estimate of the number of employees including an estimate of the number who will reside in the town.
5. An estimate of the amount of traffic generated by the proposed development.
6. An accurate site plan, provided by a professional engineer, surveyor, architect or similar certified professional showing lot dimensions, location of all proposed and existing structures and distances from structures to lot lines and other structures.
7. Dimensions of existing and proposed structures.
8. Cost of Extension, Expansion or Upgrading: The applicant shall bear the full cost of any extension, expansion, or upgrading of town facilities, including streets necessitated to accommodate the development.
9. Off Street Parking: Commercial developments shall provide off street parking adequate for employees and customers, such parking having adequate drainage and lighting and safe access to public streets. The strict application of this performance standard may be varied, however, for smaller developments where on street parking will present no traffic congestion or safety hazard.

10. Setbacks: Ensure setbacks for specific Zoning Districts are met.
 11. Location of Development: Commercial development shall be allowed in the Commercial Zoning District as a permitted or special use.
 12. Conformance with Uniform Fire Code: All commercial developments shall conform with the provisions of the uniform fire Code, which is hereby adopted as it applies to such developments. Inspections by the town building official shall be conducted annually to ensure compliance with this performance standard, such inspections being preceded by twenty four (24) hours' written notice. (Ord. 50, 1-6-1982)
- B. Water System: All industrial developments inside the town's limits shall connect to the town's water system. An application may be rejected if the town facilities are not adequate to serve the development.
- C. Sewage Disposal Facilities: Adequate sewage disposal facilities must be provided in compliance with DEQ standards.
- D. Toxic Emissions: No industrial development which emits toxic products, odors or particulate matters shall be located upwind from existing residences. The town may exclude an industrial development on the basis of protecting local air quality even though Wyoming air quality standards are met.
- E. Heavy Truck Traffic: Industrial developments generating heavy truck traffic on streets maintained by the town may be required to bear the full cost of resurfacing whenever it is required.
- F. Enclosure of Unsightly or Unsafe Areas: Industrial developments may be required to enclose unsightly or unsafe areas in the development area, shield glaring surfaces, or muffle noise. An application may be rejected on the basis of unreasonable noise, glare, light or safety hazards.
- G. Cost of Extensions, Expansions or Upgrading: The applicant shall bear the full cost of any extensions, expansion or upgrading of town facilities, including streets necessitated to accommodate the development.
- H. Location of Development: All industrial development shall be located within those areas designated for industrial development on the future land use map contained within this title.

I.

Off-Street Parking: Industrial developments shall provide off-street parking adequate for employees and customers, such parking having adequate drainage and lighting, and safe access to public streets. The strict application of this performance standard may be varied, however, for smaller developments where on street parking will present no traffic congestion or safety hazard. (Ord. 50, 1-6-1982)

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CHAPTER 7 NONCONFORMANCE

SECTION:

- 13-7-1: Nonconforming Lots
- 13-7-2: Nonconforming Uses of Land
- 13-7-3: Nonconforming Structures

13-7-1: NONCONFORMING LOTS

Any lot of record which existed prior to the effective date of this title may be used in accordance with the requirements of that district. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot may fail to meet the requirements for lot area that are generally applicable to the district, provided that all other development requirements are met. Variance of the physical dimensional requirements shall be obtained only through the Commission and Council.

If two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this title, and if all or part of the lots do not meet the requirements established for the area, the land involved shall be considered to be an undivided parcel for the purpose of this chapter and no portion shall be used or sold in a manner in noncompliance with the lot area requirements of this chapter, nor shall any division of any parcel be made which creates a lot area below the requirement stated by this chapter.

13-7-2: NONCONFORMING USES OF LAND

Where, at the time of passage of this chapter, lawful use of the land exists which would not be permitted by the regulations imposed by this chapter, the use may continue provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this title.
2. No such nonconforming use shall be moved in whole or

in part, to any portion of the lot or parcel other than that occupied by such use at the effective date or adoption or amendment of this title;

3. If any such nonconforming use of land ceases for any reason for a period of more than 180 days, any subsequent use of such land shall conform to the regulations specified by this section for the district in which such land is located; and
4. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

13-7-3:

NONCONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this title that could not be built under the terms of this chapter by reason of restrictions or area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;
2. Should such nonconforming structure or nonconforming portion of a structure be destroyed by any means to an extent of more than seventy five percent (75%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter; and
3. Should such structure be moved for any reason for any distance whatever, it shall be thereafter in conformance with the regulations for the district in which it is located after it is moved.

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CHAPTER 8 SPECIAL PERMITS

SECTION:

- 13-8-1: General
- 13-8-2: Purpose
- 13-8-3: Procedure

13-8-1: GENERAL: In certain cases, a land use may be allowed to locate in a zoning district provided that conditions are met to make sure the land use is harmonious and not injurious to surrounding properties. In order for the land use to be allowed, the applicant must first obtain a Special Permit that has been reviewed and approved by the Town Council, subject to the provisions of this title.

13-8-2: PURPOSE: The purpose of a special permit is to allow more intensive uses in zoning districts as long as surrounding properties are protected, and the character of the area is preserved. Those uses that may be permitted as special uses are specified in Chapter 5 of this Title. The listed uses are illustrative of those which the Council may approve temporarily, permanently or for a specific time interval. Other uses may be allowed which are not listed provided they are not contrary to the intent of the district in which they are located.

13-8-3: PROCEDURE:

A. Application Required: Any person desiring to obtain a special permit shall complete a special permit application and shall be filed with the Town on a form approved by the Town Council. Notwithstanding the content of the application form, the Council may require additional information as necessary to obtain a complete description of the project and identify potential impacts. No person shall begin development or operation of a special permit without first applying for and obtaining a special permit, as outlined herein. An application fee, as set by Resolution, by the Council, shall accompany the application.

B. Notice and Public Hearing: The Council is the decision-making body for special permit permits. The Council shall conduct a public hearing to obtain information pertaining to the request and the appropriateness of the special permit. Notice of the hearing is required as follows:

1. Notice of the public hearing shall be provided by the applicant, at their expense, at least fifteen (15) days prior to the hearing by publication in the local newspaper and by USPS first class mail to the owners of all properties within one hundred-forty feet (140') of the subject property. The applicant shall also post, in at least two (2) public places in the town, notice of the hearing. The notices must identify the date, time, location, and purpose of the public hearing.

2. The individual sending the notices by mail shall complete an affidavit of mailing which identifies the document, the property owners to which it was sent, and the date mailed.

3. The Town is granted authority to require or perform optional notice to inform other property owners, lessees, utility providers, or others that may be affected by the special permit, of the public hearing. Optional notice is not subject to the ten (10) day requirement, may take any form, and is completely discretionary. Optional notice, or lack thereof, shall not be grounds for appeal.

C.

Standards of Review: The Council has authority to approve, impose conditions on, or deny special permit applications. The Council shall base its determination upon the following considerations. Negative impacts shall be justification to impose conditions on or deny the application.

