TOWN OF TELLURIDE LAND USE CODE

JUNE 2015

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ARTICLE 1 ADMINISTRATION AND ENFORCEMENT

DIVISION 1 PURPOSE AND APPLICABILITY

Section 1-101 Title and Short Title

This Title 18 of the Telluride Municipal Code, as amended from time to time, shall be known and may be cited as the "Telluride Land Use Code". It may also be called the "Land Use Code", or "LUC".

Section 1-102 Authority

It is the intention of the Town Council in adopting this Code to fully exercise all of the powers reserved to the Town as a home rule municipality under Article XX of the Colorado Constitution, all of the powers granted to the Town by: the provisions of the Local Government Land Use Control Enabling Act of 1974 (Title 29, Article 20, C.R.S.); the Colorado Municipal Annexation Act of 1965 (Title 31, Article 12, C.R.S.); Articles 65, 67 and 68 of Title 24, C.R.S., respectively, which provide for review of areas and activities of state interest, authorize the planned unit development approach to land development, and provide for the establishment of vested property rights; Article 23 of Title 31, C.R.S., which enables municipalities to adopt zoning regulations and subdivision requirements; and all other powers authorized by statute or by common law for the regulation of land uses, subdivisions and improvements.

Section 1-103 Purposes of the Land Use Code

The purposes of the Telluride Land Use Code are to assure the proper and sensitive development of land within Telluride; to protect and enhance the quality of life in Town and its environs; and to establish a clear, consistent, predictable and efficient land development review process.

To achieve these purposes, this Title establishes regulations which:

1-103.A. **Implement Master Plan.** Implement the goals, objectives, and policies of the Telluride Master Plan;

1-103.B. **Promote Health, Safety and Welfare.** Promote the general health, safety and welfare of the present and future inhabitants of the Town;

1-103.C. **Protect Property Values.** Protect property values within the Town;

1-103.D. **Preserve Neighborhoods.** Preserve the neighborhoods within the Town;

1-103.E. **Create Attractive Atmosphere.** Create an atmosphere attractive to visitors and residents;

1-103.F. **Manage Development.** Manage development in a manner that encourages the preservation of scenic values, historic structures, and the unique scale of original Telluride; and

1-103.G. **Prevent Hazardous Development.** Prevent development that creates or adds to existing geologic hazards, erosion, flooding, or other potential dangers to life and safety, or which detracts from the quality of life in the Town.

Section 1-104 Conformance Required

1-104.A. **Land Development.** No development of land within the Town of Telluride shall be undertaken without prior approval under the provisions of this Title and other applicable laws and regulations.

1-104.B. **Subdivision.** Where a portion of a parcel of land has been conveyed to a separate owner and has not been subdivided in conformity with the provisions of this Code, another ordinance of the Town, or judicial decree, the portion and parcel may be deemed to be a single lot under common ownership for purposes of the Land Use Code.

1-104.C. **Uses.** No building, fence, sign, or other structure, or any part thereof, shall be erected, converted, enlarged, moved, or structurally altered, nor shall any land, building, structure, or premises be used for any purpose other than permitted in the zone district in which such land, building, structure or premises is located.

1-104.D. **Dimensional Limitations, Parking and Other Requirements.** No building or structure shall be erected, enlarged, moved or structurally altered except in conformity with the height, setback, ground coverage, bulk, density, area, and volume limitations, and parking and other regulations prescribed in Article 3, for the zone district in which such building or structure is located.

1-104.E. **Existing Structures and Uses.** The Town of Telluride recognizes the existence of a number of buildings and uses, many of which are determined to be historical under other sections of this Title, that fail to meet required height, setback, ground coverage, bulk, density, area, volume, parking and other regulations. These situations are addressed in Article 4, Nonconformities and in Sections 6-110 through 6-113 of this Title, providing review standards for expansion, change in use, or relocation of nonconforming uses and buildings.

1-104.F. **Effect of Review**. The Planning Director, P&Z and HARC within their review of any application for development are empowered to modify, approve, approve with conditions, or deny any application on the grounds of insufficient submittals for adequate review, inconsistency with the Town Master Plan or design guidelines, or non-compliance with the provisions of this title.

Section 1-105 Severability

If any part of the Land Use Code or the application or enforcement thereof to any person or circumstance is held invalid, the remainder of the Land Use Code and its application to other persons or circumstances shall not be affected thereby.

DIVISION 2 INTERPRETATION

Section 1-201 Rules of Construction

In the construction of the language of this Title, the rules set out in this Section shall be observed, unless such construction would be inconsistent with the manifest intent or purpose of the Town Council as expressed in this Title. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases as may have acquired a particular meaning shall be understood according to such meaning.

The provisions of this Title shall be interpreted as and applied to be the minimum required for the proper protection of the public health and morals, and for the promotion of safety and general welfare of the residents of the Town.

1-201.A. **Conflicting Provisions.**

1. Whenever the requirements of the Land Use Code are at variance or conflict with the requirements of other provisions of the Telluride Municipal Code or any other lawfully adopted rules, regulations, resolutions or ordinances of the Town, the requirements which are the most restrictive upon property use or development rights, or which require, by way of example, compliance with the more stringent land-use standard, lower building height, greater setback, lesser floor area, lesser ground coverage, or more open space, shall apply to the extent of such variance or conflict.

2. In the event a conflict arises between the provisions of the text of this Title and any illustration, table or other graphic depiction found in this Title, the provisions of the text shall control.

3. In the event a conflict arises between the provisions of the text of this Title and the captions for any section or subsection, the provisions of the text shall control.

4. The provisions of this Code are in addition to all other Town ordinances, the laws of the State of Colorado, the laws of the United States, and applicable common law. This Code shall not supersede any private land use regulations in deeds or covenants which are more restrictive than this Code.

1-201.B. **Computation of Time.**

1. The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday observed by the Town of Telluride, that day shall be excluded.

2. The end of a day shall be at 5:00 P.M., local time.

3. The word "week" shall mean seven (7) days. The word "month" shall mean a calendar month. The word "year" shall mean a calendar year.

1-201.C. **Tense.** Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

1-201.D. **Singular/Plural.** A word importing the singular number may extend and be applied

to several persons and things as well as to one (1) person or thing. The use of the plural number shall include any single person or thing.

1-201.E. **Shall/May.** The word "shall" is mandatory; "may" is permissive; and the word "should" suggests preference or encouragement.

1-201.F. **Gender.** Each gender includes the masculine, feminine and neuter gender.

1-201.G. **Exercise of Authority.** Whenever a provision appears requiring or permitting the Town Manager or the head of a Town department to perform an act or duty, it shall be construed to authorize the Town Manager or the head of the Town department to designate and authorize subordinate officials to perform the act or duty, unless the terms of the provision or section specify otherwise.

Section 1-202 Interpretation and Appeal

1-202.A. **Authority.** The Planning Director shall have the authority to make all interpretations of the text of the Land Use Code and the boundaries of the Official Zone District Map.

1-202.B. **Initiation.** A request for interpretation of the text of the Land Use Code or the boundaries of the Official Zone District Map may be submitted by any affected person, any resident or real property owner in the Town of Telluride, or any person having a contractual interest in real property in the Town. The request shall be submitted in writing, shall specify the section of the Code or the area of the Map for which an interpretation is requested, and shall state the applicant's understanding of the meaning of the section or Map boundary.

1-202.C. **Rendering of Interpretation.** The Planning Director shall provide the applicant with a written interpretation of the meaning of the Land Use Code section or boundary of the Official Zone District Map. The Planning Director shall consider the Town's legislative intent, as expressed in this Title, when interpreting the Land Use Code.

An official record of all interpretations which have been rendered shall be kept in the Planning Office and be available for public inspection during normal business hours.

1-202.D. **Rules for Map Interpretations.** The Planning Director shall apply the following rules when interpreting the boundaries of the Official Zone District Map.

1. Boundaries shown as perpendicular to or following or approximately following any street, alley, right-of-way or water course shall be construed to do so.

2. Boundaries shown as following or approximately following any platted lot line, other property line, section line, half-section line or quarter-section line shall be construed as following such lines.

3. Boundaries shown as separated from and parallel or approximately parallel to any of the features listed in the paragraphs above shall be construed to be parallel to such features and at such distance therefrom as are shown on the

map.

1-202.E. **Appeals of Interpretations.** Any person who has received a written interpretation rendered by the Planning Director may appeal the interpretation to Town Council. Appeals of interpretations shall be filed in writing with the Planning Director within thirty (30) days after the date of the Planning Director's decision. The appeal shall be considered by Town Council within thirty (30) days after the date of its filing, or at such time as may be reasonably accommodated. The interpretation of the Planning Director shall be affirmed, modified or reversed.

DIVISION 3 VIOLATIONS AND PENALTIES

Section 1-301 Violations - General

1-301.A. **Development or Use of Land.** The erection, construction, reconstruction, alteration or use of any structure, or the use of any land, which is contrary to any provision of this Title is declared to be a violation of the laws of the Town of Telluride.

1-301.B. **Subdivision.** The transfer, sale, agreement to sell, or negotiation to sell any land by reference to or exhibition of or by use of a plat of a subdivision before such plat has been approved by the Town and recorded or filed in the office of the San Miguel County Clerk and Recorder is declared to be a violation of the laws of the Town of Telluride.

1-301.C. **Building Permit Required.** It is unlawful to commence the excavation for, or the construction of, any building or other structure, including accessory structures, or to store building materials, earth or fill, or to construct entrances or parking lots, or to commence the moving, structural alteration, conversion, extension, enlargement, alteration or repair (except repairs not requiring permits under this Title or any Town ordinance) of any structure, including accessory structures, fences or walls, until the Building Official has issued a permit for such work.

Section 1-302 Powers and Duties of Enforcement Officer

1-302.A. **Enforcement By Building Official.** The provisions of this Division shall be administered and enforced by the Town Building Official or such other authority as appointed by the Town Manager.

1-302.B. **Authority To Inspect.** The Building Official or other duly authorized person is empowered and directed to inspect and examine the use, occupation or development of land for which a development permit has been issued to determine, from time to time, whether any use, occupation, development or activity is in violation of any of the provisions of this Title or of any permit issued or required pursuant to this or other applicable regulations.

1-302.C. **Right Of Entry.** Should access or entry to any land or premises be refused upon request by the Building Official, an administrative search warrant may issue from the municipal court authorizing the Building Official or other designated official to enter upon such land or premises for purposes of making inspections or carrying out other duties as authorized under the municipal code.

1-302.D. **Stop Work Orders.** Whenever any building work is being done contrary to the provisions of this Title, the Building Official or other duly authorized person may order the work stopped by notice served in writing on any person engaged in doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the Building Official to proceed with such work.

1-302.E. **Notice Of Violation.** Whenever the Building Official or other duly authorized person finds a violation of any of the provisions of this Title, he shall notify the person responsible for the violation in writing and shall order the necessary permit to be acquired and/or correction to be completed within a period of three months

after such notice. The issuance of such an order shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as are set forth in Section 1-303. Compliance with such order shall not be deemed to be a defense to any alleged violation of this or other applicable regulations in any court action instituted seeking full compliance therewith.

1-302.F. **Certificate of Occupancy.** No change in the use or occupancy of land, nor any change of use or occupancy in an existing building shall be made, nor shall any new building be occupied for any purpose until a certificate of occupancy has been issued by the Building Official. Prior to the issuance of a certificate of occupancy, the Building Official shall examine all requirements of any development permit issued, and shall investigate the site to determine that all applicable requirements have been met and the development complies with all applicable provisions of this Title.

1. If permit requirements have not been completed, or if the development is not otherwise in compliance with the provisions of this Title, the Building Official shall withhold issuance of the certificate of occupancy until compliance is obtained.

2. In the event that parking lot pavement is necessary for required off-street parking and cannot be constructed without unreasonable delay, a certificate of occupancy may be issued following the submission of adequate financial security to guarantee the construction of pavement, but in such cases a higher quality gravel base may be required for the interim period. Drives and parking areas will not be considered complete until all utility laterals have been constructed below the surface of such areas according to approved plans.

3. A record of all certificates of occupancy shall be kept on file in the office of the Building Official, and copies shall be furnished on request to and at the expense of any person having a proprietary or tenancy interest in the land or a building affected by such certificates of occupancy.

1-302.G. **Complaints.** Any person aggrieved by a violation or apparent violation of the provisions of this Title may file a written complaint with the Building Official or other duly authorized person, who shall investigate as soon as reasonably possible such complaint and take such action within a reasonable amount of time.

1-302.H. **Appeals**. Any aggrieved person subject to an order, notice of violation, or decision issued by the Building Official pursuant to the Building Official's powers and duties as provided for in this Title 18 may appeal such order, notice of violation, or decision to the Town Manager within five (5) days from the date of the action complained of.

1. A notice of appeal shall be filed with the Planning Director and shall describe with reasonable certainty the action of the Building Official complained of along with the appellant's name, address and telephone number. The notice of appeal shall be accompanied by any required fee.

2. Upon receipt of a notice of appeal the Planning Director shall forward the

appeal to the Town Manager who shall convene a public meeting on same within fourteen (14) days, or as soon thereafter as can be reasonably be accommodated.

3. The proper and timely filing of a notice of appeal will temporarily stay the subject order, notice of violation, or decision of the Building Official pending the outcome of the appeal before the Town Manager unless the Building Official verifies in writing to the Planning Director that a stay will pose an immediate threat to the safety of persons or property or defeat the purpose of the order, notice of violation, or decision in the first instance, in which event a stay shall not enter.

4. The Town Manager or its designee shall hear an appeal at a public meeting with prior written notice to the appellant. The burden shall be on the appellant to demonstrate that the action of the Building Official was in error, unjustified, or otherwise not in accordance with the terms of the Land Use Code. An unexcused failure on the part of the appellant to appear at the appeal hearing shall result in the affirmance of the Building Official's action.

5. The Town Manager shall enter a written decision on all appeals no later than thirty (30) days from the conclusion of the appeal hearing. The Town Manager may reverse, affirm or modify the order, notice of violation, or decision of the Building Official and shall have all powers as vested in the Building Official to impose reasonable conditions to be complied with by the appellant as part of its decision. A copy of the Town Manager's decision shall be hand-delivered or sent by certified mail to the appellant.

6. Decisions of the Town Manager shall be final, subject only to judicial review by a court of competent jurisdiction in accordance with the Colorado Rules of Civil Procedure.

7. The Town Manager may delegate its duties under this section to a subordinate official.

Section 1-303 Penalties for Violations

1-303.A. **Violations a Misdemeanor.** Violations of or failure to comply with the provisions of this Title constitute a misdemeanor and upon conviction are punishable by a fine of up to one thousand dollars ($1,000), or imprisonment for a period of up to ninety (90) days, or both such fine and imprisonment. Each day that a violation occurs or continues to exist is considered a separate offense.

1-303.B. **Abatement.** In the event of violation of this Title, the Town may additionally institute appropriate action to prevent, enjoin, abate, or remove the violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act or use in or on such premises. The Town may also compel recision of any sale or lease made in violation of this Title.

1-303.C. **Violation of Subdivision Regulations.** Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells, agrees to sell, or negotiates to sell any land by reference to or exhibition of or by use of a plat of a subdivision before such plat has been approved by the Town and recorded or filed in

the office of the San Miguel County Clerk and Recorder shall be guilty of a misdemeanor and upon conviction is punishable by a fine of up to one thousand dollars ($1,000), or imprisonment for a period of up to ninety (90) days, or both such fine and imprisonment. Each separate sale, agreement or negotiation shall constitute a separate offense.

The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this section.

The Town may enjoin such transfer or sale or agreement by action for injunction brought in any court of competent jurisdiction, and may recover the penalty by civil action in any court of competent jurisdiction.

1-303.D. **Violation of Geologic Hazard or Floodplain Regulations.** Any person who knowingly engages in a development in a designated area of geologic hazard or floodplain hazard or who conducts a designated activity of local or state interest, and who does not first obtain a permit pursuant to this Title, or who does not comply with permit requirements, or who acts outside the authority or contrary to the conditions of the permit, is guilty of a misdemeanor for each such violation or occurrence. Each day of a continuing violation shall be deemed to be a separate offense.

Such person may be punished by a fine not to exceed one thousand dollars ($1,000), or by imprisonment for a period not to exceed ten (10) days, or by both such fine and imprisonment. Such person may also be enjoined by the Town or the Colorado Land Use Commission from engaging in such development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law.

1-303.E. **Unauthorized Demolition, Removal or Relocation of a Rated Structure.** Penalties for unauthorized demolition, removal or relocation of a rated structure are contained in Section 7-307 of this Title.

Section 1-304 Void Permits

Each employee of the Town who has the duty or authority to issue a permit shall only issue permits in compliance with all applicable provisions of this Title. A permit, certificate or license issued by an employee in error, or which does not comply with the provisions of this Title, is void. A permit, certificate or license issued in reliance upon any materially false statement in the application, supporting documents, or oral testimony, shall be null and void and shall be revoked. Erroneously issued permits shall not be construed as waiving any provision of this Title.

Section 1-305 Other Remedies

Any penalty provided in this Title shall not preclude the Town of Telluride or an affected property owner from instituting any appropriate action or proceeding to require compliance with the provisions of this Title. All remedies provided in this Division are cumulative, and shall be in addition to any other remedies provided by law.

(Ord. 1033, 1995; Ord. 1005, 1994; Ord. 970, 1992, Ord. 854, 1989, Ord. 817, 1988, Ord. 361, 1978, Ord. 231, 1970)

ARTICLE 2 DEFINITIONS

DIVISIONS 1 AND 2GENERAL LAND USE CODE DEFINITIONS

The words and phrases set out in Divisions 1 and 2 of this Article 2 shall have the meaning ascribed to them below and shall be applicable to terms used throughout the Land Use Code, unless the context otherwise requires.

Section 2-101 Accessory Building

"Accessory building" means a detached building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot or parcel with the main building or use. Accessory buildings shall not be provided with kitchen facilities sufficient to render them suitable for permanent residential occupancy.

Section 2-102 Accessory Use

"Accessory use" means a use on the same site with the principal use that is naturally and normally incidental to, subordinate to, necessary for, and devoted exclusively to the main use of the premises.

Section 2-103 Accommodations Unit

"Accommodations unit" means a separate room or rooms used for accommodations.

Section 2-104 Accommodations Uses

"Accommodations" means a building containing Condominium-Hotel Rooms, Hotels, Lodges, Rooming Houses, Boarding Houses, or Short-term Dwelling Units.

Section 2-105 Adult

"Adult" means any person who has attained his twenty-first (21st) birthday.

Section 2-106 Affordable Housing Unit

"Affordable Housing Unit" means a dwelling unit approved pursuant to Article 3 Division 7 with a restricted rent or sale price and occupancy requirements as described in the Telluride Affordable Housing Guidelines, as amended.

Section 2-107 Agricultural Land

"Agricultural land" means, for purposes of Article 6, Division 6, "Annexations", land used for the growing of crops, truck gardening, the grazing of farm animals, and other agricultural pursuits, in contrast to land used for urban development.

Section 2-108 Architectural Feature

"Architectural feature" means turrets, towers, cupolas or other such architectural elements which project from the major roof plane of the building.

Section 2-109 Applicant

"Applicant" means any person or entity and the successors and assigns of any such person or entity applying for development approval pursuant to this Title.

Section 2-110 Attached

"Attached" means a physical connection of a foundation, wall, or roof between two (2) buildings. If the method by which the buildings are attached includes an above-grade wall, or an above-grade wall with a roof, or has a common wall, then the attached buildings shall be considered to be a single structure for the purposes of determining site coverage and gross floor area. If the attachment is above grade, does not enclose area and does not include a wall, then the area of attachment shall not be counted for the purposes of determining site coverage. If the attachment is below grade and is not exclusively used for the storage of motor vehicles then the area of the attachment shall be counted for purposes of determining site coverage.

Section 2-111 Basement or Cellar

See the definition of a floor

Section 2-112 Billiard Parlor

“Billiard Parlor” means a building that is used for playing billiards containing predominantly pool tables that may include the serving of alcohol and food in accordance with the requirements of the Municipal Code.

Section 2-113 Block

"Block" means a unit of land bounded by streets, or a combination of streets, alleys, transportation routes such as railroad rights-of-way, or other physical barriers such as waterways, public lands, or public open space.

Section 2-114 Block Front

"Block front" **means** all of the property on one side of a street between two intersecting streets.

Section 2-115 Boardinghouse or Roominghouse

"Boardinghouse" or "Roominghouse" means a building, or portion thereof, which is principally used to accommodate, for compensation, five (5) or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. "Compensation" includes compensation in money, services or other things of value.

Section 2-116 Building

"Building" means any permanent structure built for the shelter, occupancy or enclosure of persons, animals, chattels or property of any kind.

Section 2-117 Building Frontage

“Building Frontage” means the lineal distance of the façade of a building measured along the lot frontage, which is occupied by a particular land use, such as a Service Commercial Use or a Retail use, measured from the edge of a building to the edge of building, or to the centerline of a wall separating uses. Breezeways or entry vestibules are typically measured from the edge of the openings. Please refer to Section 3-213.F.1 for more information.

Section 2-118 Building Official

"Building Official" means the Town official designated by the Town Manager as the person

responsible for enforcing the Building Codes and Land Use Code, and the issuance of building permits pursuant to these codes.

Section 2-119 Building Volume

"Building volume" shall mean the above-grade volume of a building as measured in cubic feet located above a plane located at the original, pre-construction or post-construction grade, whichever is more restrictive, of a building site measured from the outside of the exterior walls.

Section 2-120 Business, Fraternal or Social Club

“Fraternal Club” means an incorporated or unincorporated association of persons organized for a social purpose.

Section 2-121 Business Office

“Business Office” means an office or studio in a room or group of rooms for the conduct of general business, commercial or professional activities, transactions or services, including but not limited to offices for financial services, banking, consulting, travel agency, title company and insurance agency. The term “Business Office” includes “Professional Offices” unless specifically provided to the contrary.

Section 2-122 Caretaker Unit

"Caretaker unit" means a portion of a principal structure or an accessory building thereto, which portion has a separate kitchen, separate bathroom, a separate entrance, a floor area of less than one-half (1/2) the floor area of the principal dwelling unit square feet, and which is occupied primarily by a person or persons who are employed to care for, repair and maintain the principal dwelling unit.

Section 2-123 Cemetery

The use of property for the interment of human remains, whether above or below ground, along with all accessory structures which are commonly and reasonably associated with such use.

Section 2-124 Certificate of Zoning Compliance

“Certificate of Zoning Compliance” means a certificate issued pursuant to Section 3-213.F of this Title, or such other section of the Land Use Code that specifies such a certificate.

Section 2-125 Church

“Church” means a building for public worship of any denomination.

Section 2-126 Commercial Core

For the purposes of Section 3-213.F of this Title, the Commercial Core is defined as the geographic area that includes all properties fronting or abutting onto Colorado Avenue extending from Aspen to Alder streets. This area is different from the commercial core defined in the Telluride Master Plan.

Section 2-127 Commercial Use

"Commercial use" means a business or activity where services, goods or commodities are

exchanged for money, or are carried out for pecuniary gain.

Section 2-128 Condominium

A common interest community in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate ownership portions.

Section 2-129 Condominium-hotel Project

“Condominium-hotel project” is defined as 1) a project to convert a hotel or lodge into a condominium-hotel project; or 2) the creation of a condominium-hotel project, which created condominium units will be available for resale to third parties and which will continue to be marketed, managed and operated similar to a hotel. The conversion of a hotel into a Condominium-hotel Project or the creation of a condominium-hotel project shall meet the applicable requirements of the LUC, including but not limited to the provisions of Section 6-412, *et seq*.

Section 2-130 Condominium-hotel Room

“Condominium-hotel room” shall mean a hotel-styled room, constructed, managed and operated in accordance with Section 6-412 that is designed to operate as a condominium-hotel project. Each condominium-hotel room will be managed, maintained and available for use and occupancy in connection with an actual hotel operation. A “condominium-hotel room” may also be designated as a unit on the condominium documents and be available separate sale and ownership, subject to the restrictions contained in Section 6-412 *et seq.* of the Land Use Code.

Section 2-131 Condominium Subdivision

"Condominium subdivision" means the division of real property into individual airspace units and their appurtenant common elements.

Section 2-132 Council

"Council" means the Telluride Town Council.

Section 2-133 Dedication

"Dedication" means the intentional appropriation of land by the owner to some public use.

Section 2-134 Density

"Density" means the number of dwelling units per unit of land.

Section 2-135 Designated Employee Dwelling Unit

"Designated employee dwelling unit" means any dwelling unit which has been deed restricted so as to limit and restrict occupancy to Telluride Housing Authority (THA) qualified employees. The use of the designated employee dwelling unit shall be restricted by executing and recording a covenant in favor of the Town and THA that shall burden and run with the land upon which the unit shall be constructed and which shall meet the applicable standards for deed restriction contained in the Telluride Affordable Housing Guidelines as amended.

Section 2-136 Development

"Development" means any activity or any person-caused change to land or improvements thereon which changes the basic character or intensity of the use of such land or improvements. Development includes, but is not limited to:

2-136.A. Construction. Construction, erection, alteration, reconstruction, rehabilitation, remodeling, renovation or relocation of buildings or other structures;

2-136.B. Change in Use**.** A change in the intensity or type of use of land, such as the establishment of, or an increase or decrease in the number of dwelling units or floor area;

2-136.C. Demolition**.** Total or partial demolition of a structure;

2-136.D. Mining, Dredging, Excavation or Drilling. Mining, dredging, excavation or drilling operations (except to obtain soil samples);

2-136.E. Clearing**.** Clearing of land, including clearing or removal of vegetation and including any significant disturbance of vegetation or soil manipulation; and

2-136.F. Deposit. Deposit of refuse, solid or liquid waste, or fill, on a parcel of land.

Section 2-137 Development Application

"Development application" means, unless the context clearly requires otherwise, an application for approval of annexation; zoning; amendment of zoning map or the text of this Title; variance; planned unit development; subdivision; a certificate of appropriateness or an amendment or extension thereto; moving or demolition permit; change or expansion of a non-conforming use; designation of an employee dwelling unit; home occupation; use or activity permitted on review; sign permit; landmark designation; lot access permit; or any other proposed action which requires the approval of a reviewing body or permit administrator which is vested by this Title with primary jurisdiction to grant such approval.

Section 2-138 Development Standards

"Development standards" means the substantive portions of building codes, land use codes, housing codes, fire district ordinances, and any other ordinance, code or regulation relating to the construction or occupancy of buildings upon land or the preparation of such land for such construction. Development standards means the same as review standards or criteria.

Section 2-139 Diameter at Breast Height (DBH)

“Diameter at Breast Height (DBH) means the measurement of which is to be taken at the diameter at breast height which is four feet six inches (4’6”) above the highest existing grade at the base of the tree.

Section 2-140 Dwelling

"Dwelling" means a permanent building or portion thereof which contains a kitchen and is used as the private residence or sleeping place of one or more human beings, but not including temporary structures such as tents, railroad cars, trailers, streetcars, metal prefabricated sections or similar units. (See also Section 2-229, "Short-term Dwelling Unit") Dwellings may be classified as follows:

2-140.A. Dwelling Unit. "Dwelling Unit" mean a permanent building or portion thereof consisting of a room or suite of two (2) or more rooms used as a dwelling by one (1) family, excluding lodging and overnight accommodations.

2-140.B. Dwelling, One-Family. "One-Family Dwelling" means a detached building containing only one (1) dwelling unit.

2-140.C. Dwelling, Two-Family. "Two-Family Dwelling" means a detached building containing only two (2) dwelling units with the units either side-by-side or in an over-under configuration. In the side-by-side configuration, the units share a common wall, while in the over-under configuration, they are stacked. A minimum of twenty percent (20%) of the length of the walls in common shall be shared between the units, regardless of whether the wall is shared by all floors of the units. The shared walls in common shall not be the walls of a breezeway, or similar accessory structure, but may include garage walls.

2-140.D. Dwelling, Multi-Family. "Multi-Family Dwelling" means a dwelling containing either: 1) three (3) or more dwelling units, including any accessory uses; or 2) Mixed Use Development containing commercial and one or more dwelling units in a single building with any accessory uses.

2-140.E. Dwelling, Townhouse. "Townhouse Dwelling" means a one-family dwelling unit located in a row or horizontally-attached group in which each one-family dwelling has its own access(es) to the outside; no dwelling unit is located over another unit; each dwelling unit is separated from any other unit by one (1) or more common fire-resistant walls; and each dwelling unit is served by separate hot water and heating systems and has a separate water meter and sewer service, unless the townhouses are part of a condominium subdivision.

2-140.F. Dwelling, Zero Lot Line. "Zero Lot Line Dwelling" means a dwelling unit that is located on one (1) side lot line of the subject lot. The reduced setback on one (1) side shall result in an equal amount of setback increase on the opposite side lot line. H.A.R.C. may require that there be no windows located in the wall sited on the lot line.

2-140.F.1. When adjacent zero lot line dwelling units share a common lot line, a common wall maintenance agreement shall be entered into by the two (2) owners, and the common wall shall be constructed to meet Uniform Building Code requirements.

2-140.F.2. When two (2) adjacent zero lot line dwelling units are located on alternate lot lines, an agreement shall be entered into by the two (2) owners, allowing encroachment of a roof overhang, eave or similar minor portions of structures onto the adjacent lot and providing for ingress and egress for maintenance, repair and replacement of such encroachments and exterior walls.

Section 2-141 Easement

"Easement" means an interest in real property granted or reserved by the property owner by deed or

recorded plat to permit or prohibit a specified use of land by the public, a public agency, a utility, a corporation, or particular persons or property for a specified purpose.

Section 2-142 Employee

"Employee" shall mean any person who is working for his or her self or another person and is compensated for such work on an hourly, weekly, monthly, or commission basis, or any combination of such means of compensation.

Section 2-143 Enclave

"Enclave" means, for purposes of Article 6, Division 6, "Annexations", an unincorporated area of land entirely contained within the outer boundaries of the annexing municipality.

Section 2-144 Enclosed Parking

"Enclosed Parking" means a parking space or spaces which meets the standards of Section 3-109 of this title and which are enclosed by a minimum of three walls and a roof. Enclosed parking shall count fully in the determination of floor area and site coverage, unless as otherwise provided in Section 2-223, "Site Coverage".

Section 2-145 Facade

"Facade" means the exterior wall of a building exposed to public view, or that wall viewed by persons not within the building.

Section 2-146 Family

"Family" means any individual, or two (2) or more persons related by blood or marriage or between whom there is a legally recognized relationship, or a group of not more than five (5) persons, not related by blood or marriage or other legally recognized relationship, excluding servants, occupying the same dwelling unit.

Section 2-147 Fence

"Fence" means a structure which serves as a barrier intended to prevent escape or intrusion, to mark a boundary, to shield or screen view, or to serve any similar purpose. All fences shall be constructed only of wood, masonry, stone or metal, or as approved by H.A.R.C.

In all residential zone districts, front yard fences, hedges or walls shall not exceed three and one-half feet (3-1/2') above grade. Ornamental details may exceed the maximum height if approved by H.A.R.C.

Section 2-148 Flat Roof

"Flat roof" means a roof which is not pitched and which has a slope which does not exceed a rise of two inches (2") over a distance of twelve inches (12").

Section 2-149 Floor

“Floor” means the story or level of a building. Floors may be classified as follows:

"Basement" or "Cellar" means a space having one-half or more of its floor-to-ceiling height below the average finished level of the adjoining ground measured from pre-construction or post-

construction grade, whichever is more restrictive, and having a floor-to-ceiling height of six and one-half feet (6 1/2') or more. (See also Appendix to Article 2 for associated Land Use Code graphic.)

For the purposes of Section 3-213, “Historic Commercial Zone District”:

"Basement", means a space located completely below the Ground Floor or below a Mezzanine Floor;

“Ground Floor” means the at-grade, ground floor, street-level floor, or first floor of a building, other than a Basement and includes Mezzanine-Level floors; and

“Mezzanine Level” means an intermediate floor located between the basement and the first floor or the first floor and second floor.

Section 2-150 Floor Area or Gross Floor Area (See also Net Floor Area)

2-150.A. Generally. "Floor Area" or "Gross floor area" means the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings, plus the floor area projected over stair openings. Basement for cellar space in all zone districts shall not be counted as floor area except as follows:

2-150.A.1. When used for commercial purposes in a zone district other than Historic Commercial or Commercial where commercial uses are limited, either as a use by right or as a use permitted on review, basement or cellar space shall be included in the calculation of floor area permitted to be occupied by that use.

2-150.A.2. When calculating parking and affordable housing mitigation, cellar or basement space shall be included.

2-150.B. Residential, Hillside Transitional and Historic Residential Districts**.** In the Residential, Hillside Transitional and Historic Residential Districts, "Floor Area" or "Gross floor area" shall mean the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings, plus the floor area projected over stair openings. Floor area which is covered by a ceiling height, as measured from top of finished floor to top of roof covering, of greater than eighteen feet (18') shall be counted twice, regardless of the presence of a loft or interior ceiling. (See also Appendix to Article 2 for associated Land Use Code graphic.)

Section 2-151 Floor Area Ratio

"Floor area ratio" (F.A.R.) means the gross floor area of a principal structure or a building on a lot, divided by the lot area.

Section 2-152 Frontage

"Frontage" means all the property abutting upon one (1) side of a street between two (2) lot lines, measured along the right-of-way line.

Section 2-153 Ground Coverage

"Ground coverage" means the same as site coverage.

Section 2-154 Ground Floor

See definition of “Floor”.

Section 2-155 Groundwater and Groundwater Table

"Groundwater" and "groundwater table" mean the highest point below the surface of a site where an unconfined underground aquifer can be found to exist at atmospheric pressure. In the field, within the confines of an excavated test pit, the highest elevation where groundwater from adjacent saturated soil replaces removed soil shall constitute the elevation of the water table at that point.

Section 2-156 H.A.R.C.

"H.A.R.C." means the Historic and Architectural Review Commission of the Town.

Section 2-157 Hazard Tree

“Hazard Tree” means a tree that is dead, declining, or has a structural defect that is likely to fail in whole or in part and must also be within a location where it can hit a target. This target could be a structure or person. A tree that represents a clear and present threat to public or private property or safety constitutes a Hazard Tree.

Section 2-158 Heritage Tree

“Heritage Tree” means trees recognized to be of significance due to their age, size, type, historical association or horticultural value. Due to our National Historic District character lilac hedges or clusters though not perceived as a tree are very slow growing and are a valuable historic component of our landscape environment and as such may also be designated as a Heritage Tree.

Section 2-159 Height Of Building

Unless otherwise provided in any specific zone district, "height of building" or "building height" means the vertical distance between the following two points:

2-159.A. The average of the pre-construction grade of the building's site coverage, or the average of the post construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the exterior perimeter of the building's site coverage), whichever is more restrictive;

2-159.B. The points specified for the following types of roofs:

2-159.B.1. Flat roof. Height shall be measured to the highest point of the building, including parapet walls and rooftop appurtenances, but excluding architectural features and chimneys which may be permitted by H.A.R.C.

2-159.B.2. Gable, hip, gambrel or shed roof. Height shall be measured to the mean height level between the highest ridge or wall and its highest associated eave,

provided, however, that if any parapet wall equals or exceeds the height of the highest ridge, then vertical distance shall be measured to the highest point of the parapet.

2-159.B.3. Mansard roof. Height shall be measured to the decline of the roof. (See also Appendix to Article 2 for associated Land Use Code graphic.)

2-159.C. No wireless telecommunication facilities or equipment shall be erected on or attached to the roof of any building or structure, unless approved pursuant to Section 7-214 of this Title.

2-159.D. Notwithstanding the foregoing, where churches are permitted and approved by the provisions of the LUC, H.A.R.C. may approve a church steeple or other traditional, denominational religious building appurtenance that exceeds the maximum building height allowed by the underlying zoning district if the following criteria are met:

2-159.D.1. The height of a church steeple or other traditional, denominational religious building appurtenance shall not exceed the as built or proposed roof height (as defined in Section 2-212 of the LUC) by more than 30% of the roof height.

2-159.D.2. No steeple or other traditional, denominational religious building appurtenance shall be allowed if it substantially reduces or blocks an adjacent structure's access to light or air.

2-159.D.3. No church shall be allowed more than one steeple or other traditional, denominational religious building appurtenance.

2-159.D.4. H.A.R.C. may limit or deny the installation of a steeple or other traditional, denominational religious building appurtenance based on such site conditions as large lot size, proportion to the rest of the church, placement of the structure on the lot, placement and area of the steeple or other traditional, denominational religious building appurtenance in relationship to historic churches found in mountain communities, the relationship and proximity to adjacent neighboring structures, major street intersections and dead-end streets, and whether the steeple or other traditional, denominational religious building appurtenance would create a positive focal point.

2-159.D.5. Steeples or other traditional, denominational religious building appurtenance shall not be directly added onto structures that are rated as "contributing" or "supporting" by the Telluride Historic and Architectural Survey unless it is determined to the satisfaction of H.A.R.C. that such structure was historically used as a church during the period of significance. Notwithstanding the foregoing, a steeple or other traditional, denominational religious building appurtenance can be added onto an addition to a rated structure, subject to the same review procedures, standards and Design

Guidelines that apply to any other addition to a rated structure.

2-159.D.6. H.A.R.C. may require that a steeple or other traditional, denominational religious building appurtenance be removed from a structure if a church organization ceases to maintain ownership of a church. Such a requirement shall only be made by a motion at a hearing where the property owner was given proper notice. The owner shall be responsible for acquiring any required HARC approvals and building permits for such removal if HARC passes a motion requiring the steeple to be removed.

Section 2-160 Home Occupation

"Home occupation" means any business conducted principally within a dwelling unit, an enclosed garage or accessory building, which is carried on by the inhabitants of the property, and which meets the standards of Section 6-104 and 6-106 of this Title. An individual working at home that does not routinely conduct meetings in the home; does not have routine contact with employer, employee, consultant and/or client in the home; and does not conduct traditional sales or retail activities on the premise of their workplace; does not place any identifying signs on the exterior of the workplace; shall not be considered a "Home Occupation."

Section 2-161 Hotel

"Hotel" means a facility offering transient lodging accommodations to the general public with a central check-in facility located within such facility. A hotel/motel may provide additional services such as restaurants, meeting rooms and recreation facilities. Such facilities shall be limited to short-term (rental periods of less than 30 days), and shall not be subject to any fractional ownership mechanism and shall not be subdivided by a condominium map or other mechanism.

Section 2-162 Identical Ownership

"Identical ownership" means, for purposes of Article 6, Division 6, "Annexations", a situation where each owner has exactly the same degree of interest in each separate parcel of two (2) or more parcels of land.

Section 2-163 Institutional Uses

“Institutional Use” means either a governmental, non-profit or quasi-public use of a property, such as a religious institution or a library.

Section 2-164 Kitchen

A room or place for the preparation and cooking of food which contains facilities for the boiling, heating, reheating, baking, frying, etc. of food including, stoves, ranges, and cooktops.

Section 2-165 Land

"Land" means real property, including permanent improvements and usable air space.

Section 2-166 Landowner

"Landowner" means the owner in fee of any undivided interest in a given parcel of land. If the mineral estate has been severed, the "landowner" means the owner in fee of an undivided interest in

the surface estate and not the owner in fee of an undivided interest in the mineral estate.

Section 2-167 Land Use Administrator

"Land use administrator" means the person responsible for administration of land development applications within the Town. The Planning Director is hereby designated as the Land Use Administrator.

Section 2-168 Lock-Off Unit

"Lock-off unit" means a room or portion of an accommodation unit in a hotel, motel, lodge, condominium, or other accommodations-type facility which has a bathroom, sleeping area and entrance separate from the principal accommodation unit and which is divisible from such unit for purposes of separate rental for lodging use. Such lock-off units shall be considered individual accommodation or dwelling units for the purpose of parking, other impact mitigation, and water and sewer fees and charges.

Section 2-169 Lodge

"Lodge" means a building containing three (3) or more sleeping units intended for temporary occupancy of paying guests and which may or may not have kitchen facilities. In the event a sleeping unit has a kitchen (as defined in this Division), such unit shall be considered a dwelling unit for the purpose of this Title. Accessory use facilities may consist of those in association with a commercial lodging operation, including eating, drinking and recreational facilities for the benefit and enjoyment of the paying guests.

Section 2-170 Lot

"Lot" means a measured portion of a subdivision intended as a unit for transfer of ownership, lease, or for development; or a parcel of real property designated by a separate and distinct number or letter on a plat filed with the San Miguel County Clerk and Recorder or, when not platted in a recorded subdivision; a parcel of real property abutting upon at least one (1) public street or right-of-way and held under separate ownership.

2-170.A. Lot Area. "Lot area" means the total horizontal area within the lot lines of a lot.

2-170.B. Lot Depth. "Lot depth" means the shortest horizontal distance between the front and the rear lot lines measured in the mean direction of the side lot lines.

2-170.C. Lot Line, Front. "Front lot line" means the property line dividing a lot from the street.

2-170.D. Lot Line, Rear. "Rear lot line" means the line opposite the front lot line.

2-170.E. Lot Width. "Lot width" means the distance between the side lot lines measured congruent with the front yard setback line.

Section 2-171 Lot of Record

"Lot of record" means a lot or parcel of land, the deed to which was recorded in the office of the San Miguel County Clerk and Recorder prior to the adoption of Ordinance 231, Series of 1970.

Section 2-172 Lumen

“Lumen” is a unit of measurement of the amount of brightness that comes from a light source.

Section 2-173 Map

"Map" means a printed instrument depicting all or a portion of a land area in three dimensions.

Section 2-174 Master Plan or Telluride Master Plan

"Master Plan" means the 1987 Telluride Master Plan, as such plan has been adopted and as may be amended and subsequently adopted from time to time, and includes any part or unit of any such plan separately adopted and any amendment to such plan or parts thereof. It is a plan for the future growth, protection and development of the Town, which makes recommendations and policies to provide adequate facilities for housing, transportation, convenience, public health, safety and general welfare of its population.

Section 2-175 Mezzanine Level

See definition of “Floor”.

Section 2-176 Minimum Ceiling Height

For all buildings located on lots with frontage on Colorado Avenue, minimum height of the lowest finished ceiling including intermediate floors such as mezzanines and balconies above sidewalk grade shall be not less than eleven and three-quarters feet (11.75') measured from the average sidewalk grade along the building frontage to the bottom of the ceiling, such minimum to apply within an area extending into the building a distance of twenty-five (25) feet from the Colorado Avenue property line.

Section 2-177 Mixed Use Development

A single building containing more than one type of land use, such as Commercial and Multi-family development.

Section 2-178 Mobile Home Park

"Mobile home park" means a parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for dwelling or sleeping purposes, whether or not a fee is charged for use of the property, and which is operated and maintained by a person holding a mobile home park license (the "licensee").

2-178.A. Mobile Home. "Mobile home" means any vehicle or similar portable structure originally constructed to have no foundation other than wheels, jacks or skirtings and so designed or constructed to permit occupancy as living or sleeping quarters.

2-178.B. Mobile Home, Dependent. "Dependent mobile home" means a mobile home that does not have a flush toilet and a bath or shower.

2-178.C. Mobile Home, Independent. "Independent mobile home" mans a mobile home which has a flush toilet and a bath or shower.

2-178.D. Mobile Home Permit, Temporary. "Temporary mobile home permit" means a permit issued by the Town Council, allowing the physical location of a mobile home that is effective only for six (6) months and which is determined by the

Town Council to be necessary and vital for the promotion of the public health, safety and general welfare.

2-178.E. Mobile Home Space. "Mobile home space" means a plot of ground within a mobile home park designed for the accommodation of one mobile home.

Section 2-179 Net Floor Area

Net Floor Area means the Floor Area or Gross Floor Area and also includes Basement or Cellar space, minus:

i. the gross floor area of any exterior walls or any interior walls dividing differing uses in a Mixed Use building provided one-half of the common wall separating uses is included with the gross floor area calculation; and

ii. the gross floor area of any bathrooms, permanent storage areas (such spaces can never be converted to commercial or other space that generates employees or parking demand as evidenced by physical separation, access or an appropriate legal restriction that runs with the property) or garages; and

iii. the gross floor area of any halls or stairs.

Section 2-180 Nonconforming Building

"Nonconforming building" means a building or structure or portion thereof, the size, dimensions, or location of which was lawful prior to the adoption, revision or amendment to this Title, and which has been maintained since that time, but which fails by reason of such adoption, revision, or amendment, to conform to the present dimensional limitations of this Title.

Section 2-181 Nonconforming Use

"Nonconforming use" means a use or activity which was lawful prior to the adoption, revision, or amendment to this Title, and which has been maintained since that time, but which fails, by reason of such adoption, revision, or amendment, to conform to the present use requirements or limitations of this Title.

Section 2-182 Nonresident Landowner

"Nonresident landowner" means, for purposes of Article 6, Division 6, "Annexations", any person owning property in the area proposed to be annexed who is not a qualified elector and who is at least twenty-one (21) years of age as attested to by sworn affidavit.

Section 2-183 Occupancy

"Occupancy" is the purpose for which a building, or part thereof, is used or intended to be used.

Section 2-184 Occupied

"Occupied" includes arranged, designed, built, altered, converted, rented or leased, or intended to be occupied.

Section 2-185 Open Space

"Open space" means land uncovered by structures, streets, parking or driveways, or as the term may

be used within the Town's *Master Plan, Design Guidelines for Building in Telluride,* PUD review and application of the Open Space District.

Section 2-186 Parking Space

"Parking space" means a surfaced area, enclosed or unenclosed, sufficient in size and reserved for the parking or storage of one (1) motor vehicle, which complies with the standards of Section 3-109 of this Title.

Section 2-187 Parks

"Parks" shall mean a Town-owned non-commercial area that is predominantly open space, principally used for active recreation (organized activities such as softball, soccer, lacrosse, concerts, etc.) or passive recreation (hiking, biking, picnicking, nature viewing, etc.).

Section 2-188 Period of Notice for Hearing

"Period of notice for hearing" means the time between the effective date of the action establishing the hearing date and the date when such hearing first commences.

Section 2-189 Permit

"Permit" means any form of certificate, approval, registration, license or other written permission which is required by law, ordinance or regulation to be obtained before engaging in any activity.

Section 2-190 Person

"Person" means any individual, group of individuals, partnership, corporation, association, trust, company or other public or corporate body, and their agents or assigns. Person includes the federal government, any political subdivision, special district, agency, instrumentality or corporation of the state.

Section 2-191 Place of Assembly

"Place of assembly" means any room or space for the congregation or seating of one hundred or more persons.

Section 2-192 Planned Community

A "Planned Community" is a common interest community that is not a condominium or cooperative.

Section 2-193 Planning and Zoning Commission

"Planning and Zoning Commission" means the Telluride Planning and Zoning Commission, or "P&Z", as duly constituted by law.