1. Is the site large enough to accommodate the proposed use and meet all of the dimensional standards and development regulations of the zoning district in which the project is located?
2. Is the use, at the scale or density proposed, compatible with all other uses in the immediate area and with permitted uses that may be established in the area?
3. Does the proposed use involve activities, processes, materials, equipment, hours of operation, or any other operational characteristics that would be materially detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, dust, glare, odors, hazards, or similar impacts?
4. Does the proposal include provisions for necessary and desired public utilities and facilities such as

potable water, fire hydrants, sewer, electrical power, streets, stormwater facilities, and sidewalks/pathways?

5. Will the proposed use create excessive additional costs for public facilities and services that would be materially detrimental to the economic welfare of the community?
6. Will the proposed use result in the destruction, loss or damage of a natural, scenic or historic feature considered to be of significant importance?
7. Is the proposed use consistent with the applicable provisions of the approved Comprehensive Plan?

D. **Conditioning Authority:** The Council is authorized to impose conditions on the proposed use as necessary to ensure compliance with the provisions of this title and to mitigate or avoid negative impacts to neighboring properties or the general public health, safety and welfare of the community. Examples of such conditions may include, but are not limited to:

1. Limiting the size, height, location, or scale of the project or any component thereof.
2. Limiting the hours of operation of the use, or any component thereof;
3. Requiring sound-reduction methods;
4. Requiring screening of loading areas, storage areas, and other unsightly features;
5. Requiring dust control or surfacing improvements;
6. Limiting the duration of the special permit to give opportunity for future review as the surrounding area becomes more developed;
7. Requiring the provision of on-site or off-site public facilities or services to serve the use.

E. **Outstanding Violations:** The Council may withhold or delay issuance of a special permit if there is an outstanding zoning violation that exists on the subject property, until the violation is remedied.

F. **Filing of Permit:** If the special permit is authorized by the Council, the Town shall approve the special permit by

Resolution. The Resolution is to include the date the special permit was approved by the board; a description of what was approved; any conditions, limitations and restrictions imposed on such special permit; and, the "time limitations and expiration" language found below. The permit shall be signed by the Town Council and recorded with the Carbon County Clerk's Office within twenty (20) days, or as otherwise specified by the Council. Recording cost is at the applicant's expense.

G. Time Limitations and Expiration:

1. Unless specified otherwise by the Council, development of a permitted special permit shall commence within one year of the granting of the special permit, or the authorization shall expire. If the special permit is associated with a building, commencing development shall be in the form of obtaining a building permit and starting construction on the project. If no building is associated with the special permit, the special permit activity shall commence within the specified deadline.

2. If a special permit has been discontinued for one (1) year or more, the special permit shall automatically become null and void and the activity shall not be reestablished except in accordance with the provisions and procedures of this title.

H. Modifications: A request to modify, expand, or otherwise change an approved special permit in a manner that is not in substantial conformance with the approved site plan and permit shall be processed as a new application.

I. Revocation, Suspension or Modification by Council:

1. A special permit may be revoked, suspended, or modified by the Council for cause upon notice to the permit holder and public hearing, for either a breach or violation of any condition of approval or limitation of the permit; or, if the special permit is operated in a manner so as to create a public nuisance as defined and regulated by this Code.

2. If the Council desires to revoke, suspend, or modify a special permit, either on its own action or after a formal complaint, the Council shall notify the permit holder of its intention and provide the permit holder with the opportunity to contest the revocation, suspension, or modification in the context of a public

hearing.

3. Notice of the public hearing shall be mailed to the property owner by certified, return receipt mail, at least fourteen (14) days before the public hearing. Notice shall also be provided to neighbors and the public in the same manner set forth for application of a special permit.
4. The Council shall make findings of fact and conclusions of law if they decide to revoke, suspend, or modify the special permit. If the Council does not decide to take such action, no findings of fact and conclusions of law shall be made.

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CHAPTER 9 VARIANCES

SECTION:

- 13-9-1: GENERAL
- 13-9-2: PURPOSE
- 13-9-3: PROCEDURE

13-9-1: GENERAL:

The Council may hear variance requests from the requirements of this title, provided they are not contrary to the public interest.

13-9-2: PURPOSE:

Variations may be granted by the Town in order to vary from the strict application of any of the requirements of this title in the case of a physical condition applying to a lot or building if the strict application would deprive the owner of the reasonable use of the land or building involved. No adjustment in the strict application of any provision of an ordinance may be granted unless:

- A. There are special circumstances or conditions, fully described in the findings, which are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of the title;
- B. For reasons fully set forth in the town's findings, the circumstances or conditions are such that the strict application of the provisions of the title would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose; and
- C. The granting of the adjustment is in harmony with the general purposes and intent of the title and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

13-9-3: PROCEDURE:

- A. Requests for a variance shall be filed with the Town on a form supplied by the town staff. The complete application and the filing fee must be submitted before the request is scheduled for a public hearing. (Hearing held in compliance with the process outlined in Section 13-10-4 A-D.)
- B. Notice of the hearing shall be provided to the parties involved, including the applicant, town staff, affected agencies, and property owners within one hundred-forty (140') feet of the subject property.
- C. All Council meetings are open to the public. The Council shall keep minutes of its proceedings showing the vote of each member upon each question or if the member was absent or failed to vote. The Council shall also keep records of its examinations and other official actions. All minutes are public records and shall be filed in the Town Clerk's office.
- D. The Council is required to determine Findings of Fact and Conclusions of Law. No variances to the Ordinance shall be recommended by the Council unless it finds that:
1. There are exceptional or extraordinary circumstances and conditions, which are peculiar to the land or building, and which do not generally apply to land or buildings in the neighborhood, and literal application of this title to the applicant's property will result in unnecessary hardship.
 2. The hardship is due to unique circumstances and that the difficulties facing the applicant are different from those of neighboring properties.
 3. The variance will not authorize a use other than those uses specifically listed as permitted or Special Permit uses in the zoning district in which the variance is sought.
 4. The variance will not result in a gain in use, service or income for the applicant to a greater extent than available to other landowners in the vicinity.
 5. Granting the variance will not merely serve as a convenience for the applicant but is necessary to alleviate a proven hardship related to the property.

6. The unnecessary hardship has not been willfully created by the applicant.

F. At the conclusion of the hearing, the Council shall make a recommendation to approve or deny the variance.

G. The Council shall make the final determination shall be based on findings of fact and the grounds for the decision shall be included as part of the public record.

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CHAPTER 10 AMENDMENT PROCEDURES

SECTION:

- 13-10-1: General
- 13-10-2: Zone Changes - Petition
- 13-10-3: Hearing
- 13-10-4: Notice of Hearing
- 13-10-5: Commission Review
- 13-10-6: Nature of Review
- 13-10-7: Procedure Before Council
- 13-10-8: Notice Reciting Zoning
- 13-10-9: Action by Council
- 13-10-10: Costs
- 13-10-11: Annexed Territory

13-10-1: GENERAL:

The Council may initiate, or upon recommendation from the Commission, amend, supplement, or repeal the regulations and provisions of this Title. Where property is sought to be rezoned on proposal other than one initiated by the Council or Commission, the person(s) proposing the rezoning of property shall have a property interest in the total area of the property.