Section 2-194 Plat

"Plat" means a printed instrument that is a land survey depicting all or a portion of a land area in two dimensions.

Section 2-195 Primary Facade

"Primary facade" means the exterior facade or facades of a structure or structures which contains a

principal pedestrian entrance and is oriented towards a street, or as otherwise designated by the Historic and Architectural Review Commission.

Section 2-196 Principal Structure or Building

"Principal structure or building" means the main structure or building on a lot or parcel in which the primary permitted use by right occurs.

Section 2-197 Private Garage

"Private garage" means a building used only for the housing of motor vehicles, without their equipage for operation, repair, hire or sale.

Section 2-198 Professional Engineer

"Professional engineer" means an engineer duly registered and licensed in the state of Colorado pursuant to C.R.S. 12-25-100.

Section 2-199 Professional Office

“Professional Office” means an office or studio in a room or group of rooms for the practice of a profession, including but not limited to offices for physicians, dentists, lawyers, geologists, architects, planners, engineers, accountants, real estate agents/brokers and land surveyors. A “Professional Office” is considered a type of “Business Office” unless specifically provided to the contrary.

Section 2-200 Proponent

"Proponent" means any person or party who presents items before the Town for review.

Section 2-201 Public Facility

"Public facility" means any structure, building or land use furthering any governmental, civic or public service function necessary or convenient to the health, safety, morals or general welfare of the public.

Section 2-202 Public Facilities Land

Public Facilities Land means that portion of land deeded or dedicated to the Town by a landowner or developer for the benefit of the public for the construction or operation of public parks, open space, recreational or other municipal facilities.

Section 2-203 Public Garage

"Public garage" means a garage other than a private garage.

Section 2-204 Public Improvements

"Public improvements" means all physical improvements upon a subdivision site erected, constructed or installed for dedication to or benefit of the general public or a public agency.

Section 2-205 Qualified Arborist

“Qualified Arborist” means an individual who, by possession of a recognized degree, certification, or professional standing, or through related training and on-the-job experience, is

familiar with the equipment and hazards involved in the arboricultural operations and possesses the competence to provide for or supervise the management of trees and other woody plants.

Section 2-206 Qualified Elector

"Qualified elector" means, for purposes of Article 6, Division 6, "Annexations", a registered elector, as defined in Part 1 of Article 1 of Title 31 C.R.S., who is a resident landowner of the area proposed to be annexed.

Section 2-207 Quasi-Municipal Corporation

"Quasi-municipal corporation" means a corporation vested with the municipal powers for the accomplishment of a limited municipal purpose, including but not limited to domestic water districts, metropolitan districts, sanitation districts, water and sanitation districts, fire protection districts, recreation districts and disposal districts.

Section 2-208 Recreation Club

"Recreation club" means a building devoted to public use, including such facilities as golf clubhouses, swimming pool clubhouse, tennis clubhouse, playground and play field activity centers or clubhouses, and may include kitchen facilities, assembly halls, meeting rooms, locker facilities, etc.

Section 2-209 Renewable Energy Fixtures and Equipment

"Renewable energy fixtures and equipment" means any device that is necessary to the generation of electricity through the means of renewable energy on or off site. This could include, but is not limited to; solar hot water panels, photovoltaics, pole mounts, and batteries.

Section 2-210 Registered Land Surveyor

"Registered land surveyor" means a land surveyor duly registered and licensed in the state of Colorado pursuant to C.R.S., 12-25-200.

Section 2-211 Replat

"Replat" means vacation of an existing subdivision plat, and a subsequent or contemporaneous platting of the same property or any portion thereof.

Section 2-212 Resident

"Resident" means, for purposes of Article 6, Division 6, "Annexations", one who makes his primary dwelling place within an area proposed to be annexed.

Section 2-213 Residential Zone District

"Residential Zone District" means any of the following zone districts: Hillside Transitional, Hillside Developing One, Hillside Developing Two, West Hillside, Residential, Historic Residential, and Medium Density Residential whose purpose is primarily for residential purposes and accessory uses.

Section 2-214 Resubdivision

"Resubdivision" means the further division of any lot or unit as designated on any subdivision plat

previously recorded with the County Clerk.

Section 2-215 Retail Commercial Uses

"Retail Commercial Use" means a commercial business that provides goods and / or services directly to the consumer, where such goods are available for either immediate purchase and removal from the premise by the purchaser; or for immediate consumption within the premise by the purchaser. Examples of such uses include galleries, toy stores, T-shirt shops, souvenir shops, drug stores, restaurants, bars or chocolate shops.

Section 2-216 Reviewing Body

"Reviewing body" means the Town Council, the Planning and Zoning Commission, the Historic and Architectural Review Commission, or the Board of Adjustment, as the context may require.

Section 2-217 Ridge Line

"Ridge Line" shall mean the intersection of two roof planes, or the highest horizontal edge of a single roof surface, forming the highest horizontal line of the roof.

Section 2-218 Roadway

"Roadway" means that portion of the street right-of-way designed for vehicular traffic.

Section 2-219 Rooming House

See definition of Boarding House

Section 2-220 Roof Height

"Roof height" means the vertical distance between the highest point of the roof or parapet of one building, and the average finished grade of the front lot line or the average finished grade of the front yard eight feet (8') from the structure, whichever distance is less.

Section 2-221 School

"School" means a public or private organization or institution that provides for the education of people by teachers, including but not limited to daycare facilities, preschools, elementary schools, high schools, colleges or universities.

Section 2-222 Secondary Structure or Building

"Secondary structure or building" means a non-attached building that contains a dwelling unit and meets applicable dimensional limitations for a secondary structure.

Section 2-223 Service Commercial Limit

"Service Commercial Limit" shall mean a numeric limit on the amount of Building Frontage in the Commercial Core or such other area as the Town may desire to limit the total amount of Service Commercial Uses. Please refer to Section 3-213.F of this Code.

Section 2-224 Service Commercial Uses

"Service Commercial Use" means a commercial business, Professional Office or Business Office that provides services directly to the consumer. Examples of such uses include dentists,

attorneys, architects, insurance agents, surveyors, title companies, massage therapists, financial institutions and mortgage companies.

Section 2-225 Service Yard

"Service yard" means any yard area utilized for storage of materials or vehicles accessory to, or used in conjunction with, the principal use of the lot or building, or used for garbage or trash containers, or for the location of mechanical equipment accessory to the principal building or use. All commercial and public service yards shall be fenced so as not to be visible from the street, and such fences shall be a minimum of six (6) feet above grade, or as otherwise approved by H.A.R.C.

Section 2-226 Separate Interests

"Separate interests" means any division of substantial interests in real estate. "Substantial interests" includes, but is not limited to, fee title, future interests, leasehold interests, life estates or other interests in which the holder has sufficient control to restrict the use of the land by other parties.

Section 2-227 Setback

"Setback" means the horizontal distance between a lot line, and the exterior wall or surface of a building. (See Appendix to Article 2 for associated Land Use Code graphic.)

Section 2-228 Shop Craft Industry

"Shop craft industry" means any establishment producing a one-of-a-kind object, the display or sale of which contributes to and enhances the cultural climate peculiar to the area.

Section 2-229 Short-term Dwelling Unit

"Short-term Dwelling Unit" means a Dwelling Unit as defined in Section 2-140, which is deed restricted such that no person shall be allowed to reside in or occupy such unit for a period greater than thirty (30) consecutive days, or a total of sixty days in any single calendar year. The deed restriction for such unit shall also, at a minimum:

2-229.A. require the unit be registered through a property management company for short-term rental uses or an alternative technique to guarantee availability of the unit for short-term rental;

2-229.B. require submission to the Planning Director on a semi-annual basis a report consisting of: i) evidence such unit is available for short-term uses, and at reasonable rates relative to the Town short-term rental market, ii) the occupancy rate of such unit, and iii) evidence that the occupancy level for short-term uses is generally consistent with similar type units available for short-term rental in Town; and

2-229.C. provide that in the event of a violation the Town may require compliance with Land Use Code provisions applicable to non-deed restricted units (including but not limited to, parking, water and sewer tap fees, and dimensional variations) as well as pursue any and all other remedies available to the Town for Land Use Code violations.

Such deed restriction may be transferred to another unit upon the approval of P&Z.

Section 2-230 Sign

"Sign" means any device or image fixed to, painted on, or incorporated in the building surface, or displayed from or within a building or structure, or freestanding upon the site, and which is visible from a public right-of-way, which conveys or directs a message to the public concerning the identification of the premises, any land use or activity conducted on the premises, or which advertises or promotes the interest of any private or public firm, person or organization.

Section 2-231 Sign Area

"Sign area" means the area of the plane geometric figure which encompasses the facing of a sign, including copy, insignia, background and borders.

Section 2-232 Site Coverage

Site coverage means that portion of a lot or parcel that is covered by buildings, measured where the exterior wall meets the foundation, excluding open decks and porches, roof eaves, and stoops. Portions of the building which project beyond the foundation wall and enclose floor area, such as bays and basement spaces, shall count toward site coverage. Basements which are completely below pre-construction grade that are used exclusively for the storage of vehicles and for associated storage shall not be counted towards site coverage. However, for basements which are used exclusively for the storage of vehicles and for associated storage that project above pre-construction grade, only that portion of such basements that project above pre or post construction grade, whichever is more restrictive, shall count toward site coverage. (See Appendix to Article 2 for associated Land Use Code graphic.)

Section 2-233 Site Specific Development Plan

"Site specific development plan" means a plan which has obtained final development approval from the Town through the land use approval process, including notice and public hearing, and which describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of property and includes all of the terms and conditions of such approval. Site specific development plans may include, or be in the form of, a planned unit development (PUD) plan, a subdivision plat, a subdivision improvements agreement, a use or activity permitted on review, a development agreement, a certificate of appropriateness, or such other document as identified and agreed upon by the Town and a landowner or developer. A license, map, variance, easement or permit shall not constitute a site specific development plan.

Section 2-234 Story

"Story" means that portion of a building included between the surface of any floor, except the basement floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor surface and the ceiling next above it shall be considered the "story."

Section 2-235 Street

"Street" means a public or private way, other than an alley, which affords the principal means of access to abutting property. Street includes any street, avenue, boulevard, road, lane, parkway, square, viaduct, or other way for the movement of vehicular or pedestrian traffic which is an existing street, county or municipal roadway, or a street or right-of-way shown upon a plat, recorded pursuant to law. The term includes the land between street lines, whether improved or

unimproved, and may comprise pavement, shoulder, gutters, sidewalks, parking areas and other areas within the right-of-way. For the purposes of this Title, streets shall be classified as follows:

2-235.A. Alley. "Alley" means a public way permanently reserved as a secondary means of access, which is used primarily for vehicular service access to the rear or side property otherwise abutting on a major street.

2-235.B. Cul-de-sac. "Cul-de-sac" means a short dead-end street terminating in a vehicular turnaround area.

2-235.C. Arterial Street. "Arterial street" means a street designed to carry heavy vehicular traffic from one part of the municipality to another.

2-235.D. Local Street. "Local street" means a street designed to carry vehicular traffic from one (1) or more individual units to or from an arterial street.

Section 2-236 Structure

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

Section 2-237 Structural Alteration

"Structural alteration" means any addition to or subtraction of parts of a building, including walls, columns, beams, girders, foundations, doors and windows.

Section 2-238 Subdivider

"Subdivider" means any person, firm, partnership, joint venture, association or corporation who participates as owner, promoter, developer or sales agent in the planning, development, promotion, sale or lease of a subdivision.

Section 2-239 Subdivision

2-239.A. Subdivision. “Subdivision" means the division of any land into two (2) or more lots, parcels, tracts, plats, sites, or separate interests, or such other division, for the purpose, whether immediate or future, of sale or transfer of ownership, or for building or other development, or for the creation of streets or other rights- of-way. Subdivision shall also mean the consolidation, aggregation, and reconfiguration of lots. Unless the division of land as specified below is undertaken for the purpose of evading this, Section, "subdivision" does not apply to any division of land:

2-239.A.1. Which is created by order of a court of competent jurisdiction in this state or by operation of law, provided that the Town is given notice of and an opportunity to participate in any judicial proceedings prior to the entry of any such court order;

2-239.A.2. Which is created by a lien, mortgage, deed of trust or any other security instrument.

2-239.A.3. Which creates cemetery lots;

2-239.A.4. Which creates an interest in oil, gas, minerals or water which is severed from the surface ownership or real property; or

2-239.A.5. Which is created by the acquisition of an interest in land by reason of marriage or blood relationship. Any such interest is for the purposes of this section a single interest.

2-239.B. Exemption. The Town Council, upon recommendation of P&Z, may exempt from this definition any division of land, if it determines such division is not within the purposes of Article 6, Division 4, the subdivision regulations.

Section 2-240 Subdivision Improvements Agreement

A subdivision improvements agreement (SIA) is a written contract between the Town and a subdivider providing for and describing conditions of approval for the subdivision. It shall, at a minimum, set forth construction specifications for required public improvements, provide dates for completion of the improvements, and identify the terms and conditions for the acceptance of the improvements by the Town. It shall also provide for such financial assurances as necessary to insure the proper and timely installation of improvements.

Section 2-241 Subdivision Plat

"Subdivision plat" means a map of certain described land prepared by a registered land surveyor in accord with Article 6, Division 4, the Subdivision Regulations, as an instrument for recording of real estate interests with the County Clerk.

2-241.A. Final Plat. "Final plat" means the final map, drawn and submitted in accord with the Subdivision Regulations, as an instrument for recording of real estate interest with the County Clerk.

2-241.B. Preliminary Plan. "Preliminary plan" means the map of a proposed subdivision and supporting materials, drawn and submitted in accord with the Subdivision Regulations, to permit review of detailed engineering and design.

Section 2-242 Substantial Conformity

"Substantial conformity" means there is no variation from the preliminary plan, other than minor changes in the size of lots, location of lot lines, easements or streets. "Substantial conformity" does not include any change in types or numbers of land uses, any variance in residential density, any change in location of a public right-of-way in excess of five feet (5') or any variation of a dimensional limitation in excess of five percent (5%).

Section 2-243 Taxpayer

"Taxpayer" means, for purposes of Article 6, Division 6, "Annexations", any person who has paid or becomes liable for ad valorem taxes on real property located in the area proposed to be annexed during a specified period of time.

Section 2-244 Telluride Affordable Housing Guidelines

“Telluride Affordable Housing Guidelines” shall mean those guidelines adopted by THA and

Town Council to apply to affordable housing and designated employee dwelling units as defined herein. These guidelines may contain standards including but not limited to ownership, sale and resale, rental and rental rates, deed restriction, use and occupancy, qualification and eligibility (including standards of both employment and economic means) and size and construction.

Section 2-245 Telluride Housing Authority

"Telluride Housing Authority" or "T.H.A." shall mean the quasi-governmental entity created by the Town of Telluride that is charged with providing affordable housing and overseeing the Town's affordable housing program.

Section 2-246 T.H.A.

See Telluride Housing Authority.

Section 2-247 T.H.A. Qualified Household

"T.H.A. Qualified Household" as applied to designated employee dwelling units or affordable housing, shall mean any person or group of persons who meet(s) the standards of qualification described in the Telluride Affordable Housing Guidelines.

Section 2-248 Time Share Project Instruments

"Time-share project instruments" means any document, by whatever name denominated, creating or regulating time-share projects or units and containing the restrictions or covenants regulating

the use, occupancy or disposition of a time-share project or unit, including any amendments or supplements thereto, but excluding any law, ordinance or governmental regulation.

Section 2-249 Time Sharing

"Time-sharing", "time-share" and/or "time-share interest" as permitted and regulated by this section means "interval estate," "time-share estate," or "timespan estate" as such are defined in C.R.S. 38-33-110, 1973, as such may be amended from time to time, or any other similar concept of property ownership involving either interval ownership or fractional fee interests as may be determined by the town council. "Time-sharing" shall not include a time-share license or use.

Section 2-250 Tree Fund

"Tree Fund" means a dedicated fund available to the Parks and Recreation Department and Public Works Department to support Tree Maintenance and planting of public trees and related public programs which promote a healthy urban forest.

Section 2-251 Tree Maintenance

"Tree Maintenance" means the selective pruning to remove one or more of the following parts: dead, diseased, and/or broken branches. Removal of live branches is permitted provided not more than twenty five percent (25%) of the foliage is removed within an annual growing season so long as it does not endanger the life of the tree.

Section 2-252 Tree Topping

"Tree Topping" means the practice of removing large branches and/or trunks from the top of a

tree's canopy. Topping is often harmful for the tree and not an acceptable Tree Maintenance pruning practice.

Section 2-253 Urban Development

"Urban development" means, for purposes of Article 6, Division 6, "Annexations", the construction on land of improvements for residential, institutional, commercial, industrial, transportation, public flood control, and recreation and similar uses, in contrast to the use of the land for growing crops, truck gardening, grazing of farm animals and other agricultural pursuits. The term also applies to vacant ground which has been or is being prepared for urban development by such steps as subdivision into lots or plots and blocks, installation of water and sewer lines, construction of access streets, and construction of railroad spur or branch tracks.

Section 2-254 Use

"Use" means the purpose for which land or a building is designated, arranged or intended, or for which it either is or may be occupied or maintained.

Section 2-255 Vehicle Repair Shop

"Vehicle repair shop" means a business which repairs or services automobiles and other vehicles. Such uses shall meet the following limitations:

2-255.A. Storage. Storage or accessory materials shall be located within a structure.

2-255.B. Drainage. An adequate drainage system shall be designed and installed to ensure that corrosive materials, petroleum wastes, etc., do not contaminate the natural drainage system.

2-255.C. Traffic Hazards. Access drives and parking areas shall be designed so that no traffic hazards are created. All vehicle storage shall be provided on-site.

2-255.D. Junkyards Prohibited. All motor vehicles on the premises must carry a current registration and show a work order with a reasonable completion date, not to exceed thirty (30) days. It is the intent of this section not to allow junkyards or salvage yards.

Section 2-256 Vested Property Right

"Vested property right" means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan as defined under Section 5-208 of this Title.

Section 2-257 Vitality Setback

"Vitality Setback" shall mean a horizontal distance measured perpendicularly between the front exterior of the building and an interior wall of a Retail Commercial Use that is designed to maintain Retail Commercial Use within the Vitality Setback and the associated commercial vitality within the Town's Commercial Core.

Section 2-258 Wetland

"Wetland" means areas including lakes, rivers, streams, intermittent streams, ponds, sloughs

areas of seasonal standing water, or 2) those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as such areas are specifically delineated as provided for in the 1987 edition of the Corps of Engineers Wetlands Delineation Manual. Wetlands generally include fens, swamps, marshes, bogs, and similar areas. Manmade lakes or ponds built for the purpose of detaining runoff are not considered wetlands in the context of the LUC.

Section 2-259 Wireless Telecommunication Facility

"Wireless telecommunication facility" means a facility that transmits and/or receives electromagnetic signals, including antennas, microwave dishes, parabolic antennas, directional antennas and other types of equipment for the transmission or reception of such signals, towers, or similar structures supporting the equipment, equipment buildings, shelters, cabinets, parking area, and other accessory development.

Section 2-260 Yard

"Yard" means a space on the same lot with a building, open, unoccupied and unobstructed by buildings or structures from the ground upward, except as otherwise provided in this Title, or as authorized by the Uniform Building Code. Yards are classified as follows:

2-260.A. Yard, Front. "Front yard" means a yard extending the full width of the lot or parcel, the depth of which is measured in the least horizontal distance between the front lot line and the nearest wall of the building, such distance being referred to as the "front yard setback."

2-260.B. Yard, Rear. "Rear yard" means a yard extending the full width of the lot or parcel, the depth of which is measured in the least horizontal distance between the rear lot line and the nearest wall of the building, such depth being referred to a the "rear yard setback."

2-260.C. Yard, Side. "Side yard" means a yard extending from the front yard to the rear yard, the width of which is measured in the least horizontal distance between the side lot line and the nearest wall of the building, such width being referred to as the "side yard setback".

(Ord. 1422, 2015; Ord. 1353, 2011; Ord. 1342, 2010; Ord. 1333, 2010; Ord. 1317, 2009; Ord. 1316, 2009; Ord. 1303, 2009; Ord. 1278, 2007; Ord. 1277, 2007; Ord. 1250, 2006; Ord. 1248, 2006; Ord. 1247, 2006; Ord. 1213, 2004; Ord. 1177, 2002; Ord. 1163, 2002; Ord. 1112, 1999; Ord. 1106, 1998; Ord. 1095, 1997; Ord. 1092, 1997; Ord. 1071, 1997; Ord. 1059, 1996; Ord. 1033, 1995; Ord. 1011, 1994; Ord. 1005, 1994; Ord. 985, 1993; Ord. 975, 1993; Ord. 970, 1992; Ords. 948 and 924, 1991; Ords. 912 and 910, 1990; Ord. 868, 1989; Ord. 817, 1988; Ord. 687, 1985; Ords. 497, 1982; Ord. 493, 1982; Ord. 492, 1982; Ord. 452, 1980; Ord. 441, 1980; Ord. 434, 1980; Ord. 422, 1980; Ord. 419, 1980; Ord. 297, 1975; Ord. 247, 1972; Ord. 231, 1970)

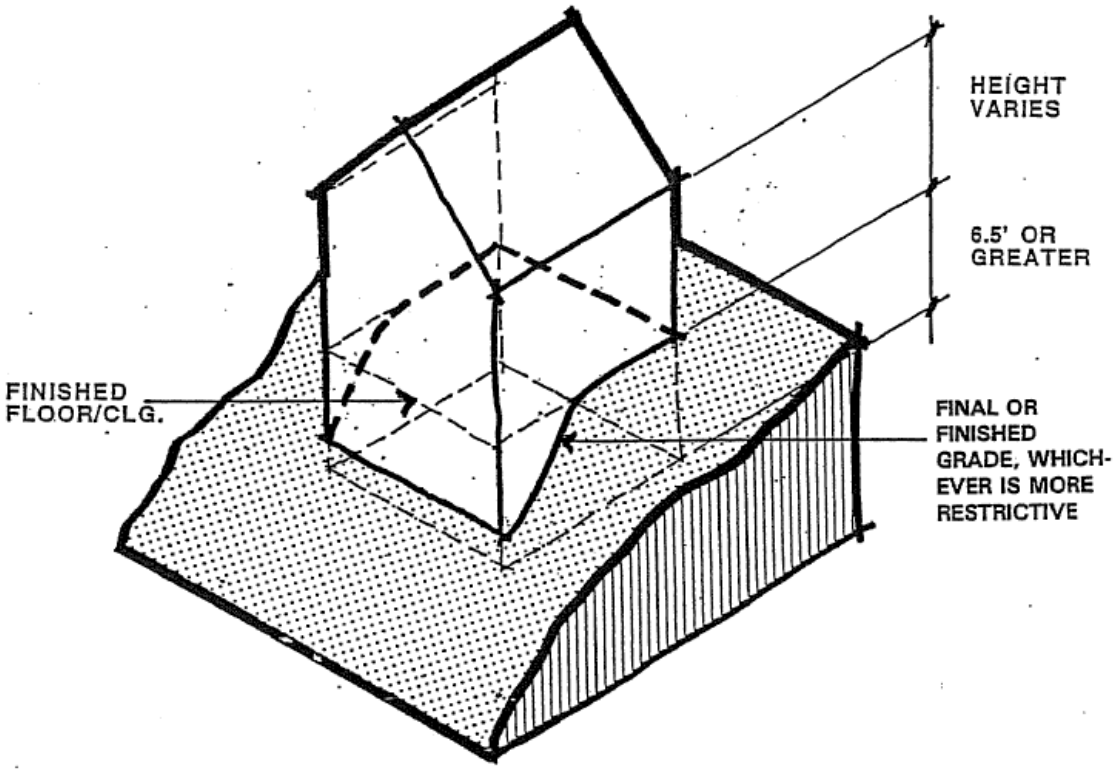
APPENDIX TO ARTICLE 2 DEFINITIONS

These illustrations clarify selected definitions set forth in Article 2, Divisions 1 and 2, "General Land Use Code Definitions". This Appendix may be referred to as Appendix to Article 2.

(Ord. 1353, 2011; Ord. 1317, 2009; Ord. 1316, 2009; Ord. 1304, 2009; Ord. 1278, 2007; Ord. 1277, 2007; Ord. 1250, 2006; Ord. 1248, 2006; Ord. 1247, 2006; Ord. 1213, 2004; Ord.1005, 1994; Ord. 985, 1993)

Section 2-111 Basement or Cellar

"Basement" or "Cellar" See definition of “Floor”.



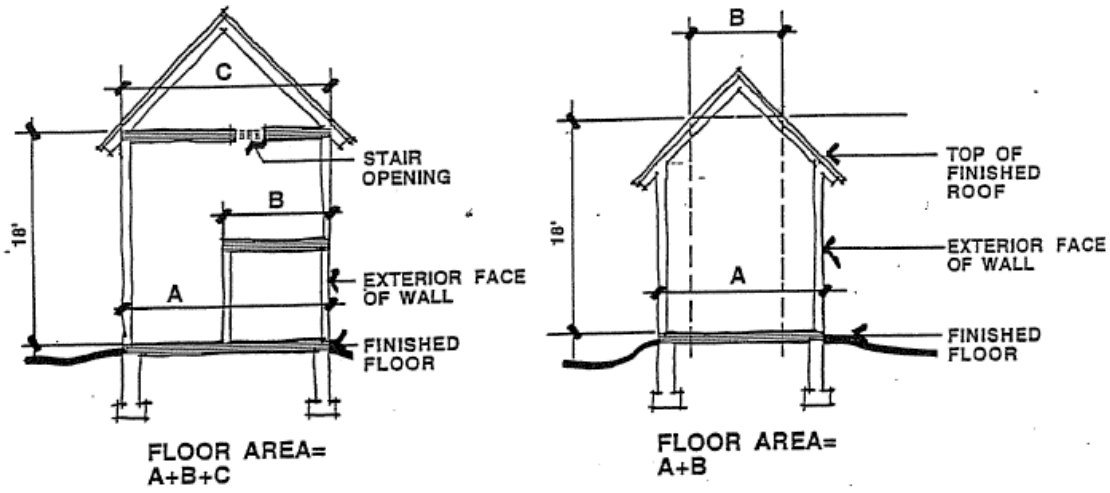
Section 2-150 Floor Area or Gross Floor Area

2-150.A. **Generally.** "Floor Area" or "Gross floor area" means the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings, plus the floor area projected over stair openings. Basement for cellar space in all zone districts shall not be counted as floor area except as follows:

1. When used for commercial purposes in a zone district other than Historic Commercial or Commercial where commercial uses are limited, either as a use by right or as a use permitted on review, basement or cellar space shall be included in the calculation of floor area permitted to be occupied by that use.

2. When calculating parking and affordable housing mitigation, cellar or basement space shall be included.

2-150.B. **Residential, Hillside Transitional and Historic Residential Districts.** In the Residential, Hillside Transitional and Historic Residential Districts, "Floor Area" or "Gross floor area" shall mean the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings, plus the floor area projected over stair openings. Floor area which is covered by a ceiling height, as measured from top of finished floor to top of roof covering, of greater than eighteen feet (18') shall be counted twice, regardless of the presence of a loft or interior ceiling.



Section 2-159 Height Of Building

Unless otherwise provided in any specific zone district, "height of building" or "building height" means the vertical distance between the following two points:

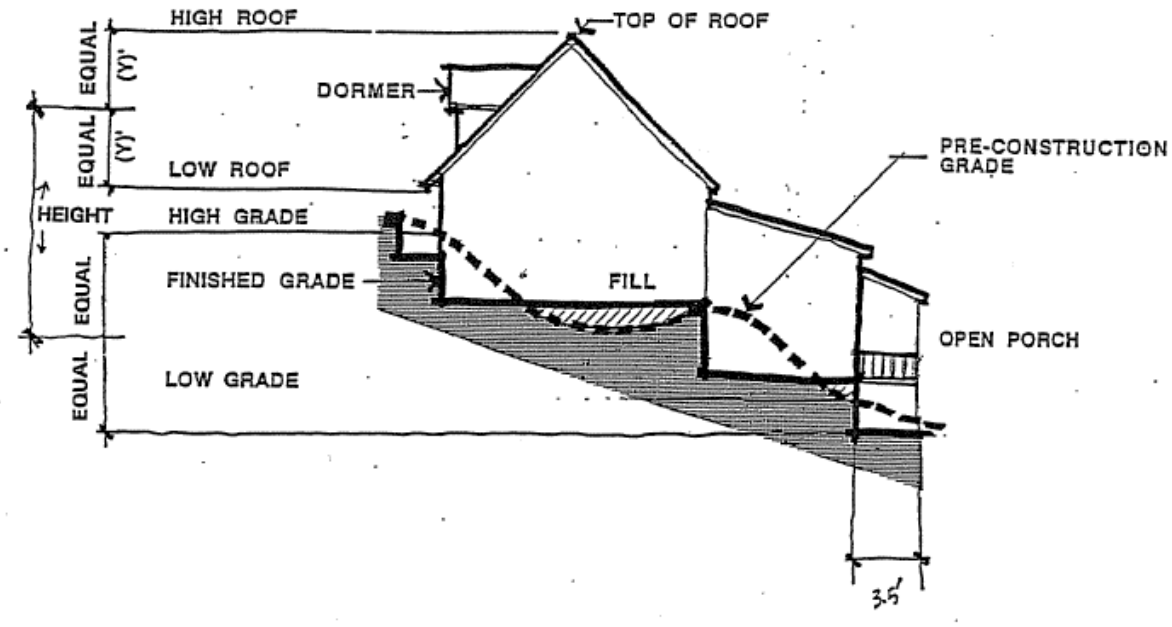
2-159.A. the average of the pre-construction grade of the building's site coverage, or the average of the post construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the exterior perimeter of the building's site coverage), whichever is more restrictive;

2-159.B. the points specified for the following types of roofs:

2-159.A.1. **Flat roof.** Height shall be measured to the highest point of the building, including parapet walls and rooftop appurtenances, but excluding architectural features and chimneys which may be permitted by H.A.R.C.

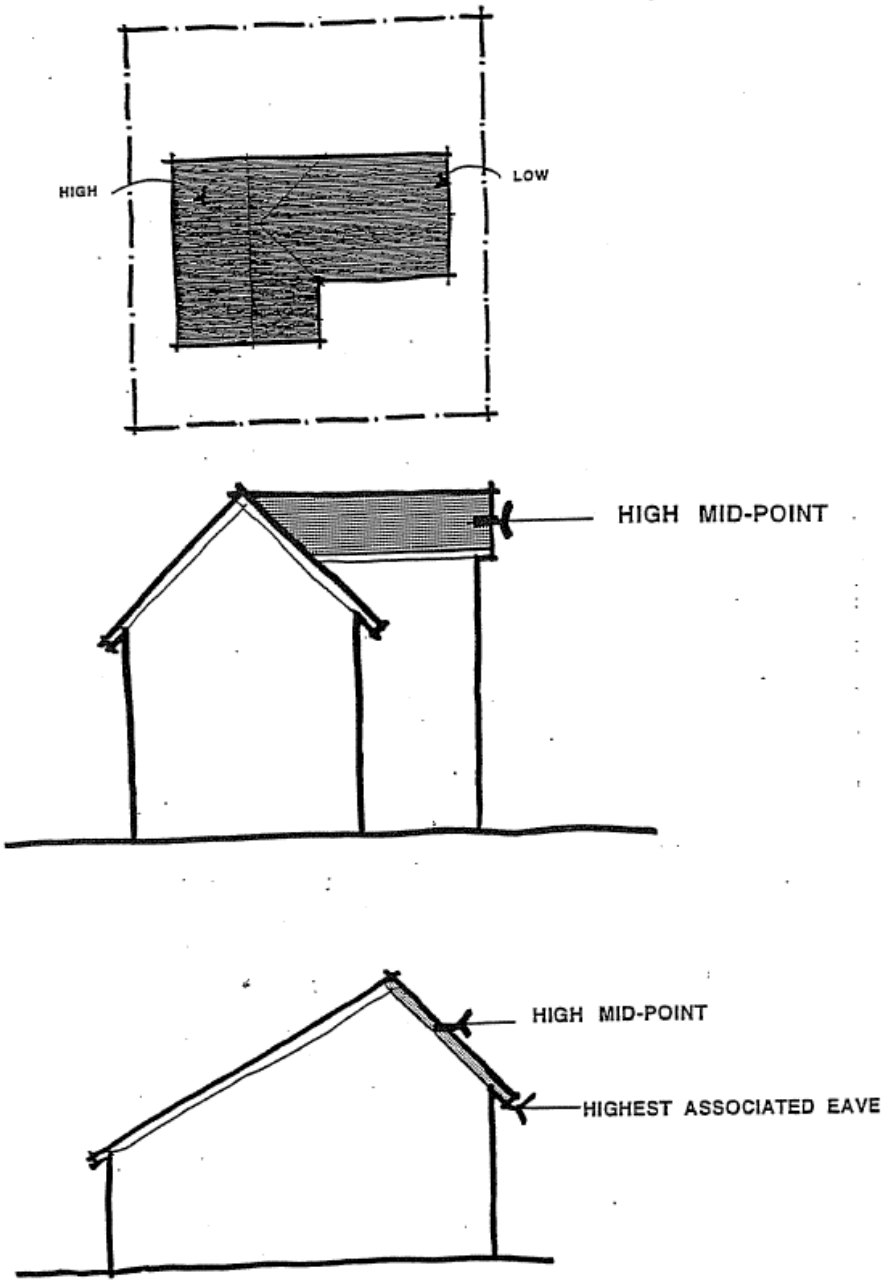
2-159.A.2. **Gable, hip, gambrel or shed roof.** Height shall be measured to the mean height level between the highest ridge or wall and its highest associated eave, provided, however, that if any parapet wall equals or exceeds the height of the highest ridge, then vertical distance shall be measured to the highest point of the parapet.

2-159.A.3. **Mansard roof.** Height shall be measured to the decline of the roof.



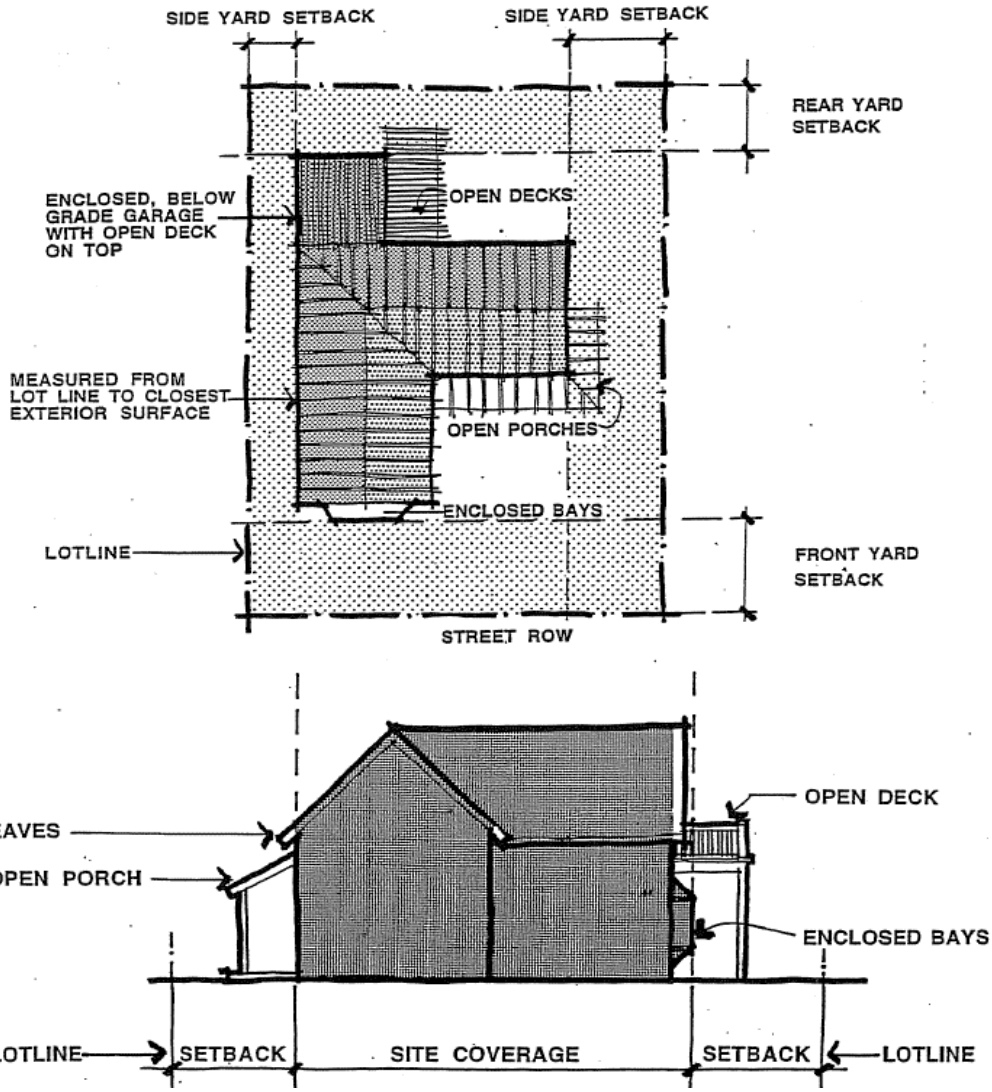
Section 2-159 Height Of Building (Continued)

2-159.C. No wireless telecommunication facilities or equipment shall be erected on or attached to the roof of any building or structure, unless approved pursuant to Section 7-214 of this Title.



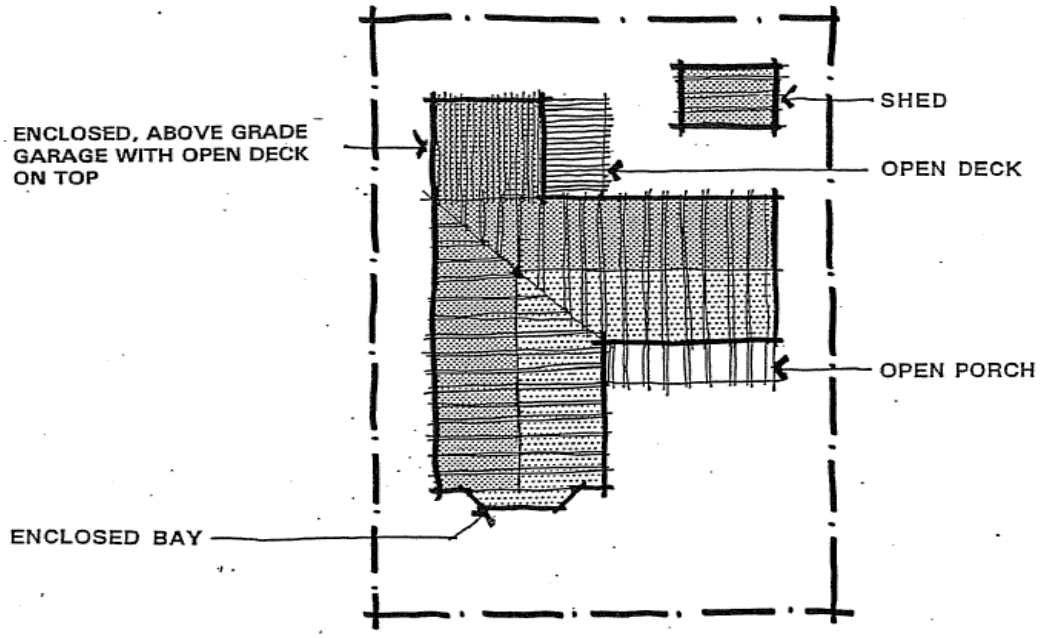
Section 2-227 Setback

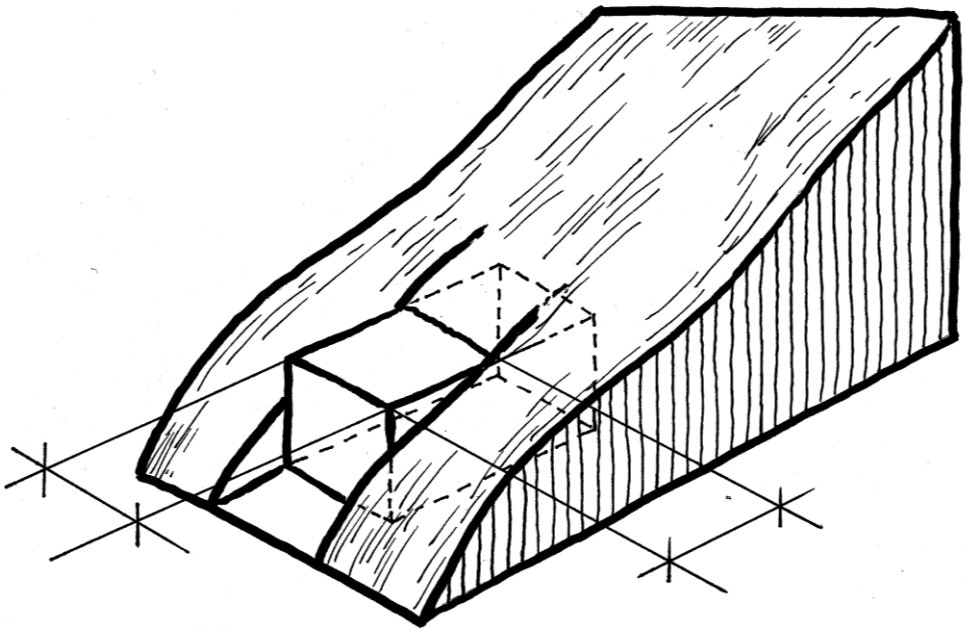
"Setback" means the horizontal distance between a lot line, and the exterior wall or surface of a building.



Section 2-232 Site Coverage

Site coverage means that portion of a lot or parcel that is covered by buildings, measured where the exterior wall meets the foundation, excluding open decks and porches, roof eaves, and stoops. Portions of the building which project beyond the foundation wall and enclose floor area, such as bays and basement spaces, shall count toward site coverage. Basements which are completely below pre-construction grade that are used exclusively for the storage of vehicles and for associated storage shall not be counted towards site coverage. However, for basements which are used exclusively for the storage of vehicles and for associated storage that project above pre-construction grade, only that portion of such basements that project above pre or post construction grade, whichever is more restrictive, shall count toward site coverage.





DIVISION 3 DEFINITIONS FOR HISTORIC AND ARCHITECTURAL REVIEW

The words and phrases set out in this Division shall have the meaning ascribed to them below and shall be applicable to terms used in Article 7, Historic and Architectural Review.

Section 2-301 Addition

"Addition" means any work which adds increased square footage to an existing structure.

Section 2-302 Alteration

"Alteration" means any change, rearrangement, reduction or diminution to the exterior surface of an existing building, including but not limited to changes in doors, windows and exterior materials. An alteration shall not increase a structure's or building's floor area.

Section 2-303 Annual Report

"Annual report" means a report compiled by H.A.R.C. pursuant to Article 7.

Section 2-304 Area

"Area" means any land or buildings having notable character or qualities of historical and/or architectural significance as determined by H.A.R.C. An "area" may include structures or other physical improvements on, above or below the surface of the earth.

Section 2-305 Axonometric Projection

"Axonometric projection" means a drawing by lines in which a rectangular solid appears as inclined and shows three faces.

Section 2-306 Certificate of Appropriateness

"Certificate of Appropriateness" ("CA") means the official document issued by H.A.R.C. approving an application for permit for the erection, movement, renovation, restoration, alteration or demolition of any structure or sign in the Historical Preservation Overlay District.

Section 2-307 Compatibility

"Compatibility" means harmony in the appearance of two (2) or more buildings, structures and landscape developments in the same vicinity.

Section 2-308 Contributing Structures

"Contributing structures" means those structures or buildings which exist in comparatively original condition, or have been appropriately restored and clearly contribute to the historical significance of the Historic Preservation Overlay District.

Section 2-309 Demolition

"Demolition" means the total or partial destruction, disassembly, dismantling, damage, razing, or tearing down of a structure or any portion thereof. The term includes the removal of any material constituting part of the structure other than for purposes of ordinary maintenance or repair, which removal affects the exterior appearance of the structure, or which reduces the stability or longevity

of the structure. The term excludes the sudden or cataclysmic destruction of or damage to a structure due to acts of God, including fire, earthquake, wind, flood, or avalanche.

Section 2-310 Demolition By Neglect

"Demolition by neglect" means any total or partial destruction of or damage to a structure or any portion thereof, due to the failure of the structure's owner(s) or lessee(s) to adequately maintain or repair the structure.

Section 2-311 Design Guidelines

"Design Guidelines" means design criteria used by H.A.R.C. to judge the appropriateness of a project in a particular treatment area, as set forth in *Design Guidelines for Building in Telluride*, September 1997 edition.

Section 2-312 Designated Building

"Designated Building" means a building or structure which is "contributing", "supporting", "non-contributing with qualifications", or "non-contributing without qualifications", as designated in the *THAS*.

Section 2-313 District

"District" means the Historic Preservation Overlay District, unless the context otherwise requires, in which case "District" shall refer to the Telluride Historic Landmark District.

Section 2-314 Elevation

"Elevation" means a drawing at the appropriate scale which represents the front, side or rear facade of a structure.

Section 2-315 Erection

"Erection" means the process of building any structure.

Section 2-316 Exterior Architectural Feature

"Exterior architectural feature" means the architectural style and general arrangement of the exterior of the structure, including type and texture of the building materials, and including all windows, doors, lights, signs and other fixtures appurtenant thereto.

Section 2-317 External Improvement

"External improvement" means any structure, landscape element or other object constituting a physical betterment of real property which is visible from a public way or adjoining properties.

Section 2-318 General Standards For Review

"General standards for review" means a basic framework which outlines appropriate architectural and functional criteria for construction activity in Telluride. These general standards are used by H.A.R.C. in reviewing projects in any part of the town and are contained within the handbook entitled *Design Guidelines for Building in Telluride*.

Section 2-319 Good Repair

"Good repair" means a condition which not only meets minimum standards of health and safety,

but which guarantees continued attractiveness, continued structural soundness and continued usefulness.

Section 2-320 Historical and/or Architectural Significance

"Historical and/or architectural significance" means that which has a special historical or architectural interest or value as part of the development, heritage or cultural character and background of the Town and its environs.

Section 2-321 Historic Preservation Overlay District

"Historic Preservation Overlay District" means a zone district established for the purposes enumerated in Article 7 within which H.A.R.C. shall have jurisdiction to exercise its authorized duties and powers.

Section 2-322 Impact Statement

"Impact statement" means a brief written summary indicating the intent, scope and effects of a proposed project.

Section 2-323 Local Landmark

"Local landmark" means an individual structure or property designated by H.A.R.C. and the Town Council to be historically and/or architecturally significant, pursuant to Article 7, Division 3, "Designation of Landmarks".