13-10-2: ZONE CHANGES - PETITION:

- A. The owner(s) of interest of property to be rezoned shall submit a petition requesting amendment of the zoning district map to the Town. The staff shall verify that the petition contains the following information:
 - 1. Legal description of the property to be rezoned.
 - 2. Existing and proposed zoning districts applicable to the property.
 - 3. Signatures of the owners of the property to be rezoned.

- B. The Town Clerk, after verifying completeness of the petition shall forward the petition to the Commission for review.

13-10-3: HEARING:

Upon receipt of a zone change petition, the Town Clerk shall establish a date of public hearing to hear evidence and information on the proposal.

13-10-4: NOTICE OF HEARING:

- A. The Town shall publish notice of the date, time, place of hearing, and summary of the proposed amendment in a newspaper of general circulation within the Town. Such notice shall be published at least 15 days prior to the date of such hearing.
- B. A notice reciting rezoning applied for and directing further inquiry to the Town shall be posted at least fifteen days prior to the hearing on the property proposed for rezoning along the property fronting a public street or other equally visible location.
- C. A written notice of the public hearing shall be sent by first class mail at least fifteen days prior to the date of the hearing to owners of property within the area proposed for rezoning and to either an owner or to an occupant of each separately owned property adjacent within one hundred-forty foot (140') feet of the area proposed for rezoning.
- D. Such notice by posting and by mailing is for convenience of the public only, and any omission thereof or defect therein shall in no way impair the validity of the proceedings for the proposed amendment.
- E. Exception for a General Revision – When said zoning district map is in any way to be changed or amended incidental to or as a general revision of the Zoning Title, whether such revision be made by repeal of the existing Zoning Title and enactment of a new Zoning Title, or otherwise, said notice in this section by posting and mailing shall not be required.

13-10-5: COMMISSION REVIEW:

Following the public hearing, the Commission shall make an advisory report to the Council, recommending action on the proposal. The Commission may postpone the decision, with reasonable cause, for a maximum of 35 days. (If action is

not taken within 35 days, the permit shall be referred to the Council accordingly.) Any proposed amendment or change initiated by the Council shall be referred to the Commission for review. Any amendment proposed by the Commission shall be made to the Council as a recommendation accompanied by an advisory report.

13-10-6: NATURE OF REVIEW:

The Commission reviews each proposed amendment for conformity with the approved Comprehensive Plan and the effect of the amendment on the stated intent of this Title and established district.

13-10-7: PROCEDURE BEFORE COUNCIL:

After receiving the advisory report from the Commission, the Council shall hold a public hearing before acting on the proposed amendment. Notice of the time, date, and place of the hearing shall be published by the staff, at least fifteen days prior to the hearing, in a newspaper of general circulation within the Town.

13-10-8: NOTICE RECITING ZONING:

A notice reciting rezoning applied for and directing further inquiry to the Town shall be posted at least fifteen days prior to the hearing on the property proposed for rezoning along the property fronting on a public street or at an equally visible location.

13-10-9: ACTION BY COUNCIL:

The Council shall, after conducting a public hearing on the zone change petition, approve or deny the zone change.

The zoning district map shall be amended to reflect the decision of the Council. If there is a protest against the change of an amendment of a zoning district boundary signed by twenty percent or more of the area of lots within a distance of one hundred-forty feet (140') of the subject property, the amendment shall become effective only upon an affirmative vote of three-fourths (3/4) of the members of the Council.

13-10-10: COSTS:

For individual applications for rezoning, the Council may establish a fee, by resolution, to be charged for advertising, review and processing.

13-10-11: ANNEXED TERRITORY:

- A. Zoning of land in the process of annexation may be done in accordance with the procedure and notice requirements of this Title. The proposed Zoning Title shall become effective when the annexation ordinance is passed on final reading and published. The annexation ordinance shall zone the property. If the zoning process is commenced prior to the effective date of the annexation ordinance, the legal protest area for rezoning shall be determined solely on geographic location, irrespective of whether the land in such legal protest area is within or without or partly within and partly without the limits of the Town of Elk Mountain.
- B. Any area annexed shall be brought under the provision of this Title and the zoning district map within ninety days from the effective date of the annexation ordinance irrespective of any legal review which may be instituted challenging the annexation. During such ninety-day period, or such portion thereof as is required to zone the territory, the Town shall refuse to issue any building or occupancy permit for any portion or all of the newly annexed area.

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CHAPTER 11 - SITE PLAN APPROVAL

SECTION:

13-11-1: Approval Criteria

13-11-1: APPROVAL CRITERIA:

The Staff, Commission, and Council shall approve site plans that meet the standards found in this chapter and the following criteria:

- A. Is compatible with the goals and policies of the approved Elk Mountain Comprehensive plan.
- B. Promotes the efficient use of land by sound arrangement of buildings, safe and functional points of access, well planned parking circulation, and adequate sidewalks and pathways for pedestrians.
- C. Provides for usable open space within multi-family complexes, such as bicycle paths, playground areas, courtyards, areas for active recreation, swimming pools, landscaping, outdoor seating or picnic areas, and similar open space.
- D. Preserves and utilizes existing landscape features and amenities where possible and blends such features with the new structures and other improvements.

13-11-2: DEFINITION:

The site plan is a plot plan of the entire area to be developed. It shows the location and size of buildings, the area of the land under consideration, street names and widths, parking area size and all other items required on the site plan checklist. A site plan is required for all new multifamily residential buildings consisting of eight or more dwelling units; new public, commercial, or industrial buildings; new churches; exterior additions to existing public, commercial, and industrial buildings and additions to existing churches. Off-street parking lots also require site plan approval.

13-11-3: PROCEDURE:

- A. Individuals are required to meet with the Zoning Officer at least seven days prior to submitting an application for review, in order to discuss their proposals and the site plan application.
- B. Following the applicant-staff meeting, a complete site plan application can be submitted to the Town. The application shall consist of:
1. An original and a copy of the site plan application form;
 2. Seven copies of a site plan containing all information required on the checklist;
 3. For sites that are 10,000 square feet or more: A drainage plan providing for surface drainage and the effect the surface drainage will have on the area under consideration and adjoining areas and proving compliance with the town's storm water requirements.
 4. Natural hazards shall be identified and what action shall be taken to alleviate the problems.
 5. Buffering measures for the areas between all multi-family, townhouse and condominium dwellings adjacent to single-family dwellings, and for all commercial, industrial, and multi-family developments.
- C. Site plan applications for new buildings or exterior additions to buildings, churches, and off-street parking lots up to 2,500 square feet shall be reviewed and may be approved by the Zoning Officer. The application shall be reviewed for completeness within five working days of receipt. If not complete, the Zoning Officer shall notify the applicant and list the items needed to complete the application. After the application is complete, the Zoning Officer or designee will submit copies of the application to Town Staff and service providers (including Town Engineer, Public Works Supervisor, Sheriff, Fire Chief or designees), and utility providers for review and comments. The Zoning Officer or shall approve, approve with contingencies, or deny the application within fifteen working days and notify the applicant of the decision. If the application has been approved either with or without contingencies, the applicant shall sign a site plan agreement and may obtain a building permit from the Town of Elk Mountain. If the application has been denied, the applicant shall not be issued a building permit. Decisions may be appealed in

writing to the Council within ten calendar days of the decision. Denials that are not appealed shall become final.