Section 2-324 Mass

"Mass" means the total size and dimension of the three (3) dimensional space which a building or structure occupies.

Section 2-325 Moving

"Moving" means any relocation, repositioning or removal of a structure.

Section 2-326 Non-Contributing Structure With Qualifications

"Non-contributing structure with qualifications" means a structure which has had substantial alteration or addition, and which, in its present condition, does not substantially contribute to the historic character or architectural integrity of the District except regarding the structure's mass, scale, and relationship to adjacent properties, but which structure could so contribute after substantial restoration.

Section 2-327 Non-Contributing Structure Without Qualifications

"Non-contributing structure without qualifications" means a structure that does not contribute to the historic character of the District except for the structure's mass, scale, and relationship to adjacent properties, and which has been altered to such an extent that historic information is not interpretable and restoration may not be possible.

Section 2-328 Non-Designated Structure

"Non-designated structure" means a structure or building not designated or listed in the *Telluride Historic and Architectural Survey*.

Section 2-329 Non-Rated Structure

"Non-Rated Structure" means a structure or building identified as "non-contributing with qualifications" or as "non-contributing without qualifications" in the 1986 or 1987 *Telluride Historic and Architectural Survey*.

Section 2-330 Ordinary Maintenance and Repair

"Ordinary maintenance and repair" means any work for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration or decay of or damage to a structure or any part thereof or to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage, and which work, in the judgment of the Building Official, does not substantially alter the appearance, composition, or texture of the exterior surface of the structure or sign.

Section 2-331 Originating Site

"Originating Site" means the lot or parcel of land on which a relocated structure was situated prior to its relocation.

Section 2-332 Period of Significance

"Period of significance" means the time period from 1878 to 1913.

Section 2-333 Preservation

"Preservation" means stabilizing and maintaining a structure in its existing form by preventing further change or deterioration.

Section 2-334 Rated Structure

"Rated structure" means a structure or building identified as "contributing" or "supporting" in the 1986 or 1987 *Telluride Historic and Architectural Survey*.

Section 2-335 Receiving Site

"Receiving site" means the lot or parcel of land on which a structure is situated after its relocation.

Section 2-336 Rehabilitation

"Rehabilitation" means the upgrading of a building or structure previously in a dilapidated or substandard condition for human habitation or use.

Section 2-337 Relocation

"Relocation" means moving a structure to a new location within the Town, but does not include repositioning of a structure on the same site.

Section 2-338 Remodeling

"Remodeling" means to physically change the appearance and/or function of a building from its original design.

Section 2-339 Renovation

"Renovation" means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

Section 2-340 Removal

"Removal" means the act of moving a structure from its present location in the Town. The term "removal" includes relocation, but not repositioning, of a structure.

Section 2-341 Reposition

"Reposition" means the moving of a structure to a different location on the same lot or parcel of land on which the structure is situated.

Section 2-342 Residential Structure

"Residential structure" means a building or structure where the principal use is either a one-family or two-family dwelling.

Section 2-343 Restoration

"Restoration" means putting back as nearly as possible into the form the building held at a particular date in time. Restoration often requires the removal of architectural features which are not "of the period." The value of a restoration is measured by its authenticity.

Section 2-344 Scale

"Scale" means the relative size of a building or structure in relation to the immediate building environment and to the Town.

Section 2-345 Significant Interior Landmark

"Significant landmark interior" shall mean any interior of a designated local landmark which has been identified and designated pursuant to Article 7, Division 6 "Designation of Landmarks".

Section 2-346 Street Profile

"Street profile" means a drawing, at a scale of one-eighth inch equals one foot (1/8" = 1'), representing the height and width of the building to be constructed and the height and width of adjacent structures.

Section 2-347 Substandard Local Landmark

"Substandard local landmark building" means any building which fails to meet the minimum maintenance standards of Article 7.

Section 2-348 Supporting Structure

"Supporting structure" means a structure which has original material that has been covered, or a building which has experienced some alteration but which still conveys some sense of history.

Section 2-349 Telluride Historic and Architectural Survey

"Telluride Historic and Architectural Survey" or "*THAS*" means the 2013 *THAS*, as it may be amended from time to time, Survey of structures and buildings in the Town.

Section 2-350 Telluride Historic Landmark District

"Telluride Historic Landmark District" ("THLD") is a sub-district of the Historic Preservation Overlay District, within which sub-district H.A.R.C. shall exercise historic and architectural review functions, and outside of which H.A.R.C. shall only exercise architectural review

functions.

Section 2-351 Telluride National Historic Landmark District

Telluride National Historic Landmark District ("TNHLD") is the district listed by the National Register of Historic Places, National Park Service, U.S. Department of Interior, the boundaries of which have been established by the same.

Section 2-352 Temporary Certificate of Appropriateness

"Temporary certificate of appropriateness" means an approval issued by H.A.R.C. for a structure which is not intended to be permanent and which is considered necessary to the public health, safety and general welfare of the community.

Section 2-353 THAS Primary Structure

“THAS Primary Structure” means a structure designated as a primary structure in the *Telluride Historic and Architectural Survey*, and is given a 5SM Site Number.

Section 2-354 THAS Secondary Structure

“THAS Secondary Structure” means a structure designated as a secondary structure in the *Telluride Historic and Architectural Survey*, and is given a THAS Number.

Section 2-355 Treatment Area

"Treatment area" means a specific district or area within the Historic Preservation Overlay District for which there exists a set of design guidelines as set forth in *Design Guidelines for Building in Telluride.*

(Ord. 1423, 2015; Ord. 1398, 2013; Ord. 1069, 1997; Ord. 1023, 1995; Ord. 1005, 1994; Ord. 986, 1993; Ord. 970, 1992; Ord. 941, 1991; Ord. 929, 1991; Ord. 924, 1991; Ord.923, 1991 Ord. 886, 1990; Ord. 868, 1989; Ord. 867, 1989; Ord. 846, 1988; Ord. 843, 1988; Ord. 817, 1988; Ord. 466, 1981; Ord. 442, 1980; Ord. 415, 1980; Ord. 231, 1970)

DIVISION 4 DEFINITIONS FOR MATTERS OF STATE AND LOCAL INTEREST

The words and phrases set out in this Division shall have the meaning ascribed to them below, and be applicable to the terms used in Article 8, Matters of State and Local Interest.

Section 2-401 Appeal

"Appeal" means a request for a review of the permit authority's interpretation of any provisions of Article 8, or a request for a variance.

Section 2-403 Area of Shallow Flooding

"Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM) in which the base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

Section 2-404 Area of Special Flood Hazard

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

Section 2-405 Avalanche

"Avalanche" means a mass of snow or ice and other material which may become incorporated therein as such mass moves rapidly down a mountain slope.

Section 2-406 Base Flood

"Base flood" or "one-hundred (100) year flood" means a type of water, mud or debris flood, including the water surface elevation and territorial occupation thereof, which can be expected to occur at any time in a given area based upon recorded historical precipitation and other valid data, but with an average statistical one percent (1%) chance of being equaled or exceeded during any one (1) year. Base flood is used interchangeably with "one-percent (1%) flood" or "one-hundred (100) year flood".

Section 2-407 Basement

"Basement" means an enclosure with its floor level completely below ground.

Section 2-407 Critical Facility

“Critical Facility” means a structure or other improvement that, because of its function, size, service area, or uniqueness, has the potential to cause serious bodily harm, extensive property damage, or disruption of vital socioeconomic activities if it is destroyed or damaged or if its functionality is impaired. Critical facilities include health and safety facilities, utilities, government facilities and hazardous materials facilities. For the purposes of a local regulation, a community may also use the International Codes’ definition for Category III and IV buildings

Section 2-408 Designated Floodplain Hazard Area

"Designated floodplain hazard area" means the area designated as a floodplain by official action of the Town Council.

Section 2-409 Designation

"Designation" means that legal procedure as specified by C.R.S. 24-65.1-101 et seq., as amended, and further authorized by C.R.S. 29-20-101 et seq., as amended. It is carried out by the Town Council.

Section 2-410 Existing Manufactured Home Park or Subdivision

"Existing manufactured home park or subdivision" means a manufactured home park for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed, including at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, are completed prior to April 2, 1999.

Section 2-411 Expansion to an Existing Manufactured Home Park or Subdivision

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, (including the installation of utilities, either final site grading or pouring of concrete pads, and the construction of streets).

Section 2-412 FEMA

"FEMA" means the Federal Emergency Management Agency, or its successor.

Section 2-413 Flood

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

2-413.A. **Overflow.** The overflow of inland or tidal waters; and/or

2-413.B. **Runoff.** The unusual and rapid accumulation or runoff of surface waters from any source.

2-413.C. **Mudslides.** Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Section 2-414 Flood Hazard Area

"Flood hazard area" means one or more of the following: flood hazard initial control area, floodway zone, low hazard zone.

Section 2-415 Flood Insurance Rate Map

"Flood Insurance Rate Map (FIRM)" means the official map on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the Town.

Section 2-416 Flood Insurance Study

"Flood Insurance Study" means the official report provided by FEMA that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

Section 2-417 Floodplain

"Floodplain" means an area in and adjacent to a stream, which area is subject to flooding from water and/or debris as the result of the occurrence of an intermediate regional flood and which

area, thus, is so adverse to past, current and foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property.

Section 2-418 Floodproofing

"Floodproofing" means a combination of structural provisions, changes or adjustments to lands, properties and structures subject to flooding primarily for the reduction or elimination of flood damages to lands, properties, structures and contents of buildings in a flood hazard area.

Section 2-419 Floodway

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

Section 2-420 Floodway Fringe

"Floodway fringe" means the area between the floodway and the boundary of the one-hundred (100) year flood.

Section 2-421 Freeboard

“Freeboard” means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Section 2-422 Geologic Hazard

"Geologic hazard" means a geologic phenomenon which is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to avalanches, landslides, rock falls, mudflows, unstable or potentially unstable slopes, seismic effects, radioactivity and ground subsidence.

Section 2-423 Geologic Hazard Area

"Geologic hazard area" means an area which contains or is directly affected by a geologic hazard.

Section 2-424 Ground Subsidence

"Ground subsidence" means a process characterized by the downward displacement of surface material caused by natural phenomena such as removal of underground fluids, natural consolidation, or dissolution of underground minerals or by manmade phenomena such as underground mining.

Section 2-425 Landslide

"Landslide" means a mass movement where there is a distinct surface or rupture or zone of weakness which separates the slide material from more stable underlying material.

Section 2-426 Layman's Description

"Layman's description" means a general, nonlegal description and the popular name, if any, of the tract of land upon which the activity or development is to be conducted. "General description" means "layman's description."

Section 2-427 Legal Description

"Legal description" means any description from which it is possible to locate accurately on the ground the boundaries of the land being described.

Section 2-428 Lowest Floor

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Article 8.

Section 2-429 Manufactured Home

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

Section 2-430 Matter of Local and State Interest

"Matter of local or state interest" means an area of local or state interest or an activity of local or state interest or both.

Section 2-431 Mudflow

"Mudflow" means a flowing mass of predominantly fine-grained earth material possessing a high degree of fluidity during movement.

Section 2-432 New Construction

"New construction" means structures for which the "start of construction" commenced on or after the original effective date of Article 8.

Section 2-433 New Manufactured Home Park or Subdivision

"New Manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the 2nd day of April, 1999.

Section 2-434 Nonconforming Use

"Nonconforming use" means any structure, development or land use in existence on the effective date of the ordinance No. 361, Series 1978 from which Article 8 originally derives, and not permitted under the terms and provisions of said Article.

Section 2-435 One Hundred Year or One Percent Flood

"One-hundred (100) year flood" or "one-percent (1%) flood" means the same thing as Base Flood.

Section 2-436 Permit Authority

"Permit authority" means the Town Engineer or any other person designated as the permit authority by the Town Manager.

Section 2-437 Radioactivity

"Radioactivity" means a condition related to various types of radiation emitted by natural

radioactive minerals that occur in natural deposits of rock, soils and water.

Section 2-438 Receipt of Application

"Receipt of application" means the time at which the completed application is accepted by the permit authority.

Section 2-439 Recreational Vehicle

"Recreational Vehicle" means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling unit but as temporary living quarters for recreational, camping, travel, or seasonal use.

Section 2-440 Regulation

"Regulation" means both "regulation" and "guideline" as the terms are used in C.R.S. 24-65.1-101 et seq., as amended.

Section 2-441 Rockfall

"Rockfall" means the rapid free-falling, bounding, sliding or rolling of large masses of rock or individual rocks.

Section 2-442 Rockfall Hazard Area

“Rockfall Hazard Area” means an are identified as such on the *Town of Telluride Floodplain and Geological Hazard Map*, due to risk of rockfall occurring in the area.

Section 2-443 Seismic Effects

"Seismic effects" means direct and indirect effects caused by a natural earthquake or a manmade phenomenon.

Section 2-444 Special Flood Hazard Area

“Special Flood Hazard Area” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Section 2-445 Start of Construction

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred and eighty (180) days of the permit issuance date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on foundation. For purposes of Article 8, permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Section 2-446 Stream

"Stream" means any natural channel or depression through which water flows either continuously, intermittently or periodically, including any artificial modification of the natural channel or

depression.

Section 2-447 Structure

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground.

Section 2-448 Substantial Damage

"Substantial Damage" means the damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before damage occurred.

Section 2-449 Substantial Improvement

"Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (1) before the improvement or repair is started; or (2) if the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) to any alteration of a structure listed on the National Register of Historic Places or the Colorado Historical Society's inventory of historic places.

Section 2-450 Technical Step in Identification

"Technical step in identification" of an activity of local or state interest means the act of formulating a plan or program for the administration of any one of the activities of local or state interest in the Town as provided by the criteria of C.R.S. 24-65.1-204, as amended. The technical step in an identification of an area of local or state interest is the act of viewing and preparing a description of land within the borders of which is located that area of local or state interest.

Section 2-451 Unstable or Potentially Unstable Slope

"Unstable or potentially unstable slope" means an area susceptible to a landslide, a mudflow, or rockfall or accelerated creep of slope-forming materials.

Section 2-452 Variance

"Variance" means a grant of relief from the requirements of Article 8 which permits construction in a manner that would otherwise be prohibited by said Article.

Section 2-453 Water Surface Elevation

"Water surface elevation" means the projected heights in relation to mean sea level reached by floods of various magnitudes and frequencies in the floodplains of riverine areas.

(Ord. 1420, 2015; Ord. 1400; 2014; Ord. 1116, 1999; Ord. 970, 1992; Ord. 882, 1989; Ord. 854, 1989; Ord. 375, 1978; Ord. 364, 1978; Ord. 361, 1978)

ARTICLE 3 ZONE DISTRICT REGULATIONS

DIVISION 1 GENERAL

Section 3-101. Purpose

This Article divides the Town into Zone Districts of such number, shape and area, and of such common unity of purpose or use as are deemed most suitable to effectively accomplish the intent of the Telluride Master Plan. To manage land development, each Zone District has a stated purpose, uses permitted by right and uses permitted by review, dimensional limitations, and off-street parking requirements. All development within each Zone District shall be consistent with the purposes stated for that Zone District.

This Article also contains street and utility design requirements, sign regulations, landscaping and illumination standards, and short term rental restrictions, which are applicable to land development as provided in their particular Division.

Section 3-102 Zone Districts Established

Zone districts are classified according to the predominant character of development and current or intended use of the area as expressed in the Telluride Master Plan. The zone districts in Telluride are as follows:

(HT)	Hillside Transitional
(HD-1)	Hillside Developing One
(HD-2)	Hillside Developing Two
(R)	Residential
(HR)	Historic Residential
(MDR)	Medium Density Residential
(AC-l)	Accommodations One
(AC-2)	Accommodations Two
(R/C)	Residential/Commercial/Gondola Corridor Overlay District
(C)	Commercial
(HC)	Historic Commercial
(OSCE)	Open Space CE
(OS)	Open Space
(P)	Park
(PP)	Public Purpose
(WH)	West Hillside
(CD)	Cemetery

Section 3-103 Official Zone District Map

The boundaries of the districts set out in this Division are shown on the Town's official zone district map, entitled Town of Telluride "Zone District Map", dated 1992, and as subsequently amended, which map accompanies the ordinance codified in this Division and is made a part of this Division. The original of this Map, as amended, is properly attested to, and is on file with the Town Clerk. If, pursuant to the terms of this Title, amendments are made to the boundaries of the Zone District Map, such amendments shall be promptly entered on the map after their effective date. The Zone District Map and all the information shown thereon shall have the same force and effect as if fully

set forth or described in this Division.

The Planning Director is authorized to interpret the boundaries of the Zone District Map, utilizing the rules set out in Article 1, Division 2 of this Title.

Section 3-104 One Principal Building Permitted on any Lot

Every building erected or structurally altered shall be located on a single lot, as defined in Article 2. No more than one principal building shall be located on a lot, unless modified by H.A.R.C. within the Commercial, Historic Commercial or Accommodations Two, or Public Purpose Zone Districts, or approved pursuant to the provisions of Article 6, Division 3, Planned Unit Developments, or the Town Council's general waiver authority set forth in Section 5-205.C.

Section 3-105 Zone District Uses

3-105.A. **General.** Uses permitted by right and uses permitted on review shall comply with the dimensional limitations, parking requirements, street and utility design requirements, sign regulations, landscaping and illumination standards, and short term rental restrictions of this Article, and all other generally applicable provisions of this Title. Uses permitted on review are also subject to the application requirements of Article 6, Division 1 of this Title.

3-105.B. **Multiple Uses.** Permitted uses and uses permitted on review may be located in the same building or upon the same lot.

3-105.C. **Uses Not Listed.** Any use not authorized as a use permitted by right or a use permitted on review within a zone district is prohibited, unless the Planning Director shall interpret the Code to mean that such use is generally authorized within a specific use category, or unless an amendment to the use table for that zone district shall be approved by Town Council. Any such interpretation by the Planning Director shall be performed pursuant to the provisions of Section 1-202 of this Title.

Section 3-106 Zone District Dimensional Limitations

Tables 3-1 and 3-2 summarize the dimensional limitations applicable to all development in each of Telluride's zone districts. Tables 3-1 and 3-2 should be used in conjunction with the dimensional limitations for each zone district, found in Division 2 of this Article 3, which illustrate the dimensional limitations for each zone district.

Section 3-107 H.A.R.C. Modification of Dimensional Limitations

Whenever HARC is authorized to modify any dimensional limitation, such modification shall be evaluated utilizing *Design Guidelines*, applicable design review criteria of Article 7 of this Title, and with regard to the purpose of the applicable zone district.

Section 3-108 Required Number of Off-Street Parking Spaces

Table 3-4 summarizes the off-street parking requirements applicable to each type of use permitted in Telluride's zone districts. The off-street parking requirements for each zone district are also found in Division 2 of this Article 3.

Off-street parking shall be provided for each use in accordance with the requirements set forth in Table 3-4 and Division 2 of this Article 3; provided, however, if the requirements for a particular

use are not herein below specified, P&Z shall determine the number of off-street parking spaces required, based upon a comparison of the particular use with the uses hereinafter specified.

Section 3-109 Characteristics of Off-Street Parking Spaces

3-109.A. **Location.** Parking required for a use located in the C, HC, R/C (including the GCOD), ACI, AC2 Districts shall not be located in an adjacent residential zone district. In addition to the above required parking for a use located in the HT, HD-1, R, HR, MDR, C, HC, R/C (including the GCOD), AC1, AC2 Districts may be provided on abutting lots, provided such parking is secured in perpetuity through a recorded easement or other document acceptable to the Town Attorney and the Planning Director.

3-109.B. **Use**. Parking required for a use shall be available to on-site employees and residents. For Commercial and Accommodation uses, parking spaces shall be available to customers.

3-109.C. **Size, Design And Access.** Each off-street parking space shall have an unobstructed area measuring not less than eight feet (8') in width by eighteen feet (18') in length and seven feet (7') in height and have legal, unobstructed area for access to a street or alley. The *Design Guidelines for Building in Telluride* shall also considered in the design of parking areas.

The minimum parking space dimension length of eighteen feet (18’) for a parcel in the THLD may be reduced should the parcel be a receiving site for a relocated rated or non-rated THAS Secondary Structure and the structure is utilized for the purposes of covered parking. The variation shall be conditioned upon maintaining or upgrading the rating of the structure according to the *Telluride Historic and Architectural Survey*. A requested dimensional variation shall be reviewed by HARC when the application for relocation of the structure is also reviewed.

3-109.D. **Tandem Parking.** The Planning Director may approve tandem or stacked off-street parking. Tandem configurations consisting of three (3) spaces or deeper shall require approval by the Planning and Zoning Commission pursuant to Article 6, Division 1, Part 1, Use Permitted on Review. A parking attendant shall be designated and shall be on duty during hours of operation for an institution, commercial or assembly use, and continuously for accommodations or residential use.

Section 3-110 Reserved

Section 3-111 Substandard Lots

New lots below the minimum size specified within each zoning district shall only be permitted through PUD review. Existing lots below the minimum size specified in each zoning district shall be considered nonconforming and subject to the provisions of Section 4-105.B.

(Ord. 1423, 2015; Ord. 1325, 2010; Ord. 1303, 2009; Ord. 1278, 2007; Ord. 1210, 2004; Ord. 1145, 2001; Ord. 1071, 1997; Ord. 1059, 1996; Ord. 1033, 1995; Ord. 1023, 1995; Ord. 1007, 1994; Ord. 1005, 1994; Ord. 975, 1993; Ord. 970, 1992; Ord. 817, 1988; Ord. 770, 1986; Ord. 725, 1986; Ord. 231, 1970)

TABLE 3-1
DIMENSIONAL LIMITATIONS: ACCOMMODATIONS, COMMERCIAL, PARK AND OPEN SPACE-TYPE ZONE DISTRICTS

	Accommodations One (AC-1)	Accommodations Two (AC-2)	Residential/Commercial/ Gondola Corridor Overlay (R/C)	Commercial (C)	Historic Commercial (HC)	Open Space (OS)	Park (P)
Minimum Lot Area	2,500 s.f. Maximum 7,000 s.f.	2,500 s.f.	2,500 s.f.	2,500 s.f. Maximum 11,750 s.f.; see 3-212-C.2.b.	2,500 s.f. Maximum 11,750 s.f.	Not applicable: Subdivision of open space lands not permitted; no buildings are allowed	2,500 s.f. for a single family residence on private lands
Minimum Lot Width	25 feet Maximum 62.5 feet	25 feet	25 feet	25 feet	25 feet	Not applicable	No limitation
Minimum Lot Frontage	25 feet	25 feet	25 feet	25 feet	25 feet	Not applicable	No limitation
Maximum Facade Width	Not applicable	Not applicable	Not applicable; additions > 100 s.f. are not permitted within 15 feet to the rear of the primary facade of a historically rated principal structure	50 feet, unless modified, to a maximum-of 75 feet*	50 feet, unless modified, to a maximum of 75 feet*	Not applicable	Not applicable
Minimum Front Yard	The average setback of structures in the block at the time of passage of the ordinance from which this subsection derives*	No limitation* except along Park or Open Space, River Park Trail, River	The average setback of structures in the block at the time of passage of the ordinance from which this subsection derives, or 6 feet*	No limitation except along River, River Trail, River Park	0 feet*	Not applicable	20 feet
Minimum Side Yard	3 feet*	No limitation*	3 feet GCOD:lot width<50'=3' lot width>50'=5' San Juan Ave=0'	No limitation	No limitation	Not applicable	3 feet
Minimum Rear Yard	5 feet	No limitation*	5 feet	5 feet	5 feet	Not applicable	No limitation
Minimum Yards For Corner Lots	5 feet for the front and side yard	No limitation*	5 feet for the front and side yard; 0' to San Juan	No limitation	No limitation	Not applicable	Not applicable
Maximum Floor Area	No limitation	No limitation 30,000 s.f. per structure*; see 3-210.C.11.b	No limitation	Ratio of 1.5:1, see Section 3-210 C.9 for calculation methodology	Ratio of 1.5:1, see Section 3-211 C.9 for calculation methodology	Not applicable	2,500 s.f. per dwelling unit
Maximum Site Coverage	50% total principal use, 45%; by structures or 2,500 s.f. per building, whichever is less	Principal use, 30-40%; 40-50% when all parking is covered	R/C No limitation GCOD 45%	No limitation	No requirement	Not applicable	No limitation
Minimum Roof Pitch	1:4*	1:4* Maximum ridge line length 50'*	1:4*	No limitation*	Flat roof*	Not applicable	1:4*
Maximum Height - Principal Buildings Accessory Buildings	25 feet average of block +20% or 16 feet	N. of River, 35 feet S. of River, 40 feet with slopes > 15%, 45 feet for highest ridge	25 feet or average of existing principal structures in GCOD +35% 16 feet	35'*; special restrictions apply to architectural elements and historically rated structures; minimum ceiling height 11.75'	35'*; special restrictions apply to architectural elements and historically rated structures; minimum ceiling height 11.75'	Not applicable	25 feet 16 feet

* Means a dimensional limitation which may be modified by H.A.R.C. (Ord. 1092, 1997)

TABLE 3-2
DIMENSIONAL LIMITATIONS: RESIDENTIAL TYPE ZONE DISTRICTS

	Hillside Transitional (HT)	Hillside Developing One (HD-1)	Hillside Developing Two (HD-2)	Residential (R)	Historic Residential (HR)	Medium Density Residential (MDR)
Minimum Lot Area	2,500 s.f.	5,000 s.f.	10,000 s.f	2,500 s.f.	2,500 s.f.	1,500 s.f. affordable housing 2,500 s.f. free market
Maximum Density	2,500 s.f./d.u., unless designated as affordable housing	5,000 s.f./d.u., unless designated as affordable housing	10,000 s.f./d.u.	2,500 s.f./d.u. unless designated as affordable housing	2,500 s.f./d.u. unless designated as affordable housing	2,500 s.f./d.u. unless designated as affordable housing
Minimum Lot Width	25 feet	No limitation	50 feet	25 feet	25 feet	25 feet
Minimum Lot Frontage	25 feet	25 feet	50 feet	25 feet	25 feet	25 feet
Minimum Front Yard	15 feet*	15 feet*	15 feet*	15 feet or the average setback of the block in which the parcel lies*	15 feet or the average setback of the block in which the parcel lies but not less than 5'*	15 feet
Minimum Side Yard	3 feet*	3 feet	3 feet	3 feet	3 feet	3 feet
Minimum Rear Yard	15 feet*	15 feet*	15 feet*	15 feet or the average setback of the block in which the parcel lies, but not less than 5 feet*	15 feet or the average setback of the block in which the parcel lies, but not less than 5 feet*	Principal buildings: 15 feet Accessory buildings: 5 feet
Minimum Yards For Corner Lots	Not applicable	Not applicable	Not applicable	15 feet or the average setback of the block in which the parcel lies, but not less than 5 feet for front and side yard*	15'or the average setback of the block in which the parcel lies, but not less than 5' for front and side yard*	15 feet
Maximum Floor Area	See Section 3-201 C.8	5,000 s.f. if lot size is 5,000 s.f or greater; 1,200 s.f. if lot size is less than 5,000 s.f.	No limitation; see Section 3-203 C.9 for maximum building volume limitation	See Section 3-204 C.8	See Section 3-205 C.8	Principal Structure: 5,000 s.f. Accessory/Secondary Bldg: 50% of principal structure or 1200 s.f., whichever is less
Maximum Site Coverage	See Section 3-201 C.11	40%	40%; 50% when all parking is covered	See Section 3-204 C.11	See Section 3-205 C.11	40%
Minimum Roof Pitch	1:4*	1:4*	No limitation	1:4*	1:4*	1:4*
Maximum Height - **Principal Building** **Secondary/Accessory Buildings**	25 feet 16 feet 30'/20' to highest ridge	25 feet 16 feet	31 feet 16 feet	25 feet 16 feet with slopes >15' 15'*	25 feet 16 feet with slopes > 15' 15*	25 feet 16 feet 30'/20' to highest ridge

* Means a dimensional limitation which may be modified by H.A.R.C.-

TABLE 3-3
DIMENSIONAL LIMITATIONS:
PARK, OPEN SPACE AND PUBLIC PURPOSE TYPE ZONE DISTRICTS

	Open Space (OS)	**Park (P)**	**Public Purpose (PP)**
Minimum Lot Area	Not applicable: Subdivision of open space lands not permitted; no buildings are allowed	2,500 s.f. for a single family residence on private lands	10,000 s.f.
Minimum Lot Width	Not applicable	No limitation	50 feet*
Minimum Lot Frontage	Not applicable	No limitation	50 feet*
Maximum Facade Width	Not applicable	Not applicable	Not applicable
Minimum Front Yard	Not applicable	20 feet	No limitiation*
Minimum Side Yard	Not applicable	3 feet	No limitation*
Minimum Rear Yard	Not applicable	No limitation	No limitation*
Minimum Setback to Colorado Avenue	Not applicable	Not applicable	20 feet*
Minimum Yards For Corner Lots	Not applicable	Not applicable	No limitation*
Maximum Floor Area	Not applicable	2,500 s.f. per dwelling unit	No limitation*
Maximum Site Coverage	Not applicable	No limitation	40% except as provided in . 3-218.C.12
Minimum Roof Pitch	Not applicable	1:4*	1:4*
Maximum Height - Principal Buildings Accessory Buildings	Not applicable	25 feet 16 feet	35 feet except for buildings within 200 feet of Colorado Avenue for which the height is 16 feet

*Means a dimensional limitation which may be modified by H.A.R.C.

TABLE 3-4 PARKING REQUIREMENTS FOR USE CATEGORIES	
USE CATEGORIES	**PARKING REQUIRED**
All Residential Uses, including Accommodations Units with a kitchen	One space per unit
Short-term Dwelling Unit	Two spaces per three units
Hotel, Lodge, Roominghouse, Boardinghouse	Two spaces per three units
Low Intensity uses: Assembly areas - exhibit rooms; gymnasiums; and skating rinks. Retail stores and shops. Offices - professional (excluding medical and dental); general business offices; utility; telephone; telegraph; radio and broadcasting. Personal Services.	One space per 1,000 square feet of floor area
High Intensity Uses: Assembly areas - restaurant; bar; theater; auditorium; dance floor (including room or hall); church; chapel; assembly hall; bowling alley (assembly area only); stadium (bleacher area only); and swimming pool (including deck area); laundromat. Offices - medical and dental (including clinics); financial institutions, banks and loan companies; and public buildings for administration (including city and county offices).	One space per 500 square feet of floor area
Automotive Uses: Gas Stations and Vehicle Repair Auto Service, Car Rentals, Auto and Truck Sales	One space per gasoline pump; Two spaces per grease rack or wash rack; and One space per 200 square feet of area usable for repair work, exclusive of drives, equipment, storage, utilities, etc. One space for each vehicle, exclusive of service and repair area, which shall meet the requirements for gas stations and vehicle repair.
Hospitals and Schools	Set by review of P&Z

DIVISION 2 ZONE DISTRICT PURPOSES AND STANDARDS

Section 3-201 Hillside Transitional Zone District

3-201.A. **Purpose.** The purpose of the Hillside Transitional Zone District (HT) is to allow hillside land located adjacent to established residential areas of Town to be used for residential purposes and accessory uses. Development in the HT Zone District is expected to be mostly in-fill of new residential units among existing units and renovation of existing units.

3-201.B. **Uses Table.** The uses permitted by right and the uses permitted on review in the Hillside Transitional Zone District are as follows.

Hillside Transitional Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. One-Family Dwelling Units	1. School, Church, Hospital or Public Building
2. Two-Family Dwelling Units	2. Recreation Facilities and Uses
3. Designated Employee Dwelling Units and Affordable Housing Units	3. Home Occupations
4. Accessory Buildings and Uses	4. Three-Family Dwelling Units
5. Parks and Open Space	
6. Short Term Rentals pursuant to Article 3, Division 6	
7. Multi-family Dwelling Units pursuant to Section 3-201.C.1.c.	

3-201.C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Hillside Transitional Zone District:

3-201.C.1. **Minimum Lot Area and Maximum Density:**

a. Minimum lot area shall be two thousand five hundred (2,500) square feet.

b. Maximum density shall be two thousand five hundred (2,500) square feet per dwelling unit, except as provided for designated employee dwelling units and affordable housing units.

c. Maximum density shall be one thousand two hundred and fifty

(1,250) square feet per dwelling unit, provided at least fifty percent (50%) of dwelling units are designated employee dwelling units or affordable housing units.

3-201.C.2. **Minimum Lot Width:** Twenty-five feet (25').

3-201.C.3. **Minimum Lot Frontage:** Twenty-five feet (25') .

3-201.C.4. **Minimum Front Yard:** All buildings, fifteen feet (15'), unless modified by H.A.R.C.

3-201.C.5. **Minimum Side Yard:** All buildings, three feet (3'), unless modified by H.A.R.C.

3-201.C.6. **Minimum Rear Yard:** All buildings, fifteen feet (15'), unless modified by H.A.R.C.

3-201.C.7. **Minimum Yard Between Principal Building and Secondary or Accessory Buildings on Lot:** Fifteen feet (15') unless modified by H.A.R.C., however, the setback shall not be less than six feet (6').

3-201.C.8. **Minimum Floor Area:** No limitation.

3-201.C.9. **Maximum Floor Area:**

a. Principal Building in the Hillside Transitional Zone District			
Lot Area in Square Feet		**Maximum Gross Floor Area in Square Feet of Principal Building**	**If under Section C.1.c., then**
Over	But Not Over		
0	2,500	0.73 x lot area	0 s.f.
2,500	3,000	1,825 + 0.58 x lot area over 2,500 s.f	+100 s.f.
3,000	4,000	2,115 + 0.285 x lot area over 3,000 s.f.	+200 s.f.
4,000	5,000	2,400 + 0.35 x lot area over 4,000 s.f.	+300 s.f.
5,000	6,000	2,750 + 0.35 x lot area over 5,000 s.f.	+400 s.f.
6,000	7,500	3,100 + 0.60 x lot area over 6,000 s.f.	+400 s.f.

b. In no case shall the total gross floor area of any principal building on any lot be greater than four thousand (4,000) square feet.

c. The total floor area of all secondary and accessory buildings on any lot shall not exceed thirty-three (33%) of the maximum floor area allowed for the principal structure set forth in subsection a, above. However, no single secondary or accessory structure shall exceed nine hundred and fifty (950) square feet. The thirty three percent (33%) factor shall only be applied to the gross floor area of the primary structure prior to any bonus granted in subsection a, above.

3-201.C.10. **Maximum Building Height:**

a. Principal buildings, twenty-five feet (25'); however, no portion of any building, excluding chimneys, shall exceed a height of thirty vertical feet (30') above the pre-construction grade of a building's site coverage or the post-construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the building's site coverage perimeter) whichever is more restrictive.

b. Accessory and secondary buildings, sixteen feet (16'); however, no portion any building, excluding chimneys, shall exceed a height of twenty (20) feet vertically above the pre-construction grade of the building's site coverage or the post-construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the building's site coverage perimeter) whichever is more restrictive.

3-201.C.11. **Minimum Roof Pitch:** For all buildings, one (1) unit of vertical rise to four (4) units of horizontal run unless modified or otherwise required by H.A.R.C.

3-201.C.12. **Maximum Site Coverage:**

a. For lots size of 2,500 sq. ft. to 3,125 sq. ft:

When all required parking is enclosed

$$.45 - \left[\frac{(\text{Lot Area} - 2{,}500) \times .15}{3{,}125}\right] = \text{Maximum Percent Site Coverage}$$

When all required parking is not enclosed

$$.38 - \left[\frac{(\text{Lot Area} - 2{,}500) \times .15}{3{,}125}\right] = \text{Maximum Percent Site Coverage}$$

b. For lots greater than 3,125 sq. ft. but less than 7,500 sq. ft.:

When all required parking is enclosed

$$.42 - \left[\frac{(\text{Lot Area} - 3{,}125) \times .17}{7{,}500}\right] = \text{Maximum Percent Site Coverage}$$

When all required parking is not enclosed

$$.35 - \left[\frac{(\text{Lot Area} - 3.125) \times .17}{7{,}500}\right] = \text{Maximum Percent Site Coverage}$$

c. For lot sizes of seventy five hundred (7,500) sq. ft. or greater, the site coverage shall not exceed twenty five percent (25%), or when all required parking is enclosed, thirty two percent (32%). For lots less than twenty five hundred (2,500) sq. ft., the site coverage shall not exceed thirty eight percent (38%), or when all required parking is enclosed, forty five percent (45%).

d. For lots of five thousand (5,000) sq. ft. or less which contain a rated secondary structure, the total maximum site coverage may be increased up to three percent (3%) by H.A.R.C., provided it finds the development application maintains or improves the historic rating of all historic structures on the lot.

3-201.D. **Additional Development Requirements.** The following additional requirements shall apply to all development in the Hillside Transitional Zone District.

3-201.D.1. **Grading Permit:**

a. A grading permit shall be required pursuant to Chapter 70 of the Uniform Building Code for all grading done within this zone district.

b. When reviewing the grading plans submitted with the application for a grading permit, the Building Official may require a report prepared by a registered civil engineer as to the adequacy of safeguards provided against the hazard of rocks dislodged during the grading operation.

3-201.D.2. **Access Roads:**

a. If access roads are proposed other than existing roads (not including unused platted streets), a separate grading permit shall be required for their construction. The issuance of this permit shall be approved by the Town Council, following P&Z recommendation.

b. In addition to meeting the requirements for a grading permit, as specified in Chapter 70 of the Uniform Building Code, the applicant shall also provide the following information to both P&Z and the Town Council:

(1) The proposed location of roads, the right-of-way width, roadbed width, grade and proposed surface treatment;

(2) If the proposed roads are not on existing street rights-of-way, a statement explaining if such roads will be private or offered to be dedicated to the Town;

(3) A report prepared by a registered civil engineer as to the adequacy of safeguards provided against the hazard of rocks dislodged during the roadbed grading operation.

3-201.D.3. **Geologic and Flood Hazard Reports:** Reports are required by a civil engineer and an engineering geologist, evaluating the degree of potential hazard that may be present and recommending action that would be practical in reducing the potential hazard(s) to an acceptable level. These reports must be prepared and submitted prior to issuance of a building permit. The potential hazards to be evaluated include, but are not limited to, rockfall, avalanche, flash flood, landslide and mud flows. Such reports and proposed corrective measures, at the option of the Town, may be reviewed for adequacy by the Colorado Geological Survey, or by a disinterested independent consultant that the Town may select.

3-201.E. **Off-Street Parking Requirements.** The following number of off-street parking spaces shall be provided for each use in the Hillside Transitional zone district:

Parking Requirements in the Hillside Transitional Zone District	
Use Category	**Required Parking**
All Residential Units	1 space per dwelling unit
Home Occupations	Set by review of P&Z
Hospital or School	Set by review of P&Z
Church, Public Building	One space per 500 square feet of floor area
Public Swimming Pool (including deck area) or Stadium (bleacher area only)	One space per 500 square feet of floor area

(Ord. 1342, 2010; Ord. 1145, 2001; Ord. 1106, 1998; Ord. 1011, 1994; Ord. 1007, 1994; Ord. 1005, 1994; Ord. 970, 1992; Ords. 948 and 924, 1991; Ord. 910, 1990; Ord. 817, 1988)

Section 3-202 Hillside Developing One Zone District

3-202.A. **Purpose.** The purpose of the Hillside Developing One Zone District (HD-1) is to allow hillside land that is largely undeveloped to be used for residential purposes and accessory uses.

Master planning is required for the entire zone district to locate residential units, access, and utilities with sensitivity to site conditions, open space and visual resources on and off the property in this area, through the planned unit development (PUD) review process. Less site coverage, clustering of units, low visibility, minimal impact on terrain and reduced densities are encouraged.

3-202.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Hillside Developing One Zone District are as follows.

Hillside Developing One Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. One-Family Dwelling Units	1. Recreation Facilities and uses
2. Two-Family Dwelling Units	2. Home Occupations
3. Designated Employee Dwelling Units and Affordable Housing Units	3. Three-Family Dwelling Units
4. Accessory Buildings and Uses	
5. Short Term Rentals pursuant to Article 3, Division 6	
6. Parks and Open Space	
7. Multi-family Dwelling Units pursuant to Section 3-202.C.1.c.	

3-202..C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Hillside Developing One Zone District:

3-202..C.1. **Minimum Lot Area and Maximum Density:**

a. Minimum lot area shall be five thousand (5,000) square feet.

b. Maximum density shall be five thousand (5,000) square feet per dwelling unit, except as provided for designated employee dwelling units and affordable housing units.

c. Maximum density shall be two thousand five hundred (2,500) square feet per dwelling unit, provided at least fifty percent (50%) of the

dwelling units are designated dwelling units or affordable housing units.

3-202..C.2. **Minimum Lot Width:** No limitation.

3-202..C.3. **Minimum Lot Frontage:** Twenty five feet (25').

3-202..C.4. **Minimum Front Yard:** All buildings, fifteen feet (15'), unless modified by H.A.R.C.

3-202..C.5. **Minimum Side Yard:** All buildings, three feet (3').

3-202..C.6. **Minimum Rear Yard:** All buildings, fifteen feet (15'), unless modified by H.A.R.C.

3-202..C.7. **Minimum Floor Area:** No limitation.

3-202..C.8. **Maximum Floor Area:**

a. For lots of five-thousand (5,000) square feet or greater: five-thousand square feet per dwelling unit.

b. For lots of less than five-thousand (5,000) square feet: twelve-hundred (1,200) square feet per dwelling unit.

c. For development exercising the density bonus provided under B.7 and C.1.c., no designated employee unit and affordable housing unit shall exceed one thousand two hundred (1,200) square feet, and no free market unit shall exceed four thousand (4,000) square feet.

3-202..C.9. **Maximum Building Height:**

a. Principal buildings, twenty-five feet (25').

b. Accessory and secondary principal buildings, sixteen feet (16').

3-202..C.10. **Minimum Roof Pitch:** For all buildings, one (1) unit of vertical rise to four (4) units of horizontal run, unless modified or otherwise required by H.A.R.C.

3-202..C.11. **Maximum Site Coverage:** Not to exceed a ratio of 0.4 site coverage to 1.0 lot area. Accessory buildings shall be counted at one-half (1/2) their actual site coverage.

3-202..D. **Additional Development Requirements.** The following additional requirements shall apply to all development in the Hillside Developing One Zone District.

3-202..D.1. **Grading Permit:**

a. A grading permit shall be required pursuant to provisions of the International Building Code series for all grading done in this District.

b. When reviewing the grading plans submitted with the application for a grading permit, the Building Official shall also require a report prepared by a registered civil engineer as to the adequacy of safeguards provided against the hazard of rocks dislodged during the grading operation.

3-202..D.2. **Access Roads:**

a. If access roads are proposed other than existing roads (platted rights-of-ways), a separate grading permit shall be required for their construction. The issuance of this permit shall be approved by the Town Council, following recommendation by the Town Engineer and P&Z.

b. In addition to meeting the requirements for a grading permit, as specified in the International Building Code series, the applicant shall also provide the following information to both P&Z and the Town Council:

(1) The proposed location of the roadways, the right-of-way width, roadbed width, grade and surface treatment;

(2) If the proposed roads are not on existing street rights-of-way, a statement explaining if such roads will be private or offered to be dedicated to the Town;

(3) A report prepared by a registered civil engineer as to the adequacy of safeguards provided against the hazard of rocks dislodged during the roadbed grading operation.

3-202..D.3. **Geologic and Flood Hazard Reports:** Reports are required by a civil engineer and an engineering geologist, evaluating the degree of potential hazard that may be present and recommending action that would be practical in reducing the potential hazard(s) to an acceptable level. These reports must be prepared and submitted prior to issuance of a building permit. The potential hazards to be evaluated include, but are not limited to, rockfall, avalanche, flash flood, landslide and mud flows. Such reports and proposed corrective measures, at the option of the Town, may be reviewed for adequacy by the Colorado Geological Survey, or by a disinterested independent consultant that the Town may select.

3-202..E. **Off-Street Parking Requirements.** The following number of off-street parking

spaces shall be provided for each use in the Hillside Developing One Zone:

Parking Requirements in the Hillside Developing One Zone District	
Use Category	**Required Parking**
All Residential Units	1 space per dwelling unit
Home Occupations	Set by review of P&Z
Hospital or School	Set by review of P&Z
Church, Public Building	One space per 500 square feet of floor area
Public Swimming Pool (including deck area) or Stadium (bleacher area only)	One space per 500 square feet of floor area

(Ord. 1342, 2010; Ord. 1145, 2001; Ord. 1011, 1994; Ord. 970, 1992; Ord. 817, 1988)

Section 3-203 Hillside Developing Two Zone District

3-203.A. **Purpose.** The purpose of the Hillside Developing Two Zone District (HD-2) is to allow undeveloped hillside land to be used for residential and accessory purposes while preserving and enhancing the outstanding scenic vistas, open spaces, and foot trail corridors which characterize the hillside areas.

Lands in the HD-2 Zone District are characterized by steep slopes, flatter benches, gullies, cliffs, and identified geologic hazards. Recognizing that large amounts of land within the district are platted in small, rectangular lots and cannot be accessed or developed utilizing platted rights-of-way under current development standards, coordinated planning is generally required to allow integrated development and growth within the district.

Residential units, roads and utilities shall be located with extreme sensitivity to site conditions and to protection of visual and aesthetic resources within and without the district. Clustering of units, reduced visibility of development, minimization of environmental impacts and geohazard risks, construction of affordable housing, and enhancement of open areas and overall development flexibility are encouraged, particularly through the planned unit development (PUD) review process.

All development in the district should be guided, approved and constructed in consideration of the Telluride Master Plan and the 1989 Telluride Hillside Master Plan element thereof, as may be subsequently amended.

3-203.B. **Permitted Uses and Uses Permitted on Review.** The uses permitted by right and the uses permitted on review in the Hillside Developing Two Zone District are as follows:

Hillside Developing Two Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. One-Family Dwelling Units	1. Recreation Facilities and Uses
2. Two-Family Dwelling Units	2. Home Occupations
3. Three-family dwelling units or other multi-family dwelling units, provided such dwelling units must receive approval pursuant to PUD review.	
4. Caretaker unit which must be part of and accessory to a one-family dwelling and shall not exceed 800 square feet in floor area. Such units shall not be located on a substandard lot, nor within or above a garage detached from the principal one-family dwelling, unless so approved pursuant to PUD review.	
5. Designated Employee Dwelling Units and Affordable Housing Units provided such dwelling units receive approval pursuant to PUD review	
6. Accessory Buildings and Uses	
7. Parks and Open Space	
8. Short Term Rentals pursuant to Article 3, Division 6	

3-203.C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Hillside Developing Two Zone District:

3-203.C.1. **Minimum Lot Area:** Ten thousand (10,000) square feet per dwelling unit. Minimum lot area may be reduced, if approved pursuant to the PUD process, provided that:

a. overall density of dwelling units in the land area included within the PUD plan does not exceed one unit per 10,000 square feet of total land area;

b. no detached single family dwelling unit shall be on a lot less than two thousand five hundred (2,500) square feet; and

c. as a condition of any lot area reduction or density transfer, land areas designated as "unsuitable" for development in the Telluride Hillside Master Plan shall be permanently dedicated, covenanted, or deed-restricted as public or private open space, or made subject to conservation easements under C.R.S. 38-30.5-101 et seq., at the time of filing of the final plan and/or plats including such property.

3-203.C.2. **Minimum Lot Width:** Fifty feet (50') at the narrowest point, provided that the lot width may be reduced pursuant to the PUD process.

3-203.C.3. **Minimum Lot Frontage:** Fifty feet (50') per lot, provided that the lot frontage may be reduced pursuant to the PUD process.

3-203.C.4. **Minimum Front Yard:** All buildings, fifteen feet (15').

a. The minimum front yard setback may be reduced to zero feet (0'), if approved pursuant to the PUD review process and in accordance with the Uniform Building Code.

b. In the event that the development application does not request or require PUD plan approval, then the minimum front yard setback may be reduced to zero feet (0') by H.A.R.C., upon issuance of a Certificate of Appropriateness.

c. No encroachment into any public right-of-way shall be authorized by any such modification or reduction of the front yard setback.

3-203.C.5. **Minimum Side Yard:** All buildings, three feet (3'), provided that the side yard setback may be reduced if approved pursuant to the PUD process and pursuant to the Uniform Building Code.

3-203.C.6. **Minimum Rear Yard:** All buildings, fifteen feet (15'), provided that such

setback may be reduced to a minimum of three feet (3') if approved pursuant to the PUD process and in accordance with the Uniform Building Code. In the event that the development application does not request or require PUD approval, the minimum rear yard setback may be modified by H.A.R.C. upon issuance of a Certificate of Appropriateness, provided the modified setback shall not be less than three feet (3').

3-203.C.7. **Minimum Floor Area:** No limitation.

3-203.C.8. **Maximum Floor Area:** No limitation.

3-203.C.9. **Maximum Building Volume and Ratio:**

a. Maximum above-grade building volume shall be thirty thousand (30,000) cubic feet per lot, except that such maximum shall be thirty-five thousand (35,000) cubic feet per lot if the building contains a deed-restricted designated employee dwelling unit as defined in Section 2-125 of this Title or an affordable housing unit, which unit has a minimum floor area of five hundred (500) square feet and is not less than five thousand (5,000) cubic feet in volume.

b. The maximum above-grade building volume shall not exceed a ratio of three (3) cubic feet to one (1) square foot of lot area, unless otherwise approved pursuant to the PUD process. If the building contains a deed-restricted designated employee dwelling unit or an affordable housing unit, the ratio shall be increased to three and one-half (3 1/2) to one (1).

c. For purposes of this Section, "above grade building volume" shall mean the volume of a building above a plane located at the original, pre-construction grade of the building site, measured from the outside of the exterior walls.

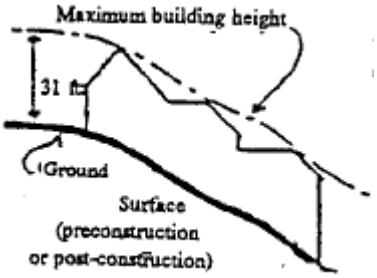
3-203.C.10. **Maximum Building Height:**

a. Principal buildings, consisting of or including dwelling units, thirty one feet (31').

b. Accessory buildings, sixteen feet (16').

c. Notwithstanding anything in this Title to the contrary, for the purpose of calculating maximum building height in the HD-2 Zone District, the height of any building shall be measured as the length of any line which is plumb from a plane located at the highest building point, which plane is above and parallel to the original, pre-construction grade of the building site coverage area, or the post-construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the exterior

perimeter of the building's site coverage), whichever is more restrictive. The following diagram illustrates this principle:



d. A survey of the original, pre-construction grade of the building site area shall be provided as part of any application for approval of preliminary PUD plan, H.A.R.C. Certificate of Appropriateness, building permit, or any other form of approval for construction of a building, unless previously submitted.

3-203.C.11. **Minimum Roof Pitch:** No limitation.

3-203.C.12. **Maximum Site Coverage:** Not to exceed a ratio of 0.4 site coverage to 1.0 lot area.

a. If all parking is covered, the maximum site coverage shall not exceed a ratio of 0.5 site coverage to 1.0 lot area.

b. Accessory buildings shall be counted at one-half (1/2) their actual site coverage.

c. Impervious site coverage shall not exceed sixty percent (60%) of the total lot area. For the purposes of this Section, "impervious site coverage" shall mean a surface which does not absorb water, which may include buildings, parking areas, driveways, roads, and any concrete, brick, or asphalt-covered areas.

d. Maximum site coverage or impervious site coverage may be increased, if approved pursuant to the PUD process.

3-203.D. **<u>Density Requirements.</u>**

3-203.D.1. **Number of Dwelling Units**

a. The number of dwelling units permitted shall be one (1) unit per ten thousand (10,000) square feet of total land area included in the application.

b. The number of dwelling units permitted under a PUD plan shall be one (1) unit per each ten thousand (10,000) square feet of total land area included in the application, plus any density bonus and any designated employee dwelling unit or affordable housing unit bonus.

c. For purposes of these computations, the term "land area" shall include

the following:

(1) all land owned or controlled by the applicant; and

(2) rights-of-way allowed under subsection D.2 of this Section to be considered in computation of "lot area".

d. Land included in "land area" for the purposes of this Section need not all be under common ownership or control if the requirements of this Section are met.

3-203.D.2. **Determination of Lot Area and Control**

a. Adjacent, contiguous, or diagonally adjoining lots under substantially the same control shall be considered as one (1) lot for the purpose of determining compliance with the minimum lot area, development coordination, and density bonus requirements of this Section.

b. For purposes of this Section, the phrase "substantially the same control" shall mean:

(1) Land owned by the same person or subdivider; or

(2) If the owner or subdivider is a corporation, any land owned by a parent or subsidiary or sister of such corporation or by a person owning more than twenty (20) percent of the voting stock of such corporation, or by a spouse, sister, brother, parent or child of such person; or

(3) If the land is owned by a partnership or joint venture, any land owned or controlled by a partner or venturer, if such partner or venturer owns or controls more than twenty (20) percent of the partnership or joint venture assets; or

(4) If the owner or subdivider is a natural person, land owned by a spouse, sister, brother, parent or child of such person or a trust of which such person is a trustee or beneficiary; or

(5) Any land which is, by reason of any legal or equitable right, whether or not enumerated here, effectively under the same control as the land included in any application for approval of a PUD, subdivision, or a zone district map or text amendment.

c. The existence of any public right-of-way, or street, or any planned street or right-of-way shall not, for any purpose of this Section, interrupt adjacency or contiguity, and such streets and rights-of-way shall be disregarded in determining whether lots are diagonally adjoining, contiguous, or adjacent.

d. Lot area may be calculated to include one-half (1/2) of any platted rights-of-way adjoining such lot or lots, provided that the following conditions are met:

(1) a petition for vacation of such rights-of-way is approved as part of an application for preliminary subdivision plat;

(2) such rights-of-way or a portion thereof would revert or be transferred to the owner of such lot(s) upon vacation; and

(3) any additional rights-of-way to be dedicated to the public which would serve such lot(s) would result in an overall right-of-way area which is equal to or smaller than contained within the rights-of-way to be vacated.

e. For the purposes of determining maximum site coverage, impervious site coverage, percentage, and above-grade building volume to lot area ratio, lot area shall be calculated by dividing the overall land area included in the application by the total number of lots.

3-203.D.3. **Density Bonus**

a. A density bonus of up to forty percent (40%) of allowable dwelling unit density on lots or tracts of land totaling thirty thousand (30,000) square feet or greater is available if approved pursuant to the PUD review process. A density bonus is an increase in the allowable number of density units, provided that any bonus of a fraction of an additional unit shall be rounded down to the nearest whole number.

b. A density bonus may be granted by P&Z as part of Final PUD Plan approval, if it finds that the Plan includes at least three (3) of the following eight (8) items:

(1) Buildings are clustered or otherwise located or screened to minimize visual impact.

(2) Road length is minimized and roads are located away from identified geologic hazards, excluding rockfall hazards, and away from highly visible areas.

(3) Buildings are located outside of identified geologic hazard areas, except rockfall areas, and within areas identified in the Telluride Hillside Master Plan as suitable for development; provision is made for permanent preservation of public or private open space in excess of any applicable dedication requirement of Section 6-410, "Subdivision Dedication Requirements".

(4) All required parking is clustered or provided off-site in common parking areas.

(5) Parking is substantially covered or screened from view.

(6) One (1) or more designated employee dwelling units or affordable housing units will be provided as an integral part of development plans.

(7) Owners of two (2) or more properties not under substantially the same control present a joint application providing for common development of their properties.

(8) Dwelling units are primarily subterranean (e.g., earth-sheltered) units that appear to blend into the hillside.

c. Any bonus dwelling units shall be limited to a maximum above-grade volume of twenty-five thousand (25,000) cubic feet, and shall not include caretaker units.

3-203.D.4. **Employee Density Bonus**

a. In addition to the density bonus and PUD modification authority granted elsewhere in this Section, P&Z may authorize an increase in the allowable density and a decrease in the minimum lot area requirement as part of approval of an application for a PUD plan, if the plan includes a commitment to provide a designated employee dwelling unit or an affordable housing unit on the land area.

b. Such units shall be further limited by the condition that a designated employee dwelling unit or an affordable housing unit shall be contained within a principal dwelling unit, unless allowed through subparagraph c of this Section. The units shall also be limited by a deed restriction which provides for administration, inspection and enforcement by the Town of Telluride or its designee, including the Telluride Housing Authority.

c. Maximum allowable above-grade building volume may be increased by five thousand (5,000) cubic feet for each designated employee dwelling unit or affordable housing unit provided as part of a PUD plan. Notwithstanding anything to the contrary in this Title, the designated employee dwelling units or affordable housing units may be located in a structure other than one in which the additional building volume is allowed, provided that such designated employee dwelling units or affordable housing units are:

(1) incorporated into a single structure with a volume of not more than thirty-five thousand (35,000) cubic feet;

(2) not less than five thousand (5,000) cubic feet in volume; and

(3) such structure containing designated employee dwelling units or affordable housing units shall be counted as a dwelling unit for density calculation purposes.

3-203.E. **Additional Development Requirements.** The following additional requirements shall apply to all development in the Hillside Developing Two Zone District.

3-203.E.1. **Roads**

a. The location of all proposed new public or private roads or rights-of-way shall be reviewed by P&Z. If P&Z finds that such roads or rights-of-way are generally consistent with the Telluride Hillside Master Plan, it may approve such location and dedication as part of the subdivision review process. If P&Z finds that the location of such roads or rights-of-way are not generally consistent with the Telluride Hillside Master Plan, P&Z shall refer the proposal to the Town Council, together with a recommendation thereon.

b. The Town Council shall review the location of proposed new public or private roads or rights-of-way upon referral by P&Z. After consideration of P&Z's recommendation, and the purposes of this Section and the Telluride Hillside Master Plan, the Council may approve such location if it finds such roads or rights-of-way can be constructed or dedicated in compliance with the design criteria and construction specifications set forth below.

c. The Town Council shall have final review and approval authority over any proposed vacation of an existing public right-of-way in the HD-2 Zone District. Such review shall be conducted in accordance with Article 6, Division 4, "Subdivision". No right-of-way in areas generally designated in the Telluride Hillside Master Plan as a road corridor shall be vacated unless the Council finds compelling justification for such vacation.

d. Improvements to existing roads or rights-of-way may be required by P&Z as a condition of issuance of an access permit.

e. Improvements to Tomboy Road may be required as a condition of any development approval of property within the District and served by Tomboy Road in proportion to impacts to the public use of, and benefits to property served by, Tomboy Road. Notwithstanding anything herein to the contrary, Tomboy Road shall be preserved in its present condition and minimum width of fourteen feet (14'), with additional turnouts as may be required, to the extent consistent with public health and safety. In no event shall Tomboy Road be widened

beyond twenty-four feet (24') in pavement width.

f. Access permits required pursuant to Section 3-303 of this Title, Access Requirements, shall be obtained prior to issuance of any building permit for construction in the HD-2 Zone District. Final approval of any PUD plan within this District issued after August 15, 1989 shall be deemed to be approval and issuance of an access permit, for purposes of Section 3-303, as to the lots included within the plan.

g. Notwithstanding the provisions of Section 6-408 of this Title, Subdivision Design Criteria, and the provisions of the Town of Telluride Right-of-Way Specifications, as amended, the following road design criteria and construction specifications are hereby established for the HD-2 Zone District:

(1) Street Right of Way Width: Fifty feet (50'), or wide enough to include one foot (1') beyond the extent of any necessary cut and fill slope, whichever is less.

(2) Street Pavement Width: Twenty-four feet (24'), excluding curb and gutter, provided that such width may be reduced to a minimum of eighteen feet (18') pursuant to subsection h, below.

(3) Cul-de-sac right-of-way width: Sixty-five feet (65'), or wide enough to include one foot (1') beyond the extent of any necessary cut and fill slope, whichever is less.

(4) Cul-de-sac bulb pavement radius: Fifty feet (50'), excluding curb and gutter, provided that such diameter may be reduced, or any other appropriate turnaround configuration and dimensions may be established, if approved pursuant to subsection h, below, and after review by the Telluride Fire Protection District.

(5) Cul-de-sac maximum length: Four-hundred (400) feet, provided that such length may be increased to a maximum of eight-hundred (800) feet, if approved pursuant to subsection h, below, and after review by the Telluride Fire Protection District. For purposes of defining cul-de-sac length deriving from Tomboy Road, length shall be measured from the intersection of the new cul-de-sac with Tomboy Road. For purposes of defining cul-de-sac length from Pandora Avenue and Columbine Street, length shall be measured from the intersection of Pandora Avenue and Columbine Street.

h. The Town Council may authorize a reduction or modification of these criteria and specifications, after review by P&Z, the Town Engineer,

and the Telluride Fire Protection District, if the Council finds, after consideration of anticipated vehicular traffic, emergency access, and maintenance requirements, that:

(1) public health and safety will not be unnecessarily jeopardized by such reduction or modification; and

(2) public health, safety, and property will be protected through plans or design for snow storage, plowing, geohazard mitigation, and any other necessary measures, including, by way of example, agreements for private maintenance of roads and private acquisition of necessary maintenance equipment.

3-203.E.2. **Geohazards**

a. No construction or development shall be permitted in any identified geologic hazard area within the HD-2 Zone District, except as approved in accordance with the requirements of this section. These requirements are intended to provide a basis at the plan approval stage to evaluate the safety and suitability of the location of proposed land uses, roads and road improvements, and buildings. These requirements are in addition to the pre-construction geohazard permit application provisions of Article 8, Division 5, Geologic Hazard Control.

b. Construction or development in an identified geologic hazard area may be conceptually approved by P&Z as part of an application for preliminary subdivision plat or preliminary PUD plan approval, or may be finally approved upon referral to P&Z as part of an application for issuance of an access, geohazard, or building permit (unless previously approved), if P&Z finds:

(1) geologic hazards have been adequately identified;

(2) identified geologic hazards are avoided, or will be mitigated so as to protect the safety of persons and property; and

(3) environmental disruption is minimized.

c. Any request for final approval of construction or development within the HD-2 Zone District shall be accompanied by a report from a registered geotechnical engineer or other qualified professional, which includes:

(1) a geological survey map of the site at same scale as the site plan; and

(2) identification of any geologic hazard areas as defined in

Article 8, Division 5, "Geologic Hazard Control", on or affecting the site or any proposed new roads or road improvements or utility corridors necessary to access or serve such site; and

(3) proposed measures necessary to avoid or safely mitigate any identified geologic hazards.

Such report may be required by P&Z, at its option, as part of its review pursuant to paragraph B, above.

3-203.E.3. **Construction Impact Plans**

a. A construction impact mitigation plan for proposed construction of roads, utilities, buildings and parking areas shall be submitted, unless previously approved, as part of any application for approval of any final PUD plan, final subdivision plat, development agreement, or for issuance of an access permit, geohazard permit, or building permit, in the HD-2 Zone District. Such plan shall be reviewed and approved, with or without conditions, by P&Z, or upon referral from the appropriate permit authority if necessary, in accordance with the intent of this Zone District and for the purpose of protection of the public health, safety, and welfare.

b. The approved plan shall, at a minimum, include provisions for:

(1) erosion and dust control;

(2) parking and materials storage;

(3) restoration, revegetation, and additional natural landscaping of disturbed areas, including private drives, gabions, and public rights-of-way, including a guarantee of completion within one year after issuance of a temporary certificate of occupancy or after substantial completion of the project;

(4) adequate safeguards against the hazard of dislodging rocks or soil during any roadbed grading, excavation, or building operation, as recommended by a registered geotechnical engineer or other qualified professional;

(5) any other information or commitment as may be reasonably required by P&Z or the permit authority.

3-203.E.4. **Design Flexibility**

a. Flexibility in design of roads, structures, and development patterns is encouraged as a matter of policy in the HD-2 Zone District.

b. Notwithstanding anything in this Section to the contrary, the following land use regulations and restrictions may not be altered, modified or waived by the Town Council, P&Z, or H.A.R.C.:

(1) Uses permitted or uses permitted on review;

(2) Maximum building height;

(3) Minimum number of off-street parking spaces;

(4) Access permit requirements;

(5) Landscaping plans; lighting plans; construction impact plans; and

(6) Fence area limitations.

3-203.E.5. **Landscaping And Lighting Plans**

a. Any application for preliminary or final PUD or subdivision approval for property located within the HD-2 Zone District shall include a landscaping plan and a lighting restriction plan. Such plans shall be reviewed by P&Z, and may be approved with or without conditions, if found consistent with the Telluride Master Plan and the purposes of the HD-2 Zone District.

b. Any application for approval of a Certificate of Appropriateness for a single lot or lots not requiring subdivision or PUD approval shall include a landscaping and lighting restriction plan. Such plans shall be reviewed by H.A.R.C. and may be approved with or without conditions, if found to be consistent with the Telluride Master Plan, the purposes of the HD-2 Zone District, and applicable treatment area guidelines.

3-203.E.6. **Fences**

Privacy fencing for gardens, decks and patios shall be located within twenty feet (20') of the closest principal building. Perimeter fencing of a lot or lots is prohibited.

3-203.E.7. **Consistency Required**

a. No subdivision plat or PUD plan for property located within the HD-2 Zone District shall be approved unless P&Z finds that:

(1) The plat or plan is substantially consistent with the Telluride Master Plan and the Telluride Hillside Master Plan element

thereof, both as amended; or

(2) There has been a change of circumstances in the Hillside Master Plan study area, including the presentation of new geologic hazard or other information relating to the suitable and unsuitable designations contained in the Telluride Hillside Master Plan, occurring since the last amendment to the Telluride Master Plan and the Telluride Hillside Master Plan element thereof, which justifies approval of such plat or plan; or

(3) There is substantial cause to amend the Telluride Hillside Master Plan by altering the designation of an area as suitable or unsuitable for development based on site-specific analysis; or

(4) There exists a compelling public interest which justifies an amendment of such Plans.

b. If a development plan review requires a Master Plan amendment, such review can, upon request of the applicant, occur concurrently with consideration of a Master Plan amendment.

3-203.E.8. **Development Coordination**

a. Any application for preliminary approval of a subdivision plat or a PUD plan for property located in the HD-2 Zone District shall include a non-binding plan for development of all property within the HD-2 Zone District which is contiguous, adjacent, diagonally-adjoining, or located within the same block, and which is owned by the applicant or under substantially the same control as the applicant's property.

b. The plan shall generally designate proposed roads and utilities which will serve such property to be developed and which will accommodate land uses anticipated on the contiguous, adjacent, or diagonally adjoining property or property within the same block. The purpose of such plan is to facilitate the design of common access and utility service, to provide for coordination with proposed building locations, to address consistency with the Telluride Hillside Master Plan, and to provide a basis for agreements between property owners for joint utility and road development.

c. This requirement may be waived upon request of the applicant if P&Z finds that preparation of such a plan is not feasible or is not necessary to provide for coordination of access and utility installation within the HD-2 Zone District.

3-203.E.9. **Phasing**

a. P&Z may grant final approval of such plan or plat in phases.

b. Preliminary approval of any phase of such plan or plat shall continue in effect for up to seven (7) years, unless otherwise provided at the time of preliminary approval. A preliminary plan or plat shall not be valid for longer than seven (7) years.

3-203.E.10. **Substandard Lots**

a. In the event that the application of the HD-2 Zone District to a lot which is not under substantially the same control of an owner of any other lot within the HD-2 Zone District as of September 6, 1988 or any time thereafter, results in non-compliance with the minimum lot area requirements of this Section, then such lot shall be deemed to be substandard for purposes of this Section.

b. A dwelling unit may be permitted to be constructed on a substandard lot in the HD-2 Zone District only if a majority of P&Z finds by clear and convincing evidence that at least two (2) of the following criteria have been met:

(1) the applicant has sought in good faith to enter into a joint development plan or application with owners of adjacent, contiguous, and diagonally adjoining lots, if such lots are designated as suitable for development; or

(2) if the applicant's property is designated as unsuitable for development, the applicant has proposed the dedication or restriction of the applicant's property for use as open space as part of a proposal to increase allowable density on other owners' property by transfer of density (equivalent to a single-family dwelling unit with volume based on ratio to original lot size) permitted upon the applicant's property; or

(3) no other reasonable economic use of the property exists; or

(4) any other reasonable possibilities for separate or joint development of the property have been exhausted.

c. Notwithstanding any permission to construct a dwelling unit on a substandard lot which may be authorized by this Section, no modification to or variance from any other requirements of this Section shall be authorized by permitting construction on a substandard lot, except for lot frontage and lot width requirements. Any proposed development or construction on a substandard lot shall comply with all other restrictions on use, ground coverage, setbacks,

building height and volume, parking, fencing, landscaping, lighting, construction impact mitigation, consistency, development coordination, access permit, and all other applicable requirements of this Section and this Title.

d. No replat or subdivision of substandard lots within this District shall be permitted if the new lots would not comply with all requirements of this Section, unless modified through PUD.

3-203.E.11. **Application Requirements**

a. Any application for approval of development of property located within the HD-2 Zone District shall include, in addition to information required pursuant to Article 5, Development Review Procedures; Article 6, Division 3, Planned Unit Development; Article 6, Division 4, Subdivisions; and Article 8, Division 5, Geologic Hazard Control, the following information or materials:

(1) Statement identifying the proposed use(s) and density;

(2) Statement justifying any reduction or modification of road design criteria and building site construction specifications;

(3) Statement justifying any proposed lot area less than ten thousand (10,000) square feet;

(4) Statement justifying any setback, frontage, or ground coverage reduction or modification;

(5) A survey of the building site area;

(6) Off-site or common parking plan, if applicable;

(7) Landscaping plan;

(8) Lighting plan;

(9) Construction impact plan;

(10) Statement establishing eligibility for any proposed density bonus;

(11) Geohazard report;

(12) A statement establishing substantial consistency with the Telluride Master Plan and the Telluride Hillside Master Plan element thereof, or a request for and justification of an amendment of such Plans;

(13) Development plan for other property of the applicant which is contiguous, adjacent, or diagonally adjoining, or within the same block; and documentation of diligent, good faith efforts to coordinate development with owners of contiguous, adjacent or diagonally-adjoining property; and

(14) Master Plan amendment, if required, pursuant to Section 9-109 of this Title.

3-203.F. **Off-Street Parking Requirements.** The following number of off-street parking spaces shall be provided for each use in the Hillside Developing Two Zone District:

Parking Requirements in the Hillside Developing Two Zone District	
Use Category	**Required Parking**
All Residential Dwelling Units	1 space for dwellings with two bedrooms. 2 spaces for dwellings with two or three bedrooms. 3 spaces for dwellings with four or five bedrooms. 4 spaces for dwellings with six or seven bedrooms.
Home Occupations	Set By review of P&Z

3-203.F.1. Parking spaces for individual lots may be located off-site or in common areas.

3-203.F.2. Except as provided above, all other provisions of Sections 3-108 and 3-109 with regard to off-street parking requirements shall apply within the Hillside Developing Two Zone District.

(Ord. 1363, 2011; Ord. 1342, 2010; Ord. 1011, 1994; Ord. 1005, 1994; Ord. 970, 1992; Ords. 934 and 932, 1991; Ord. 864, 1989)

Section 3-204 Residential Zone District

3-204.A. **Purpose.** The purpose of the Residential Zone District (R) is to allow land to be used for permanent residential purposes and accessory uses. This zone has been applied to areas within the original Telluride townsite which were historically divided into lots of approximately twenty-five feet by one hundred feet (25' x 100') or twenty-five feet by one hundred seventeen and one-half feet (25'x117.5').

Development in the Residential Zone District should primarily be in-fill, or redevelopment and renovation of existing structures, with design review to ensure compliance with historic district guidelines. Public improvements, including streets, sidewalks, landscaping, parking and similar features, should be designed to meet neighborhood needs and opportunities.

3-204.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Residential Zone District are as follows.

Residential Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. One-Family Dwelling Units	1. School, Church, Hospital or Public Building
2. Two-Family Dwelling Units	2. Institutional Uses
3. Designated Employee Dwelling Units and Affordable Housing Units	3. Home Occupations
4. Accessory Buildings and Uses	4. Three-Family Dwelling Units
5. Parks, Open Space and Recreation	
6. Short Term Rentals pursuant to Article 3, Division 6	
7. Multi-family Dwelling Units pursuant to Section 3-204.C.1.c.	

3-204.C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Residential Zone District:

3-204.C.1. **Minimum Lot Area and Maximum Density:**

a. Minimum lot area shall be two thousand five hundred (2,500) square feet.

b. Maximum density shall be two thousand five hundred (2,500)

square feet per dwelling unit, except as provided for designated employee dwelling units and affordable housing units.

c. Maximum density shall be one thousand two hundred and fifty (1,250) square fet per dwelling unit, provided at least fifty percent (50%) of dwelling units are designated employee houisng units or affordable housing units.

3-204.C.2. **Minimum Lot Width:** Twenty-five feet (25') at the narrowest point.

3-204.C.3. **Minimum Lot Frontage:** Twenty five feet (25').

3-204.C.4. **Minimum Front Yard:**

a. All buildings, fifteen feet (15') or the average setback of the block in which the parcel lies, unless modified by H.A.R.C.; however, the setback shall not be less than five feet (5').

b. Corner lots (both streets), fifteen feet (15') or the average setback of the block in which the parcel lies, unless modified by H.A.R.C.; however, the setback shall not be less than five feet (5') for the front yard or the side yard.

3-204.C.5. **Minimum Side Yard:**

a. All buildings, three feet (3').

b. Corner lots, same as minimum front yard.

3-204.C.6. **Minimum Rear Yard:**

a. Principal buildings, fifteen feet (15') or the average setback of the block in which the parcel lies, unless modified by H.A.R.C.; however, the setback shall not be less than five feet (5').

b. Accessory buildings, five feet (5').

3-204.C.7. **Minimum Yard Between Principal and Secondary or Accessory Building(s) on Lot:** Fifteen feet (15') unless modified by H.A.R.C., however, the setback shall not be less than six feet (6').

3-204.C.8. **Minimum Floor Area:** As specified in the Uniform Building Code.

3-204.C.9. **Maximum Floor Area:**

a. Principal Building in the Residential Zone District			
Lot Area in Square Feet		**Maximum Gross Floor Area in Square Feet of Principal Building**	**If under Section C.1.c., then**
Over	But Not Over		
0	2,500	0.73 x lot area	0 s.f.
2,500	3,000	1,825 + 0.58 x lot area over 2,500 s.f	+100 s.f.
3,000	4,000	2,115 + 0.285 x lot area over 3,000 s.f.	+200 s.f.
4,000	5,000	2,400 + 0.35 x lot area over 4,000 s.f.	+300 s.f.
5,000	6,000	2,750 + 0.35 x lot area over 5,000 s.f.	+400 s.f.
6,000	7,500	3,100 + 0.60 x lot area over 6,000 s.f.	+400 s.f.

b. In no case shall the total gross floor area of any principal building on any lot be greater than four thousand (4,000) square feet.

c. The total floor area of all secondary and accessory buildings on any lot shall not exceed thirty-three (33%) of the maximum floor area allowed for the principal structure set forth in subsection a, above. However, no single secondary or accessory structure shall exceed nine-hundred and fifty (950) square feet. The thirty-three percent (33%) factor shall only be applied to the gross floor area of the primary structure prior to any bonus granted in subsection a, above.

3-204.C.10. **Maximum Building Height:**

a. Principal buildings, twenty-five feet (25'). For structures which have at least fifty percent (50%) of their site coverage located on hillsides with a pre-construction grade or slope of fifteen percent (15%) or greater, no portion of the building, excluding chimneys, shall exceed a height of thirty vertical feet (30') above the pre-construction grade of the building's site coverage, or the post-construction grade as measured from the exterior perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') beyond the building's site coverage perimeter), whichever is more restrictive.

b. Accessory and secondary buildings, sixteen feet (16'). For structures which have at least fifty percent (50%) of their site coverage located on hillsides with a pre-construction grade or slope of fifteen percent (15%) or greater, no portion of the building, excluding chimneys, shall exceed a height of twenty vertical feet (20') above the pre-construction grade of the building's site coverage, or the post-construction grade as measured from the exterior perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') beyond the building's site coverage perimeter), whichever is more restrictive.

3-204.C.11. **Minimum Roof Pitch:** For all buildings, one (1) unit of vertical rise to four (4) units of horizontal run unless modified or otherwise required by H.A.R.C.

3-204.C.12. **Maximum Site Coverage:**

a. For lots size of 2,500 sq. ft. to 3,125 sq. ft:

When all required parking is enclosed

$$.45 - \left[\frac{(\text{Lot Area} - 2{,}500) \times .15}{3{,}125}\right] = \text{Maximum Percent Site Coverage}$$

When all required parking is not enclosed

$$.38 - \left[\frac{(\text{Lot Area} - 2{,}500) \times .15}{3{,}125}\right] = \text{Maximum Percent Site Coverage}$$

b. For lots greater than 3,125 sq. ft. but less than 7,500 sq. ft.:

When all required parking is enclosed

$$.42 - \left[\frac{(\text{Lot Area} - 3{,}125) \times .17}{7{,}500}\right] = \text{Maximum Percent Site Coverage}$$

When all required parking is not enclosed

$$.35 - \left[\frac{(\text{Lot Area} - 3{,}125) \times .17}{7{,}500}\right] = \text{Maximum Percent Site Coverage}$$

c. For lot sizes of seventy five hundred (7,500) sq. ft. or greater, the site coverage shall not exceed twenty five percent (25%), or when all required parking is enclosed, thirty two percent (32%). For lots less than twenty five hundred (2,500) sq. ft., the site coverage shall

not exceed thirty eight percent (38%), or when all required parking is enclosed, forty five percent (45%).

d. For lots of five thousand (5,000) sq. ft. or less which contain a rated secondary structure, the total maximum site coverage may be increased up to three percent (3%) by H.A.R.C., provided it finds the development application maintains or improves the historic rating of all historic structures on the lot.

3-204.D. **Off-Street Parking Requirements.** The following number of off-street parking spaces shall be provided for each use in the Residential Zone District:

Parking Requirements in the Residential Zone District	
Use Category	**Required Parking**
All Residential Units	1 space per dwelling unit
Home Occupations	Set by review of P&Z
Hospital or School	Set by review of P&Z
Church, Public Building	One space per 500 square feet of floor area
Public Swimming Pool (including deck area) or Stadium (bleacher area only)	One space per 500 square feet of floor area

(Ord. 1342, 2010; Ord. 1145, 2001; Ord. 1071, 1997; Ord. 1011, 1994; Ord. 1007, 1994; Ord. 1005, 1994; Ord. 970, 1992; Ords. 948 and 924, 1991; Ord. 800, 1987; Ord. 725, 1986)

Section 3-205 Historic Residential Zone District

3-205.A. **Purpose.** The purpose of the Historic Residential Zone District (HR) is to allow land to be used for residential purposes and accessory uses, while preserving, maintaining, and enhancing the historical character and scale of new and existing buildings within the zone district.

3-205.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Historic Residential Zone District are as follows.

Historic Residential Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. One-Family Dwelling Units	1. School, Church, Hospital or Public Building
2. Two-Family Dwelling Units	2. Institutional Uses
3. Designated Employee Dwelling Units and Affordable Housing Units	3. Home Occupations
4. Accessory Buildings and Uses	4. Three-Family Dwelling Units
5. Parks, Open Space and Recreation	
6. Short Term Rentals pursuant to Article 3, Division 6	
7. Multi-family Dwelling Units pursuant to Section 3-205.C.1.c.	

3-205.C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Historic Residential Zone District:

3-205.C.1. **Minimum Lot Area and Maximum Density:**

a. Minimum lot area shall be two thousand five hundred (2,500) square feet.

b. Maximum density shall be two thousand five hundred (2,500) square feet per dwelling unit, except as provided for designated employee dwelling units and affordable housing.

c. Maximum density shall be one thousand two hundred and fifty (1,250) square feet per dwelling unit, provided at least fifty percent (50%) of dwelling units are designated employee dwelling units or affordable housing units.

3-205.C.2. **Minimum Lot Width:** Twenty-five feet (25') at the narrowest point.

3-205.C.3. **Minimum Lot Frontage:** Twenty-five feet (25') per lot.

3-205.C.4. **Minimum Front Yard:**

a. All buildings, fifteen feet (15'), or the average setback of the block in which the parcel lies, unless modified by H.A.R.C.

b. Corner lots, fifteen feet (15') or the average setback of the block in which the parcel lies, unless modified by the H.A.R.C.; however, in no instance shall the setback be less than five (5) feet for the front yard and five feet (5') for the side yard.

3-205.C.5. **Minimum Side Yard:**

a. All buildings, three feet (3').

b. Corner lots, five feet (5'), except that side yard setbacks from an alley shall be three feet (3').

3-205.C.6. **Minimum Rear Yard:**

a. Principal buildings, fifteen feet (15') or the average setback of the block in which the parcel lies, unless modified by H.A.R.C., however, the setback shall not be less than five feet (5').

b. Accessory and secondary buildings, five feet (5').

c. The rear yard setback associated with a relocated rated or non-rated THAS Secondary Structure may be reduced from five feet (5’) to a minimum of zero feet (0’). A variation may be granted by HARC provided HARC finds the development application maintains or improves the historic rating designation of the historic structure according to the *Telluride Historic and Architectural Survey* and upon condition that the applicant stabilizes, improves and maintains such structure in good repair.

3-205.C.7. **Minimum Yard Between Principal Building and Secondary or Accessory Building(s) on Lot:** Fifteen feet (15') unless modified by H.A.R.C., however, the setback shall not be less than six feet (6').

3-205.C.8. **Minimum Floor Area:** As specified in the Uniform Building Code.

3-205.C.9. **Maximum Floor Area:**

a. Principal Building in the Historic Residential Zone District			
Lot Area in Square Feet		**Maximum Gross Floor Area in Square Feet of Principal Building**	**If under Section C.1.c., then**
Over	But Not Over		
0	2,500	0.7 x lot area	0 s.f.
2,500	3,000	1,750 + 0.58 x lot area over 2,500 s.f	+100 s.f.
3,000	4,000	2,040 + 0.36 x lot area over 3,000 s.f.	+200 s.f.

4,000	5,000	2,400 + 0.35 x lot area over 4,000 s.f.	+300 s.f.
5,000	6,000	2,750 + 0.35 x lot area over 5,000 s.f.	+400 s.f.
6,000	7,500	3,100 + 0.32 x lot area over 6,000 s.f.	+400 s.f.

b. In no case shall the total gross floor area of any principal building on any lot be greater than four thousand (4,000) square feet.

c. The total floor area of all secondary and accessory buildings on any lot shall not exceed twenty-five percent (25%) of the maximum floor area allowed for the principal structure set forth in subsection a, above. However, no single secondary or accessory structure shall exceed nine-hundred and fifty (950) square feet. The twenty-five percent (25%) factor shall only be applied to the gross floor area of the primary structure prior to any bonus granted in subsection a, above.

3-205.C.10. **Maximum Building Height:**

a. Principal buildings, twenty-five feet (25'); provided that the maximum building height shall not be twenty percent (20%) taller than the mean average of heights of all existing principal buildings, excluding public buildings and churches, which are located within the same block or a portion of the same block located partly within the Historic Residential Zone District. For structures which have at least fifty percent (50%) of their site coverage located on hillsides with a pre-construction grade or slope of fifteen percent (15%) or greater, no portion of the building, excluding chimneys, shall exceed a height of thirty vertical feet (30') above the pre-construction grade of the building's site coverage, or the post-construction grade as measured from the exterior perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the building's site coverage perimeter), whichever is more restrictive.

b. Accessory and secondary buildings, sixteen feet (16'). For structures which have at least fifty percent (50%) of their site coverage located on hillsides with a pre-construction grade or slope of fifteen percent (15%) or greater, no portion of the building, excluding chimneys, shall exceed a height of twenty vertical feet (20') above the pre-construction grade of the building's site coverage, or the post-construction grade as measured from the exterior perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the building's site coverage perimeter), whichever is more restrictive.

3-205.C.11. **Minimum Roof Pitch:** For all buildings, one (1) unit of vertical rise to four (4) units of horizontal run unless modified or otherwise required by H.A.R.C.

3-205.C.12. **Maximum Site Coverage:**

a. For lots size of 2,500 sq. ft. to 3,125 sq. ft:

When all required parking is enclosed

$$.45 - \left[\frac{(\text{Lot Area} - 2{,}500) \times .15}{3{,}125}\right] = \text{Maximum Percent Site Coverage}$$

When all required parking is not enclosed

$$.38 - \left[\frac{(\text{Lot Area} - 2{,}500) \times .15}{3{,}125}\right] = \text{Maximum Percent Site Coverage}$$

b. For lots greater than 3,125 sq. ft. but less than 7,500 sq. ft.:

When all required parking is enclosed

$$.42 - \left[\frac{(\text{Lot Area} - 3{,}125) \times .17}{7{,}500}\right] = \text{Maximum Percent Site Coverage}$$

When all required parking is not enclosed

$$.35 - \left[\frac{(\text{Lot Area} - 3{,}125) \times .17}{7{,}500}\right] = \text{Maximum Percent Site Coverage}$$

c. For lot sizes of seventy five hundred (7,500) sq. ft. or greater, the site coverage shall not exceed twenty five percent (25%), or when all required parking is enclosed, thirty two percent (32%). For lots less than twenty five hundred (2,500) sq. ft., the site coverage shall not exceed thirty eight percent (38%), or when all required parking is enclosed, forty five percent (45%).

d. For lots of five thousand (5,000) sq. ft. or less which contain a rated secondary structure, the total maximum site coverage may be increased up to three percent (3%) by H.A.R.C. provided it finds the development application maintains or improves the historic rating of all historic structures on the lot.

3-205.D. **Additional Development Requirements.** The following additional requirements shall apply to all development in the Historic Residential Zone District.

Geologic and Flood Hazard Report: For those lands within the Historic Residential Zone District having identified areas of geologic or flood hazard per the adopted "Official Geologic Hazard Area Map" and the adopted "Flood Insurance Study for the Town of Telluride, reports shall be provided and permits obtained as may be required pursuant to Article 8 of this Title.

3-205.E. **<u>Off-Street Parking Requirements.</u>** The following number of off-street parking spaces shall be provided for each use in the Historic Residential Zone District:

3-205.E.1. **Parking Requirements in the Historic Residential Zone District**	
Use Category	**Required Parking**
All Residential Units	1 space per dwelling unit
Home Occupations	Set by review of P&Z
Hospital or School	Set by review of P&Z
Church, Public Building	One space per 500 square feet of floor area
Public Swimming Pool (including deck area) or Stadium (bleacher area only)	One space per 500 square feet of floor area

3-205.E.2. **Payment-In-Lieu of Parking**

Notwithstanding any provisions of this Article 3 to the contrary, the Planning Director may authorize, upon recommendation of H.A.R.C., "payment-in-lieu" of one (1) on-site parking space on any lot which:

a. contains a rated and a non-rated structure; and

b. contains a rear yard through which vehicle access to required parking is obstructed by either such structure; or

c. in the case of a corner lot, contains a side yard through which access is so obstructed.

In addition, such payment may be waived upon consent of the Town Council, upon condition that the applicant stabilizes, improves, and maintains such structures in good repair.

3-205.E.3. The Planning Director may approve tandem or stacked off-street parking as provided for in Section 3-109.C.

(Ord. 1423, 2015; Ord. 1342, 2010; Ord. 1145, 2001; Ord. 1071, 1997; Ord. 1011, 1994; Ord. 1007, 1994; Ord. 1005, 1994; Ord. 970, 1992; Ords. 948 and 924, 1991; Ord. 911, 1990; Ord. 866, 1989)

Section 3-206 Medium Density Residential Zone District

3-206.A. **Purpose.** The purpose of the Medium Density Residential Zone District (MDR) is to allow property owners an opportunity to provide employee housing uses to qualifying employees in the Town and in the immediate region, and to allow utilization of these units for residential land uses at densities in excess of those permitted in the Residential Zone District. Shared parking, strong pedestrian linkages, and appropriate recreation facilities are design elements to be considered in new developments in the district, and clustering of units is encouraged.

3-206.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Medium Density Residential Zone District are as follows.

Medium Density Residential Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. One-Family Dwelling Units	1. School, Church, Hospital or Public Building
2. Two-Family Dwelling Units	2. Institutional Uses
3. Three-Family Dwelling Units	3. Home Occupations
4. Designated Employee Dwelling Units and Affordable Housing Units	4. Multi-Family Dwelling Units in Excess of Three Family Dwellings
5. Accessory Buildings and Uses	5. Recreation Uses and Open Use Recreation
6. Parks and Open Space	
7. Short Term Rentals pursuant to Article 3, Division 6	

3-206.C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Medium Density Residential Zone District:

3-206.C.1. **Minimum Lot Area and Maximum Density:**

a. Minimum lot area shall be two thousand five hundred (2,500) square feet for lots containing free market units and one thousand five hundred (1,500) square feet for lots containing only designated employee dwelling units and affordable housing units.

b. Maximum density shall be one unit per two thousand five hundred (2,500) square feet for free market units and one unit per one thousand five hundred (1,500) square feet for designated employee dwelling units and affordable housing units.

3-206.C.2. **Minimum Lot Width:** Twenty-five feet (25') at the narrowest point.

3-206.C.3. **Minimum Lot Frontage:** Twenty five feet (25').

3-206.C.4. **Minimum Front Yard:**

a. All buildings, fifteen feet (15').

b. Corner lots (both streets), fifteen feet (15').

3-206.C.5. **Minimum Side Yard:**

a. All buildings, three feet (3').

b. Corner lots, fifteen feet (15').

3-206.C.6. **Minimum Rear Yard:**

a. Principal buildings, fifteen feet (15').

b. Accessory buildings, five feet (5').

3-206.C.7. **Minimum Floor Area:** Five hundred (500) square feet per dwelling unit, or as specified in the Uniform Building Code, whichever is less.

3-206.C.8. **Maximum Floor Area:**

a. Principal buildings, five thousand (5,000) square feet, unless modified by H.A.R.C.

b. Secondary principal buildings, fifty percent (50%) less than the principal structure or one thousand two hundred (1,200) square feet, whichever is less.

3-206.C.9. **Maximum Building Height:**

a. Principal buildings, twenty-five feet (25').

b. Accessory and secondary principal buildings, sixteen feet (16').

3-206.C.10. **Minimum Roof Pitch:** For all buildings, one (1) unit of vertical rise to four (4) units of horizontal run unless modified or otherwise required by H.A.R.C.

3-206.C.11. **Maximum Site Coverage:** The maximum site coverage for each lot or tract of land in the Medium Density Residential Zone District shall not exceed forty percent (40%). In the event that all required off-street parking is covered on the lot or tract, maximum site coverage shall be fifty percent (50%). Accessory buildings shall be calculated at one-half (1/2) the actual site coverage.

3-206.D. **Off-Street Parking Requirements.** The following number of off-street parking spaces shall be provided for each use in the Medium Density Residential Zone District:

Parking Requirements in the Medium Density Residential Zone District	
Use Category	**Required Parking**
All Residential Units	1 space per dwelling unit
Home Occupations	Set by review of P&Z
Hospital or School	Set by review of P&Z
Church, Public Building	One space per 500 sq. ft. of floor area
Public Swimming Pool (including deck area) or Stadium (bleacher area only)	One space per 500 sq. ft. of floor area

(Ord. 1342, 2010; Ord. 1145, 2001; Ord. 1011, 1994; Ord. 970, 1992; Ord. 924, 1991; Ord. 817, 1988)

Section 3-207 Reserved

Section 3-208 Reserved

Section 3-209 Accommodations One Zone District

3-209.A. **Purpose.** The purpose of the Accommodations One Zone District (AC-1) is to preserve the historical character of the neighborhood and to allow and encourage long-term residential uses, while also serving the visitor population through uses associated with tourist accommodations, including visitor oriented accommodations and associated commercial uses. Existing historical structures in the AC-1 Zone District should be saved where possible, and its traditional scale and residential uses should be preserved. New development should respect the historical setbacks and grid pattern of existing platted lots.

A secondary purpose of the AC-1 Zone District is to promote additional long term housing by preserving and improving secondary structures for use as long term dwelling units and by encouraging the placement of a designated employee dwelling unit in buildings where tourist commercial or office uses are proposed.

3-209.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Accommodations One Zone District are as follows.

Accommodations One Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. One-Family and Two-Family Dwelling Units	1. School, Church, Hospital or Public Building
2. Condominium Hotel, Hotels, Lodges, Roominghouses, Boardinghouses, Short-term Dwelling Units	
3. Office and tourist related business use, not to exceed 1,000 square feet of business floor area per structure (pursuant to Note 1, below).	2. Office use and tourist related business uses that exceed 1,000 square feet of business floor area per structure. (pursuant to Note 1, below)
4. Multi-Family Dwelling Units	
5. Designated Employee Dwelling Units and Affordable Housing Units	
6. Recreational Club Facilities & Uses	
7. Timesharing, pursuant to the provisions of Section 6-413 of this Title	
8. Accessory Buildings and Uses	

Note 1: If the building is a contributing or supporting "rated structure", then the floor area utilized for office or tourist-related business, excluding bars, taverns, and bar areas, shall not be counted in the determination of business floor area, provided that such uses will not, in the determination of H.A.R.C., compromise the building's rating. "Office and tourist-related business use", for purposes of this section, does not include floor area exclusively devoted to storage, utilities, rest rooms, lobbies, and stairwells. "Retail or office space" does not include floor area exclusively devoted to storage, utilities, rest rooms, lobbies and stairwells.