- D. Site plan applications for all new buildings or exterior additions to buildings, churches, off-street parking lots over 2,500 square feet and multi-family developments over two units, shall be reviewed by Town Staff members, service/utility providers and reviewed and approved by the Commission and Council. Applications must be submitted to the Town by 5:00 p.m. at least thirty days before the Commission meeting at which the application is to be discussed.
1. The Zoning Officer shall review the application for compliance with the site plan application requirements within five working days of submittal. If not complete, the application will be returned to the applicant. Written notification shall include the reasons for the determination and shall list the items needed to complete the site plan, the drainage study, and/or the traffic study. If it is complete, the application shall be accepted, and the date of acceptance written on all copies.
 2. Incomplete applications shall not be placed on the Commission agenda until resubmitted in complete and accurate form.
 3. The Zoning Officer shall notify the applicant at least five calendar days prior to the Commission meeting at which the application will be considered. A meeting will also be scheduled between the applicant and the Zoning Officer to discuss the staff's comments to the Commission.
 4. The application will be considered by the Commission at its meeting, and the Zoning Officer will provide review comments by staff members, service/utility providers to the Commission. The applicant will be given the opportunity to discuss the site plan. Other interested parties will also be given an opportunity to comment.
 5. The Commission shall take one of the following actions: recommend approval or approval with conditions to the Council, deny, or table the application. If the site plan is approved (with or without conditions), the applicant must sign a site plan agreement stating terms of approval and his/her willingness to comply with those terms. If the

application is tabled, it shall be considered at the next regularly scheduled Commission meeting and a decision to recommend approval, approval with conditions, or denial shall be made.

6. The staff shall forward the plan and commission recommendations to the Council.
7. The Council shall consider the site plan at the next regularly scheduled Council meeting. The Council shall make a final determination to approve, table, or deny the site plan.

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CHAPTER 12 - WIRELESS TELECOMMUNICATION SERVICES (WTS)

13-12-1: PURPOSE:

The purpose of this title is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this title are to:

1. Protect residential areas and land uses from potential impacts of towers and antennas;
2. Encourage the location of towers in nonresidential areas;
3. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
4. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the impact on the community is minimal.
5. This Chapter excludes antennas used for non-commercial, residential family use such as residential satellite dishes, TV antennas and amateur radio antennas.

13-12-2: DEFINITIONS:

ALTERNATIVE TOWER STRUCTURE: Alternative design antenna mounting structures other than a tower or monopole, i.e. clock tower or a disguised tower or monopole, i.e. light pole or windmill.

ANTENNA: Any structure or device used for the purpose of collecting or transmitting electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PSC), microwave, Telecommunications and services, and devices including directional antennas, such as panels, microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

BACKHAUL NETWORK: The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long-distance providers, or public switched telephone network including all ancillary equipment, structures and other improvements installed to support the communication

equipment.

BUFFERING: The use of specific measures designed to separate and protect differing land uses on separate properties.

CO-LOCATION: The use of an existing tower or structure to support antennae for the provision of wireless services without increasing the height of the Tower or structure.

COMMERCIAL WIRELESS TELECOMMUNICATIONS SERVICES: Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and other similar services that are marketed to the general public.

HEIGHT: The distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

PREEXISTING TOWERS/ ANTENNAE: Any tower or antenna for which a building permit or Wireless Telecommunications permit (WTP) was issued prior to the effective date of this title, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

STRUCTURE: Anything constructed or erected that requires a more or less permanent location on the ground; fences, signs, monuments, statues, flagpoles, and bridges shall be considered structures for the purpose of this ordinance.

TOWER: Any ground, roof or otherwise mounted pole, spire, structure or combination thereof that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, monopole towers and associated supporting lines, cables, wires, braces, masts or other structures. The term includes but is not limited to radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and any tower support.

13-12-3: GENERAL REQUIREMENTS:

All towers, including, but not limited to, radio and television aerials or antennas, dishes capable of receiving electronic transmissions from satellites or other sources,

shall require approval of a Special Permit and Site Plan by the Commission and Council, subject to the procedures in Chapters 8 and 11 of the Zoning Ordinance, and all sections of this title.

Applications for the construction or installation of new Wireless Telecommunication Facilities shall require Special Permit review as set forth Chapter 8 of the Elk Mountain Zoning Ordinance. A completed application and payment of an application fee are required prior to review.

A. Site Plan Requirements: All towers that provide commercial wireless telecommunication service are required to be approved through a site plan to the town for approval. In addition to the standard site plan requirements (listed in Chapter 11 of this Code), the following information must be supplied with the site plan and prior to issuance of a building permit:

1. Site plan drawn to a one inch equals twenty feet scale.
2. The name, address, and phone number of the all proposed users and operators of the tower.
3. The location, size and height of all structures on the property.
4. Location of the nearest residential structure and all other structures within a radius equal to twice the height of the proposed tower or antenna.
5. A description of the proposed tower and antennae, and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting.
6. The general capacity of the tower and information necessary to assure that ANSI and all structural standards are met including loads for wind and ice.
7. The number and positioning of guy wires and antennas.
8. The actual intended transmission and the maximum effective radiated power of the antenna(s).
9. Certification that the proposed antenna(s) will not cause interference with other telecommunication devices.

10. A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities.
11. The type, locations and dimensions of all proposed and existing landscaping and fencing.
12. Site plans must show the locations for at least two equipment buildings, even if the tower is proposed for a single user.
13. For towers that are one hundred feet or greater in height above the ground, a visual study depicting the zone within a three-mile radius, where any portion of the proposed tower could be seen.
14. Each applicant must provide an inventory of its existing towers and antennas within the Town and within a fifteen-mile radius of the proposed facility and provide specific information verifying the need for the proposed facility.
15. The Town may, at its sole option and discretion seek the assistance of any qualified expert in determining whether to approve any application, and all costs and expenses incurred in connection with such consultation or expert opinion shall be paid by the applicant within thirty days of receiving notice of such costs by the Town, Costs and fees incurred under this provision shall remain due and owing from any applicant notwithstanding the approval or denial of such application by the Town or the withdrawal of any application by the applicant.