3-209.C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Accommodations One Zone District:

3-209.C.1. **Lot Area:**

a. **Minimum:** Two thousand five hundred (2,500) square feet.

b. **Maximum:** Five Thousand Eight Hundred Seventy (5,875) square feet, however such maximum may be increased pursuant to Article 6, Division 3, "Planned Unit Development".

3-209.C.2. **Minimum Lot Width:** Twenty-five feet (25') at the narrowest point.

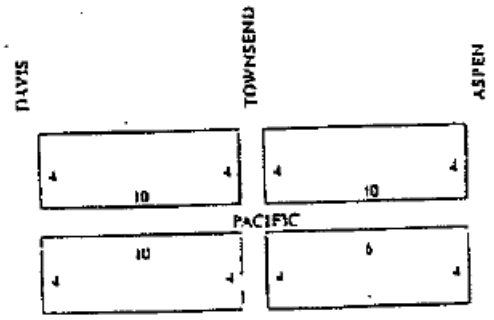
3-209.C.3. **Lot Frontage:**

a. **Minimum:** Twenty-five feet (25') for all lots.

b. **Maximum:** Fifty feet (50') for all lots, however such maximum may be increased pursuant to Article 6, Division 3, "Planned Unit Development".

3-209.C.4. **Minimum Front Yard:**

1. Each lot within the AC-1 Zone District shall have a minimum front yard setback equal to the average of the front yard setback of all structures on the same block in existence at the time of passage of the ordinance from which this subsection derives (Ordinance 403, November 13, 1979), illustrated as follows, unless modified by H.A.R.C.



b. Corner lot setbacks shall be a minimum of five feet (5'), for traffic safety purposes.

3-209.C.5. **Minimum Side Yard:**

a. All buildings, three feet (3'), unless modified by H.A.R.C.

b. Corner lots, same as minimum front yard.

3-209.C.6. **Minimum Rear Yard:** All buildings, five feet (5').

a. The rear yard setback associated with a relocated rated or non-rated THAS Secondary Structure may be reduced from five feet (5') to a minimum of zero feet (0'). A variation may be granted by HARC provided HARC finds the development application maintains or improves the historic rating designation of the historic structure according to the *Telluride Historic and Architectural Survey* and upon condition that the applicant stabilizes, improves and maintains such structure in good repair.

3-209.C.7. **Minimum Floor Area:** No limitation.

3-209.C.8. **Maximum Floor Area:** No limitation.

3-209.C.9. **Maximum Building Height:**

a. Principal buildings, twenty-five feet (25'); provided that the maximum roof height shall not be twenty percent (20%) taller than the mean average of roof heights on principal buildings located within the same block or portion of any block located partly within the AC-1 Zone District.

b. Accessory and secondary buildings, sixteen feet (16').

3-209.C.10. **Minimum Street Frontage:** Twenty-five feet (25') per lot.

3-209.C.11. **Minimum Roof Pitch:**

a. For all buildings, one (1) unit of vertical rise to four (4) units of horizontal run unless modified or otherwise required by H.A.R.C.

b. No roof may begin less than seven feet (7') from ground level.

3-209.C.12. **Maximum Site Coverage:**

a. For the principal structure: forty-five percent (45%).

For developments comprised solely of Hotel, Lodge, Roominghouse, Boardinghouse, or Short-term Dwelling Unit uses (excepting affordable and employee housing): fifty percent (50%).

b. For secondary and accessory structures: fifteen percent (15%).

c. The site coverage of any rated secondary structure shall be counted as half, provided H.A.R.C. finds the development application maintains or improves the historic ratings of all historic structures on the lot, and upon condition that the applicant stabilizes, improves, and maintains such structures in good repair.

d. No lot or lots in this zone district shall have more than a total of fifty percent (50%) site coverage by all structures.

3-209.D. **Off-Street Parking Requirements.** The following number of off-street parking spaces shall be provided for each use in the Accommodations One Zone District:

3-209.D.1.a. **Parking Requirements in the Accommodations One Zone District**	
Use Category	**Required Parking**
Residential Dwelling Units	1 space per unit
Short-term Dwelling Units	2 spaces for every 3 units
Hotel, Lodge, Roominghouse, Boardinghouse	2 spaces for every 3 units
High Intensity Use	One space per 500 square feet of floor area
Low Intensity Use	One space per 1,000 square feet of floor area
Assembly Areas	One space per 500 square feet of floor area
3-209.D.1.b. **Parking Requirements for development comprised solely of Hotel, Lodge, Roominghouse, Boardinghouse, and Short-term Dwelling Units***	
Lot Area	Required Parking
0 - 3,000 sq. ft.	4 spaces; or the number of spaces required in 3-209.D.1.a, whichever is less
3,001 - 5,000 sq. ft.	5 spaces; or the number of spaces required in 3-209.D.1.a, whichever is less
5,001 - 7,000 sq. ft.	6 spaces; or the number of spaces required in 3-209.D.1.a, whichever is less
Greater than 7,000 sq.ft.	To be determined by P&Z

*excepting affordable and employee housing

3-209.D.2. **Payment-In-Lieu of Parking**

Notwithstanding any provisions of this Article 3 to the contrary, the Planning Director may authorize, upon recommendation of H.A.R.C., "payment-in-lieu" of one (1) on-site parking space on any lot which:

a. contains a rated and a non-rated structure; and

b. contains a rear yard through which vehicle access to required parking is obstructed by either such structure; or

c. in the case of a corner lot, contains a side yard through which access is so obstructed.

In addition, such payment may be waived upon consent of the Town Council, upon condition that the applicant stabilizes, improves, and maintains such structures in good repair.

3-209.D.3. The Planning Director may approve tandem or stacked off-street parking as provided for in Section 3-109.C.

(Ord. 1423, 2015; Ord. 1342, 2010; Ord. 1248, 2006; Ord. 1213, 2004; Ord. 1106, 1998; Ord. 1092, 1997; Ord. 1059, 1996; Ord. 1033, 1995; Ord. 1011, 1994; Ord. 1007, 1994; Ord. 1005, 1994; Ord. 970, 1992; Ord. 924, 1991; Ord. 868, 1989; Ord. 817, 1988; Ord. 403, 1979; Ord. 231, 1970)

Section 3-210 Accommodations Two Zone District

3-210.A. **Purpose.** The purpose of the Accommodations Two Zone District (AC-2) is to provide an area of relatively higher densities, where visitor-oriented accommodations, housing for residents recreation facilities to serve both visitors and residents, and limited commercial uses intended to provide tourist and accommodations-related services are permitted and encouraged.

Important development considerations in the AC-2 Zone District, beyond those expressed in the area's design guidelines, are the need to preserve and create strong pedestrian corridors, the need to anticipate and design around and for the San Miguel River and River Park Trail Corridor, the need to accommodate public transit, and the opportunity to utilize the intercept parking areas which are centrally located within the AC-2 Zone District.

3-210.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Accommodations Two Zone District are as follows:

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Accommodations Two Zone District Use Table			
Uses Permitted By Right		**Uses Permitted On Review**	
1.	Lodginghouses, Boardinghouses and Roominghouses	1.	School, Church, Hospital or Public Building
2.	Multi-Family Dwelling Units	2.	One-Family Dwelling Units on lots of 5,000 sq. ft. or less
3.	Multi-family Short-term Dwelling Units	3.	Two-Family Dwelling Units on lots of 5,000 sq. ft. or less
4.	Condominium-Hotel, Hotels and Conference Facilities		
5.	The following tourist-related retail commercial uses only, the total area of which shall not exceed 15% of the gross floor area of the principal structure: a. Art Gallery b. Bar c. Book Shop d. Camera Shop e. Candy, Tobacco Store f. Gift Shop g. Jewelry Store h. Liquor Store i. Restaurant j. Sporting Goods Store k. Property Management Office l. Visitor Service Office Rental and repair and storage of uses in conjunction with uses set out in this subsection.	4.	Other tourist-related retail and service commercial uses not itemized as a permitted use, or office uses. In no case shall the total area of commercial or office use exceed 15% of the gross floor area of the principal structure.
6.	One-Family Dwelling Units in Backman Village, Lots 29-33, inclusive	5.	See C.9
7.	Designated Employee Dwelling Units and Affordable Housing Unit	6.	Parking of motor vehicles East of Davis Street
8.	Timesharing, pursuant to the provisions of Section 6-413 of this Title		
9.	Parks, Open Space and Recreational Uses		
10.	Parking of motor vehicles West of Davis Street		

Note: Determinations and interpretations of tourist-related retail and service commercial uses may be provided by the Planning Director upon request.

3-210.C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Accommodations Two Zone District:

3-210.C.1. **Minimum Lot Area:** Two thousand five hundred (2,500) square feet.

3-210.C.2. **Minimum Lot Width:** Twenty-five feet (25').

3-210.C.3. **Minimum Lot Frontage:** Twenty-five feet (25').

3-210.C.4. **Minimum Front Yard:** To allow flexibility in the design process, there is no established minimum front yard within this Zone District. Setbacks will be governed by the Uniform Building Code and the requirements of H.A.R.C.

3-210.C.5. **Minimum Side Yard:** Same as minimum front and rear yard.

3-210.C.6. **Minimum Rear Yard:** Same as minimum front and side yard.

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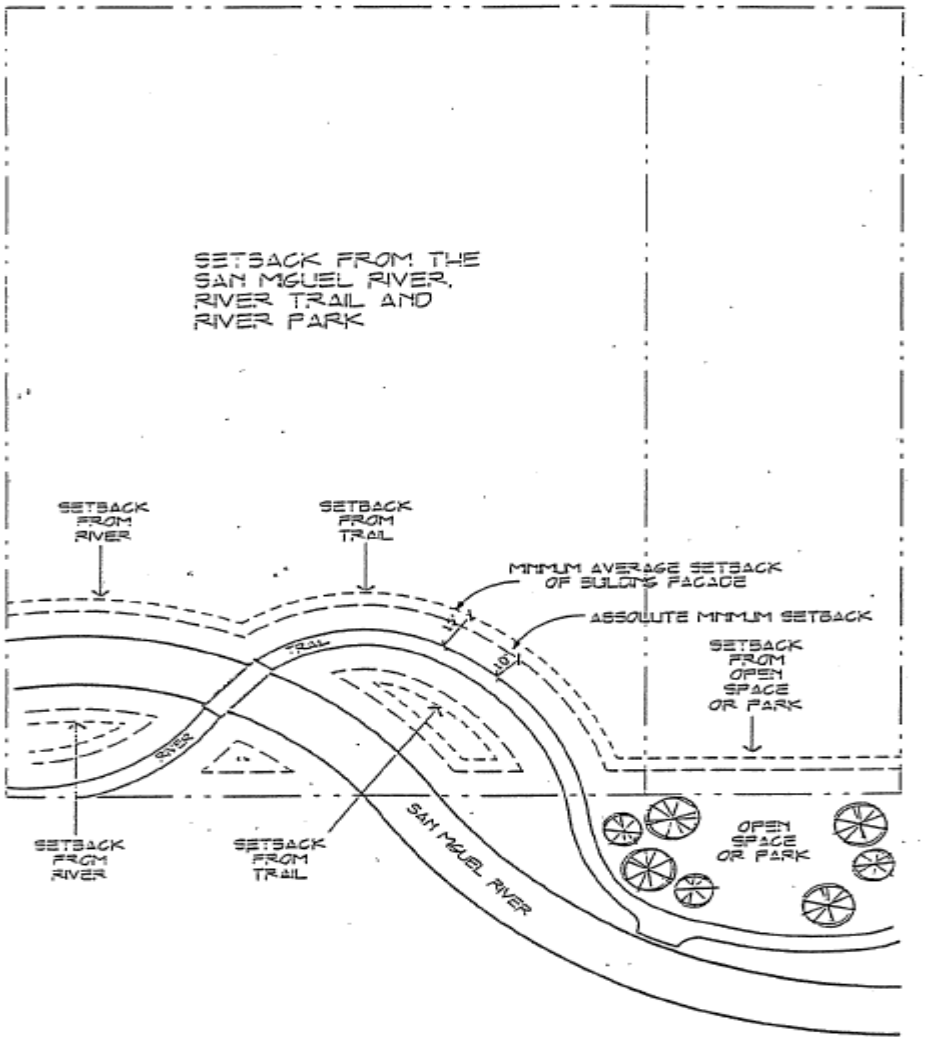
3-210.C.7. **Setback to the San Miguel River, River Trail and River Park:** Notwithstanding the above provisions, the following minimum setback from a property line which is adjacent to a property which is zoned or entirely dedicated for Open Space or Park and contains either the San Miguel River or River Park Trail, or from the River Park Trail or the San Miguel River in the absence of such zoning or dedication, whichever is more restrictive, shall be ten feet (10'), however, in no case shall the average setback of the building facade be less than fifteen feet (15'). For the purposes of this section, the determination of setback shall include any building or structure, or portion thereof, including decks, porches, railings and fences:



3-210.C.8. **Minimum Bulk Plane**. Notwithstanding the above provisions, buildings shall be set back a minimum of one (1) horizontal foot for each one and a half (1.5) vertical feet, excluding chimneys, from a property line which is adjacent to a property which is zoned or entirely dedicated for Open Space or Park and contains either the San Miguel River or River Park Trail, or

from the River dedication, whichever is more restrictive.

3-210.C.9. **Setback for High Intensity Use.** Notwithstanding Section 3-210.B., no High Intensity Use as defined in Table 3-3 shall be permitted within a structure whose access to that use, or which use is located outside a structure, which is within fifty (50') feet of a property line of a property which is zoned or entirely dedicated for Open Space or Park and contains either the San Miguel River or River Park Trial, or fifty (50') feet from the River Park Trail or the San Miguel River in the absence of such zoning or dedication, whichever is more restrictive, unless such uses are authorized and approved by P&Z subject to the provisions of Article 6, Division 1, "Uses Permitted on Review".

3-210.C.10. **Minimum Floor Area:** No limitation.

3-210.C.11. **Maximum Floor Area:**

a. Thirty thousand (30,000) square feet per structure.

b. Fifty thousand (50,000) square feet per structure provided:

(1) the structure is comprised of hotel, lodge, roominghouse, boardinghouse, short-term dwelling units; facilities for conferences, performing arts, or special events, provided such facilities are available to local non-profit organizations[1]; excepting the following: the net floor area of uses other than those listed above shall not comprise greater than thirty-five percent (35%) of the gross floor area of the structure minus floor area dedicated to affordable or employee housing.

(2) the uses within the structure are memorialized in a development agreement or instrument as approved by the Town Manager.

c. The maximums listed above may be increased pursuant to Article 6, Division 3, "Planned Unit Development" or as modified by H.A.R.C.

3-210.C.12. **Maximum Building Height:**

a. To preserve the views of the surrounding mountainous terrain and

[1] "Available to local non-profit organizations" means such facility shall be available free of charge a minimum of twenty (20) days per calendar year between the hours of 6:00 a.m. and 12:00 midnight, or the number of days and times as otherwise approved by the Planning and Zoning Commission pursuant to Article 6, Division 3, "Planned Unit Development", for use by local municipal, school, religious, public service organizations, and not-for-profit educational, charitable and artistic organizations.

because higher buildings will not have as severe a visual impact if situated at the toe of the mountain as those further north from the toe of the mountain, the following sub-district building height limitations are imposed:

(1) Principal structures south of the San Miguel River: forty feet (40'); provided that the highest ridge point of any roof, excluding chimneys, shall not exceed forty-five feet (45') directly above the pre-construction grade of the building's site coverage, or the post-construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the exterior perimeter of the building's site coverage), whichever is more restrictive.

(2) Principal structures north of the San Miguel River: thirty five feet (35');

b. Notwithstanding anything in Title to the contrary, for the purposes of measuring the height of principal structures south of the San Miguel River the constant slope method of height measurement may be used for structures which have at least fifty percent (50%) of their ground coverage located on hillsides with a pre-construction grade or slope of fifteen percent (15%) or greater as follows:

(1) the height of any principal building or structure shall be measured as the length of any line which is plumb from a plane located at the highest point, excluding chimneys, of coping of a flat roof, or located at the mean height level between the eaves and ridge for gable, hip, the decline of a mansard roof, or gambrel roofs, and which plane is above and parallel to the original, pre-construction grade of the building's site coverage area, or the post-construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the exterior perimeter of the building's site coverage), whichever is more restrictive.

c. The maximum height of principal structures may be increased, if approved pursuant to PUD review, subject to the following conditions and limitations:

(1) South of the San Miguel River, up to fifty feet (50'), with a highest ridge point not to exceed fifty-five feet (55') directly above the original ground surface, excluding chimneys, provided the pitch of any roof which is fifty feet (50') or greater directly above the pre-construction grade of the

building's site coverage, or the post-construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the exterior perimeter of the building's site coverage), whichever is more restrictive, in whole or in part, shall be eight to twelve (8:12) or steeper.

(2) North of the San Miguel River, forty feet (40').

d. A survey of the original, pre-construction grade of the building site area south of the San Miguel River shall be provided as part of any application for approval of preliminary PUD plan, H.A.R.C. Certificate of Appropriateness, building permit, or any other form of approval for construction of a building, unless previously submitted.

3-210.C.13. **Minimum Roof Pitch:**

a. For all buildings, one (1) unit of vertical rise to four (4) units of horizontal run unless modified or otherwise required by H.A.R.C.

b. No roof may begin less than seven feet (7') from ground level.

3-210.C.14. **Maximum Ridge Line Length:** No ridge of any roof may extend continuously for a length greater than 60', unless modified by H.A.R.C.

3-210.C.15. **Maximum Site Coverage:**

a. For lot sizes twenty thousand square feet (20,000 sq.ft.) or less, the maximum site coverage shall not exceed forty percent (40%) or when all required parking is enclosed, fifty percent (50%).

b. For lot sizes greater than twenty thousand square feet (20,000 sq. ft.),

$$.4 - \frac{[(\text{Lot Area} - 20{,}000) \times .125]}{100{,}000} = \text{Maximum Percent Site Coverage}$$

c. For lot sizes of one hundred thousand (100,000) sq. ft. or greater, the site coverage shall not exceed thirty percent (30%).

d. If an applicant elects to provide floor area or space within a building or structure which encloses either all or a percentage of the required parking, the site coverage maximum may be increased according to the following table:

Percent of Required Spaces Provided Within a Structure	Additional Site Coverage Percentage Allowed
100	10%
75	7.5%
50	5%
25	2.5%
0	0%

e. Enclosed open space shall be included in calculating site coverage. Enclosed open space means the ground area which is not covered by an above grade structure, which is surrounded on more than two sides by buildings, and which is physically or visually closed to view from all adjacent rights-of-way, or public lands within the Town of Telluride.

3-210.D. **Off-Street Parking Requirements.** The following number of off-street parking spaces shall be provided for each use in the Accommodations Two Zone District:

Parking Requirements in the Accommodations Two Zone District	
Use Category	**Required Parking**
Residential Dwelling Units	1 space per unit
Short-term Dwelling Units	2 spaces for every 3 units
Hotel, Lodge, Roominghouse, Boardinghouse	2 spaces for every 3 units
Low Intensity Use	One space per 1,000 square feet of floor area
High Intensity Use	One space per 500 square feet of floor area

(Ord. 1248, 2006; Ord. 1112, 1999; Ord. 1106, 1998; Ord. 1092, 1997; Ord. 1059, 1996; Ord. 1033, 1995; Ord. 1011, 1994; Ord. 1007, 1994; Ord. 1005, 1994; Ord. 970, 1992; Ord. 966, 1992; Ord. 955, 1992; Ord. 924, 1991; Ord. 912, 1990; Ord. 817, 1988)

Section 3-211 Residential/Commercial Zone District Including the Gondola Corridor Overlay District

3-211.A. **Purpose.** The purpose of the Residential/Commercial Zone District (R/C) is to preserve the historic residential development pattern, uses and scale of the neighborhood and to allow long-term residential uses, while providing the opportunity for limited commercial development for demanded goods and services and for limited short-term rental uses. The purpose of the Gondola Corridor Overlay District (GCOD) is to maintain the historic residential scale and character, and architectural integrity of the neighborhood while providing for commercial, visitor accommodations, and residential uses consistent with the Master Plan, and to implement the Telluride Gondola Gateway Plan.

3-211.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Residential/Commercial Zone District are as follows.

Residential/Commercial Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. One-Family Dwelling Units	1. School, Church, Hospital or Public Building
2. Two-Family Dwelling Units	2. Bar or tavern
3. Multi-Family Dwelling Units	3. Shop Craft Industry
4. Condominium-Hotel, Hotels, Lodges, Boardinghouses, Roominghouses, and Short-term Dwelling Units	
5. Retail Commercial Uses as listed in Note 1	
6. Service Commercial Uses, limited to the following and similar uses: a. business office b. catering service c. financial institution d. personal service including barber or beauty shop e. studio for arts instruction f. radio and television broadcast facilities	
7. Recreational Club Facilities	
8. Designated Employee Dwelling Units and Affordable Housing Units	
9. Timesharing, pursuant to the provisions of Section 6-413 of this Title	
10. Accessory Buildings and Uses	

Note 1 - Retail commercial establishments shall be limited to the following and similar uses:

1. Antique shop
2. Appliance store
3. Art gallery
4. Art supply store
5. Automobile accessory store
6. Bakery
7. Bookstore
8. Camera shop
9. Candy, tobacco or cigarette store
10. Catalogue store
11. Clothing store
12. Decorator shop
13. Department store
14. Pharmacy
15. Florist shop
16. Food market
17. Furniture store
18. Gift shop
19. Hardware store
20. Hobby shop
21. Jewelry store
22. Job printing shop
23. Key shop
24. Liquor store
25. Pet shop
26. Paint and wallpaper store
27. Pawn shop
28. Photography shop
29. Restaurant
30. Sporting goods store
31. Stationery store
32. Variety store

3-211.C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Residential/Commercial Zone District:

3-211.C.1. **Minimum Lot Area:** Two thousand five hundred (2,500) square feet.

3-211.C.2. **Minimum Lot Width:** Twenty-five feet (25') at the narrowest point.

3-211.C.3. **Minimum Lot Frontage:** Twenty-five feet (25') for all lots.

3-211.C.4. **Minimum Front Yard:**

a. Each block within the R/C Zone District shall have a minimum front yard setback requirement equal to the average of the front yard setback of all structures on the same block, unless modified by H.A.R.C.

b. Corner lot setbacks shall be a minimum of five feet (5'), for traffic safety purposes, except as identified per Section 3-211.C.5.b.iii.

3-211.C.5. **Minimum Side Yard:**

a. Residential/Commercial District:

i. All buildings, three feet (3').

ii. Corner lots, same as minimum front yard.

b. Gondola Corridor Overlay District:

i. For lots which have widths less than fifty feet (50'), three feet (3') for all buildings.

ii. For lots which have widths fifty feet (50') or greater, five feet (5') for all buildings; however, HARC may modify setbacks for secondary structures to three feet (3').

iii. For lots which abut San Juan Avenue, zero feet (0') to San Juan Avenue.

3-211.C.6. **Minimum Rear Yard:** All buildings, five feet (5').

a. The rear yard setback associated with a relocated rated or non-rated THAS Secondary Structure may be reduced from five feet (5’) to a minimum of zero feet (0’). A variation may be granted by HARC provided HARC finds the development application maintains or improves the historic rating designation of the historic structure according to the *Telluride Historic and Architectural Survey* and upon condition that the applicant stabilizes, improves and maintains such structure in good repair.

3-211.C.7. **Primary Facade Setback:** An addition in excess of one hundred (100) square feet of gross floor area to a supporting or contributing rated principal structure shall not be permitted within fifteen feet (15') of the rear of the structure's primary facade, unless approved by H.A.R.C.

3-211.C.8. **Minimum Floor Area:** No limitation.

3-211.C.9. **Maximum Floor Area:** No limitation.

3-211.C.10. **Maximum Building Height:**

a. Principal Buildings

i. Residential/Commercial District: twenty-five feet (25').

ii. Gondola Corridor Overlay District: twenty-five feet (25'), provided that the maximum roof height shall not exceed thirty five percent (35%) of the mean average of heights of all existing principal buildings, excluding public buildings and churches, which are located within the Gondola Corridor Overlay District.

b. Accessory and secondary principal buildings, sixteen feet (16').

3-211.C.11. **Minimum Street Frontage:** Twenty-five feet (25') per lot.

3-211.C.12. **Minimum Roof Pitch:**

a. For all buildings, one (1) unit of vertical rise to four (4) units

of horizontal run. H.A.R.C. may require a greater minimum roof pitch based on applicable design guidelines for the affected treatment area.

b. No roof may begin less than seven feet (7') from ground level.

3-211.C.13. **Maximum Site Coverage:**

a. Residential/Commercial District: No limitation.

b. Gondola Corridor Overlay district:

i. Forty-five percent (45%); except that for lots which contain a rated secondary structure the site coverage of the rated secondary structure shall count as half, provided H.A.R.C. finds the development application maintains or improves the historic ratings of all historic structures on the lots.

ii. For lots which contain a rated primary structure, and which have non-conforming site coverage, the site coverage of the lot may be increased by up to twenty percent (20%), provided that such increase will not, in the determination of H.A.R.C., compromise the structure's rating.

3-211.D. **Off-Street Parking Requirements.**

3-211.D.1. The following number of off-street parking spaces shall be provided for each use in the Residential/Commercial Zone District:

3-211.D.1.a. **Parking Requirements in the Residential/Commercial Zone District**	
Use Category	**Required Parking**
Residential Dwelling Units	1 space per unit
Short-term Dwelling Units	2 spaces for every 3 units
Hotel, Lodge, Roominghouse, Boardinghouse	2 spaces for every 3 units
High Intensity Use	One space per 500 square feet of floor area
Low Intensity Use	One space per 1,000 square feet of floor area

3-211.D.1.b. **Parking Requirements for development comprised solely* of Hotel, Lodge, Roominghouse, Boardinghouse, and Short-term Dwelling Units in the Residential/Commercial Zone District**	
Lot Area	**Required Parking**
0 - 3,000 sq. ft.	4 spaces; or the number of spaces required in Section 3-211.D.1.a, whichever is less
3,001 - 5,000 sq. ft.	5 spaces; or the number of spaces required in Section 3-211.D.1.a, whichever is less
5,001 - 7,000 sq. ft.	6 spaces; or the number of spaces required in Section 3-211.D.1.a, whichever is less
Greater than 7,000 sq.ft.	To be determined by P&Z

*excepting affordable and employee housing

3-211.D.1.c. **Parking Requirements in the Gondola Corridor Overlay District**	
Lot Area	**Required Parking**
0 - 3,000 sq. ft.	Single Family Dwelling Unit, 1 space. All other uses 2 spaces, except where commercial uses are present, then 3 spaces; or the number of spaces required in 3-211 D.1.a., whichever is less.
3,001 - 10,000 sq. ft.	Single Family Dwelling Unit, 1 space. All other uses, 3 spaces, except where commercial uses are present, then 4 spaces; or the number of spaces required in 3-211 D.1.a., whichever is less.
Greater than 10,000 sq.ft.	Use standards of Section 3-211 D.1.a

3-211.D.2. **Payment-In-Lieu of Parking**

Gondola Corridor Overlay District: Notwithstanding any provisions of this Article 3 to the contrary, the Planning Director may authorize, upon recommendation of H.A.R.C., "payment-in-lieu" of one (1) on-site parking space on any lot which:

a. contains a rated and a non-rated structure; and

b. contains a rear yard through which vehicle access to required parking is obstructed by either such structure; or

c. in the case of a corner lot, contains a side yard through

which access is so obstructed.

Such payment may be waived upon consent of the Town Council, upon condition that the applicant stabilizes, improves, and maintains such structures in good repair.

3-211.E. **Front Yard Landscaping Requirements within Gondola Corridor Overlay District.**

3-211.E.1. The following landscaping requirement shall apply to any small scale or large scale H.A.R.C. application within the GCOD. A minimum of three of the following types of trees shall be planted in the front yard prior to issuance of a certificate of occupancy: six-foot spruce (6') spruce, fifteen-foot (15') cottonwood or three-inch (3") diameter aspen. HARC may modify this requirement based on site specific development plan review.

3-211.E.2. This requirement shall only be applied one time to each lot. Suitable collateral to secure performance of the landscaping requirement, in the form of cash or a certificate of deposit, shall be posted prior to issuance of a building permit.

3-211.F. **Sign Limitation and Illumination within the Gondola Corridor Overlay District.**

3-211.F.1. The following types of signs are allowed: projecting, wall, and free-standing, all of which are subject to the size restrictions in Section 3-405.

3-211.F.2. Illumination of signs shall not exceed 30 watts. Internal illumination or backlighting of signs is prohibited.

3-211.G. **Garbage storage areas shall not be located in the front yard within the Gondola Corridor Overlay District.**

(Ord. 1423, 2015; Ord. 1248, 2006; Ord. 1106, 1998; Ord. 1092, 1997; Ord. 1071, 1997; Ord. 1033, 1995; Ord. 1011, 1994; Ord. 1005, 1994; Ord. 992, 1993; Ord. 970, 1992; Ord. 924, 1991; Ord. 868, 1989; Ord. 817, 1988)

Section 3-212 Commercial Zone District

3-212.A. **Purpose**. The purpose of the Commercial Zone District (C) is to allow land to be used for retail and service commercial establishments and uses, together with accommodations uses. Some recreation, multi-family residential, accessory and institutional uses may also be appropriate, especially those that strengthen the Town's commercial core.

3-212.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Commercial Zone District are as follows:

Commercial Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. Retail Commercial Establishments, as listed in note 1, below	1. Schools as limited by Note 4 below, Public Buildings and Institutional Uses
2. Service Commercial Establishments, limited to the following and similar uses (see Note 5): a. business office b. catering service c. financial institution d. parking lot or garage e. personal service including barber or beauty shop f. radio or television broadcast facility g. studio for arts instruction	2. Recreation and Entertainment Establishments, limited to the following and similar uses: a. Billiard Parlor b. Business, Fraternal or Social Club or Hall c. Dance hall d. Ice or Roller Skating Rink
3. Rental, repair and wholesaling facilities, in conjunction with permitted retail commercial and service commercial establishments, provided all such activity is clearly incidental to the permitted use and conducted within a building	3. Shop Craft Industry
4. Condominium-Hotel, Hotels, Lodges, Roominghouses, Boardinghouses, Short-term Dwelling Units	4. Vehicle Repair Shops, as defined in Article 2, Division 1
5. Storage of materials accessory to permitted uses 1, 2, 3 & 4 above, provided all such storage is located within a structure	5. One-Family Dwelling Units on lots of 5,000 sq. ft. or less; see note 2
6. One-family Dwelling Units in Backman Village Subdivision, Lots 1 through 28, inclusive	6. Two-Family Dwelling Units on lots of 5,000 sq. ft. or less; see note 2
7. Multi-Family Dwelling Units: a. on lots greater than 5,875 square feet, per notes 2 and 3; b. on lots 5,875 square feet or less, per note 2	7. See C.10
8. Parks, Open Space and Recreational Uses	
9. Designated Employee Dwelling Units and Affordable Housing Units; see note 2	
10. Parking of motor vehicles	
11. Timesharing, pursuant to the provisions of Section 6-413 of this Title	

Note 1 - Retail commercial establishments shall be limited to the following and similar uses:

1. Antique shop
2. Appliance store
18. Furniture store
19. Gift shop

3. Art gallery
4. Art supply store
5. Automobile accessory store
6. Bakery
7. Bar
8. Bookstore
9. Camera shop
10. Candy, tobacco or cigarette store
11. Catalogue store
12. Clothing store
13. Decorator shop
14. Department store
15. Drugstore
16. Florist shop
17. Food market
20. Hardware store
21. Hobby shop
22. Jewelry store
23. Job printing shop
24. Key shop
25. Liquor store
26. Pet shop
27. Paint and wallpaper store
28. Pawn shop
29. Photography shop
30. Restaurant
31. Sporting goods store
32. Stationery store
33. Variety store

Note 2: **Restriction on Residential Dwelling Uses.**

No residential use as defined in Table B as Uses Permitted by Right B.7 and B.10 or Uses permitted on Review B.5 or B.6 shall be permitted within the first or ground floor of a building or structure (that floor which is closest to the elevation of the adjacent street), unless such use is setback an average of thirty-five (35') from the front exterior wall of the building or structure as measured perpendicularly from the front exterior wall. In no case shall such use be closer than twenty feet (20') from the front exterior wall. Such setback may be modified by the Planning and Zoning Commission pursuant to Article 6, Division 3, "Planned Unit Development," or varied by the Planning and Zoning Commission pursuant to Article 6, Division 2, "Variances." For the purposes of this section, the "front exterior wall" of building or structure shall mean that wall which establishes the front yard, or in the absence of a front yard, the front lotline. Also, for the purpose of this section, the "front lotline" shall mean the frontage along the street with the shortest linear frontage for lots which have more than one street frontage.

Note 3:

Net floor area of such units shall not exceed 35% of gross floor area of all structures per lot (excepting floor area restricted as affordable and employee housing), unless modified pursuant to Article 6, Division 3, "Planned Unit Development".

Note 4:

The P&Z shall deny an application for a public school as a use permitted on review if it determines (1) the proposed school meets the definition of a school as provided for in Section 12-47-103 of Colorado Revised Statutes; and (2) allowing such a school will prohibit the establishment or continuing operation of an establishment that serves alcohol pursuant to the Distance Requirements set forth in Section 6-2-160 of the Municipal Code.\

Note 5:

The East 300 Block of Colorado Avenue between Willow and Alder, is subject to the Vitality [Use] Setback in Section 3-213.E. and the Service Commercial Limit in section 3-213.F. It is also subject to the Service Commercial Uses, Use Permitted by Right

found in 3-213.B of the Historic Commercial Use Table.

3-212.C. **Dimensional Limitations**. The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Commercial Zone District:

3-212.C.1 **Minimum Lot Area**: Two thousand five hundred (2,500) square feet.

3-212.C.2 **Maximum Lot Area:**

a. Eleven thousand seven hundred and fifty (11,750) square feet unless modified pursuant to Article 6, Division 3, "Planned Unit Development".

b. No limitation provided the development is comprised of hotel, lodge, roominghouse, boardinghouse, short-term dwelling units; facilities for conferences, performing arts, or special events, provided such facilities are available to local non-profit organizations[1]; excepting the following: the net floor area of uses other than those listed above shall not comprise greater than thirty five percent (35%) of the gross floor area of the structure minus floor area dedicated to affordable or employee housing. The uses within such structure(s) shall be memorialized in a development agreement or instrument as approved by the Town Manager.

3-212.C.3 **Minimum Lot Width:** Twenty-five feet (25').

3-212.C.4 **Minimum Lot Frontage:** Twenty-five feet (25') for all lots.

3-212.C.5 **Minimum Front Yard:** No limitation.

3-212.C.6 **Minimum Side Yard:** No limitation.

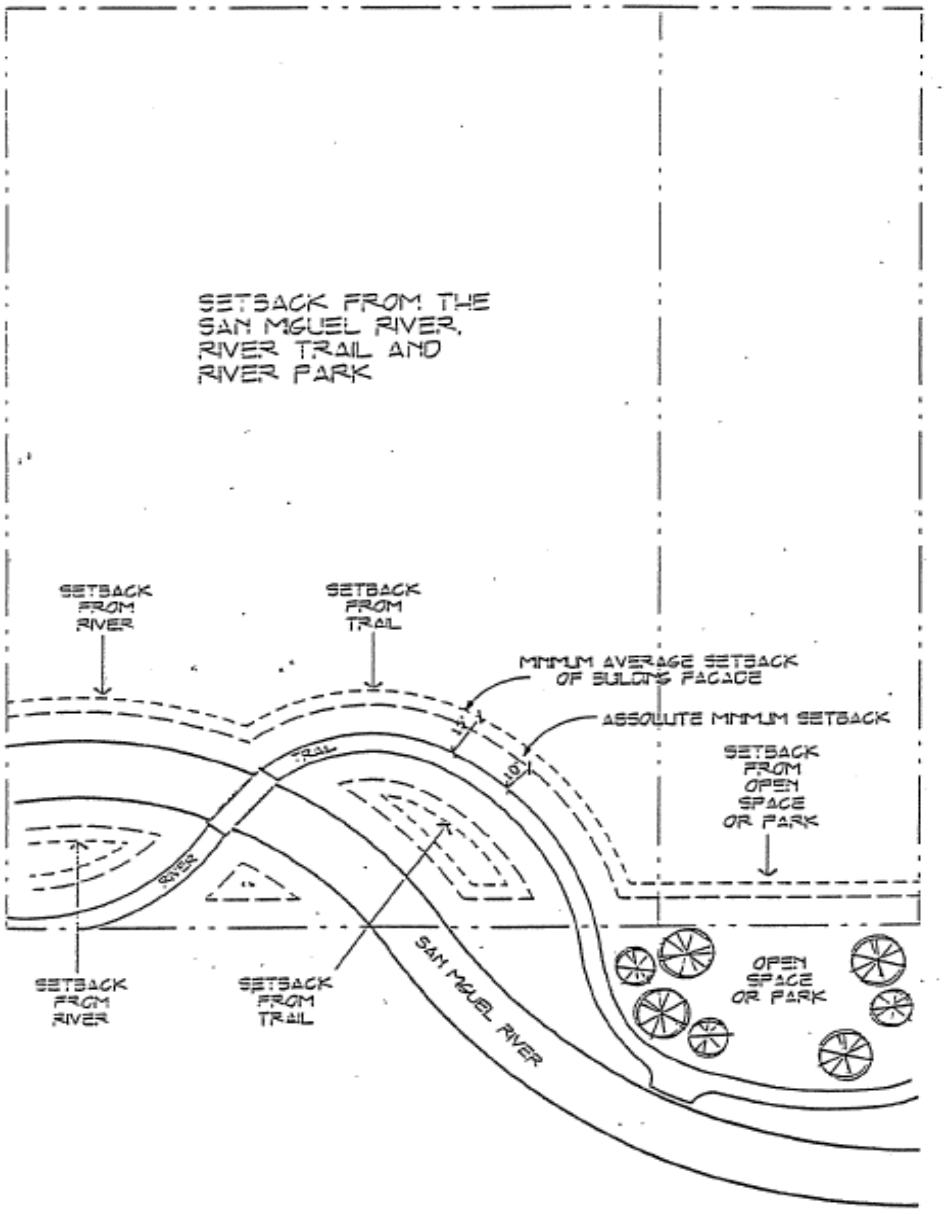
3-212.C.7 **Minimum Rear Yard:** All buildings, five feet (5'), provided this requirement shall not be applied so as to prohibit below-grade structures within the rear yard setback.

a. The rear yard setback associated with a relocated rated or non-rated THAS Secondary Structure may be reduced from five feet (5') to a minimum of zero feet (0'). A variation may be granted by HARC provided HARC finds the development application maintains or improves the historic rating designation of the historic structure according to the *Telluride Historic and Architectural Survey* and upon condition that the applicant stabilizes, improves and maintains such structure in good repair.

3-212.C.8 **Setback to the San Miguel River, River Trail and River Park:**

[1] "Available to local non-profit organizations" means such facility shall be available free of charge a minimum of twenty (20) days per calendar year between the hours of 6:00 a.m. and 12:00 midnight, or the number of days and times as otherwise approved by the Planning and Zoning Commission pursuant to Article 6, Division 3, "Planned Unit Development", for use by local municipal, school, religious, public service organizations, and not-for-profit educational, charitable and artistic organizations.

Notwithstanding the above provisions, the following minimum setback from a property line which is adjacent to a property which is zoned or entirely dedicated for Open Space or Park and contains either the San Miguel River or River Park Trail, or from the River Park Trail or the San Miguel River in the absence of such zoning or dedication, whichever is more restrictive, shall be ten feet (10'), however, in no case shall the average setback of the building facade be less than fifteen feet (15'). For the purposes of this section, the determination of setback shall include any building or structure, or portion thereof, including decks, porches, railings and fences.



3-212.C.9 **Minimum Bulk Plane.** Notwithstanding the above provisions, buildings shall be set back a minimum of one (1) horizontal foot for each one and a half (1.5) vertical feet, excluding chimneys, from a property line which is adjacent to a property which is zoned or entirely dedicated for Open Space or Park and contains either the San Miguel River or River Park Trail, or from the River

dedication, whichever is more restrictive.

3-212.C.10 **Setback for High Intensity Use.** Notwithstanding Section 3-212.B., no High Intensity Use as defined in Table 3-4 shall be permitted within a structure whose access to that use, or which use is located outside a structure, which is within fifty (50') feet of a property line which is adjacent to a property which is zoned or dedicated for Open Space or Park and contains either the San Miguel River or River Park Trial, or fifty (50') feet from the River Park Trail or the San Miguel River in the absence of such zoning or dedication; whichever is more restrictive, unless such uses are authorized and approved by P&Z subject to the provisions of Article 6, Division 1, "Uses Permitted on Review".

3-212.C.11 **Maximum Primary Facade Width:** Fifty feet (50'), unless modified by H.A.R.C. In no case shall such modified width exceed seventy-five feet (75').

3-212.C.12 **Minimum Floor Area:** No limitation.

3-212.C.13 **Maximum Floor Area:**

a. All buildings, above grade floor area to lot area ratio shall not exceed one and one half to one (1.5:1), except as provided in sections b and c.

b. In calculating such ratio, that square footage of floor area shall be excluded which is designed and built to provide exclusively for the storage or parking of motor vehicles.

c. The maximum floor area may be increased above the 1.5:1 ratio, but not greater than one and three quarters to one (1.75:1), provided that the additional floor area is restricted to designated employee dwelling unit(s) or affordable housing unit(s).

d. The Gross Floor Area of any onsite Affordable Housing Unit that is required by the development of the lot and provided to satisfy the affordable housing requirement of the site development shall be exempt from the Gross Floor Area limitations as set forth in this section but only if Hotel uses comprise a minimum of 50% of the Gross Floor Area of the onsite development. Should onsite affordable housing in excess of the requirement be provided, and is not associated with satisfying the mitigation requirements of other development, the excess onsite affordable housing Gross Floor Area shall also be exempt from the Gross Floor Area calculation of all structures per lot provided all other regulations are met.

For the purposes of this subsection:

(1) The Gross Floor Area of any Hotel unit shall be traditional in size, in no case exceed 600 square feet per unit; and shall not include a Kitchen.

(2) The Hotel portion of the onsite development shall be deed restricted in perpetuity to Hotel use and shall survive foreclosure by legal instrument to the satisfaction of the Town Attorney.

(3) The Hotel use shall not be condominiumized except as a single unit.

e. The maximum floor area may be increased above the 1.5:1 ratio, but not greater than two to one (2:1) pursuant to Article 6, Division 3, "Planned Unit Development".

f. Covered or enclosed open space shall be included in calculating floor area. "Covered or enclosed open space" means ground area which does not permanently provide at the pedestrian level unobstructed access to light and air, or which is roofed, heated, or physically, psychologically, or visually closed to public access and view.

3-212.C.14 **Maximum Building Height**:

a. All buildings, thirty-five feet (35') provided that the maximum height may be increased up to forty feet (40'), if approved pursuant to the PUD process.

b. The height of the primary facade of a building shall be not less than sixteen feet (16').

c. Upon review and approval of H.A.R.C., the building height may be increased to forty feet (40'), provided that the maximum above grade floor area to lot area ratio shall not exceed a ratio of one point two to one (1.2:1), regardless of any other LUC requirements including, but not limited to, parking and employee housing.

d. Upon review and approval of H.A.R.C., an architectural element may be located on top of a building, provided that the element may not extend more than twenty percent (20%) beyond the highest point of the building. No element shall exceed one hundred fifty (150) square feet of gross floor area or ten percent (10%) of the structure's ground coverage, whichever is less.

(1) No such element shall be permitted if it substantially reduces or blocks an adjacent structure's access to light or air.

(2) No building shall be allowed more than one (1) architectural element.

(3) The burden of proof shall be on the applicant to establish how the excess in height will benefit the neighborhood and the Town.

(4) In determining whether to approve an architectural element, H.A.R.C. shall consider, but not be limited to, such site conditions

as large lot size, placement of the structure on the lot, the relationship and proximity to adjacent neighboring structures, major street intersections and dead-end streets, and whether the element would create a positive focal point.

e. The height of a structure rated as "contributing" or "supporting" by the *Telluride Historic and Architectural Survey* may be increased if the applicable following requirements are met:

(1) the height increase is necessary to replace an architectural element historically associated with the structure during the "period of significance"; or

(2) for buildings which have existing primary facade heights of twenty (20) feet or less, the addition is stepped back from the primary facade a minimum of four (4) horizontal feet for each one (1) vertical foot of increase in height; for buildings which have existing primary facade heights of greater than twenty (20) feet, the addition is stepped back from the primary facade a minimum of three (3) horizontal feet for each one (1) vertical foot of increase in height; and

(3) is stepped back from side streets and side alley rights-of-way a minimum of two (2) horizontal feet for each one (1) vertical foot of increase in height.

Height increases authorized pursuant to this paragraph e. shall not be subject to compliance with the requirements of paragraph d., above, of this subsection.

f. The height of all roof-mounted mechanical and service equipment shall be counted in determining building height.

g. Renewable energy fixtures and equipment are permitted to project above building roof membrane for existing buildings provided HARC finds that the following items are complied with:

(1) The visual impacts of active solar collection devices shall be subservient to the historic integrity and visual characteristics of the building.

(2) Screening that is consistent with design guidelines shall be provided to shield fixtures that are in the sight line of the street or alley at which they are viewed.

(3) All fixtures and equipment shall be located in the least visible location possible while maintaining the efficiency of the solar panels proposed. For example, PV shingles and propanel/standing seam integrated products can be used to

achieve minimal visibility.

Furthermore, renewable energy fixtures and equipment are permitted to project above the building roof membrane for existing buildings provided that:

(4) Renewable energy fixture and equipment heights do not exceed three (3) feet if more than seventy-five percent (75%) of the roof is covered with panels.

(5) Fixture and equipment heights do not exceed four (4) feet if fifty percent to seventy-four and nine tenths percent (50% to 74.9%) of the roof is covered with panels.

(6) Fixture and equipment heights of up to five (5) feet are permitted if less than fifty percent (50%) of the roof is covered with panels.

(7) All fixtures shall be installed in a manner that conforms to the Uniform Building Code, and roof load engineering may be required.

(8) All fixtures and equipment shall possess an anti-reflective top coating, such as TOPS (Tempered glass tefzel glazing) or titanium dioxide. All metal surfaces shall be a matte finish.

(9) Top-of-pole ground mounts shall be permitted on the ground provided HARC finds that:

(a) Fencing or screening is provided surrounding the fixtures.

Furthermore, renewable energy fixtures and equipment shall be permitted provided that:

(b) The fixture(s) conform to all setbacks.

(c) The highest portion of the ground-mounted fixtures does not exceed six (6) feet.

(d) Fixtures are located in the rear third of the structure or site.

h. Renewable energy fixtures and equipment that are incorporated into new structures shall be permitted to project above building height limits provided HARC finds that the following items are complied with:

(1) The visual impacts of active solar collection devices shall be subservient to the historical integrity and visual characteristics of the building.

(2) For new structures, renewable energy fixtures shall be

incorporated into the design of the building to minimize their appearance.

(3) Screening that is consistent with design guidelines shall be provided to shield fixtures that are in the sight line of the street or alley at which they are viewed.

(4) All fixtures shall be located in the least visible location possible while maintaining the efficiency of the solar panels proposed. For example, PV shingles and propanel/standing seam integrated products can be used to achieve minimal visibility.

Furthermore, renewable energy fixtures and equipment that are incorporated into new structures shall be permitted to project above building height limits provided that:

(5) Two feet above allowable height limits will be permitted if HARC determines that appropriate screening is provided.

(6) All fixtures and equipment shall possess an anti-reflective top coating, such as TOPS (Tempered glass tefzel glazing) or titanium dioxide. All metal surfaces shall be a matte finish.

(7) All fixtures shall be installed in a manner that conforms to the Uniform Building Code, and roof load engineering may be required.

(8) Top-of-pole ground mounts shall be permitted on the ground provided HARC finds that:

(a) Fencing or screening is provided surrounding the fixtures.

Furthermore, renewable energy fixtures and equipment shall be permitted provided that:

(b) The fixture(s) and equipment conform to all appropriate setbacks.

(c) The highest portion of the ground-mounted fixture(s) does not exceed six (6) feet.

(d) Fixture(s)and equipment are located in the rear third of the structure or site.

3-212.C.15 **Minimum Roof Pitch:** No limitation except roofs of buildings located on lots with frontage on Colorado Avenue shall be flat unless otherwise permitted or required by H.A.R.C.

3-212.C.16 **Maximum Site Coverage:** No limitation.

3-212.C.17 **Minimum Ceiling Height:** For all buildings located on lots with frontage on Colorado Avenue, the minimum height of the lowest finished ceiling above sidewalk grade shall be not less than eleven and three-quarters feet (11.75') measured from the average sidewalk grade along the building frontage to the bottom of the ceiling, such minimum to apply within an area extending into the building a distance of twenty-five feet (25') from the Colorado Avenue property line.

3-212.D. **Off-Street Parking Requirements.** The following number of off-street parking spaces shall be provided for each use in the Commercial Zone District:

3-212-D.1 **Parking Requirements in the Commercial Zone District**	
Use Category	**Required Parking**
Residential Dwelling Units	1 space per unit
Short-term Dwelling Units	2 spaces per every 3 units
Hotel, Lodge, Roominghouses, Boardinghouses	2 spaces for every 3 units
High Intensity Use	One space per 500 square feet of floor area
Low Intensity Use	One space per 1,000 square feet of floor area
Gas Stations and Vehicle Repair	One space per gasoline pump; Two spaces per grease rack or wash rack; and One space per 200 square feet of area usable for repair work, exclusive of drives, equipment, storage, utilities, etc.
Auto Service, Car Rentals, Auto and Truck Sales	One space for each vehicle, exclusive of service and repair area, which shall meet the requirements for gas stations and vehicle repair.

3-212.D.2. **Parking Requirements for development comprised solely* of Hotel, Lodge, Roominghouse, Boardinghouse, and Short-term Dwelling Units for Lots less than 6,000 sq.ft.**	
Lot Area	**Required Parking**
0 - 3,000 sq. ft.	4 spaces; or the number of spaces required in Section 3-212.D.1, whichever is less
3,001 - 5,999 sq. ft.	5 spaces; or the number of spaces required in Section 3-212.D.1, whichever is less

*excepting affordable and employee housing

(Ord. 1423, 2015; Ord. 1422; 2015; Ord. 1344, 2011; Ord. 1316, 2009; Ord. 1248, 2006; Ord. 1177, 2002; Ord. 1163. 2002; Ord. 1112, 1999; Ord. 1106, 1998; Ord. 1092, 1997; Ord. 1033, 1995; Ord. 1011, 1994; Ord. 1007, 1994; Ord. 1005; 1994; Ord. 977, 1993; Ord. 975, 1993; Ord. 970, 1992; Ord. 955, 1992; Ord. 924, 1991; Ord. 869, 1989; Ord. 817; 1988)

Section 3-213 Historic Commercial Zone District

3-213.A. **Purpose.** The purpose of the Historic Commercial ("HC") Zone District is to allow land to be used for retail commercial, service commercial and accommodation purposes, with development designed in a manner which preserves, maintains, and enhances the historical character and scale of existing structures within the zone district, especially historically-rated structures. Some recreation, together with accessory and institutional uses may also be appropriate, especially those that strengthen the Town's commercial core.

3-213.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Historic Commercial Zone District are as follows:

Historic Commercial Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. Retail Commercial Establishments, as limited to the uses listed in Note 1 below.	1. Schools as limited in Note 3 below, Public Facilities and Institutional Uses
2. Service Commercial Uses, limited to the following uses and subject to the Vitality [Use] Setback in Section 3-213.E and the 20% Service Commercial Limit in Section 3-213.F: a. Business Office b. Professional Office c. catering service d. financial institution e. personal service including barber or beauty shop f. radio or television broadcast facility g. studio for arts instruction h. Similar uses as the above list as approved in writing by the Planning Director.	2. Recreation and entertainment establishments, limited to the following and similar uses: a. billiard parlor b. business, fraternal or social club c. dance hall d. ice or roller skating rink
3. Rental, repair and wholesaling uses, in conjunction with and accessory uses to the permitted Retail Uses and Service Commercial Uses, provided all such activity is clearly an Accessory Use to the permitted use and conducted within a building subject to the limitations set forth in Sections 3-213.E and Section 3-213.F.	
4. Accommodation Uses including Condominium-Hotel, Hotels, Lodges, Rooming Houses, Boarding Houses, Short-term Dwelling Units.	
5. Storage of materials as an accessory use to the uses as permitted in Numbers 1, 2, 3 and 4 above, subject to the limitations set forth in Sections 3-213.E and Section 3-213.F.	
6. Town owned and operated Parks, Open Space and Recreational Uses	
7. Multi-Family Dwelling Units subject to the Vitality Use Setback in Section 3-213.E. Such units on lots greater than 6,250 square feet; are subject to the limitation in Note 2	
8. Mixed Use Development	
9. Designated Employee Dwelling Units and Affordable Housing Units subject to the Vitality [Use] Setback in Section 3-213.E	
10. Time Sharing, pursuant to the provisions of Section 6-413 of this Title subject to the Vitality [Use] Setback in Section 3-213.E and the limitation in Note 2.	
11. Parking of motor vehicles subject to the Vitality [Use] Setback in Section 3-213.E and the limitation in Note 2.	

Note 1: Retail commercial establishments shall be limited to the following list, and similar uses to this list as approved in writing by the Planning Director:

1. Antique shop
2. Appliance or electronics store
16. Food Market
17. Furniture store

3. Art gallery
4. Art supply store
5. Automobile accessory store
6. Bakery
7. Bar
8. Bookstore
9. Camera shop
10. Candy or ice cream store
11. Clothing store
12. Decorator shop
13. Department store
14. Drug store
15. Florist shop
18. Gift shop
19. Hardware store
20. Hobby shop
21. Jewelry store
22. Copy shop and associated retail sales
23. Liquor store
24. Movie Theater
25. Pet shop
26. Paint and wallpaper store
27. Photography shop
28. Restaurant
29. Sporting goods store

Note 2: Not to exceed 35% of gross floor area of all structures per lot (excepting floor area restricted as affordable and employee housing), unless modified pursuant to Article 6, Division 3, "Planned Unit Development".
Note 3: The P&Z shall deny an application for a public school as a use permitted on review if it determines (1) the proposed school meets the definition of school as provided for in Section 12-47-103 of Colorado Revised Statutes; and (2) allowing such a school will prohibit the establishment or continuing operation of an establishment that serves alcohol pursuant to the Distance Requirements set forth in Section 6-2-160 of the Municipal Code.

3-213.C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Historic Commercial Zone District:

3-213.C.1. **Minimum Lot Area:** Two thousand five hundred (2,500) square feet.

3-213.C.2. **Maximum Lot Area:** Eleven thousand seven hundred and fifty (11,750) sq. ft. unless modified pursuant to Article 6, Division 3, "Planned Unit Development".

3-213.C.3. **Minimum Lot Width:** Twenty-five feet (25').

3-213.C.4. **Minimum Lot Frontage:** Twenty-five feet (25') for all lots.

3-213.C.5. **Minimum Front Yard:**

a. All buildings, zero feet (0').

b. Buildings shall be constructed to the front property line at full facade height. A third (3rd) floor may be set back from the front lot line upon approval of H.A.R.C.

c. The front yard setback may be increased by H.A.R.C.

3-213.C.6. **Minimum Side Yard**: No limitation.

3-213.C.7. **Minimum Rear Yard:** All buildings, five feet (5'), provided this requirement shall not be applied so as to prohibit below-grade structures within the rear yard setback.

a. The rear yard setback associated with a relocated rated or non-rated THAS Secondary Structure may be reduced from five feet (5’) to a minimum of zero feet (0’). A variation may be granted by HARC provided HARC finds the development application maintains

or improves the historic rating designation of the historic structure according to the *Telluride Historic and Architectural Survey* and upon condition that the applicant stabilizes, improves and maintains such structure in good repair.

3-213.C.8. **Maximum Primary Facade Width:** Fifty feet (50'), unless modified by H.A.R.C. In no case shall such width exceed seventy-five feet (75').

3-213.C.9. **Minimum Floor Area:** No limitation.

3-213.C.10. **Maximum Floor Area:**

a. All buildings, above grade floor area to lot area ratio shall not exceed one and one half to one (1.5:1), except as provided in sections b and c below.

b. In calculating such ratio, that square footage of floor area shall be excluded which is designed and built to provide exclusively for the storage or parking of motor vehicles.

c. The maximum floor area may be increased above the 1.5:1 ratio, but not greater than one and three quarters to one (1.75:1), provided that the additional floor area is restricted to designated employee dwelling unit(s) or affordable housing unit(s).

d. The Gross Floor Area of any onsite Affordable Housing Unit that is required by the development of the lot and provided to satisfy the affordable housing requirement of the site development shall be exempt from the Gross Floor Area limitations as set forth in this section but only if Hotel uses comprise a minimum of 50% of the Gross Floor Area of the onsite development. Should onsite affordable housing in excess of the requirement be provided, and is not associated with satisfying the mitigation requirements of other development, the excess onsite affordable housing Gross Floor Area shall also be exempt from the Gross Floor Area calculation of all structures per lot provided all other regulations are met.

For the purposes of this subsection:

(1) The Gross Floor Area of any Hotel unit shall be traditional in size, in no case exceed 600 square feet per unit; and shall not include a Kitchen.

(2) The Hotel portion of the onsite development shall be deed restricted in perpetuity to Hotel use and shall survive foreclosure by legal instrument to the satisfaction of the Town Attorney.

(3) The Hotel use shall not be condominiumized except as a single unit.

e. Covered or enclosed open space shall be included in calculating floor area. "Covered or enclosed open space" means ground area which does not permanently provide at the pedestrian level unobstructed access to light and air, or which is roofed, heated, or physically, psychologically, or visually closed to public access and view.

3-213.C.11. **Maximum Building Height:**

a. All buildings, thirty-five feet (35') provided that the maximum height may be increased up

to forty feet (40'), if approved pursuant to the PUD process.

b. The height of the primary facade of a building shall not be less than sixteen feet (16').

c. Upon review and approval of H.A.R.C., the building height may be increased to forty feet (40'), provided that the maximum above grade floor area to lot area ratio shall not exceed a ratio of one point two to one (1.2:1), regardless of any other LUC requirements including, but not limited to, parking and employee housing.

d. Upon review and approval of H.A.R.C., an architectural element may be located on top of a building, provided that the element may not extend more than twenty percent (20%) beyond the highest point of the building. No element shall exceed one hundred fifty (150) square feet of gross floor area or ten percent (10%) of the structure's ground coverage, whichever is less.

    (1) No such element shall be permitted if it substantially reduces or blocks an adjacent structure's access to light or air.

    (2) No building shall be allowed more than one (1) architectural element.

    (3) The burden of proof shall be on the applicant to establish how the excess in height will benefit the neighborhood and the Town.

    (4) In determining whether to approve an architectural element, H.A.R.C. shall consider, but not be limited to, such site conditions as large lot size, placement of the structure on the lot, the relationship and proximity to adjacent neighboring structures, major street intersections and dead-end streets, and whether the element would create a positive focal point.

e. The height of a structure rated as "contributing" or "supporting" by the *Telluride Historic and Architectural Survey* shall not be increased unless one of the following requirements are met:

    (1) the height increase is necessary to replace an architectural element historically associated with the structure during the "period of significance"; or

    (2) for buildings which have existing primary facade heights of twenty (20) feet or less, the addition is stepped back from the primary facade facing Colorado Avenue a minimum of four (4) horizontal feet for each one (1) vertical foot of increase in height; for buildings which have existing primary facade heights of greater than twenty (20) feet, the addition is stepped back from the primary facade facing Colorado Avenue a minimum of three (3) horizontal feet for each one (1) vertical foot of increase in height; and

    (3) is stepped back from side streets and side alley rights-of-way a minimum of two (2) horizontal feet for each one (1) vertical foot of increase in height.

f. The height of all roof-mounted mechanical and service equipment shall be counted in determining building height.

g. Renewable energy fixtures and equipment are permitted to project above building roof membrane for existing buildings provided HARC finds that the following items are complied with:

(1) The visual impacts of active solar collection devices shall be subservient to the historic integrity and visual characteristics of the building.

(2) Screening that is consistent with design guidelines shall be provided to shield fixtures that are in the sight line of the street or alley at which they are viewed.

(3) All fixtures and equipment shall be located in the least visible location possible while maintaining the efficiency of the solar panels proposed. For example, PV shingles and propanel/standing seam integrated products can be used to achieve minimal visibility.

Furthermore, renewable energy fixtures and equipment are permitted to project above the building roof membrane for existing buildings provided that:

(4) Renewable energy fixture and equipment heights do not exceed three (3) feet if more than seventy-five percent (75%) of the roof is covered with panels.

(5) Fixture and equipment heights do not exceed four (4) feet if fifty percent to seventy-four and nine tenths percent (50% to 74.9%) of the roof is covered with panels.

(6) Fixture and equipment heights of up to five (5) feet are permitted if less than fifty percent (50%) of the roof is covered with panels.

(7) All fixtures shall be installed in a manner that conforms to the Uniform Building Code, and roof load engineering may be required.

(8) All fixtures and equipment shall possess an anti-reflective top coating, such as TOPS (Tempered glass tefzel glazing) or titanium dioxide. All metal surfaces shall be a matte finish.

(9) Top-of-pole ground mounts shall be permitted on the ground provided HARC finds that:

(a) Fencing or screening is provided surrounding the fixtures.

Furthermore, renewable energy fixtures and equipment shall be permitted provided that:

(b) The fixture(s) conform to all setbacks.

(c) The highest portion of the ground-mounted fixtures does not exceed six (6) feet.

(d) Fixtures are located in the rear third of the structure or site.

h. Renewable energy fixtures and equipment that are incorporated into new structures shall be permitted to project above building height limits provided HARC finds that the following items are complied with:

(1) The visual impacts of active solar collection devices shall be subservient to the historical integrity and visual characteristics of the building.

(2) For new structures, renewable energy fixtures shall be incorporated into the design of the building to minimize their appearance.

(3) Screening that is consistent with design guidelines shall be provided to shield fixtures that are in the sight line of the street or alley at which they are viewed.

(4) All fixtures shall be located in the least visible location possible while maintaining the efficiency of the solar panels proposed. For example, PV shingles and propanel/standing seam integrated products can be used to achieve minimal visibility.

Furthermore, renewable energy fixtures and equipment that are incorporated into new structures shall be permitted to project above building height limits provided that:

(5) Two feet above allowable height limits will be permitted if HARC determines that appropriate screening is provided.

(6) All fixtures and equipment shall possess an anti-reflective top coating, such as TOPS (Tempered glass tefzel glazing) or titanium dioxide. All metal surfaces shall be a matte finish.

(7) All fixtures shall be installed in a manner that conforms to the Uniform Building Code, and roof load engineering may be required.

(8) Top-of-pole ground mounts shall be permitted on the ground provided HARC finds that:

(a) Fencing or screening is provided surrounding the fixtures.

Furthermore, renewable energy fixtures and equipment shall be permitted provided that:

(b) The fixture(s) and equipment conform to all appropriate setbacks.

(c) The highest portion of the ground-mounted fixture(s) does not exceed six (6) feet.

(d) Fixture(s) and equipment are located in the rear third of the structure or site.

3-213.C.12. **Minimum Roof Pitch:** Roofs shall be flat, unless otherwise permitted or required by H.A.R.C.

3-213.C.13. **Maximum Site Coverage:** No limitation.

3-213.C.14. **Minimum Ceiling Height: For all buildings located on lots with frontage** on Colorado Avenue, minimum height of the lowest finished ceiling above sidewalk grade shall not be less than eleven and three-quarters feet (11.75') measured from the average sidewalk grade along the building frontage to the bottom of the ceiling, such minimum to apply within an area extending into the building a distance of twenty-five feet (25') from the Colorado Avenue property line.

3-213.D. **Off-Street Parking Requirements.** The following number of off-street parking spaces shall be provided for each use in the Historic Commercial Zone District:

3-213.D.1. **Parking Requirements in the Historic Commercial Zone District**	
Use Category	**Required Parking**
Residential Dwelling Units	1 space per unit
Short-term Dwelling Units	2 spaces per every 3 units
Hotel, Lodge, Roominghouses, Boardinghouses	2 spaces for every 3 units
High Intensity Use	One space per 500 square feet of floor area
Low Intensity Use	One space per 1,000 square feet of floor area
Gas Stations and Vehicle Repair	One space per gasoline pump; Two spaces per grease rack or wash rack; and One space per 200 square feet of area usable for repair work, exclusive of drives, equipment, storage, utilities, etc.
Auto Service, Car Rentals, Auto and Truck Sales	One space for each vehicle, exclusive of service and repair area, which shall meet the requirements for gas stations and vehicle repair.

3-213.D.2. Any above-grade parking shall be located in the rear yard.

3-213.D.3. **Vehicular access to on-site parking will be permitted only through the rear** yard, or through the side yard adjacent to the rear year.

3-213.E. **Vitality Setback**.

3-213.E.1. To ensure the vitality of the Historic Commercial Zone District, no Service Commercial Uses (Section 3-213.B.2), rental repair and wholesaling uses (Section 3-213.B.3), Storage Uses (Section 3-213.B.5), Multi-family Dwelling Units (Section 3-213.B.7), Designated Employee Dwelling Units and Affordable Housing Units (Section 3-213.B.8), Timesharing Uses (Section 3-213.B.9) and Parking Uses (Section 3-213.B.11) shall be permitted unless such use is:

a. Located within a Basement, or on the second floor above the Ground Floor, but not on a Mezzanine Level. For the purposes of this Section only, the term “basement" means a space located completely below the Ground Floor or below a Mezzanine Level.

b. If located on the Ground Floor, such use shall be setback an average of thirty-five (35') from the front exterior wall of the building or structure as measured perpendicularly from the front exterior wall. In no case shall such use be closer than twenty feet (20') from the front exterior wall. Such setback may be modified by the Planning and Zoning Commission pursuant to Article 6, Division 3, "Planned Unit Development." For the purposes of this section, the "front exterior wall" of building or structure shall mean that wall which establishes the Front Yard, or in the absence of a Front Yard, the front lot line. Also, for the purpose of this section, the "front lot line" shall mean the frontage along the street with the shortest linear frontage for lots which have more than one street frontage.

3-213.E.2. **Exceptions.** Notwithstanding the foregoing, the Town may permit: 1) Service Commercial Uses and accessory uses related thereto (3-213.B.3 and 3-213.B.5) on the Ground Floor pursuant to the requirements of Section 3-213.F; and 2) Parking Uses on vacant lots prior to development provided such parking areas are approved pursuant to the requirements of this Title. A Public Facility is exempt from the requirements of Section 3-213.E and 3-213.F subject to obtaining the requisite use permitted on review approval from the Town pursuant to the requirements of this Title.

3-213.F. **Service Commercial Limit.** A Service Commercial Use established after September 28, 2007 may be located on the Ground Floor within the 35 foot average setback as provided for in Section 3-213.E only if the requirements of this Section are met.

3-213.F.1. **Maximum Allowable Service Commercial Use Building Frontage:** The total lineal Building Frontage dedicated to Service Commercial Uses in the Commercial Core shall not exceed 625 lineal feet (“Service Commercial Limit”). For the purposes of this regulation, the Commercial Core is defined as the geographic area that includes all properties fronting or abutting onto Colorado Avenue extending from Aspen to Alder streets.

a. The Service Commercial Limit may be increased on a site-by-site basis pursuant to Article 6, Division 3, "Planned Unit Development" if a site is vacant land being developed or if a building or group of buildings is proposed for demolition and complete redevelopment. If the Planning and Zoning Commission increases the Service Commercial Limit through the PUD process, such increase shall be: i) reflected in this Section of the LUC by through the Code amendment process; and ii) restricted to the property affected by the PUD, and not transferable within the Commercial Core. The P&Z shall only be able to increase the Service Commercial Limit as provided for in this subsection if it finds such increase will not detract from the overall vitality of the Commercial Core, and the overall PUD adds to the vitality of the Commercial Core.

b. The 625 lineal feet permitted by the Service Commercial Limit is based on the Building Frontage dedicated to Service Commercial Uses found in July of 2007, and represents the Town’s desire to maintain the status quo of frontage dedicated to such uses, and to promote community vitality.

3-213.F.2. **Availability of Frontage.** Any available frontage within the Service Commercial Limit shall be available on a first-come, first-served basis, and the Town shall not maintain a waiting list for prospective Service Commercial Use businesses.

3-213.F.3. **Certificate of Zoning Compliance for New or Expanded Service Commercial Uses Required.**

3-213.F.4. Prior to the establishment of a new Service Commercial Use in the Commercial Core, or prior to the expansion of an existing Service Commercial Use in the Commercial Core, a person shall submit a written request for obtaining a Certificate of Zoning Compliance from the Planning Department to confirm that the Service Commercial Limit for the Commercial Core will not be exceeded.

a. Once issued, the Certificate of Zoning Compliance shall be valid for a maximum of 90 days, and the permitted Service Commercial Use must be under significant construction or open to the public for business in accordance with the requirements of this Title and the Municipal Code prior to the expiration of the 90 day time period. In any event, a business shall be open to the public within 120 days of the issuance of a Certificate of Zoning Compliance.

b. The Planning Director may issue a written extension of a Certification of Zoning Compliance not to exceed thirty days if the applicant has submitted a written request that documents good cause for the extension, such as, but not limited to, the length of time needed to obtain a building permit.

c. If a Service Commercial Use business is not under significant construction or open to the public for business within 120 days of the issuance of the Certificate of Zoning Compliance, or as provided for in any extension as set forth above, the Certificate of Zoning Compliance for such business shall become null and void, and any available Service Commercial Use frontage within the Service Commercial Limit shall be available on a first come, first served basis.

d. Except as provided for in subsection 3-213.F.1.a, a Certificate of Zoning Compliance shall not be issued by the Planning Department if the Service Commercial Limit would be exceeded by a requested business.

3-213.F.5. **Land Use Inventory.** The Planning Department shall maintain and update a land use inventory and analysis of the Commercial Core that analyzes the Building Frontage and type of business. This inventory will be utilized as the foundation to permitting future businesses within the Commercial Core, and the foundation to ensuring a business is not established in the Commercial Core in contravention of these regulations.

3-213.F.6. **Communication and Education.** The Planning Department shall strive to communicate and educate property and business owners in the Commercial Core of the requirements of this Section.

(Ord. 1423, 2015; Ord. 1422, 2015; Ord. 1316, 2009; Ord. 1277, 2007; Ord. 1248, 2006; Ord. 1177, 2002; Ord. 1163, 2002; Ord. 1112, 1999; Ord. 1106, 1998; Ord. 1092, 1997; Ord. 1033, 1995; Ord. 1011, 1994; Ord. 1007, 1994; Ord. 1005, 1994; Ord. 977, 1993; Ord. 975, 1993; Ord. 970, 1992; Ord. 955, 1992; Ord. 924, 1991; Ord. 866, 1989)

Section 3-215 Open Space CE Zone District

3-215.A. **Purpose.**

3-215.A.1 To manage open space lands subject to deeds of conservation easements ("Conservation Easements") in accordance with the terms of the conservation easements that have been placed on the lands.

3-215.A.2 To allow land adjacent to or apart from Historic Preservation Overlay Zone District (HPOD) to act as a transition between the HPOD and the developed and undeveloped areas outside the HPOD.

3-215.A.3 The Open Space CE zone district shall be applied only to land owned by the Town of Telluride, acquired for open space purposes and subject to Conservation Easements.

3-215.A.4 The Town shall manage, review and approve or disapprove permitted and prohibited uses, activities and improvements, including Development, pursuant to applicable provisions of this Code, and in strict accordance with the terms of the Conservation Easement and any associated management plan. Notwithstanding any provisions of the Telluride Municipal Code or LUC to the contrary, all signs and landscaping shall be reviewed by Town Staff, following a review and recommendation from the Open Space Commission, for conformance with the Conservation Easement and any associated management plan and not other provisions of this Code.

3-215.B. **Dimensional Limitations.** There are no dimensional limitations applicable in the Open Space CE Zone District.

(Ord. 1325, 2010)

Section 3-216 Open Space Zone District

3-216.A. **Purpose.** The purpose of the Open Space Zone District (OS) is to preserve land in its natural character for public or private use or enjoyment. The District is intended to preserve significant natural features, view corridors and environmentally sensitive lands. Natural or informal plantings are preferred for lands in the district.

In addition to large undeveloped areas at the edge of Town, along the River Park Trail corridor and under federal ownership, this district is intended to be applied to open space created by clustering buildings.

The Open Space Zone District shall be applied only to land dedicated to or owned by the Town, or to private property, upon consent of its owner.

Active recreation uses such as play fields, campgrounds, court installations, activity centers, permanent buildings and any other similar uses are not permitted within the Open Space Zone District.

3-216.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Open Space Zone District are as follows:

Open Space Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. Open Space uses, which include the retention of land in its natural state or the provision of such uses which are compatible with the natural state and the natural environment, including but not limited to walking and hiking trails, nature trails and rehabilitating land to its natural state	1. Vehicular bridges and roads, provided such facilities shall be closed to public traffic which traverses the Town Park to serve other areas; pedestrian bridges
	2. Necessary public and private utilities and access thereto
	3. Fences for the protection of certain natural features and other uses permitted on review. Fences shall be limited to a height of 36", unless otherwise approved by H.A.R.C.
	4. River front uses, which include but are not limited to walking, hiking, and skiing trails, occasional benches and other passive uses
	5. Flood control activities limited to proper rip rap or control measures using natural vegetation

3-216.C. **Dimensional Limitations.** There are no dimensional limitations applicable to the uses permitted by right and uses permitted on review in the Open Space Zone District.

3-216.D. **Off-Street Parking Requirements.** There are no off-street parking requirements applicable to uses in the Open Space Zone District.

(Ord. 1112, 1999; Ord. 970, 1992; Ord. 856, 1989; Ord. 843, 1988; Ord. 298, 1975; Ord. 231, 1970)

Section 3-217 Park Zone District

3-217.A. **Purpose.** The purpose of the Park Zone District (P) is to establish areas throughout Town to be used by the public for active and passive recreation, including organized sports, games, fishing, walking and picnics.

3-217.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Park Zone District are as follows.

Park Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. Recreation sites devoted to public recreation, including but not limited to facilities such as play grounds, play fields, campgrounds, swimming pools, golf courses, tennis courts, basketball courts and similar court installations, and skateboard ramps	1. Riding ring, track, stables, and similar facilities
2. Buildings and uses as approved in the Telluride Park Master Plan	2. Municipal utility building for park purposes
3. Art Facilities	3. Parking areas
4. Open Space	4. Vehicular bridges and roads, provided such facilities shall be closed to public traffic which traverses the Town Park to serve areas outside of the Park; pedestrian bridges
5. Caretaker's dwelling	5. Necessary access for underground public utilities and easements
6. Fences, hedges or walls, as defined in Article 2, Division 1.	6. Fences for the protection of certain natural features. Fences shall be limited to a height of 36".
	7. River Park Trail Corridor uses, which include but are not limited to walking, hiking, and skiing trails, bike paths, occasional benches and other passive uses
	8. Flood control activities limited to rip rap and control measures using natural vegetation
	9. One-Family Dwelling Unit, located on pre-existing private in-holdings or within existing structures

3-217.C. **Dimensional Limitations.** The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Park Zone District:

3-217.C.1. **Minimum Lot Area:** One family residences on private land, two thousand five hundred (2,500) square feet; all other uses, no limitation.

3-217.C.2. **Minimum Lot Width:** No limitation.

3-217.C.3. **Minimum Lot Frontage:** No limitation.

3-217.C.4. **Minimum Front Yard:** All buildings, twenty feet (20').

3-217.C.5. **Minimum Side Yard:** All buildings, three feet (3').

3-217.C.6. **Minimum Rear Yard:** No limitation.

3-217.C.7. **Minimum Floor Area:** No limitation.

3-217.C.8. **Maximum Floor Area:**

a. Two thousand five hundred (2,500) square feet per dwelling unit;

b. For all other public uses, as approved by H.A.R.C. in conformance with the Park Master Plan.

3-217.C.9. **Maximum Building Height:**

a. Principal buildings, twenty-five feet (25').

3-217.D. Accessory buildings, sixteen feet (16').

3-217.D.1. **Minimum Roof Pitch:** One unit of vertical rise to four units of horizontal run, (1:4), unless otherwise approved or required by H.A.R.C.

3-217.D.2. **Maximum Site Coverage:** No limitation.

3-217.E. **Off-Street Parking Requirements.** The following number of off-street parking spaces shall be provided for each use in the Park Zone District:

Parking Requirements in the Park Zone District	
Use Category	**Required Parking**
All Residential Dwelling Units	1 space per dwelling unit
Assembly Areas	One space per 500 square feet of floor area

(Ord. 970, 1992; Ord. 924, 1991; Ord. 817, 1988)

Section 3-218 Public Purpose Zone District

3-218.A. **Purpose.** The intent of the Public Purpose Zone District is to provide an area for a limited type of public facilities. Such facilities may include public transportation-related facilities, parking and other public uses and limited commercial uses on review.

Important development considerations in this Zone District, beyond those expressed in the area's design guidelines, are the need to preserve and create strong pedestrian corridors, the need to anticipate and design around and for the San Miguel River and River Park Trail Corridor, the need to accommodate public transit, and the opportunity to utilize the intercept parking areas which are located within the Public Purpose Zone District.

3-218.B. **Use Table.** The uses permitted by right and the uses permitted on review in the Public Purpose Zone District are as follows.

Public Purpose Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. Parking, including festival parking	1. Conference facilities and structures
2. Public transit offices, stations and other uses to support transit uses	2. Public utilities
3. Public transit corridors	3. Transit-related vending from temporary structures and carts
4. Medical center	4. Transit-related commercial uses necessary to support uses on the property
5. Education facilities	5. Other public buildings and facilities
6. Recreation facilities	
7. Affordable and employee housing	
8. Community center	
9. General governmental services	
10. Open space administration and maintenance facilities	

3-218.C. **Dimensional Limitations**. The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the Public Use Zone District:

3-218.C.1. **Minimum Lot Area:** 10,000 square feet, or as modified pursuant to Article 6, Division 3, "Planned Unit Development".

3-218.C.2. **Minimum Lot Width:** 50 feet, or as approved by HARC.

3-218.C.3. **Minimum Lot Frontage:** 50 feet, or as approved by HARC.

3-218.C.4. **Setback to Colorado Avenue:** 30 feet.

3-218.C.5. **Minimum Front Yard:** To allow flexibility in the design process, there is no established minimum front yard within this Zone District. Setbacks will be governed by the Uniform Building Code and the requirements of H.A.R.C. and the Design Guidelines applicable to the property.

3-218.C.6. **Minimum Side Yard:** Same as minimum front and rear yard.

3-218.C.7. **Minimum Rear Yard:** Same as minimum front and side yard.

3-218.C.8. **Minimum Floor Area:** No limitation.

3-218.C.9. **Maximum Floor Area:** Thirty thousand (30,000) square feet per structure, however such maximum may be increased pursuant to Article 6, Division 3, "Planned Unit Development". For the purposes of this section, square footage of vehicular parking areas which are enclosed or covered shall be counted in the determination of floor area.

3-218.C.10. **Maximum Building Height:**

a. Thirty-five feet (35'), except within two hundred (200) feet of Colorado Avenue, in which the maximum building height is sixteen feet (16').

b. Structures may be approved to forty (40) feet in height , if approved through the Planned Unit Development provisions of Section 6-301 et seq.

3-218.C.11. **Minimum Roof Pitch:** For all buildings, one (1) unit of vertical rise to four (4) units of horizontal run unless modified or otherwise required by H.A.R.C.

3-218.C.12. **Maximum Site Coverage:** For principal and accessory buildings, forty (40) per cent. The maximum site coverage may be increased to a maximum of fifty (50) percent pursuant to Article 6, Division 3, "Planned Unit Development". The maximum site coverage may be increased to a maximum of seventy-five (75) per cent pursuant to Article 6, Division 3, "Planned Unit Development" provided the site coverage increase is attributable to buildings and structures constructed to enclose or cover motor vehicles.

3-218.D. **Lighting Standards.**

All outdoor illumination shall meet the following conditions:

3-218.D.1. All exterior lighting shall be shielded in such a manner that the entire luminous flux is directed downward. In no case shall the luminous flux be directed onto off-site uses or structures.

3-218.D.2. A lighting plan indicating the location, type, intensity and height of all fixtures and luminaries shall be submitted for review and approval by HARC as part of any application for development approval.

3-218.E. **Landscape Standards**.

All applications for development approval within this zone district shall be required to submit a landscape plan for HARC approval. HARC or the HARC Chairperson may refer the landscape plan to the Environmental Commission for its review and recommendation on technical environmental issues relative to the site. Such items shall include species types, affects of the proposed action on hydrology, water use and other factors relating to use of the natural environment.

3-218.F. **Off-Street Parking Requirements.** The following number of off-street parking spaces shall be provided for each use within this zone district:

Parking Requirements in the Public Purpose Zone District	
Use Category	Required Parking
High Intensity Commercial Use	One space per 500 square feet of floor area
Low Intensity Commercial Use	One space per 1000 square feet of floor area
Vehicle Repair	One space per 200 square feet of area usable for repair work, exclusive of storage and equipment
Residential Dwelling Unit	One Space per unit

3-218.G. **Bicycle Parking.**

3-218.G.1. Required Bicycle Parking Spaces: A number equal to least ten percent of the required off-street parking spaces or ten percent of the automobile parking spaces provided on-site, whichever is greater, shall be provided on-site.

3-218.G.2. Required Facilities: Bicycle parking facilities shall be provided which:

a. Shall allow storage and locking of bicycles in lockers or security racks or equivalent installation in which both the bicycle frame and the wheels may be locked by the user;
b. Be designed so as not to cause damage to the bicycle.
c. Such facilities shall be located in convenient and accessible areas but shall not interfere with pedestrian movements.

3-218.H. **Basements Prohibited.** Basement spaces and structures within groundwater (excepting structural piers, piles or columns, and geothermal equipment).

(Ord. 1402, 2013; Ord. 1023, 1995)

Section 3-219 West Hillside Zone District

3-219.A. **Purpose.** The purpose of the West Hillside Zone District (WH) is to allow land adjacent to or apart from Historic Preservation Overly Zone District (HPOD) to be used for regional residential purposes and accessory uses. The zone district is outside the HPOD and acts as a transition between the HPOD and the developed and undeveloped areas outside the HPOD. The development in the zone district is to be compatible with existing developments and open space in the area. Development in this zone district is expected to differ in character, scale and density from development in the HPOD. New developments are expected to integrate design elements that promote the clustering of lots and units, the provision of open space and trail amenities, the establishment and expansion of alternative transportation linkages, and the mitigation of geological hazards.

3-219.B. **Use Table.** The uses permitted by right and the uses permitted on review in the WH are as follows.

West Hillside Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. One-Family Dwelling Units.	1. Two-Family Dwelling Units
2. One-Family Dwelling Unit with a Designated Employee Dwelling Unit or Affordable Housing Unit attached or detached to the primary dwelling.	2. Multi-family
3. Accessory Buildings and Uses	3. Home Occupations
4. Trails, parks, and open space	
5. Short Term Rentals pursuant to Article 3, Division 6	

3-219.C. **Dimensional Limitations.**. The following dimensional limitations apply to all uses permitted by right and uses permitted on review in the WH zone:

3-219.C.1. **Minimum Lot Area:** Minimum lot area shall be two thousand five hundred and fifty (2,550) square feet per lot.

3-219.C.2. **Maximum Density:**

a. For two-family dwelling units and multi-family units the maximum density shall be two thousand five hundred and fifty (2,550) square feet of lot area per dwelling unit.

b. For each designated employee dwelling unit or affordable housing provided the total number of units allowed in 3-219.C.2.a may be increase by one.

3-219.C.3. **Minimum Lot Width:** Thirty feet (30').

3-219.C.4. **Minimum Lot Frontage:** Thirty feet (30').

3-219.C.5. **Minimum Front Yard:** Five feet (5').

3-219.C.6. **Minimum Side Yard:** All buildings Five feet (5').

3-219.C.7. **Minimum Rear Yard:** All buildings Fifteen feet (15').

3-219.C.8. **Minimum Floor Area:** No Limitation.

3-219.C.9. **Maximum Primary Facade Width:** Twenty five feet (25') without a minimum offset of four (4) feet.

3-219.C.10. **Maximum Floor Area:** Four thousand (4,000) gross square feet, inclusive of principal, accessory, and secondary buildings.

3-219.C.11. **Maximum Building Height:**

c. The maximum building height of a principal buildings located more than 50' from Colorado Avenue, shall be thirty five feet (35'); however, no portion of any building, excluding gas chimneys, shall exceed a height of forty vertical feet (40') above the pre-construction grade of a building's site coverage or the post-construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the building's site coverage perimeter) whichever is more restrictive.

d. The maximum building height of a principal buildings or portion of the building located less than 50' from Colorado Avenue, shall be twenty five feet (25'); however, no portion of any building, excluding gas chimneys, shall exceed a height of thirty vertical feet (30') above the pre-construction grade of a building's site coverage or the post-construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the building's site coverage perimeter) whichever is more restrictive.

e. Accessory and secondary buildings, twenty feet (20'); however, no portion any building, excluding gas chimneys, shall exceed a height of thirty (25) feet vertically above the pre-construction grade of the building's site coverage or the post-construction grade at the perimeter of the building's site coverage (including window and door wells which extend greater than four feet (4') from the building's site coverage perimeter) whichever is more restrictive.

3-219.C.12. **Minimum Street Bulk Plane:** Buildings, shall be set back a minimum of one (1) horizontal foot for each two and a half (2.5) vertical feet, excluding chimneys, overhangs, and railing, from the street (front) Property Line;

3-219.C.13. **Minimum Roof Pitch:** For all buildings, one (1) unit of vertical rise to four (4) units of horizontal run. Notwithstanding the foregoing, roof areas with less than one (1) unit of vertical rise to four (4) units of horizontal run shall be allowed provided 1) the total flat roof area does not exceed 25% of the total roof area;

and 2) the flat roof areas are not located on the highest main roof or main ridge. This limitation on flat roof areas does not apply to decks that are not over living or garage space, which do not have a limitation. Other roof forms may be approved by the HARC through the small scale HARC application process.

3-219.C.14. **Maximum Site Coverage:**

a. Total for all buildings shall be thirty-six percent (36%), unless increased by Planning and Zoning Commission during subdivision plat review. Covered porches shall be limited to five percent (5%) of total lot area.

b. For structures that have at least fifty percent (50%) of their site coverage located within fifty feet (50') of West Colorado Avenue, the total for all buildings shall be forty percent (40%), unless increased by Planning and Zoning Commission during subdivision plat review. Covered porches shall be limited to five percent (5%) of total lot area.

c. For structures that have at least fifty percent (50%) of their site coverage located on hillsides with a pre-construction grade or slope of twenty percent (20%) or greater, the total for all buildings shall be forty percent (40%), unless increased by Planning and Zoning Commission during subdivision plat review. Covered porches shall be limited to five percent (5%) of total lot area.

3-219.D. **Additional Development Requirements.** The following additional requirements shall apply to all development in the West Hillside Zone District.

3-219.D.1**. Grading Permit:**

a. A grading permit shall be required pursuant to Chapter 70 of the Uniform Building Code for all grading done within this zone district. The grading shall show proposed location of roads, the right-of-way width, roadbed width, grade and proposed surface treatment.

b. When reviewing the grading plans submitted with the application for a grading permit, the Building Official may require a report prepared by a registered civil engineer as to the adequacy of safeguards provided against the hazard of rocks dislodged during the grading operation.

3-219.D.2. **Access Roads:**

a. If new access roads are proposed, other than existing roads, (not including unused platted streets), a separate grading permit shall be required for their construction.

b. In addition to meeting the requirements for a grading permit, as specified in Chapter 70 of the Uniform Building Code, the applicant, where applicable, shall also provide the following information to Planning and Zoning Commission:

(1) If the proposed roads are not on existing street rights-of-way, a statement explaining if such roads will be private or offered to be dedicated to the Town;

(2) A report prepared by a registered civil engineer as to the adequacy of safeguards provided against the hazard of rocks dislodged during the roadbed grading operation.

3-219.D.3. **Geologic and Flood Hazard Reports:** In areas where development is proposed that that has been or may be designated by the Town Council as being in any area of local or state interest or being an activity of local or state interest, a reports shall be prepared and reviewed in accordance with Article 8 of this Title.

3-219.E. **Off-Street Parking Requirements.** Each primary dwelling unit shall require two parking spaces (9'x18') and each designated employee dwelling unit shall require one space. At the time of P&Z review of a Subdivision Plat, P&Z shall approve a parking plan demonstrating compliance with this parking requirement. Required parking may be provided either by off-street or on street spaces, and may be covered or uncovered.

(Ord. 1342, 2010; Ord. 1267, 2007; Ord 1241, 2005; Ord. 1210, 2004)

Section 3-220 Cemetery Zone District

3-220.A. **Purpose.** The purpose of the Cemetery District ("CD") is to provide appropriate zoning and associated standards for the Lone Tree Cemetery District ("District"). The zone district is within the Historic Preservation Overlay District ("HPOD") and within the Telluride Historic Landmark District ("THLD"). It s intended that the CD provide simple, basic regulations that allow for a cemetery and accessory uses associated with the Lone Tree Cemetery District.

3-220.B. **Use Table.** The uses permitted by right and the uses permitted on review in the CD are as follows.

Cemetery Zone District Use Table	
Uses Permitted By Right	**Uses Permitted On Review**
1. Cemetery.	
2. Accessory Buildings, structures and uses	

3-220.C. **Dimensional Limitations.**. The following dimensional limitations apply to all buildings permitted by right and uses permitted on review in the CD zone:

3-220.C.1. **Minimum Lot Area:** No limitation.

3-220.C.2. **Maximum Density:** No dwelling units allowed.

3-220.C.3. **Minimum Lot Width:** No limitation.

3-220.C.4. **Minimum Lot Frontage:** No limitation.

3-220.C.5. **Minimum Front Yard:** All buildings twenty-five feet (25'). Burial plots and associated monuments/headstones should be located a minimum of 10 feet from the perimeter fence, which setback shall be administered by the District.

3-220.C.6. **Minimum Side Yard:** All buildings twenty-five feet (25'). Burial plots and associated monuments/headstones should be located a minimum of 10 feet from the perimeter fence, which setback shall be administered by the District.

. 3-220.C.7. **Minimum Rear Yard:** All buildings twenty-five feet (25'). Burial plots and associated monuments/headstones should be located a minimum of 10 feet from the perimeter fence, which setback shall be administered by the District.

3-220.C.8. **Minimum Floor Area:** No Limitation.

3-220.C.9. **Maximum Floor Area:** No limitation provided open character of cemetery and National Landmark District character are maintained.

3-220.C.10. **Maximum Building Height:** 25 feet

3-220.C.11. **Maximum Site Coverage:** No limitation provided open character of cemetery and THLD character are maintained.

3-220.D. **Certain Exemption from Historic Preservation Overlay District**:

a. Landscape alterations, headstones, fencing, signage for the cemetery, mausoleums and monuments are exempt from the need to obtain a Certificate of Appropriateness pursuant to the requirements of the HPOD.

b. Buildings that contain floor area or an open columbarium require evaluation pursuant to the HPOD.

(Ord. 1303, 2009)

DIVISION 3 STREET AND UTILITY DESIGN REQUIREMENTS

Section 3-301 Purpose and Applicability

3-301.A. **Purpose.** The Town of Telluride Street and Utility Requirements are established to achieve the following purposes: 1) outline the manner in which new development and redevelopment will complete public improvements within adjacent or proposed public rights-of-way; 2) implement the "Design Standards and Construction Specifications for Construction in the Right of Way & Connections to Public Utilities ("Right-of-Way Specifications"); 3) implement the "Town of Telluride Manual of Streetscape Standards" ("Streetscape Standards"); and protect the public health, safety, and welfare through the regulation of new pedestrian access, access driveways, curb cuts, street addressing, public utility work, drainage infrastructure, and placement of fuel storage tanks.

3-301.B. **List of Standards and Applicability.** This Division contains standards and procedures with respect to pedestrian and vehicular access, general right-of-way improvements, street addressing and installation of utilities and fuel storage tanks. Applicable standards shall be met by each development within the Town of Telluride.

3-301.C. **Amendment to the Right-of-Way Specifications and Streetscape Standards.** The Town may amend the Right-of-Way Specifications and Streetscape Standards without an amendment to this Title. Such amendments shall require a recommendation from the Planning and Zoning Commission ("P&Z") and final action by Town Council, and shall be referred to the HARC for a review and recommendation. The P&Z review and Town Council action on amendments to the Right-of-Way Specifications or the Streetscape Standards shall require the placement of a legal advertisement per the requirements of Section 5-204.B.1.a of this Title.

Section 3-302 Dedication and Improvements of Rights of Way

3-302.A. **General.** The arrangement, character, extent, and location of all streets shall conform to the Telluride Master Plan.