B. Permit Requirements: Applications for tower and associated equipment shall complete the following requirements:

1. All commercial towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall obtain a building permit from the building inspector prior to construction or erection.
2. The design of all towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall comply with applicable sections of the most recent edition of the International Building and Electrical Codes, as adopted by the Town.

3. Pre-engineered and prefabricated towers, radio and television aeri-als or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall not require certification of a Wyoming professional engineer, providing the structure and installation are in accordance with manufacturer's recommendations. All drawings and installation instructions are subject to the approval of the building official.
4. All non-pre-engineered and non-prefabricated towers, radio and television aeri-als or antennas, dishes capable of receiving electronic transmission from satellites or other sources, including the substructure, shall be designed by a licensed professional engineer, registered in the State of Wyoming.
5. All towers, radio and television aeri-als or antennas, dishes capable of receiving electronic transmission from satellites or other sources, all backhaul equipment and accessory structures shall be installed and maintained in compliance with applicable requirements of the International Building and Electrical Codes, Elk Mountain Ordinances and all other applicable statutes and regulations.
6. All towers, radio and television aeri-als or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall be supported from a fixed location and non-transportable.

C. Setback, Height and Approval Requirements: All towers, radio and television aeri-als or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall be set back a distance equal to at least one hundred percent (100%) of the height of the tower from any adjoining lot line. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. All towers and associated equipment:

1. Shall not interfere with normal radio, television and/or telephone reception in the vicinity. Commercial messages and advertisements shall not be displayed on any tower. Violations shall be considered nuisance violations and shall be corrected under the enforcement provisions of the Town of Elk Mountain.

2. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the chief building official may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding property owners.
3. In order to protect the public from the unnecessary exposure to electromagnetic radiation, the tower owner shall provide documentation indicating that the power density standards levels do not exceed federally approved levels, FCCD emission regulations or American National Standards Institute (ANSI) standards, whichever provides stricter requirements.
4. Maximum tower heights shall be 70 feet in R-1, R-2, R-3, R-4, Public (P), and Commercial (C) Districts. Maximum tower height shall be limited to 100 feet in the Industrial (I) District. (See Table 13-12-4)
5. Towers may not be located on top of buildings or structures in any residential district. In nonresidential districts, towers are permitted on top of buildings or structures (which are not tower accessory structures). The top of such towers shall not be more than thirty percent of the building height above the building, nor shall be seventy feet above the building, whichever is less. (See Table 13-12-4)
6. The base of the tower, any guy wires, and any associated structures, walls, or fences shall be surrounded by a landscaped buffer. Towers and antennas shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.

TOWER REGULATIONS SUMMARY Table 13-12-3

Zone	Maximum Height	Plan Com Review	TC Approval	On Top of Buildings
R1-R4	70'	SP/Site Plan	SP/Site Plan	NP
P	70'	SP/Site Plan	SP/Site Plan	30 percent of building ht.

C	70'	SP/Site Plan	SP/Site Plan	30 percent of building ht. (up to 70')
I	100'	SP/Site Plan	SP/Site Plan	30 percent of building ht. (up to 70')

NP = Not permitted prohibited) NA = Not applicable
 MAXIMUM HEIGHT = Maximum height permitted without a Variance
 PLAN COM REVIEW = Requires review by the Commission.
 TC APPROVAL = Requires approval from the Council
 SP = Special Permit required
 Site Plan = Site Plan required

D.

Co-Location:

The shared use of towers is encouraged. Applications for towers which will, immediately upon completion, operate with more than one user may reduce setback requirements from adjacent nonresidential property. The setback from adjacent nonresidential property may be reduced by twenty-five percent when two users enter into a binding agreement prior to the issuance of the building permit. The setback from adjacent nonresidential property may be reduced by up to fifty percent when three or more users enter into a binding agreement prior to the issuance of the building permit. A binding agreement for the purposes of this section is one signed by all parties using the tower and by the affected landowners and which is binding for the duration of the facility's use or occupation of such land. This signed agreement will commit the users to occupy the tower immediately upon its completion.

E.

Antennas Mounted on Utility Poles or Light Poles:

The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In residential districts, the equipment cabinet or structure may be located in a front, side or rear yard provided the facility is no greater than 20 feet in height or 350 square feet of gross floor area and the cabinet/structure is located a minimum of 25 feet from all lot lines.

2. In Commercial or Industrial districts, the equipment cabinet or structure shall be no greater than 20 feet in height. The facility shall be screened from view of all adjacent residential properties.
3. A Special Permit and site plan application and fee are required.

F. State or Federal Requirements:

All towers must meet current standards and regulations of the Federal Aviation Administration (FAA), Federal Communications Commission (FCC) and any other agency of the local, state or federal government with the authority to regulate towers and antennas.

G. Building Codes; Safety Standards:

To ensure the structural integrity of towers, the owner of a tower shall ensure that the tower is maintained in compliance with applicable state and local building Code standards and the applicable standards for towers that are published by the Electronic Industries Association, as amended.

13-12-4: REMOVAL OF ABANDONED ANTENNAS AND TOWERS:

- A. Towers which are not used for a period of six months or more shall be removed by the owner within ninety days from date of written notification. Towers and grounds which are not maintained for a period of six months or more, as agreed to in the site plan agreement, shall be removed by the owner within ninety days from date of written notification.
- B. To assure the removal of towers which have not been maintained or have been abandoned, a performance bond, cash, letter of credit, or other approved security shall be submitted for each tower. The amount of the bond, cash, letter of credit, or other approved security shall be based on an estimate provided by a contractor licensed in the state of Wyoming, who shall estimate the cost of removing the tower. All costs of preparing such estimation shall be paid by the applicant and the estimation shall be provided in writing and submitted with the application. There will be a ten percent contingency fee added to the contractor's estimate. In the event the owner shall fail to remove any tower not maintained or abandoned, as provided in this section, the town shall have the right to enter the premises and remove such tower without further notice to owner, in which event, all removal costs shall be charged against the bond or security and the owner until satisfied.