3-302.B. **Improvements Required.**

3-302.B.1. All abutting streets or pedestrian rights-of-way shall be improved by the applicant at the time of issuance of either 1) a building permit for new development, or redevelopment exceeding twenty-five percent (25%) of the value of the existing improved property; or 2) concurrent with other development reviews as required by this Title (subdivision review, PUD review, use permitted on review, etc.). The improvements that may be required by the Town are intended to mitigate impacts directly attributable to the development.

3-302.B.2. The scope of right-of-way improvements appropriate to an adjacent street shall include: 1) up to the half width of a street right-of-way more than twenty-two (22) feet; 2) the entire width of street right-of-way twenty-two (22) feet or less; and 3) the entire width of any abutting alley, bike path,

sidewalk, or pedestrian ways. The installation of improvements shall be dependent on the need for said infrastructure upgrades in the vicinity.

3-302.B.3. Water and wastewater extensions shall also be completed pursuant to Title 13 of the Telluride Municipal Code.

3-302.C. **Procedure for Determining Improvements.** A determination of the type, location, and extent of public improvements for a new development or redevelopment shall be completed by applying the provisions of Section 3-302.B., and the completion of one of the following two procedures:

3-302.C.1. Prior to issuance of a preliminary or final development approval, the Planning and Public Works Departments shall complete the following tasks:

a. Determine the type, location, and extent of improvements necessary to serve the development and to meet the Right-of-Way Specifications and Streetscape Standards.

b. Require development to be consistent with the Right-of-Way Specifications and the Streetscape Standards unless the Public Works Department determines that consistency is determined to be infeasible, or the Public Works Department determines an alternative design:

(i) Meets the Goals and Objectives of the Streetscape Standards; and

(ii) The proposed design has been prepared by a Colorado Registered Professional Engineer or other qualified professional approved by the Public Works Department.

c. Compare the existing condition of rights-of-way abutting the applicant's property to the standards and designs specified for that right-of-way within the Right-of-Way Specifications and Streetscape Standards.

d. If a new or reconfigured right-of-way is proposed, the existing or proposed condition of any proposed or existing rights of way shall also be compared with the standards and designs specified for that right-of-way in the Right-of-Way Specifications and Streetscape Standards.

e. After consultation with the Public Works Department, the applicant shall complete a list and cost estimate of the improvements to the existing or proposed public right-of-way adjacent to its property, necessary to achieve consistency with the Right-of-Way Specifications and Streetscape Standards unless other designs have been approved by the Public Works Department per Section 3-302.C.1.b of this Division.

f. Confirm the contents of the list and estimate.

g. The list and estimate shall constitute work required to be completed by the applicant prior to issuance of a Certificate of Occupancy, or at such other date as may be arranged, and such list shall be incorporated into an improvements agreement that has a form and content approved by the Town. If public improvements are documented through a subdivision improvements agreement pursuant to Section 6-409 of this Title, a separate improvements agreement shall not be required.

3-302.C.2. The applicant may request a review of the determination of appropriate public improvements completed under Section 3-302.C.1 from the Telluride Planning and Zoning Commission ("P&Z"). When requested by an applicant in conjunction with a related development review, such as a subdivision, PUD, or Use or Activity Permitted on Review, HARC application or a building permit, concurrent review by the P&Z shall be required. The P&Z's criteria for review shall include an assessment of impacts of the development that can reasonably be attributed to the development proposed, using the following information:

a. Projected vehicular and pedestrian traffic count increase on the Town's street system.

b. Type, condition, and capacity of the street system to serve the proposed development.

c. Total number of vehicles and pedestrians projected to serve the development.

d. On and off-site parking to be supplied.

e. Condition of existing street infrastructure, including its ability to minimize air and water quality degradation.

f. Location of existing or proposed public transit service.

g. Consistency with the Right-of-Way Specifications unless an alternative design has been reviewed and approved by the PublicWorks Department per the provisions of Section 3-302.C.1.b of this Division.

h. Consistency with the Streetscape Standards unless an alternative design has been reviewed and approved by the Public Works Department per the provision of Section 3-302.C.1.b of this Division.

i. Any other factors unique to the site or vicinity.

3-302.D. **Procedures for Securing and Documenting Completion of Improvements.** The completion of right-of-way improvements shall be secured by a suitable financial

arrangement and an improvements agreement as required by Section 3-302.C.1.g of this Division. If right-of-way improvements are not appropriate at the time of building permit issuance or prior to issuance of a Certificate of Occupancy, an improvements agreement may be required by the Town in accordance with 3-302.C.1.g of this Division.

Section 3-303 Access Requirements

3-303.A. **Purpose.** The purpose and intent of these access requirements is to ensure that a permit not be issued for a building lot unless the lot has a lawfully established right of vehicular ingress and egress. Access to the lot must be of a standard and condition to safely and adequately accommodate the type and volume of traffic, that currently uses the access, plus any increase in traffic that may be added by the permitted use. The term "traffic" includes emergency and fire fighting equipment and vehicles.

3-303.B. **Adequate Vehicular Access Required.** No person shall establish any new use or change the use located upon a lot unless a lawfully established route of adequate vehicular access, including both ingress and egress, to said lot is available. Adequate vehicular access shall only be determined subsequent to a determination of the intended use of the affected parcel of land. Intended use of the land shall be determined through an approval of development on the affected parcel by P&Z, HARC or the Planning Director, as applicable. Modification of design or access standards may be allowed under Article 6, Division 4, the Planned Unit Development process. A road or driveway must also be one of the following:

3-303.B.1. A road maintained by the Town of Telluride, San Miguel County, or the State Highway Department. All new driveways or other access points onto publicly maintained right-of-way must be constructed in accordance with an access permit issued by the Town of Telluride. Where direct access is onto a road maintained by San Miguel County or the State Highway Department, an approved building permit shall satisfy this access permit requirements.

3-303.B.2. A public right-of-way that has been dedicated to the public and accepted as such by the Town or San Miguel County but which is not maintained by a public agency, or a road that has been found by the Town to be a public road in accordance with state statute, but which is not maintained by a public agency. However, in order to qualify as adequate access all such public roads must:

a. Be constructed to minimum driveway standards as set forth in Section 3-303 B.3 for that portion of the road that has a traffic volume with the permitted use of less than one hundred and fifty (150) Average Daily Traffic (ADT) as determined by the Public Works Department and as specified in the Right-of-Way Specifications, as hereafter may be amended. Responsibility for developing a traffic count shall be the developer's according to procedures approved by the Public Works Department. In either case, the Public Works Department may, if deemed necessary,

require road plans prepared by a Colorado Registered Professional Engineer.

b. Have access points to the public maintained road system constructed in accordance with access permits issued by the Town, San Miguel County or the State Highway Department, or other public agency.

c. Be subject to a maintenance waiver signed by the lot owner acknowledging that the Town does not maintain the roads and that the Town or area residents may form an improvement district for the purpose of constructing the roads to Town standards for public maintenance. This document shall be recorded with the San Miguel County Clerk and Recorder.

3-303.B.3. A private road or driveway. In order to qualify as adequate access, the road or driveway must meet the following requirements:

a. The owner of the building lot must have an easement or the legal right to cross other private lands or a permit to cross public lands, for vehicular access for the permitted use.

b. That portion of the road or driveway that has or will have a traffic volume with the permitted use of more than that which would be generated by a one-family dwelling unit or more than ten (10) ADT, whichever is less, but less than one hundred and fifty (150) ADT, must be constructed to minimum standards, as specified in the Right-of-Way Specifications.

c. That portion of the road or driveway that has or will have a traffic volume with the permitted use of more than one hundred and fifty (150) ADT, must be constructed to residential street standards as specified in the Right-of-Way Specifications.

d. The road or driveway must have a minimum eighteen foot (18') width or be wide enough to contain the required physical improvements.

e. Any access points to the publicly maintained system must be constructed in accordance with access permits issued by the Town, San Miguel County, the State Highway Department, or other public agency.

f. The lot owner must sign a maintenance waiver acknowledging that the Town does not maintain the road or driveway. This document shall be filed for recording with the San Miguel County Clerk and Recorder.

3-303.C. **Administration.** Access requirements administration shall consist of the following:

3-303.C.1. Unless otherwise provided by this Title, the Public Works Department is responsible for the administration and implementation of the requirements of this Division. Such responsibilities include, but are not limited to:

a. Determining that the requirements of this Section have been satisfied and that all necessary permits have been obtained from public agencies when such prior approval is required before issuing any lot access approval;

b. Reviewing lot access approval applications, reviewing and inspecting proposed access routes, and issuing approvals if the application and proposed access route are in compliance with the requirements of this Title;

c. Analyzing submitted traffic volumes for access routes and taking measurements of actual traffic volumes if deemed necessary;

d. Determining the need for road plans to be prepared by a Colorado Registered Professional Engineer;

e. Approving the location, cross-section, lines and grade and other physical characteristics of an access route based on the standards given in this section, the Right-of-Way Specifications, the Streetscape Standards and sound engineering judgment;

f. Developing and transmitting recommendations to the P&Z regarding requested variances to the provisions of this Division.

3-303.C.2. Lot access permit approval shall be obtained from the Public Works Department prior to the issuance of any building permit for any new use or change of use to be located upon a building lot. An application for lot access approval shall be filed with and on forms made available by the Public Works Department and shall include the following information:

a. The minimum contents for all applications specified in Section 5-202 C of this Title;

b. Location of parcel (Subdivision name, Block and Lot number and Section, Township, Range);

c. Location map of access road or driveway;

d. Name and location of the access point to the public maintained road system;

e. Existing or new access route;

f. General description of physical characteristics of access route including length, average traveled width, easement width, average grade, steepest grade, and surfacing material;

g. Estimated average daily traffic volume.

3-303.C.3. The Public Works Department shall approve an application for a lot access permit only if the lot access conforms to the minimum requirements set forth in, or incorporated by, this Section 3-303. In evaluating the ability of the lot access to safely accommodate the type and volume of traffic that may reasonably be anticipated, the Public Works Departmet shall consider the following factors:

a. The suitability of the access route for use by vehicles generally expected to use the access, as well as emergency and fire fighting equipment and vehicles, and the availability of alternative access routes;

b. The physical limitations of terrain on meeting maximum grade requirements.

3-303.C.4. The Building Official shall not issue any building permit or any use permit for the establishment of any new use or change of use to be located upon a lot, unless a lot access approval has been granted in accordance with the provisions of this Title.

3-303.C.5. A lot access permit approval shall expire three (3) years after the date of issuance if the applicant has not completed construction according to provisions of the approval.

3-303.C.6. If lot access permit approval is received as part of another development approval process, no fee will be charged. If a lot access permit is the only development application sought, the fee shall be based on the Building Department's hourly inspection fee rate set forth in the Town's adopted Fee Schedule.

3-303.C.7 Any person aggrieved by an inability to obtain lot access permit approval by the Public Works Department, or by any decision of the Public Works Department made in the course of the administration or enforcement of the provisions of this Section 3-303, may submit an appeal to the P&Z.

3-303.C.8. Nothing herein shall be construed to deprive P&Z or the Town Council of the authority to approve lot access or to modify lot access or street improvement standards, where such authority has been vested in P&Z or Council.

Section 3-304 Curb Cuts

3-304.A. **Purpose.** Vehicular access to property shall be controlled in such a manner as to protect the traffic-carrying capacity of the street upon which the property abuts as well as to protect the value of the adjacent property.

3-304.B. **Permit Required.** Any curb cut on a designated state highway must receive a permit from the Colorado State Highway Department prior to being issued a building permit. Any other curb cut must receive a lot access permit from the Public Works Department and be designed in accordance with the Right-of-Way Specifications.

3-304.C. **Minimum Number.** The minimum number of curb cuts necessary to serve the subject parcel are permitted. For property being platted outside of the historic grid pattern, no entrance or exit shall be located nearer than fifty feet (50') to any intersecting street right-of-way or nearer than ten feet (10') to any adjacent property line, except where it is possible to provide one access point that will serve both adjacent properties, or except onto an alley. If adherence to these requirements would leave a parcel of property without vehicular access, either or both of these setback requirements may be reduced by the Public Works Department to permit a single vehicular access point if the Public Works Department finds that the intent of this Section would still be served.

3-304.D. **Acceleration-Deceleration Lanes.** On arterial streets, acceleration-deceleration lanes may be required of the development if the Public Works Department finds that they are necessary to preserve the safety or the traffic-carrying capacity of the existing street. The Public Works Department shall determine the length of the required acceleration-deceleration lane.

3-304.E. **Direct Access.** No residential structures shall have direct access onto an arterial. However, if no alternative street access is possible, a curb cut may be permitted with the spacing and acceleration-deceleration lanes determined to be necessary by the Public Works Department to preserve the safety and the traffic-carrying capacity of the arterial.

3-304.F. **Exceptions.** Exceptions to this Section may be made in areas within the Town's historic grid and other areas if the Public Works Department determines that safe and reasonable access is provided. The requirements of this Section may also be varied pursuant to Article 6, Division 3, Planned Unit Development, to provide for safe and reasonable access.

Section 3-305 Street Addressing

3-305.A. **Numbering System.** Structures shall be numbered according to the Town of Telluride Streets and Addresses Map and the provisions of Telluride Municipal Code Chapter 8.21, "Building Street Addresses and Emergency Telephone Information". The Building Official will issue a house number when issuing a building permit for a new structure.

3-305.B. **Compliance Required.** No person shall use an unauthorized address or fail to maintain the assigned address sign in compliance with the requirements of this Section and Chapter 8.21.

3-305.C. **Street Names.** Proposed new names for streets shall be subject to approval by the Town Council. Street names shall conform to the city street name plan on file at the Planning Department. Owners of real property may petition the Town Council to change a street name. Town Council may grant such change only after consideration of the historic grid system nomenclature.

Section 3-306 Public Utilities

3-306.A. **Construction or Installation Authorized.** Nothing in this Title shall be construed to

prevent the authorized construction or installation, in any zone district, of a public utility facility or structure necessary for the transmission of commodities or services of a utility company including mains, transmission and distribution lines, substations and exchanges. The storage, maintenance and business facilities of public utilities shall be restricted to their zone districts in which they are listed as permitted uses or uses permitted on review.

3-306.B. **New Lines To Be Underground.** All new electric, telephone, and cable television utility lines, including main transmission, distribution, and building service lines, shall be located underground. Proposed new utility lines shall be reviewed by the Public Works Department prior to the issuance of a building permit. Upon modification, reconstruction, or repair or a building that exceeds twenty-five percent (25%) of the value of the building, utility lines existing on the building lot and serving the building shall be relocated underground.

3-306.C. **Depth.** No underground electric lines installed in any public right-of-way shall be less than three feet (3') below finished grade. The Public Works Department may require greater burial depths if, as determined by the director, such burial depths are required to protect the safety of persons or property.

3-306.D. **Excavation Permit Required.** For any excavation within a public right-of-way or public easement for utility installation or repair, or surface improvements, an excavation permit issued by the Director of Public Works or his/her designee shall be obtained prior to commencement of work. Prior to any work, all contractors excavating in public rights-of-way may be required to post a bond or other financial security in an amount deemed necessary by the Public Works Department, such bond or security to warrant all surface or other repairs for a period of time as determined by the Public Works Department.

Section 3-307 Fuel Storage Tanks

All fuel storage tanks, except propane tanks, shall be completely buried beneath the ground surface, and shall be subject to compliance with applicable local, state and federal laws. New propane tanks to supply energy for residential heating, cooking, etc. are prohibited from being located in Telluride, except that propane tanks for gas grills are permitted.

(Ord. 1363, 2011; Ord. 1350, 2011; Ord. 1270, 2007; Ord. 1112, 1999; Ord. 1071, 1997; Ord. 1059, 1996; Ord. 1005, 1994; Ord. 970, 1992; Ord. 924, 1991; Ord. 826, 1988; Ord. 817, 1988; Ord. 452, 1980; Ord. 415, 1980; Ord. 231, 1970)

DIVISION 4 SIGN REGULATIONS

Section 3-401 Applicability

3-401.A. **General.** Signs shall only be allowed as permitted by this Division. Permitted sign categories and sign characteristics are summarized in Table 3-5 and are fully described within this Division. It shall be unlawful to erect a sign without complying with the terms and provisions of this Article.

3-401.B. **Sign Permit Required.** It shall be unlawful to erect, place, construct, reconstruct, maintain or relocate a sign without first obtaining a sign permit from the Planning Department.

Section 3-402 Prohibited Signs

The following signs shall not be erected, placed, constructed, reconstructed, maintained or relocated within the Town of Telluride.

3-402.A. **Signs With Lights.** Signs with lights, or illumination which flash, rotate, move, scintillate, blink, flicker, vary in intensity, vary in color or use intermittent electronic pulsations are not allowed, except historic signs with lights no larger than twenty-five (25) watts, subject to approval of H.A.R.C.

3-402.B. **Signs With Moving Parts.** Signs with visible moving, revolving rotating parts, or visible mechanical movement of any description, or other apparent visible movement achieved by electrical, electronic or mechanical means, including automatic electronically controlled copy changes are not allowed.

3-402.C. **Gas Filled Light Tubes.** Gas-filled light tubes shall be allowed only when used for indirect illumination, in such a manner that light tubes are not exposed to public view. No signs with rear-lighted translucent panels will be allowed.

3-402.D **Computer and Television Monitors or Screens**. Computer and television monitors or screen, or other similar devises are expressly prohibited for use as signs within the Town of Telluride. This prohibition extends to the use of such devices for display within storefront windows, or windows directed toward a public right-of-way.

Section 3-403 Special Pennants and Banners

Nothing in this Division shall be construed to prevent the erection of pennants and banners advertising a special civic event. Such pennants and banners may be erected two (2) weeks prior to the opening of the event advertised and shall be removed promptly upon its conclusion.

Section 3-404 River Park Trail Signs

Any sign erected, placed, constructed, reconstructed, maintained or relocated on property

adjacent to the River Park Trail shall only be permitted in accordance with the following limitations: **(Note: Institutional Identification Signs are exempt from the following limitations.)**

3-404.A. No sign as defined in Section 3-405 of this title shall be permitted along any property line fronting the River Park Trail, nor shall any such sign be permitted which is located within view from the River Park Trail if such property has a property line fronting a publicly accessible right-of-way along which a sign can be located out of view from the River Park Trail.

3-404.B. Signs as defined in Section 3-405 of this title shall be permitted, in accordance with all other provisions of this title, along a property line fronting the River Park Trail or in view from the River Park Trail only if the property does not have a property line fronting a publicly accessible right-of-way along which a sign can not be located out of view from the River Park Trail.

Section 3-405 Permitted Signs

The types of signs which are allowed within the Town of Telluride shall meet the following limitations.

3-405.A. **Freestanding Signs.** A freestanding sign is any sign structurally separate from the building, being supported on itself or on a standard or legs. Freestanding signs shall be limited to one (1) sign per principal use, shall not be located higher than the principal building, shall be a minimum of eight feet (8') above grade when located adjacent to a pedestrian way and larger than two (2) square feet in area. A sandwich board sign shall be allowed only if located entirely on private property. The area of one side of a sandwich board shall count towards the total signage allowed for the business an all other sections of the code shall apply.

3-405.B. **Projecting Signs.** A projecting sign is any sign supported by a building wall and projecting therefrom. Projecting signs shall not be higher than the eave line or parapet wall of the principal building, shall be a minimum of eight feet (8') above grade when located adjacent to or projecting over a pedestrian way; and shall not extend more than four feet (4') from the building wall except where such a sign is an integral part of an approved canopy or awning.

3-405.C. **Wall Signs.** A wall sign is any sign painted on, incorporated in or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall. Wall signs shall not be higher than the eave line or parapet wall of the principal building, and no sign part, including cut-out letters, shall project more than six inches (6") from the building wall.

Section 3-406 Sign Categories and Size Limitations

Permitted signs shall only be erected, placed, constructed, reconstructed, maintained or relocated

according to the following limitations.

3-406.A. **Business Identification Signs.** Business identification signs are permitted in conjunction with permitted uses, except residences, provided such signs identify a business occupying the premises. If such signs are not identifying a business occupying the premises, such signs shall be located in accordance with Section 3-406.A.1 of this Title. The aggregate sign area permitted for a business shall not exceed one (1) square foot of sign area for each three (3) feet of lot line frontage occupied by or projected from the building within which the principal use is conducted. Users fronting on an alley shall compute their sign area allowance by considering the alley as the lot line frontage. In no case shall the aggregate sign area for any one use on any one frontage exceed twenty (20) square feet. A total of two (2) signs are allowed per business per frontage. There may be a combination of two (2) of the following four (4) types of signs: freestanding, projecting, wall, and off-site; including cut-out letter sign; subject to the following limitations:

3-406.A.1. Off-Site Sign: Off-site signs are those that identify or advertise interests that are not conducted on the same lot on which the sign is located. Off-site signs shall be permitted as follows:

a. Each business shall be permitted one off-site sign.

b. Off-site signs may be permitted to be installed on Town constructed and maintained poles in the public right-of-way at the following locations: The southeast corners of Colorado Ave. and Davis St., Colorado Ave. and Fir St., Colorado Ave. and Pine St., Colorado Ave. and Willow St.; and Colorado Ave. and Spruce St., and the southwest corners of Colorado Ave. and Townsend St., Colorado Ave. and Aspen St., and Colorado Ave. and Oak St. The Public Works and Planning staff will collaborate to determine the specific locations for the signs to be erected on these corners. These signs shall be a standard 4” x 24” with an arrow incorporated into the design, directing traffic towards the applicable business. Once an application for an off-site sign is made, staff will order, erect, and maintain the said sign on the appropriate post. Each sign will have a standardized font, and shall display only the trade name of the said business. The signs will have one color and one 4” x 4” symbol for each of the following types of businesses: institutional, retail, restaurant, and lodging.

3-406.A.2. Freestanding sign: One (1) per use, not to exceed ten (10) square feet in area.

3-406.A.3. Projecting sign: Shall not extend more than four feet (4') from the building wall except where such a sign is an integral part of an approved canopy or awning, and no projecting sign shall exceed

six (6) square feet in area where two (2) faces are visible or ten (10) square feet where only one (1) face is visible.

3-406.A.4. Wall sign: Shall not exceed ten (10) square feet on any one (1) building wall, exclusive of cut-out letters.

3-406.A.5. Office building registry: A wall sign or freestanding sign identifying included business offices, not to exceed one (1) square foot in area per office. Such sign shall be excluded from regular sign area limitations.

3-406.A.6. Historic sign: A wall sign identifying a structure of historic interest, not to exceed ten (10) square feet in area. Such sign shall be excluded from sign area limitations and be located only on historic buildings.

3-406.A.7. Vending Machines. Vending machines are defined as self-service mechanical dispensers of products such as soft drink machines, but excludes newsracks as defined in Chapter 12.06 of the Telluride Municipal Code. No vending machines allowed under this subsection may be located in any required setback, easement, required parking space, or in any location that would interfere with safe movement of pedestrians into and out of the building(s) on the premises, or safe flow of traffic. Vending machines must receive approval pursuant to HARC review procedures of Section 7-203.D of this Title, must be adequately screened, and shall count towards the total sign allowance for the business operating the vending machine if signs advertising or promoting products or interests are used. For vending machine signs, the square footage of the lettering shall count as fifty (50) percent of a sign, to be applied to the total allowable signage of the said business. Vending machines shall not be internally illuminated.

3-406.B. **Residential Identification Signs.** A freestanding or wall sign may be erected on the same lot with any dwelling identifying the occupant thereof or any home occupation pursued therein, not to exceed two (2) square feet per dwelling unit. Such a sign may be illuminated as prescribed in this Section only when it is identifying a home occupation of an emergency service nature, a multifamily dwelling complex or a mobile home park.

3-406.C. **Institutional Identification Signs.** Freestanding and wall signs may be erected on the same lot with any school, church or public building for administration; provided, that the aggregate sign area along one street shall not exceed one (1) square foot of sign area for each three feet (3') of frontage occupied by the building within which the principal use is conducted. In no case shall the aggregate sign area for one (1) use exceed twenty (20) square feet on any single frontage. In the case of institutional uses located in a residential zone district,

illumination of signs shall be subject to approval of P&Z.

3-406.D. **Recreation Identification Signs.** Freestanding or wall signs may be erected on the same lot with any recreation club or open-use recreation site, provided the aggregate sign area does not exceed twenty (20) square feet on any single frontage. In the case of such uses located in a residential district, illumination of signs shall be subject to the approval of P&Z.

3-406.E. **Directional Signs.** A freestanding sign, non-illuminated and conforming to a standardized design, six inches by thirty inches (6" x 30") in size, directing persons to tourist and cultural facilities may be erected in any district on the public right-of-way.

3-406.F. **For Sale/For Rent Signs.** A freestanding or wall sign, non-illuminated, not to exceed six (6) square feet in area, when advertising sale of the premises, and not to exceed three (3) square feet when advertising rental of the premises, may be erected on any site.

3-406.G. **Construction Signs.** A freestanding non-illuminated sign not to exceed ten (10) square feet in area if single sided, and six (6) square feet in area if double sided, may be erected on a project site for purposes of identifying all contractors and/or describing a project. Only one construction sign may be permitted per street frontage.

Section 3-407 Sign Measurement

3-407.A. **All Signs Counted.** The area allowed for signs in any category shall include all signs allowed, including window decals and signs identifying distinctive features and regional or national indications of approval of facilities.

3-407.B. **Cut-Out Letter Signs.** Cut-out letter signs shall be considered as wall signs and their aggregate area shall be credited toward allowable sign area at one-half (1/2) their measured area.

3-407.C. **Sign Area.** Sign area shall be the area of the smallest geometric figure which encompasses the sign facing, including copy, insignia, background and borders.

Section 3-408 Sign Location and Appearance Standards

3-408.A. **General Standards.** All signs shall be maintained in good repair. A new permit shall be required prior to moving an existing sign from one location to another, or altering a sign in any manner other than for routine maintenance.

3-408.B. **Compliance With Setback Requirements.** Signs shall comply with the setback requirements of the zone district in which they are located and the principal use to which they apply, unless specifically excepted elsewhere in this Division. This does not apply to off-site signs that are approved in the right-of-way on Town

maintained posts.

3-408.C. **Traffic Safety.** No sign shall be located so that the safety of a moving vehicle will be impaired by obscuring the driver's vision or such that direct glare is caused on any public right-of-way. The color or format of signs shall not resemble or conflict with traffic signs or signals.

3-408.D. **Illumination.** Illumination of signs shall be arranged in such a manner as to be reflected away from residential properties and motorists' vision.

3-408.E. **Lettering Size Limit.** No lettering on any sign, including cut-out letter signs, shall exceed twelve inches (12") in height; except, that the initial letter in each word may be eighteen inches (18") in height.

(Ord. 1352, 2011; Ord. 1229, 2004; Ord. 1198, 2003; Ord. 1071, 1997; Ord. 1005, 1994; Ord. 970, 1992; Ord. 817, 1988; Ord. 231, 1970)

TABLE 3-5 PERMITTED SIGNS AND SIGN CHARACTERISTICS					
Sign Category	**Sign Type Permitted**	**Maximum Number**	**Maximum Sign Area**	**Location**	**Illumination/Design**
Residential Identification	Freestanding or Wall	1	2 square feet	On the same lot	Only to identify a home occupation of an emergency service nature, a multifamily dwelling complex or a mobile home park
Institutional Identification	Freestanding or Wall	No limit	1 square foot of sign area for each 3 feet of building frontage; not to exceed 20 square feet on any frontage	On the same lot	If located in a residential district, illumination is subject to approval by the Planning Commission
Recreation Club or Open-use Recreation Site Identification	Freestanding or Wall	No limit	Not to exceed 20 square feet on any frontage	On the same lot	If located in a residential district, illumination is subject to approval by the Planning Commission
Directional	Freestanding	No limit	6" by 30"	In the public right-of-way	May not be illuminated; must conform to a standardized design
For Sale/For Rent	Freestanding or Wall	1	For sale sign: 6 square feet; For rent sign: 3 square feet	On the same lot	May not be illuminated
Construction	Freestanding or wall	1/street frontage	10 s.f. single sided 6 s.f. double-sided	On the same lot	May not be illuminated
Business Identification	See Section 3-405.A	2	1 sq.ft. of sign area for each 3' of building frontage; not to exceed 20 sq. ft. on any frontage. Off-site business identification signs located in the right-of-way on Colorado Ave. shall be a standard 4”x24”, designed and maintained by the Town	On the same lot, public right-of-way	May be illuminated when located on the same lot, subject to LUC Section 3-402 and the Town’s *Design Guidelines*. Off-site signs in the right-of-way must conform to a standardized design and may not be illuminated.

DIVISION 5 LANDSCAPING, OUTDOOR ILLUMINATION, AND MAINTENANCE, REMOVAL OR RELOCATION OF TREES STANDARDS

Section 3-501 Purpose

This Division contains standards and procedures with respect to landscaping, outdoor illumination and maintenance, removal and relocation of trees. Applicable standards shall be met by each development within the Town of Telluride.

Section 3-502 Landscaping Requirements

3-502.A. **Landscape Plan Required.** All developments, except detached one-family dwelling units are required to provide a landscaping plan designed in accordance with Article 7, Division 1, and H.A.R.C. design standards contained in *Design Guidelines for Building in Telluride* and other adopted landscape plans, policies and standards.

3-502.B. **Landscape Materials.** All material required in a landscaped area shall be live, predominantly native, or other climatically appropriate plant material. Non-living plant materials such as bark or river rock may be used only if approved as part of the overall landscaping plan.

3-502.C. **Water Usage.** Landscaping materials and plants shall be designed to conserve and make efficient use of water.

3-502.D. **Revegetation.** Land disturbed by development activities shall be revegetated at least to its pre-development condition.

3-502.E. **Design Standards.** All materials planted under the provisions of this Section shall meet the H.A.R.C. design standards contained in Design Guidelines.

3-502.F. **Maintenance Required.** The developer or applicant shall maintain the landscaping plan as originally approved and may be required to provide a financial guarantee for replacement of plant materials that have died, for a period of two (2) years from the issuance of a certificate of occupancy or certificate of completion.

Section 3-503 Landscape Improvements For The River Park and Trail Corridor

3-503.A. **Landscape Plan Required.** No building permits or development approvals shall be granted for lands falling within the River Park and Trail Corridor as defined in Design Standards without providing and receiving approval for a plan to construct and maintain the trail system and associated landscaping improvements in accordance with Design Standards.

3-503.B. **Securing Easements.** In the event that no development is proposed on land within the River Park and Trail Corridor, the Town shall have the right to secure necessary easements for trail construction and to construct the River Park and Trail Corridor at

Town expense. At such time as development occurs, the Town shall be reimbursed at a dollar value (per linear foot of trail constructed) consistent with costs incurred by other properties within the corridor.

Section 3-504 Outdoor Illumination

3-504.A. **Purpose.** The purpose of this section is to regulate outdoor lighting fixtures and lamps (bulbs) to promote energy efficiency, decrease light pollution, maintain nighttime public safety and security, preserve the night sky and prevent light trespass which is detrimental to the environment and to the public use and enjoyment of public and private property. Outdoor illumination is regulated by the Land Use Code and the Design Guidelines.

3-504.B. **General Provisions.** All non-exempt outdoor light fixtures and illuminating devices permanently or temporarily installed outdoors, shall meet the following requirements:

3-504.B.1. They shall be down lit and shielded so that no light rays are emitted at angles above the horizontal plane.

3-504.B.2. Exterior bulbs shall be limited to the equivalent of the Lumen output of a 40 watt incandescent bulb. This is approximately 450-550 lumens, depending upon the manufacturer.

3-504.B.3. Blinking, flashing, rotating or moving lights are prohibited.

3-504.B.4. Exterior lighting fixtures require approval through the H.A.R.C. process, which review will include, but not be limited to the number of fixtures, location, type, compatibility and conformance.

3-504.B.5. Movement sensor lighting requires approval from the Planning Director who shall consider nuisance and impacts to adjacent properties when determining appropriateness.

3-504.C. **Exemptions.** The following are exempt from the provisions of 3-504.B.

3-504.C.1. **Approved Historic Lighting Fixtures.** Non-conforming lighting fixtures attached to a rated structure which are consistent with the character of the rated structure may be exempted with approvals from the H.A.R.C. Approved fixtures shall be consistent with the architectural period and design of style of the structure and the bulb shall not exceed approximately 450-550 lumens.

3-504.C.2. **Governmental Lighting.** All governmental lighting installed for the benefit of public health, safety and welfare.

3-504.C.3. **Holiday Lighting.** Holiday lighting which is temporary in nature shall be exempt from the provisions of this section, provided that such lighting does not create dangerous glare on adjacent streets or properties, is maintained in an attractive condition, and does not constitute a fire hazard. LED and energy efficient holiday lighting is encouraged.

3-504.D. **Applicability.** A lighting plan and cut sheets shall be submitted along with the established submittal requirements as required by the Land Use Code and Design Guidelines for both new construction and redevelopment.

3-504.D.1. *New Construction*. Compliance with the requirements of this section shall be required for all new development.

3-504.D.2. *Redevelopment Standards*. Expansion to the square footage or an exterior remodel of the building or unit triggers compliance with the requirements of this section as follows:

a. When the actual accumulative costs of all development or redevelopment undertaken exceeds twenty-five (25) percent of the value of the existing improved property, all exterior lighting fixtures and lamps shall be brought into full conformance with the requirements of this section.

b. No final inspection of the development or redevelopment of an existing structure shall be performed until the applicable exterior lighting requirements have been completed by the property owner.

3-504.E. **Nonconforming Lights.** The right to operate a lawful nonconforming light shall terminate upon new construction or redevelopment per 3-504.D.

Section 3-505 Maintenance, Removal, or Relocation of Trees

3-505.A. **Purpose.** The purpose of this Ordinance is to facilitate the creation, maintenance, and protection of a diverse Community Forest that will be healthy and resilient for many years into the future, with a specific mix of tree species and ages throughout the Town. The Town recognizes that trees provide important environmental and aesthetic benefits to residents and guests of Telluride that extend well beyond the boundaries of the property on which they grow.

3-505.B. **Maintenance, Removal, or Relocation of Trees.** It is therefore unlawful for any person, including utility companies, without first obtaining a permit as herein provided, to top, cut down, remove, relocate or cause to be topped, cut down, removed or relocated, or knowingly damage so as to require the cutting down or removal, any cottonwood or aspen tree with a trunk diameter of six (6) inches or greater, or any other deciduous tree or coniferous tree with a trunk diameter of three (3) inches or greater, the measurement of which is to be taken at the Diameter at Breast Height (DBH) which is four feet six inches (4’6”) above the highest existing grade at the base of the tree. On private property under control of the owner, normal Tree Maintenance, as defined by the LUC, shall be exempt from the requirements and scope of this Section, while the Topping, cutting down, or removal of diseased or dead trees shall not be exempt from this Section.

Permits to cut down relocate or remove a tree as required under this Section shall be made to and issued by the Planning Director or his designee on such form as he or she shall provide. A permit applicant shall provide such information as the Planning Director deems necessary to adequately evaluate the permit request, including but not

limited to a site plan of the subject property illustrating the following:

3-505.B.1. The location of existing or proposed structures, fences, driveways, sidewalks, public rights-of-way and utility lines, poles or pipelines.

3-505.B.2. The location of all existing cottonwood and aspen trees with a diameter of six (6) inches or greater and all other deciduous trees and existing coniferous trees with a diameter of three (3) inches or greater. All measurements are to be taken at the Diameter at Breast Height (DBH) which is four (4) feet six (6) inches above existing grade. Each tree is to be specified by trunk diameter and species.

3-505.B.3. The identification and location of any diseased or damaged tree, its size and species, and any tree endangered by or encroaching upon any utility line, pipeline, public right-of-way or structure.

3-505.B.4. The designation of all trees to be removed, retained or relocated and areas which shall remain undisturbed.

3-505.B.5. An identification of all proposed grade changes that could adversely impact the installation, maintenance, or growth of any tree to be retained on the site.

3-505.B.6. The proposed tree replacement plan consistent with the prioritized methods identified in section 3-505.D.1-3.

3-505.B.7. A Qualified Arborist assessment and recommendation as deemed necessary by the Planning Director.

3-505.C. **Permit Application.** Permit applications shall be accompanied by the appropriate fee and reviewed by the Planning Director, or his designee. The Planning Director may choose to refer the application to other departments such as Parks and Recreation and Building Department as necessary. The Planning Director may also request third party information such as a Qualified Arborist assessment and recommendation regarding the removal of the tree(s). A site visit with the permit applicant may be conducted prior to the issuance of a permit.

3-505.C.1. **Standards for Removal**. Permit applications shall be reviewed pursuant to the following standards:

a. Whether the tree cannot be reasonably preserved in its existing location, or can it be relocated on site.

b. The known or anticipated impact of the intended removal or relocation of a tree on flood, snow slide and landslide hazards, water runoff and erosion, public right-of-way, windbreaks and other trees and vegetation.

c. Whether removal or relocation of a tree is necessary to eliminate or minimize shade on solar panels used for energy production.

d. Whether removal or relocation of a tree is necessary to eliminate or minimize disease, danger of tree-fall, danger to utility infrastructure or structures,

dangers to public rights-of-way, dangers to buildings or other structures, dangers to other trees, or constitutes a Hazard as defined by the LUC.

e. The number and kind of trees on the site and in the neighborhood of the site, the contribution of the subject tree to the aesthetic or historic character of the site or neighborhood, and the impact of the removal or relocation of the tree upon the property value of the site and adjoining properties.

f. Whether the removal or relocation of a tree is reasonably necessary for the development of the subject property or site.

g. Whether sustainable urban forestry practices, as defined by a Qualified Arborist and including the consideration of the number, spacing and species of trees on the site or adjoining properties, warrant the removal or relocation of the subject trees.

h. The value and impact of the subject trees to the spatial and architectural relationships between existing or planned structures on the site with other structures or trees.

3-505.D. **Valuation of Trees.** When, in accordance with this section, the value of a tree must be determined, the Basic Value shall equal twenty-five dollars ($25.00) per square inch of the cross sectional area of the tree at the Diameter at Breast Height (DBH).

Calculating the Basic Value, the following equation shall be used:

$$\text{Basic Value} = \$25.00 \times 3.14 \times (D/2)^2$$

3-505.E. **Conditions of Permit Approval.** Whether tree removal is sought for land development or improvement, the construction of structures, or tree removal in and of itself, the Planning Director, or his designee, shall require as a condition of permit approval one of the following in order of priority:

3-505.E.1. The replacement of such tree with another tree on the subject property. The replacement tree shall, where practicable, be of the same or comparable size and kind of the tree removed. The difference in value, which shall be estimated using the Basic Value method or another method recognized and practiced by a Qualified Arborist, whichever is less, shall be paid as a fee to the Tree Fund. This approach precludes application of the "caliper for caliper" mitigation approach, which allows six 1-inch tees to replace one 6-inch diameter tree, as the smaller trees are not a true replacement of the ecological value of the larger tree.

3-505.E.2. If a replacement tree may not reasonably be located on the subject property, then the Planning Director, or his designee, may require the permit applicant to plant the replacement tree on public or other private property within the neighborhood of the subject property, or within a public park or public open space area within the Town. The difference in value, which shall be estimated using the Basic Value method or another method recognized and practiced by a Qualified Arborist, whichever is less, shall be paid as a fee to the Tree Fund.

3-505.E.3. Alternatively, the Planning Director, or his designee, may allow the applicant to pay a cash-in-lieu fee equal to the Basic Value of the tree that was cut down and removed. Such fee shall be applied to the Tree Fund. The appraisal shall be conducted using the Basic Value method or another method recognized and practiced by a Qualified Arborist, whichever is less. The requirement for a mitigation tree and the difference in value paid to the Tree Fund may be reduced or waived at the discretion of the Planning Director for site specific situations when the purpose and the standards for removal section of this ordinance can still be met.

3-505.F. **Hazard Trees.** If the tree represents a Hazard as defined by this code, then the mitigation requirement may be reduced or waived at the discretion of the Planning Director. To reduce or waive the mitigation requirement the Hazard condition must be of natural causes, such as age, disease or other factors outside of the applicant's control, and not the result of human actions to intentionally create a Hazard tree. A tree removed based upon human actions to create a Hazard tree or typical site development will require mitigation as specified in section 3-505.E.

3-505.G. **Heritage Tree.** Heritage Trees shall receive a special level of protection and consideration. An application for removal of a Heritage Tree shall exhaust all other alternatives before receiving Town approval for removal of the Heritage Tree. Upon recommendation from the public or the Town, the Planning Director may designate a tree as a Heritage Tree provided the tree's health, aerial space, and open ground area for the root system have been certified as sufficient. No tree on private property can be designated without the consent of the property owner. This consent shall bind all successors, heirs, and assigns. As an incentive for designation, a Heritage Tree on either public or private land shall be eligible for maintenance or other services as provided by the Tree Fund (e.g., cabling reinforcement). Changes and modifications to a Heritage Tree designation over the course of its life are anticipated, provided they are subject to consideration by the Town Manager per the Appeal section 3-505.M of this Division.

3-505.H. **Maintenance Required.** As a condition of tree protection during construction the Planning Director, or his designee, may require a permitee to post security or provide a guarantee insuring a tree is in good health and free from disease for up to two (2) full growing seasons from the date it was sought to be protected during construction. Such a requirement is intended to be consistent with the *Maintenance Required* section of the LUC 3-502.F.

3-505.I. **Tree Protection.** It is unlawful for any person in the construction of any structure or other improvement to do the following:

3-505.I.1. Place material, machinery or substantially disturb the soil within the drip line of any cottonwood and aspen tree with a trunk diameter of six (6) inches or greater, or any other deciduous tree and coniferous tree with a trunk diameter of three (3) inches or greater, the measurement of which is to be taken at the Diameter at Breast Height (DBH) which is four (4) feet six (6) inches above grade; and during construction, the Planning Director, or his designee, shall require the erection of suitable protective barriers around all trees equal to the canopy of the tree. In addition, during construction, no attachments or wires other than protective guy wires shall be

attached to any trees. Notwithstanding the above prohibitions, soil disturbance within the drip line of a tree may be allowed if it is determined by a Qualified Arborist that such activity can be done in a manner that would not negatively impact the health and vigor of the tree.

3-505.I.2. Cut the primary roots of existing trees within the drip line without oversight from a Qualified Arborist. If absolutely necessary roots greater than 2" in diameter shall be cut by hand.

3-505.J. **Emergency Tree Removal.** In emergency circumstances wherein a tree presents an immediate and present threat of falling and/or endangering persons or property, a permit need not first be obtained before the removal or cutting down of such tree. However, any person removing a tree, or causing the removal or cutting down of a tree under emergency circumstances, shall report such tree removal within seventy-two (72) hours thereof to the Planning Director. Once the Hazardous condition has been addressed, a tree removal permit shall be sought consistent with the requirements of this Division.

3-505.K. **Consolidation of Reviews.** The cutting down, relocation or removal of a tree may be consolidated with a duly processed and approved site specific development plan, inclusive of an approved landscape plan, or certificate of appropriateness, as issued under the Land Use Code, provided such review is conducted in accordance with the permit procedures as set forth in this Division.

3-505.L. **Vesting.** The cutting down, relocation or removal of a tree or trees, in and of itself, shall not constitute or be construed as development as that term is defined in the Land Use Code, and this Section shall regulate and govern the permitting of such activity. Tree removal approval shall be valid for a period of three (3) years from the effective date of the Tree Removal Permit. A Tree Removal Permit independent of a HARC Certificate of Appropriateness shall not constitute a site specific development plan for the purposes of establishing a vested property right.

3-505.M. **Appeal.** In the event that agreement cannot be reached upon the issuance of a permit, the permit application shall be referred to and resolved by the Town Manager. The appeal process is at the discretion of the Town Manager.

(Ord. 1353, 2011; Ord. 1333, 2010; Ord. 970, 1992; Ord. 924, 1991; Ord. 826, 1988; Ord. 817, 1988)

DIVISION 6 RENTAL RESTRICTIONS AND REQUIREMENTS WITHIN THE RESIDENTIAL ZONE DISTRICTS.

Section 3-601 Requirements

Renting or leasing a structure, (including but not limited to a dwelling, dwelling unit, or lock-off unit) for short-term rental purposes in a residential zone district is subject to the following requirements:

3-601.A. **Short Term Rental Period**. A structure may be rented or leased for a short term period, which is defined as a length of time that is less than thirty (30) consecutive days (that is, any length of time between 1 to 29 consecutive days). A structure may be rented or leased for a maximum of three (3) times during a calendar year. For example, a property can be rented once for 14 days, once for 10 days and once for 5 days.

3-601.B. **Long Term Rental Period.** A structure may be rented or leased for a long term period, which is defined as a length of time that is thirty (30) consecutive days or longer. A structure may be rented or leased long term for a maximum of three (3) times during a calendar year. Long term rentals are not subject to the rental restrictions and requirements listed herein.

3-601.C. **Exchanges.** This Division does not prohibit the exchange for short-term rental use of a structure in Telluride for the use of any other structure not in Telluride, for any period of time, except that if any such "exchange" includes the transfer of money, consideration, or any other thing of value other than the use of a structure, the "exchange" shall not constitute an allowable use under this Code. Exchange stays sold through non-profits for the purpose of fundraising shall be considered an allowable use.

3-601.D. **Use**. Short term rental is allowed if it is listed in the LUC as a use permitted by right in the underlying zone district.

3-601.E. **Trash Storage.** There is a clearly-defined trash and recycling storage area and an adequate number of wildlife-proof trash and recycling containers provided.

3-601.F. **Owner Representative.** There is an owner representative within the Town of Telluride, who is on call full-time to manage the property during any period within which the property is occupied as short term accommodations. The name, address, and phone number of the owner representative shall be listed on the business license which is on file at Town Hall. The owner representative shall keep record of the dates the structure is rented during each calendar year. It is the responsibility of the owner representative to inform short term rental tenants regarding town ordinances including but not limited to pets, parking, trash and noise.

3-601.G. **Business License and Taxes.** A business license has been granted by the Town prior to advertising the short term rental or lease of a structure.

3-601.H. **Sales Tax Number.** A local and state sales tax number has been received to

provide for the collection of local and state sales taxes.

3-601.I. **Excise Tax Number**. A local excise number has been received to provide for the collection of local excise tax.

3-601.J. **Affidavit**. An annual affidavit is required to be filed for each calendar year including such information as is determined by the Town Clerk.

Section 3-602 Violation

Any person who short term rents or leases, or causes to be rented or leased, any structure, or portion thereof in excess of an accumulative twenty-nine (29) days in excess of three (3) times in a calendar year, or who otherwise violates the provisions of this Division, shall be violating the terms of this Article.