- C. All towers shall be covered by a general liability insurance policy in an amount not less than five hundred thousand dollars.
- D. The town reserves the right to enter upon and disconnect, dismantle or otherwise remove any tower or telecommunications facility should same become an immediate hazard to the safety of persons or property due to emergency circumstances, as determined by the mayor or his designee, such as natural or man-made disasters or accidents, when the owner of any such facility is not available to immediately remedy the hazard. The town shall notify any such owner of any such action within twenty- four hours. The owner and/or operator shall reimburse the town for the costs incurred by the town for action taken pursuant to this section.
- E. To enable the town to keep accurate, up-to-date records of the placement of telecommunication towers and facilities within town limits, at the time the work on the facility or tower is completed, and before operation begins, the owner/operator of the tower shall submit documentation to the town's building department providing:
1. Certification in writing that the tower is structurally sound and conforms to the requirements of the town's building Code and all other construction standards set forth by the town's Code, federal and state law by filing, a sworn and certified statement by an engineer to that effect. The tower owner may be required by the town to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized. The certification must be based upon on-site physical inspection by an engineer certified by the State of Wyoming;
 2. The number of providers located on the tower, the type and use of any antenna located on the tower, and the name, address and telephone number of any owner, if there has been a change of ownership of the tower;
 3. An initial payment of a registration fee which shall be in addition to any franchise fee paid by owner or operator of the tower or facility, for all towers or facilities located within Elk Mountain, shall be required and shall be submitted to Town Clerk at the time of submission of the documentation, as required in subsections E.1 and E.2 of this section;
 4. An annual registration payment, which shall be in

addition to any franchise fee paid by the owner or operator of the tower or facility, for all towers or facilities located within the town shall be required and submitted to the Town no later than July 1st of each year, and shall include a written certification stating that the data submitted pursuant to subsection E.1 of this section is current as of the date of payment, and if not current, stating any changes therein. In the event the owner does not fulfill the annual registration requirement or does not pay the annual registration fee, the owner shall remove such tower within ninety days of written notification. In the event the owner shall fail to remove such tower, as provided in this section, the town shall have the right to enter the premises and remove the tower without further notice to owner, in which event, all removal costs shall be charged against the bond or security and the owner until satisfied, as provided in subsection E.2 of this section.

5. The town reserves the right upon reasonable notice to the owner/operator of the tower to conduct inspections for the purpose of determining whether the tower, equipment, and/or related buildings comply with all provisions of this Code, the applicable building Codes or all other construction standards provided by local, state or federal law.

13-12-5

NONCONFORMING USES

- A. No Expansion of Nonconforming Use: Towers that are constructed and antennas that are installed in accordance with the provisions of this title shall not be deemed to constitute the expansion of a nonconforming use.
- B. Preexisting Towers: New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this title.

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CHAPTER 13 RECREATIONAL VEHICLES

SECTION:

- 13-13-1: Plans and Specifications for Recreational Vehicle Parking Area Construction
- 13-13-2: General Site Requirements
- 13-13-3: Minimum Size Park Area
- 13-13-4: Sanitary Station Requirements
- 13-13-5: Electrical Outlet
- 13-13-6: Density
- 13-13-7: Entrances to Vehicle Parking Areas
- 13-13-8: Roadways
- 13-13-9: Street Construction and Design Standards
- 13-13-10: Walks
- 13-13-11: Compliance on Annexation
- 13-13-12: Requirements for Service Buildings
- 13-13-13: Potable Water Supply
- 13-13-14: Refuse Disposal
- 13-13-15: Fire Protection
- 13-13-16: Removal of Wheels from Recreational Vehicles
- 13-13-17: Parking and Dwelling Use Restrictions - Permit

13-13-1: PLANS AND SPECIFICATIONS FOR RECREATIONAL VEHICLE PARKING AREA CONSTRUCTION:

- A. Written Approval Required. No person shall construct a recreational vehicle parking area, as defined in these standards, without prior written approval of the Town Council.
- B. Plans and Specifications Submitted. Five copies of complete plans and specifications for the proposed recreational vehicle parking area shall be submitted to the Zoning Officer , and one copy to the utilities, at least sixty calendar days prior to the start of construction. The plans and specifications shall show the following:
 - 1. Name and address of the applicant;
 - 2. The area and dimensions of the site;
 - 3. Location and legal description of the recreational vehicle parking area;
 - 4. Existing and proposed contours;
 - 5. The number, location, and size of all

recreational vehicle spaces, plus a designation as to specific usage;

6. The location and width of the internal roadways and walkways in relation to the town street system;
 7. The location of the service building, sanitary stations, and any other proposed structures;
 8. The location of water, gas, and sewer lines;
 9. The location and detail of the lighting and electrical system;
 10. The location of storm drains and catch basins;
 11. Plans, including details, of individual water and sewer connections;
 12. Complete plans and specifications of the sanitary station and sewer connections;
 13. Plans and specifications of all buildings and other improvements to be constructed within the recreational vehicle parking area, including sewage disposal facilities;
 14. A traffic report shall be required for developments with twenty units or more.
- C. Time Frame for Construction. A person granted a permit to construct a recreational vehicle parking area under this title, shall, after receiving the necessary permits, proceed with the construction within a twelve month period.

13-13-2: GENERAL SITE REQUIREMENTS:

- A. General Requirements. Condition of soil, ground water level, drainage, and topography, shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to flooding, subsidence, or wind and water erosion, shall be used for any purpose which would expose persons or property to hazards.
1. A recreational vehicle parking area conforming to the regulations of this title may be established upon any tract of land in any district permitted by this title;

2. Exposed ground surfaces shall be paved, or covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and eliminating dust;
3. The ground surface shall be graded and equipped to drain surface water in an efficient manner away from structures and to the nearest storm sewer;
4. All driveways and walkways shall be hard surfaced. Parks shall provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:
 - a. All parts of the park street systems, four-tenths foot-candle,
 - b. Potentially hazardous locations, such as major street intersections and steps or stepped ramps, individually illuminated, with a minimum of eight-tenths foot-candle;
5. Each unit space shall be served by a paved driveway not less than ten feet wide, which shall have unobstructed access to a street;
6. Recreational vehicles shall be parked on each unit so there is a minimum of:
 - a. Ten feet clearance between all recreational vehicles,
 - b. Twenty-five feet between the right-of-way line of any park street and the front of each recreational vehicle;
7. One unit space must be available for each occupied recreational vehicle. A special parking area shall be provided for all unoccupied vehicles;
8. At least one hard-surfaced, off-street parking space shall be provided for each unit space.

13-13-3: MINIMUM SIZE PARK AREA:

Recreational vehicle parks shall be one and one-half net acre minimum. There shall be a twenty-foot buffer area on all sides of the park. Use of the buffer area shall be limited to landscaping, fencing, etc. Trees and shrubs shall be planted in this area but not closer than twenty-five feet to the intersection of street right-of-way lines.

- A. Tree and shrub selection shall be in accordance with the recommendations listed in Appendix 1 - Plants Conducive to Growth in Elk Mountain Area;
- B. Any existing licensed recreational vehicle parking area may be extended or expanded in tracts of less than the minimum required by this title, but in accordance with all of the other minimum requirements of this title.

13-13-4: SANITARY STATION REQUIREMENTS

- A. Piping. A sanitary station shall be provided consisting of a trapped four inch sewer riser pipe, connected to the recreational vehicle parking area sewerage system, surrounded at the inlet end by a concrete apron sloped to the drain, and provided with a suitable hinged cover and a water outlet, with the necessary appurtenances connected to the parking area water supply system to permit periodic washdown of the immediate adjacent areas.
- B. Number of Stations Required. Each recreational vehicle parking area shall be provided with a sanitary station in the ratio of one for every one hundred recreational vehicle spaces or fractional part thereof.
- C. Screening of Stations. Sanitary stations shall be screened with visual barriers such as fences, walls, or natural growth, and shall be separated from any recreational vehicle space by a distance of at least fifty feet.

13-13-5: ELECTRICAL OUTLET:

An electrical outlet supplying nominal 120/240 volts, fifty amp pedestal, shall be provided for each unit space with readily accessible means of disconnecting the electrical supply. A ground connection shall be provided with clamps or other facilities for connection between ground and the body of the recreational vehicle, if of metal. Such ground connection shall be a minimum of No. 6 stranded copper conductor or its equivalent and shall be connected to a metallic water pipe or other approved ground in accordance with the National Electrical Code, latest edition. All main power supply lines shall be underground.

13-13-6: DENSITY:

- A. The density shall not exceed twenty-five recreational vehicle spaces per acre of gross site area, except that the commission may, under special circumstances, and showing that this density creates an undue hardship on the owner,

permit a higher density; provided all other environmental, open-space, and access requirements of this title and regulations issued under this title are adhered to. Each unit space shall be at least one thousand square feet for a dependent travel unit and one thousand five hundred square feet for an independent travel unit.

- B. It is unlawful to allow any occupied unit to be parked on a space lot not designated for that type of unit.

13-13-7: ENTRANCES TO VEHICLE PARKING AREAS:

- A. Entrances to recreational vehicle parking areas shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets.
- B. No parking shall be permitted on the park entrance street. Each park entrance street shall be at least thirty-four feet wide.

13-13-8: ROADWAYS:

Surfaced roadways shall meet the following minimum requirements:

- A. Traffic lanes shall be at least twelve feet wide;
- B. Parking lanes shall be at least eight feet wide;
- C. Cul-de-sac streets shall be limited in length to six hundred feet and shall be provided at the closed end with a turn-around having an internal radius of at least sixty feet.

13-13-9: STREET CONSTRUCTION AND DESIGN STANDARDS:

Grades of all streets shall be not less than one-half percent nor greater than eight percent, within one hundred feet of an intersection, and streets shall be at approximately right angles. A distance of at least one hundred twenty-five feet shall be maintained between center lines of offset intersection streets. Intersections of more than two streets at one point shall be prohibited.

13-13-10: WALKS:

- A. All parks shall be provided with durable, convenient, all-season pedestrian walks at least four feet wide, located between individual spaces and all community facilities provided for park residents. There shall be no sudden

changes in alignment or gradient.

- B. A common walk system shall be provided where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four feet.
- C. All unit spaces shall be connected to common walks, paved streets, and paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of four feet.
- D. All walk systems shall be properly maintained.

13-13-11: COMPLIANCE ON ANNEXATION

Any recreational vehicle parking area, whether platted or unplatted, voluntarily annexed to the town after the passage of the ordinance codified in this title and being used as a recreational vehicle parking area or court, shall have one year from and after annexation to substantially comply with the terms and provisions of 13-13-2(A).

13-13-12: REQUIREMENTS FOR SERVICE BUILDINGS:

- A. Each recreational vehicle parking area which permits the parking of dependent travel units shall provide a service building, which shall contain the following facilities:
 - 1. A service building which shall contain a minimum of two toilets for women, one toilet for men, one lavatory, and one shower for each sex; a urinal for males; and a service sink. The minimum fixtures shall be adequate to service a maximum of twenty dependent travel units.
 - 2. Additional fixtures shall be provided in the following ratios:
 - a. Toilet facilities for each sex shall consist of at least one flush-type water closet for every ten additional dependent travel units, in addition to the minimum facilities, as stated above;
 - b. Urinals shall be substituted for not more than one-third of the toilet fixtures required for men;
 - c. Each water closet shall be in a private compartment;

- d. Toilet facilities for men and women shall be separated, if in the same building, by a sound retardant masonry wall;
 - e. A lavatory for each sex shall be provided for every ten dependent travel units and a bath or shower for each sex shall be provided for every twenty dependent travel units.
- 3. Service buildings housing sanitation facilities shall be permanent structures complying with applicable ordinances regulating buildings, electrical installations, plumbing, and sanitation systems.
 - 4. The service buildings shall be well lighted inside and out at all times of the day or night; shall be well ventilated with screened openings; shall be constructed of moisture proof material and shall permit cleaning and washing; and shall be maintained at a temperature of at least seventy degrees Fahrenheit during the period from October 1st to May 1st. The floors of the service buildings shall be of water impervious material.
 - 5. All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and free of any health hazard or public nuisance.
 - 6. The service building shall be located not more than two hundred feet from any dependent travel unit. A unit space further than this distance shall be designated for and used only by an independent travel unit.

13-13-13: POTABLE WATER SUPPLY:

- A. Potable Water. Potable water shall be provided solely by Elk Mountain. However, nothing shall prohibit residents from purchasing bottled water for their private use.
- B. Compliance with Laws. All water piping shall be constructed and maintained in accordance with state statutes and local ordinances. The water piping system shall not be connected with non-potable water supplies and shall be protected against backflow or back siphonage.

13-13-14: REFUSE DISPOSAL:

- A. Prevention of Nuisances: The procedures for the storage,

collection, and disposal of refuse in the park shall not allow health hazards, including, but not limited to, pests, accident or fire hazards, or air pollution, and shall be approved by the health officer.

- B. Containers: All refuse shall be stored in fly-tight, watertight, rodent-proof containers, which shall be located not more than one hundred fifty feet from any space. Containers shall be provided in sufficient number and capacity to properly store all refuse.
- C. Container Racks: Racks or holders shall be provided by park owners or managers for all refuse containers. Such container racks or holders shall be so designed as to prevent the tipping of containers, to minimize spilling and container deterioration, and to facilitate cleaning in and around them.
- D. Collection Service and Transportation: All refuse shall be collected in accordance with existing town ordinances. Where suitable collection service is not available from municipal or private agencies, the park operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

13-13-15: FIRE PROTECTION:

New parks shall have all plans and specifications reviewed and approved by the Town Fire Chief or designee.

13-13-16: REMOVAL OF WHEELS FROM RECREATIONAL VEHICLES:

The wheels of any recreational vehicle shall not be removed except for emergency repair.

13-13-17: PARKING AND DWELLING USE RESTRICTIONS - PERMIT:

The use of a recreational vehicle OR other temporary shelter (i.e. tent), when parked or located on private property or on a public street, shall be limited to ten (10) consecutive days.

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SECTION:

13-14-1: Land Use Policies

13-14-2: Purpose

13-14-3: Authority

13-14-1: LAND USE POLICIES:

- A. Policies: The following policies are intended to serve as a general development proposal evaluation tool which should be used whenever development decisions within the town are being considered:
1. General Policies and Standards:
 - a. In undertaking development, consideration should be given to the percolation rate, depth to rock, shrink/swell potential, traffic ability and traffic supporting capacity of the underlying soils. The U.S. department of agriculture soil conservation service or other credible sources should be consulted for this information.
 - b. Only those land uses which are not subject to substantial hazard or damage from flooding should be permitted in areas subject to flooding.
 - c. Comprehensive planning for the town should include consideration of areas outside the town limits so that land planning efforts can be coordinated.
 - d. Planning for new areas and older areas should be given equal emphasis because neither can be neglected.
 2. Residential:
 - a. Adequate sites for schools and parks should be properly located in residential areas.
 - b. Neighborhoods should be developed which are not bisected by major trafficways and are neither encroached upon nor isolated by incompatible industrial and commercial development.
 - c. Residential densities should encourage a variety of housing while protecting public investment in services and facilities.
 - d. Land between ten percent (10%) and twenty percent (20%) should be developed at low density.

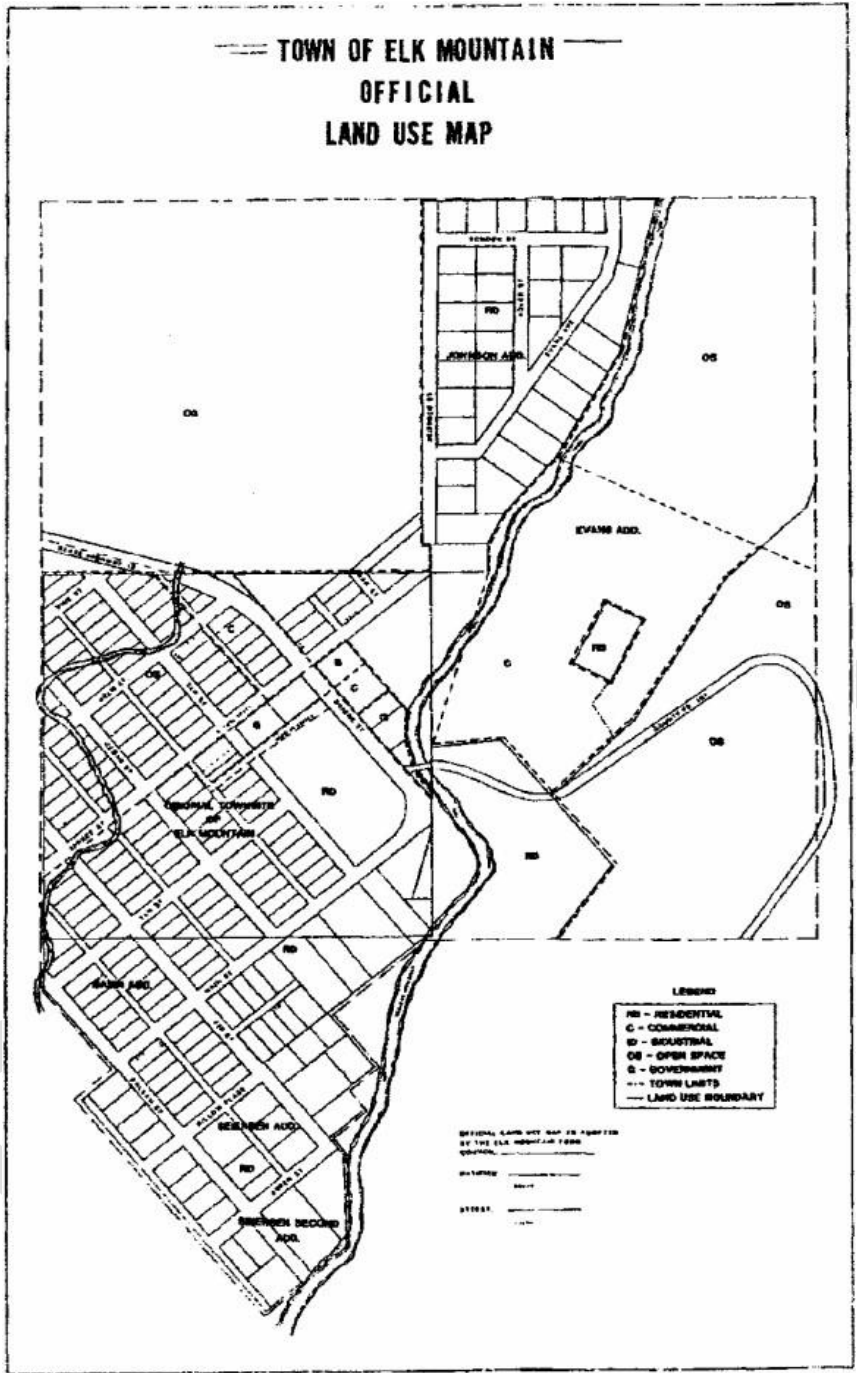
- e. Where appropriate, new residential development should adjoin presently developed areas.
- f. Development should occur only if adequate capacity exists for public utilities such as the town water system.
- g. If a development is proposed in an area of town in which public utilities will not afford adequate capacity, it should be the responsibility of the developer to provide the needed capacity.
- h. The development of small and isolated residential areas should be avoided.
- i. Residential areas should not be located downwind from industrial activities which emit noise, smoke, odor or other nuisance factors.
- j. Residential areas should be protected from incompatible uses.
- k. The design, construction and maintenance of mobile home parks should be governed by mobile home Codes.
- l. The storing of junk vehicles in or near residential areas should be discouraged and prohibited.

3. Commercial/Retail Business:

- a. Commercial development should provide for ample off street parking and loading facilities.
- b. Access to commercial development should be carefully planned and controlled so as to make the most efficient use of public street improvements and reduce conflicts.
- c. Abutting residential properties should be protected by buffering devices such as setbacks and screening.
- d. Commercial areas should be protected from incompatible uses.
- e. The central business district should be strengthened and maintained as the commercial center of the town.

- f. Commercial development along highways and major county roads should be required to provide sufficient setbacks so that roadway widening, or the addition of frontage roads can be provided for.
4. Industrial:
- a. Industrial areas should be separated from residential areas, wherever possible by major thoroughfares, streams or other buffers.
 - b. Industrial areas should be located so that it is not necessary to route traffic generated by them through residential or commercial areas.
 - c. Industrial sites should not be provided in areas with slopes greater than five percent (5%).
 - d. Industrial development should not occur in floodable areas or areas with soil or other subsurface special conditions unless special precautions are made.
 - e. Automobile wrecking and other salvage establishments and similar uses of land should be controlled as to minimize their adverse effect on the appearance of the community.

A. Land Use Map: (Need updated "Legible" Map)



(Ord. 50, 1-6-1982)

13-14-2:

PURPOSE: The Town Council, in order to promote the general health, safety, comfort and welfare of the people of Elk Mountain, and recognizing the pressures of residential, commercial and industrial development within and around the town, enact this title to promote the orderly development of

the town and immediately surrounding area. (Ord. 50, 16-1982)

13-14-3:

AUTHORITY: Authority for the town development title is pursuant to the authority contained in Wyoming Statutes section 15-1-501. (Ord. 50, 1-6-1992; amd. 2008 Code)

DRAFT