(Ord. 1342, 2010; Ord. 1005, 1994; Ord. 970, 1992)

DIVISION 7 AFFORDABLE HOUSING AND DESIGNATED EMPLOYEE DWELLING UNITS

Section 3-710 General Policy Goals

This division is intended to provide for the creation of affordable and employee housing within the Town and the Telluride Region through a combination of:

A. Affordable housing requirements applicable to new development as further defined in Section 3-720 below;

B. Affordable housing included as part of a PUD application for which such units are intended to ensure compliance with Section 6-304.C., "Review Standards";

C. Affordable housing or employee dwelling units constructed voluntarily in zone districts where such use is allowed either by right or as a use permitted on review; and;

D. Incentives available for the construction of affordable housing or employee dwelling units as further defined in Section 3-760 below.

Section 3-720 Affordable Housing Requirements

3-720.A. **Findings and Purpose.**

3-720.A.1. **Findings**. It is essential and necessary for the preservation and maintenance of the Telluride Community to ensure the provision of affordable housing within the Town and the Telluride Region, as delineated on the Telluride Region Map in the San Miguel County Comprehensive Plan ("Telluride Region"), which serves both year-round and seasonal employees. Recognizing that new development generates additional employment needs, and consistent with the desire to have new development mitigate impacts attributable to such development, the Town finds it necessary to require new development to provide affordable housing. Maintaining permanent and long-term housing in proximity to the source of employment generation serves to maintain the community, reduce regional traffic congestion, and minimize impacts on adjacent communities. Housing must be affordable to the local labor force in order for the local economy to remain stable.

3-720.A.2. **Purpose**. The purpose of this division is to create housing which is affordable, the need of which is created by new development. This is accomplished through the establishment of the affordable housing requirements for new development that requires the production of affordable housing units, deed restricting existing housing stock to affordable housing, the conveyance of land for affordable housing, or as a less preferred alternative, cash payments.

3-720.A.3. **Applicability.** The standards of this Section apply to all single family, duplex, multi-family, commercial, accommodations and other non-residential new development within the incorporated limits of the Town of Telluride. This section shall also apply to a change of use that generates additional employees. For the purpose of this Division,

development shall be defined as set forth in Article 2, Division 1, except development shall not include Dredging, Excavation, Drilling, Demolition, Clearing, and Deposit as defined in Article 2, Division 1.

3-720.B. **Exemptions.**

The following development is exempt from the requirements of this Section.

3-720.B.1. **Redevelopment of Pre-Existing Use and Change in Use**. Redevelopment or remodeling of an existing use or the change from one use to another is exempt from the requirements of this Section, provided such activity does not create additional employment generation as determined by Table #1 in Section 3-720.C.1.a. Only the uses and floor areas that existed prior to the redevelopment or remodeling shall be exempt from the requirements of this Division, any new floor area or unit or any change in use which creates additional Employee Generation as determined by Table #1 in Section 3-720.C.1.a shall be subject to the provisions of this Section.

3-720.B.2. **Affordable Housing and Designated Employee Dwelling Units**. Development of Affordable Housing and Designated Employee Dwelling Units as defined in this Title are exempt from the requirements of this Section.

3-720.C. **Calculation of Minimum Affordable Housing Requirements.**

3-720.C.1. **Minimum Affordable Housing Requirements**. The minimum affordable housing requirements shall be determined according to the following steps:

a. **Step 1: Determine the Number of Employees Generated by the Development.** Calculate the number of employees generated by the proposed development (as determined by using the applicable generation factor in Table #1).

TABLE #1

Land Use	**Generation Rate**
Commercial/Public Facility Uses	4.5 employees per 1,000 s.f. of Net Floor Area
Hotels and Accommodations Uses	0.33 employees per unit
Multi-family Dwelling and Mixed Use Residential	0.33 employees per dwelling unit
One and Two-family Dwellings	Generation Rate = $0.070174(e)^{(0.000322 \text{ X Proposed, New Gross Floor Area})}$

The employee generation of any use not listed in the table shall be determined by an Independent Calculation, pursuant to Subsection 3-720.D.2. New Gross Floor Area is calculated per the definition in Article 2 plus any Basement or Cellar Space and excluding garages and other unheated, non-living space. Affordable housing requirements for dwelling units in mixed-use development consisting of two or fewer residential units may be reduced or eliminated pursuant to the PUD process.

b. **Step 2: Calculate the Amount of Required Mitigation.** The amount of required mitigation shall be calculated using the following formula, based on (A) the number of Employees generated by the development as determined under Step 1 above ("Employees Generated") multiplied by (B) the provision of 350 square feet of Gross Floor Area per employee generated by the development multiplied by (C) the Required Percentage Mitigation that is (i) 40% for commercial uses; (ii) 60% for multi-family, accommodations uses (except hotels); and single family and duplex (two-family dwelling) uses; and (iii) 40% for a hotel equals the minimum number of employees required to be provided with affordable housing.

Employees Generated X 350 sq.ft. X Required Percentage Mitigation = Gross Floor Area of affordable housing mitigation requirement.

c. **Step 3: Apply Any Affordable Housing Mitigation Credit.** For one and two-family development that is submitted for a HARC review on or after July 1, 2010 that is required to provide for affordable housing mitigation as required by this section, a credit for already provided mitigation will be calculated. No credit is provided for one or two-family floor area development that is submitted for HARC review prior to July 1, 2010. The credit will be calculated by first determining the total floor area for the project that was submitted for HARC review and development on or after July 1, 2010 and constructed after such ("Mitigated Floor Area"), along with the corresponding number of employees generated ("Provided Mitigation"). The Mitigated Floor Area is then added to the new proposed floor area, with this total used to determine the new mitigation requirement using the exponential formula listed in Table 1 above. ("New Mitigation Requirement"). The amount of mitigation required is then determined by applying the provided Mitigation credit to the New mitigation requirement as follows ("Required Mitigation").

New Mitigation Requirement – Provided Mitigation = Required Mitigation

Example: A 2,000 sq. ft. one family dwelling that submits for HARC review on or after July 1, 2010 that subsequently builds such floor area will provide a payment in-lieu for 0.13 employee according to the formula set forth in Table 1 above and mitigation is provided in the form of a payment in-lieu (This is the Provided Mitigation). Two years later, the owner is proposing an addition of 1,000 sq. ft. that results in a new total floor area of 3,000 sq. ft. Using the exponential formula listed in Table 1 above, a 3,000 sq. ft. one-family home generates a total of 0.18 employees ("New Mitigation Requirement"). The amount of new mitigation required is then calculated based determining the difference between the New Mitigation and the Provided Mitigation as follows: 0.18 employee – 0.13 employees = 0.05 employees that must be mitigated by a payment in-lieu.

Example: An existing one family dwelling built prior to 2009 is proposed to have an addition of 1,000 sq. ft. that generates 0.09 employees, with mitigation

provided by a payment in-lieu (This is the Provided Mitigation). There is no credit for the existing home since no mitigation was provided when originally built. Five years later, the owner wants to add an additional 2,000 sq. ft. of floor area bringing the total floor area developed since 2009 to 3,000 sq. ft. that results in a mitigation of 0.18 employees per the exponential formula listed in Table 1 above (This is the new Mitigation Requirement). The amount of Required Mitigation is calculated as follows: 0.18 – 0.09 = 0.09.

3-720.C.2. **Independent Calculation**. An applicant may submit an independent calculation of the number of employees to be generated by a proposed development, to be used in place of the employee generation requirements Table #1.

a. Approval Authority and Review Criteria. Approval of the results of the independent calculation shall be at the sole discretion of the Planning and Zoning Commission. ("P&Z") Prior to approval of any Independent Calculation, the Telluride Housing Authority Subcommittee ("THA") shall review the Independent Calculation and forward a recommendation to the P&Z. In determining whether approval of an independent calculation should be granted, the Commission shall consider the following criteria:

(1) Data and records, including but not limited an independent pay roll audit, supporting employment generation for the proposed use. The Commission may employee, at the applicant's expense, a professional of the Commission's choosing to evaluate the independent calculation.

(2) Future changes in use for the property permitted by the underlying zoning and provisions of this Division.

(3) Actual employment rates of similar businesses and activities within the Telluride Region and other resort communities.

(4) Whether approval would be consistent with the intents and purposes of this Division and the Telluride Master Plan.

Any acceptance of an Independent Calculation shall be site and use specific, non-transferable and be memorialized in a Development Agreement between the property owner and the Town. Such Agreement shall be executed prior to issuance of any building permit.

Should the independent calculation not be accepted, then the applicable employee generation factor from Table #1 shall be applied to the proposed development.

b. **Independent Payroll Audit**. The P&Z may require the applicant to have an independent payroll audit performed two (2) years following the project's occupancy to determine if the number of employees in the project corresponds with the applicant's calculation. The P&Z shall adjust the applicant's housing requirement in accord with the results of the audit, and the Development

Agreement shall be so amended. The P&Z may waive the Independent Payroll Audit.

c. **Appeal**. Upon final approval or denial of the Independent Calculation by the P&Z an appeal to Town Council may be filed pursuant to Section 5-207.A.

d. **Public Notice.** No public notice of an independent calculation shall be required other than listing such applications on the P&Z's and the THA's agendas.

3-720.D. **Housing Mitigation Plan.**

3-720.D.1. **Housing Mitigation Plan Required**. An applicant for any new development or change in use shall submit a Housing Mitigation Plan to the Planning Director, unless exempted pursuant to Section 3-720.B, "Exemptions".

a. **Content**. The Housing Mitigation Plan shall include the following:

(1) Calculation and Method. The calculation of, and method by which housing is to be provided, in compliance with section 3-720.C, "Calculation of Minimum Affordable Housing Requirement" and Section 3-740.A.2, "Method for Providing Housing".

(2) Unit Descriptions. If affordable housing units are to be developed, a site plan and building floor plans (if applicable), illustrating the number of units proposed, their location, the number of bedrooms in and Gross Floor Area of each unit, the rental/sale mix of the development, and the eligibility categories and price restrictions consistent with the Guidelines.

b. **Timing of Review/Amendments**. The Housing Mitigation Plan shall be submitted to and approved by the Planning Director prior to, or concurrent with, application to the Town for the free market portion of the initial development plan. Review and approval of plans by the Town for construction of affordable housing shall be prior to, or concurrent with, the free market portion of the development plan. Any amendment to the Housing Mitigation Plan shall require Planning Department approval.

3-720.D.2. **Certification of Action.** The Planning Director, or its designee, shall certify the Planning Department's approval, approval with conditions, or denial of the Housing Mitigation Plan, or of an amendment thereto. Such approval, approval with conditions, or denial shall be based on compliance with the provisions of this Division and the Telluride Affordable Housing Guidelines ("Guidelines"), unless an exception is granted by the THA.

3-720.D.3. **Appeal**. Upon final approval or denial of the Housing Mitigation Plan by the Planning Director an appeal to Town Council may be filed pursuant to Section 5-207.A.

Section 3-730 Affordable Housing Proposed for Other Purposes

Affordable Housing may also be

(1) Included as part of a PUD application for which such units are intended to ensure compliance with Section 6-304.C., "Review Standards"; or

(2) Constructed voluntarily in zone districts where such use is allowed either by right or as a use permitted on review .

When proposed for either of these purposes, the applicant must submit a plan for the provision of such affordable housing which meets all of the provisions of section 3-720.D. above except that no calculation of minimum affordable housing requirements under section 3-720.C. shall be included unless a PUD also has to provide required mitigation based on the intended use and the requirements of this Section.

Section 3-740 Standards Applicable to All Affordable Housing

3-740.A. **Provision of Affordable Housing.** When proposed either to satisfy the housing requirements established in Section 3-720.C, "Calculation of Minimum Affordable Housing Requirements", or to provide affordable housing pursuant to section 3-730, affordable housing must meet the following requirements.

3-740.A.1. **Minimum Requirements**.

a. Deed restriction - Affordable Housing Unit. Any Affordable Housing unit shall be deed restricted to rental or sales terms and occupancy limitations which comply with the Guidelines unless an exception is granted by the THA.

b. Telluride Affordable Housing Guidelines. The units shall be developed in accordance with the Guidelines.

c. Timing of Occupancy. The units shall be ready for occupancy no later than the date of the initial or temporary certificate occupancy or certificate of completion of the free market portion of the project. If the free market units are to be developed in phases, then the affordable housing units can be developed in proportion to the phasing of the free market units.

3-740.A.2. **Allowed Methods of Providing Affordable Housing.**

a. For all new development or redevelopment within all zone districts, the following methods may be used to provide affordable housing:

(1) Construction of unit(s) on the site on which the development is proposed.

(2) Construction of unit(s) within the Town of Telluride, provided such land, site or structure has not been previously deed-restricted to employee or affordable housing by any party, public or private, including the Town, the Town of Mountain Village or San Miguel

County.

(3) Construction of unit(s) outside the Town of Telluride but within the Telluride Region (as defined by the Telluride Master Plan), provided such land, site or structure has not been previously deed-restricted to employee or affordable housing by any party, public or private, including the Town, the Town of Mountain Village or San Miguel County. Prior to construction of such unit(s), consent of the relevant jurisdiction or homeowner's association (if required) to placement of a Town of Telluride deed restriction on the unit(s) must be obtained, in addition to any required land use approvals.

(4) Deed restricting existing free market unit(s) within the Town or the Telluride Region.

i. As a condition of approval when the deed restriction of existing free market unit(s) is proposed, Applicants must obtain the approval of THA for the specific unit(s) to be deed restricted. Applicants must demonstrate to the satisfaction of THA that (a) the long term affordability of the proposed unit(s) is adequately protected, considering issues including but not limited to long term maintenance and homeowner's assessments; and (b) the affected projects government documents, if any, do not prohibit the type of housing proposed. THA may request additional information about the proposed unit(s) as reasonable to make such a determination. Such approval may contain provisions to insure that any unit(s) so restricted meets long term standards for maintenance and affordability.

ii. Prior to deed restriction of such unit(s) when located outside the Town of Telluride, consent of the relevant jurisdiction or homeowner's association (if required) to placement of a Town of Telluride deed restriction on the unit(s) must be obtained, in addition to any required land use approvals.

(5) Fees in lieu pursuant to Section 3-740.A.3. not to exceed ten percent (10%) of the total affordable housing requirement.

(6) Conveyance of land pursuant to Section 3-740.A.4.

i. Land may be within Telluride or the Telluride Region provided such land has not been previously restricted to employee or affordable housing by any party, including the Town, the Town of Mountain Village or San Miguel County.

ii. Land located outside of Telluride must have approvals by the relevant jurisdiction or homeowner's association (if required)

for use as affordable housing and approval for placement of a Town of Telluride affordable housing deed restriction on the land and/or the resulting constructed housing.

(7) Any minimum affordable housing requirement required pursuant to Section 3-720.C., either fractional or whole, may be combined with other developments' housing mitigation plans.

2. The ten percent (10%) limit regarding payment of fees in lieu described in Section 3-740.A.2.a(5) shall not apply when:

a. The required affordable housing mitigation is equal to or less than 500 square feet; or

b. The minimum affordable housing requirement per Section 3-720.C. is greater than fifteen percent (15%) of the gross floor area of the development, excepting gross floor area allocated to affordable housing. In this situation, only that portion of the affordable housing requirement above fifteen percent (15%) of the gross floor area of the development shall be eligible to be mitigated by payment of fees in lieu.

3-740.A.3. **Payment of In-Lieu Fee**.

a. A payment in-lieu fee has been developed by the Town and adopted by the Town Council. Any payment of the in-lieu fee shall be made in amounts for each housing category, as these categories have been defined in the Guidelines. The fees shall be reviewed and updated within two (2) years of their original adoption, and at least every two (2) years thereafter. The adoption of a new fee can be included on the overall Planning and Building Department Fee Schedule as adopted by the Town Council.

b. Time of Payment and Use of Funds. Payment of the in-lieu fee shall be made to the Town prior to the issuance of any building permits for the free market portion of the development.

(1) Interest Bearing Account. The Town shall transfer the funds to an interest bearing account.

(2) Authorized Uses of Fees. The funds, and any interest accrued, shall be used only for the purpose of planning for, subsidizing or developing affordable and employee housing.

c. Refund of Fees.

(1) Seven Year Limit. Fees collected pursuant to this section may be returned to the then present owner or property for which a fee was paid, including any interest earned, if the fees have not been spent within seven (7) years from the date fees were paid, unless the Town Council

shall have earmarked the funds for expenditure on a specific project, in which case the Town Council may extend the time period by up to three (3) more years.

(2) Written Request. To obtain the refund, the present owner must submit a written request to the Planning Director within one (1) year following the end of the seventh (7th) year from the date payment was received.

(3) Payments Determined. For the purpose of this section, payments collected shall be deemed spent on the basis that the first payment shall be the first payment out.

3-740.A.4. **Conveyance of Land**. The applicant may convey land in fee to the Town, whose fair market value is at least equal to the equivalent in-lieu fee, as calculated pursuant to Section 3-740.A.3 "Payment of In-lieu Fee".

a. Establishment of Fair Market Values. Fair market value shall be established by a licensed real estate appraiser.

(1) Preliminary Value. Fair market value shall be established on a preliminary basis at the time the Housing Mitigation Plan is reviewed, pursuant to Section 3-720.D, "Housing Mitigation Plan".

(2) Final Value. Fair market value shall be confirmed at the time of final development plan approval.

(3) Value Net of Commission. Fair market value shall be net of any customary real estate commission for the sale of the land.

b. Time of Dedication. Land conveyance shall occur prior to the issuance of any building permit for the free market portion of the development.

c. Location and Condition of Land. Approval of the location of land to be conveyed shall be by the Planning Director. The Planning Director may require, as a condition of approval, that the land be fully developed and ready for construction, with roads, water supply, sewage disposal and other basic services in place. A soils report or other necessary environmental report may also be required, stipulating whether the land is suitable for the type of construction contemplated and identifying any special construction techniques which may prove necessary for its development.

d. Subsequent Conveyance Permitted. The Town Council shall be permitted to sell the land without restrictions on its future use.

(1) Interest Bearing Account. All proceeds from the sale of the land shall be placed in an interest bearing account.

(2) Authorized Use of Proceeds. The proceeds from the sale, and any

interest accrued, shall be used only for the purposes of planning for, subsidizing or developing affordable and employee housing.

3-740.B. **Size and Design Standards for Affordable Housing Units.**

Affordable housing units shall comply with the size requirements and other design standards established within the Guidelines unless an exception is granted by the THA.

3-740.C. **Homeowner's Association.**

3-740.C.1. If an affordable housing unit is developed as part of a mixed free market/affordable housing development project for sales purposes, then any documents creating the condominium association or homeowners association shall state that the affordable housing unit shall only be assessed monthly dues and other shared assessments based on whichever of the following two (2) formulas results in the lower cost for the affordable housing unit:

a. "The size of affordable housing unit in square feet as compared to the total size of the other units in the development"; or

b. "The size of the lot on which the affordable housing unit is located as compared to the total size of the other lots in the development".

3-740.C.2. The initial general annual assessment for the Affordable Housing Unit shall not exceed one and a quarter percent (1.25%) of the initial allowed sales price of the Affordable Housing Unit.

3-740.C.3. Any general annual assessment, special assessment, or any other assessed charge for such Affordable Housing Unit shall be subject to an initial assessment and/or annual assessment increase limitation equal to 3% of the prior year's general annual assessment for the Affordable Housing Unit, or the increase applied to the entire homeowners association, whichever is less.

3-740.D. **Parking Requirements.**

Each development with an Affordable Housing unit shall provide a minimum of one parking space for each Affordable Housing Unit.

3-740.E. **Provision of Affordable Housing in Advance of a Requirement.**

3-740.E.1. Affordable housing may be provided in advance or in excess of a requirement of Section 3-720, or in advance or in excess of other affordable housing (voluntary or PUD), subject to all of the following conditions and provisions:

a. The housing has been constructed and deed restricted in full compliance with the applicable provisions of the Guidelines and this Division.

b. The amount of housing provided must be at least three hundred and fifty (350) square feet or more in excess of any affordable housing that is either

required pursuant to Section 3-720 above or provided to ensure compliance with Section 3-720 above or provided to ensure compliance with Section 6-304.C., "Review Standards". Increments of one hundred (100) square feet shall be permitted after the first increment of three hundred and fifty (350) square feet, but they must be contained within a single housing unit, unless mitigation requirements are combined and approved concurrently pursuant to Section 3-740.A.2.a.(7).

3-740.E.2. Provided the above conditions have been met, the Director of Planning shall issue an Affordable Housing Mitigation Certificate which shall be referenced in the deed restriction, numbered, and in recordable form. The Certificate shall be fully assignable and transferable. The Certificate shall be recorded, and upon reliance on the Certificate in satisfaction of required housing, the Town shall file for record a certificate of cancellation.

3-740.E.3. Credit for excess affordable housing shall be granted only for the difference between the housing mitigation required pursuant to this Division or pursuant to a PUD or other Town process, and maximum square footage for the unit type established in the Guidelines.

Section 3-750 Designated Employee Dwelling Units

3-750.A. **Approval Standards.**

3-750.A.1. **Unit Design.** A designated employee dwelling unit may be proposed for construction within a principal building structure or building or as a secondary structure or building. Additionally, an existing secondary and/or accessory structure or building may be converted to and/or designated as a designated employee dwelling unit.

a. All designated employee dwelling units shall comply with the design standards and size limitations specified in the Guidelines, unless an exception is granted by the THA.

b. All designated employee dwelling units shall meet the minimum size and design requirements for an "efficiency dwelling unit" as defined by the Uniform Building Code, as amended.

c. Ownership and Occupancy. The owner(s) shall restrict the use of the designated employee dwelling unit by executing and recording a covenant in favor of the Town and THA that shall burden and run with the land upon which the unit shall be constructed and which shall provide that it shall be owned by a THA qualified owner and occupied by a THA qualified household according to the provisions of the Guidelines. The Town and THA shall each be a named beneficiary of the covenant and may enforce it by any action available at law or equity. The form of the deed restriction shall be satisfactory to the Town Attorney.

3-750.A.2. **Construction Deadlines.** The construction or renovation of a designated employee dwelling unit must commence within one (1) year of the date of approval as granted under this Section and must be completed within two (2) years from approval. The issuance of any building permit or temporary or permanent certificate of occupancy shall be conditioned upon compliance with these time frames. Failure to comply with the specified time frames shall be grounds for revocation of the approval or suspension or revocation of such permits or certificates issued as a result of such approval.

3-750.A.3. **Telluride Housing Authority Subcommittee Responsibilities.** The THA shall have the responsibility for determining eligibility and qualifying households for occupying designated employee dwelling units according to the provisions of the Guidelines.

3-750.A.4. **Condominiumization of Employee Dwelling Unit**. Within the Residential, Hillside Transitional, Hillside Developing One, Hillside Developing Two, Medium Density Residential and Historic Residential zone districts, the owner(s) in title shall not sell, condominiumize or subdivide a designated employee dwelling unit apart from the original qualifying lot. Within other zone districts where EDUs are an allowed use, an EDU that is developed in accordance with this Section shall be allowed to propose a condominium subdivision in accordance with the Subdivision Regulations.

3-750.A.5. **Demolition or Removal of Designated Employee Dwelling Unit.** No designated employee dwelling unit shall be demolished, partially demolished, removed or relocated to another property unless approved by Town Council. Relocation of an employee dwelling unit on the same property shall require the approval of the Planning Director and THA.

Section 3-760 Waiver of Tap Fees, Building Permit Credit.

3-760.A. **Intent and Purpose.**

The intent of this Section is to provide incentives and opportunities to construct and lease or sell designated employee dwelling units, or affordable housing units, to THA qualified households within zone districts which permit such uses by right. Designated employee dwelling units and affordable housing units may be constructed and occupied under the terms of this Section provided:

3-760.A.1. The standards of this Division and all other applicable codes and regulations of the Town have been complied with; and

3-760.A.2. The designated employee dwelling unit(s) or affordable housing unit(s) are not included as part of a PUD application for which such units are intended to ensure compliance with Section 6-304.C., "Review Standards"; and

3-760.A.3. The designated employee dwelling unit(s) or affordable housing unit(s) are not part of a Housing Mitigation Plan submitted to comply with the provisions of Section 3-720 above.

3-760.A.4. Affordable housing or employee dwelling units which meet the conditions in Section 3-760.A. above are eligible for the following waivers and credits:

a. The Building Official shall waive that portion of any water and/or sewer tap fee attributable to a designated employee dwelling unit, or affordable housing unit provided such unit is deed restricted per Section 3-920.B.

b. All building and development application fees shall be paid at the time of application, however, the fees paid associated with the designated employee dwelling unit(s) or affordable housing unit(s) will be credited toward the amount required for the building permit fee.

3-760.B. **Annual Review.** The operation and enforcement of this Section and THA in administering portions of this Section may be reviewed annually by the Town Council upon the report of the Planning Director and the THA Executive Director, such report(s) to be submitted before the first Council meeting in March of each year.

(Ord. 1317, 2009; Ord. 1278, 2007; Ord. 1145, 2001; Ord. 1106, 1998; Ord. 1059, 1996; Ord. 1033, 1995; Ord. 1011, 1994)

DIVISION 8 WETLAND REGULATIONS

Section 3-810 Purpose and Intent

The purpose and intent of the Wetland Regulations is to 1) protect and enhance the natural environment; 2) ensure the safe and healthy existence of the present population and future generations; 3) ensure that the wetlands in the Town are identified and protected; and 4) protect the vital, beneficial functions and values of wetland areas and the associated riparian areas within the Town of Telluride. Protecting riparian and wetland areas helps prevent degradation of valuable habitat that is vital to proper ecological function of the San Miguel Watershed, the San Miguel River, and its tributaries. Telluride considers these sensitive, natural features to be important resources because they give the community a special, natural character that it depends on for economic, environmental, aesthetic, and open space benefits. Therefore, the intent of the Wetland Regulations is to protect wetland areas and the associated riparian areas so that such areas will continue to:

A. Retain and slow flood waters thereby decreasing flooding impacts downstream;
B. Provide sediment and storm water mitigation by reducing peak runoff volumes and velocities, which increase as impervious surfaces in the watershed increase;
C. Recharge groundwater;
D. Provide a temporary refuge for riparian and wetland fauna during high water episodes;
E. Provide robust habitat for migrating, threatened, endangered, and/or commercially and recreationally important wildlife;
F. Provide an area to accommodate variations in riparian and wetland boundaries over time due to hydrologic and climatic change;
G. Act as a remediation and filtration area to remove and store nutrients, sediments, petrochemicals, pesticides, debris and other pollutants as they move from uplands toward riparian and wetland areas;
H. Keep disturbances at a distance, thereby reducing the impact of noise, traffic and other direct and indirect adverse human impacts; and
I. Provide a corridor that facilitates wildlife movement from upland and down valley habitats to and from riparian and wetland areas.

These regulations are intended to provide wetland protection and for buffers adjacent to wetlands to protect these critical functions and values.

Section 3-820 Disturbance of Wetland Areas and Establishment of a Wetland Setback

3-820.A. **Soil Disturbance Prohibited.** Soil disturbance and wetland fill within wetland areas is prohibited unless such soil disturbance is associated with the exemptions listed in Section 3-820.C. Notwithstanding the foregoing, if

a variance to this requirement is requested, any approval of such variance may require mitigation of wetland fill at a 2:1 ratio.

3-820.B. **Wetland Setback.**

1. **25-foot Wetland Setback:** No soil disturbance, development activity or other formal activities shall occur within twenty-five 25 feet of a wetland area, including but not limited to fences, gazebos, play equipment, wells, roadways, driveways, utilities, other infrastructure and site development activities (including but not limited to clearing, storage or materials, grading, filling, retaining, etc.) unless an activity in the wetland setback is administratively approved by the Planning Director per the criteria in Section 3-830.

2. **5-foot Absolute Setback to Wetlands:** In no event shall soil disturbance, development activity or other formal activities be allowed within five (5) feet of a wetland area, including but not limited to: 1) buildings or structures, including but not limited to driplines, bay windows, chimneys, cantilevered construction and decks; or 2) other development or disturbance activities, including but not limited to fences, gazebos, play equipment, lawns, formal landscaped areas, wells, roadways, driveways, utilities, other infrastructure and site development activities, including but not limited to clearing, storage or materials, grading, filling, retaining, etc.. The five (5) foot wetland setback areas shall only be left in, or restored back to, a natural state.

3. **Subsurface Soil Disturbance Prohibited:** Subsurface soil disturbance is also prohibited within five feet of a wetland area, including but not limited to soil nailing and other similar building devices.

3-820.C. **Exemptions to Wetland Regulations:**

1. **Exemptions:** Work in a wetland setback is exempt from the wetland setback requirement if the proposed activity is to:

   a. Revegetate and\or landscape the wetland setback to a natural, weed-free state without extensive grading;

   b. Restore wildlife habitat;

   c. Maintain public trails and related facilities (bridges, signs, benches, drainage, etc.) that existed as of April 7, 2006;

   d. Install or maintain Town-wide water quality protection ponds and drainage features related thereto;

   e. Maintain the River Park, including but not limited to necessary dredging operations related thereto;

f. USGS or other governmental water gauges;

g. Maintain utility lines, public roads and other public facilities that are dedicated to the Town;

h. Maintain or install wetland mitigation areas;

i. Maintain existing improvements in the wetland setback that existing as of April 7, 2006; or

j. Achieve either vehicular or utility access to property, and no other access route avoiding the wetland setback is technically feasible.

2. **Written Approval of Exemption and Potential Mitigation:** For an activity to qualify as exempt, the Planning Department must issue an exemption letter for such an activity prior to commencement of the same. An applicant for an exempt activity shall be required to submit a narrative explaining the activity, and the Planning Department may require the submission of a site plan showing a wetland delineation, the proposed activities and the proposed disturbance. Even if an activity is determined to be exempt, the Planning Department may require a mitigation plan as provided for in Section 3-850 and an improvements agreement and financial guarantee in accordance with Section 3-860 to ensure that wetlands and the associated wetland setback are not adversely impacted.

3-820.D. **Development Review Procedures:** Unless an activity is exempt from the Wetland Regulations as provided for Section 8-820.C, the soil disturbance within the 25-foot wetland setback shall be evaluated and administratively acted on by the Planning Director. If a Certificate of Appropriateness ("CA") is required for an activity per the provisions of Article 7, then such CA will be first obtained prior to an activity being evaluated per the Wetland Regulations to ensure there is no conflict with the HARC application of the design guidelines for the River Park Corridor Treatment Area.

3-820.E. **Wetland Setback For Annexations and Planned Unit Developments:** For annexation or PUDs, the Town may require a wetland setback of up to 100 feet from wetland areas, which may be reduced by the Planning and Zoning Commission per the criteria contained in Section 3-830.

3-820.F. **Wetland Delineation Required.** A wetland delineation shall be submitted concurrent with other applicable land use applications as required by this Title when there is a wetland area on a property, or a wetland area adjacent to a property. Such delineations shall be conducted in accordance with the 1987 edition of the Corps of Engineers Wetlands Delineation Manual. This submittal requirement shall apply to all lots that are located on or adjacent to

either the San Miguel River or Cornet Creek, or other projects that have wetlands in close proximity to proposed development. Such delineation shall be prepared by a consultant approved by either the United States Army Corps of Engineers or the Town to conduct wetland delineations.

Section 3-830 Criteria For Soil Disturbance in the 25 Foot Wetland Setback.

The Planning Director or, for annexations and PUDs, the Planning and Zoning Commission, may administratively approve disturbance of the wetland setback if the disturbance meets the following criteria:

1. There is no practical alternative to avoiding the wetland setback.

2. The proposed activity in the wetland setback is to either: 1) meet a policy of the Telluride Master Plan, or 2) allow reasonable use of the property.

3. The impact on the wetland setback will be mitigated in accordance with the requirements of the Wetland Regulations.

4. The mitigation area will be preserved by a legal restriction that runs with the land, which shall include the purpose and intent of protecting the wetland setback, a requirement for perpetual maintenance of the mitigation substantially in a natural state in general accordance with the approved mitigation plan, and the prohibition on development of the mitigation area as specified in Section 3-820.B.

Section 3-840 Wetland Setback Disturbance Plan

3-840.A. **Plan Requirements for Wetland Setback Disturbance Plan.** Where soil disturbance and\or other activities are proposed in the wetland setback, an applicant shall submit a wetland setback disturbance plan that shows:

1. **Wetland Delineation.** A wetland delineation prepared by a qualified professional (as describe above in Section 3-820.F) that delineates the wetland area (as defined in Article 2) boundary and surveyed by a Colorado Licensed Surveyor.

2. **Project Narrative.** A description of the proposed activity causing disturbance in the wetland setback, including the proposed amount, location and area of wetland setback area soil disturbance, and a description of how the applicant is meeting the criteria contained in Section 3-830.

3. **Schedule.** A detailed timeline and description of the proposed best management practices throughout the construction process, including subsequent monitoring after the completion of construction.

4. **Grading Plan.** Details about grading and erosion control, including use of soil stabilization measures and practices to minimize the impacts of the proposed disturbance on the wetland setback. No disturbance in the 25-foot wetland setback shall be permitted until approved measures are in place unless disturbance is to install an approved measure. The grading plan details shall be consistent with the site construction mitigation plan as required by Title 15, Chapter 15.35 of the Town Municipal Code.

5. **Construction Plan.** A construction plan showing how the wetland setback will not have any development activity, including but not limited to construction activity, shall be submitted. No staging, scaffolding, grading equipment or other construction equipment can be conducted within the wetland setback and the setback line shall have appropriate fencing in place prior to mass excavation to ensure the integrity of the wetland setback is protected.

6. **Site Plan.** The proposed site plan for the entire property, including but not limited to existing conditions (topography in two foot contours), and proposed buildings and other structures[1].

7. **Mitigation Plan.** Details regarding the mitigation of impacts caused by the proposed activity in the 25-foot wetland setback, clearly stating whether the proposed mitigation will occur on site or off site. The following shall be included:

    a. A clear illustration of the proposed setback area to be restored or created, supporting hydrology, and the location of the improvement.

    b. Authority to conduct mitigation measures if the proposed mitigation is off site.

    c. A revegetation and monitoring plan:

        i. The plan shall be prepared by an engineer or scientist trained in wetlands area mitigation.

        ii. A detailed planting plan that shows the location, quantity, species and size of plants to be installed.

        iii. Detailing methods and materials for interim soil stabilization.

        iv. Mitigation per the provisions of Section 3-850.

[1] The grading plan, site plan and mitigation plan may all be on one plan sheet if the information is not too detailed, as determined by the Planning Department.

8. **Mitigation Criteria.** The following criteria shall be used by applicants in creating proposed mitigation plans. The following criteria shall also be used in evaluating a proposed mitigation plan:

   a. Wetland setback area restoration, enhancement or creation shall be considered on-site first, then, if such is determined to not be practical, mitigation may be considered in the close proximity to the impacted area, preferably contiguous with existing wetland areas, or identified wildlife habitats or wildlife corridors, where practical. Mitigation shall not be proposed for sites outside of the Telluride Town Limits.

   b. Mitigation shall provide the functional equivalent of the disturbed 25-foot wetland setback, to the extent that such functions and values can be practically replicated. It is preferred that a restored or created wetland setback area be in close proximity to the impacted wetland area and\or wetland setback and is of similar type and function and value.

   c. General conformance with the mitigation provisions of Section 3-850, unless other mitigation is approved by the Town as provided for in that section.

Section 3-850 Mitigation for Soil Disturbance in the Wetland Setback

3-850.A. **Mitigation Measures.** The following is a list of potential mitigation measures that may be required by the Town. Notwithstanding the foregoing, other mitigation may be considered and required by the Town to mitigate the impacts to wetland setbacks:

1. Wetland setback area disturbance should be mitigated at a 1:1 ratio, with plantings of equal or higher value, maintaining the function and value of the impacted wetland setback area. For example, if 10,000 square feet of soil disturbance is proposed in the wetland setback, 10,000 square feet of plantings should occur to mitigate the adverse impacts.

2. Where less than a 25-foot setback is proposed, provide an intensively landscaped buffer of deciduous trees, coniferous trees and shrubs to mitigate the effects to the wetland area.

3. Where practical, dig up the existing wetland setback area vegetation, place in burlap balls and retain and preserve on the site for replanting.

4. Retain natural, existing topsoil of the wetland setback area to reuse in revegetation and replanting.

5. Time grading and construction to minimize soil exposure during periods of snowmelt and rainy periods.

6. Retain and protect natural vegetation; strip only the area required for construction in stages.

7. Infiltrate runoff from impervious surfaces by locating infiltration trenches below driplines, walkways, parking areas and driveways.

8. Minimize length and steepness of exposed slopes by designing with the natural topography; prevent erosion on exposed slopes by placing barriers, such as waddles.

9. Keep runoff velocities low to prevent high erosive powers by using flow barriers (vegetation, rip-rap, etc.).

10. Protect drainageways and outlets from increased flows by using appropriate materials, such as vegetation, geofabric or rip rap.

12. Trap sediment on-site by using waddles, filter fences and sand bags.

13. Any disturbed areas must be replanted with native vegetation.

14. Natural hydrologic flows will be maintained through the site.

15. Minimize earth movement by avoiding cut and fill slopes.

16. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

17. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills must be permanently stabilized at the earliest practical date.

18. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the activities primary purpose is to impound water.

19. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.

20. Any other appropriate best management practices as deemed necessary by the Town.

Section 3-860 Improvements Agreement and Financial Guarantee.

An improvements agreement shall be required for projects prior to issuing any permits

for grading or construction. Between June 1st and October 1st, the Town will not issue a certificate of occupancy until the required and approved mitigation has been completed. Between October 2nd and May 31st, a financial guarantee shall be required by the Planning Director prior to issuing a certificate of occupancy to ensure the mitigation is installed in accordance with the approved plans. Such an agreement may require that the financial guarantee be held for two years from the date of the installation of the mitigation to ensure successful plant establishment. Financial guarantees shall meet the requirements of, and be held, released or drawn upon, as applicable, in accordance with Sections 6-409 E through J.

Section 3-870 Additional Remedies.

In addition to any and all other remedies provided for violations under Title 1, Chapter 1.16 of the Municipal Code, the Town may seek an injunction requiring complete restoration of any wetland area or wetland setback area disturbed in violation of these Wetland Regulations. In addition, the Town may also issue stop work orders, withhold any further permits for site development, and cease the processing of any site development applications related to the property that has a violation of the Wetland Regulations.

(Ord. 1250, 2006)

DIVISION 9 MEDICAL MARIJUANA DISPENSARY REGULATIONS

Section 3-910 Purposes

The purposes of the Medical Marijuana Dispensary Regulations are to ensure the public health, safety and welfare are protected by promulgating rules on the operation, location and use of medical marijuana dispensaries consistent with Article 18, Section 14 of the Colorado Constitution.

Section 3-920 Administration

3-920.A. **Definitions:**

3-920.A.1. "Medical Marijuana Dispensary" or "Dispensary" shall mean and include the use of any property, building or structure at a fixed location (no dispensing from a vehicle) to distribute, transmit, give, dispense, cultivate or otherwise provide marijuana in any manner in a retail sale transaction, in accordance with Section 14, of Article XVIII of the Colorado Constitution.

3-920.B. **Application.**

Prior to the establishment of any medical marijuana dispensary, each the following requirements shall be met as determined by the Telluride Planning and Building Department:

3-920.B.1. **Business License.** A current, valid business license shall be procured from the Town of Telluride;

3-920.B.2. **Sales Tax License.** A current, valid sales tax license shall be procured from the Town of Telluride. A Dispensary shall be required to collect and remit all applicable state, county and town sales taxes in a timely manner;

3-920.B.3. **Minimum Application Contents.** The minimum application contents contained in Section 5-202.C of this Title shall be submitted, along with a narrative and plans outlining how a proposed Dispensary will comply with all the requirements of this Division.

3-920.B.4. **Dispensary Plan.** A plan for the dispensary to ensure compliance with this Division shall be submitted. The dispensary plan must contain the following items consistent with the limitations and requirements of this Division:

a. Description of the security provisions and systems;

b. Hours of operation;

c. Number of employees and ages of such employees;

d. Exterior lighting plan, which may require approval pursuant to Article 7 if there are any exterior alterations;

e. If any cultivation is to occur within the dispensary, a description and plan for cultivation within the dispensary, including:

(1) where plants are grown;

(2) the number of plants that will be grown;

(3) a lighting plan for growing the plants;

(4) the number of plants within a given stage of growth at any given time;

(5) The Town Council may adopt a carbon offset fee to fully offset the carbon generated by the cultivation of medical marijuana, including the electricity for the growing lights, watering systems and venting. Any carbon offset fee adopted by the Council shall be as set forth in the fee schedule adopted by the Town Council.

3-920.B.5. **Criminal Background Check.** The Town shall not issue the required Certificate of Zoning Compliance for an applicant whose criminal history reflects a prior conviction for a felony offense within the last five (5) years. In the case where an applicant is a business entity, the applicant shall provide the name(s) of each natural person who owns ten percent (10%) or more of all ownership interest in the entity, and no written approval shall be issued if any such person has a criminal history that reflects a prior conviction for a felony offense within the last five (5) years. An applicant will pay the applicable Town and State fees for this criminal background check. In addition, all employees of a dispensary shall be required to undergo a criminal background check to ensure an employee does not have a criminal history that reflects a prior conviction for a felony offense within the last five (5) years.

3-920.B.6. **Compliance with Zoning and Location Requirements.** An applicant must demonstrate compliance the zoning and location requirements listed in Section 3-930 and the additional limitations in Section 3-940.

3-920.B.7. **Compliance with State Law.** An applicant must submit a narrative that outlines how a proposed dispensary will be in compliance with Article 18, Section 14 of the Colorado Constitution, as amended or interpreted by law.

3-920.C. **Certificate of Zoning Compliance.** Once the Town determines that an applicant demonstrates compliance with the requirements of this Division, the Town shall issue a Certificate of Zoning Compliance. Such certificate shall be obtained prior to the establishment or operation of a medical marijuana dispensary.

3-920.D. **Violations.** If a medical marijuana dispensary violates the requirements of this Division, the Town will treat such as a violation of the Land Use Code pursuant to Article 1, Division 3 of this Title and may also revoke the Certificate of Zoning Compliance.

Section 3-930 Zone Districts and Locations Where Permitted and Prohibited.

A medical marijuana dispensary is subject to the following limitations. Distances between uses as established by this Section shall be measured per C.R.S. § 12-47-313(1)(d)(II):

3-930.A. Medical marijuana dispensaries are permitted only in the Commercial and the Historic Commercial zone districts in the Town of Telluride. Dispensaries are prohibited in all other zone districts in the Town.

3-930.B. No medical marijuana dispensary shall be located within 500 feet of any public or private school as such school is defined by C.R.S. § 12-47-103(32).

3-930.C. No medical marijuana dispensary shall be located in a movable or mobile structure or in a vehicle.

3-930.D. No medical marijuana dispensary may be operated as a home occupation.

Section 3-940 Additional Limitations on Dispensaries.

Medical marijuana dispensaries shall be subject to the following additional requirements:

3-940.A. All medical marijuana dispensing and production/cultivation activities shall be conducted indoors.

3-940.B. All product storage shall be indoors.

3-940.C. Plants, products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or right of way.

3-940.D. The business may only be open for the sale of medical marijuana during the hours of 9:00 am to 7:00 pm.

3-940.E. No on-site consumption of marijuana is allowed.

3-940.F. The sale or consumption of alcohol on the premises is prohibited, except for the sale of alcohol-based tinctures, which is permitted.

3-940.G. All dispensaries shall be equipped with a secure safe that is utilized for the purposes of storing medical marijuana and product containing marijuana,

except for medical marijuana plants that are actively cultivated.

3-940.H. All dispensaries shall provide adequate security on the premises. At a minimum the security shall include:

3-940.H.1. security surveillance cameras installed in the interior of the building facing exterior door entries to record any criminal acts as well as nuisance activities;

3-940.H.2. security video shall be operational 24 hours a day with videos preserved for at least 72 hours by the business;

3-940.H.3. robbery (silent alarm) and burglary alarm systems that are professionally monitored and maintained in good working condition.

3-940.I. Minimum age for employees within a dispensary shall be 18 years of age.

3-940.J. Medical marijuana dispensaries are subject to periodic review by the Town to ensure compliance with the requirements of this Division.

Section 3-950 Signage Requirements.

3-950.A. All signage associated with a medical marijuana dispensary will need to meet the Town's Sign Regulations contained in Article 3, Division 4, the requirements of the Historic Preservation Overlay District contained in Article 7 and the requirements of this Division. No signs for a dispensary shall be installed or placed until the required Certificate of Appropriateness is obtained from the Town pursuant to Article 7.

3-950.B. No signage associated with a medical marijuana dispensary shall use the word "marijuana," "cannabis," or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word "medical."

3-950.C. There shall be posted in a conspicuous location in each medical marijuana dispensary a legible sign containing the following information:

3-950.C.1. A warning that the diversion to another individual or entity or consumption of marijuana for non-medical purposes is a violation of State law;

3-950.C.2. A warning that the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under State law to drive a motor vehicle or operate machinery when under the influence of marijuana;

3-950.C.3. A warning that the possession and distribution of marijuana is a violation of Federal law; and

3-950.C.4. A warning that the smoking or consumption of marijuana in public is prohibited by State law.

3-950.C.5. A warning that smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy.

(Ord. 1323, 2010)

ARTICLE 4 NONCONFORMITIES

Section 4-101. Purpose and Scope

Adoption of land use controls and changes in zone district limitations have resulted in uses, buildings, and lots which lawfully existed at the time of their creation, but which do not conform to provisions of this Title. The purpose of this Article is to allow these nonconforming uses, buildings, and lots to be changed and upgraded without necessarily requiring their reduction or elimination, under the following circumstances:

4-101.A. **Adverse Affects.** If the change would not substantially adversely affect the traffic and environment of the surrounding area; and

4-101.B. **Appearance.** If the change would reduce the degree of nonconformity of the use or improve the physical appearance of the structure or site.

Section 4-102 Continuation of Nonconformities

Except as otherwise provided by this Title, nonconforming uses, nonconforming buildings, and buildings on nonconforming lots in existence on or before the effective date of the ordinance which first made them nonconforming may continue to exist.

4-102.A. **Abandonment or Discontinuance.** Where a nonconforming use has been discontinued for at least one (1) year, it may only be resumed, expanded, or replaced by a use which conforms to the provisions of this Title, except as allowed under Sections 6-110 through 6-113 of this Title, or unless the Planning Commission grants an extension of time in cases of undue hardship, which extension shall be requested in writing prior to the expiration of the one (1) year period.

4-102.B. **Demolition or Destruction.** Any nonconforming use, nonconforming building, or building on a nonconforming lot that has been damaged by fire, flood, wind, or other calamity or act of God may be restored to its original use or condition, provided that restoration is started within twelve (12) months of such calamity and completed within twenty-four (24) months of the date on which the restoration commenced.

4-102.C. **Unsafe Structures.** Nonconforming buildings, buildings that contain nonconforming uses, or buildings on a nonconforming lot may be restored to a safe condition if the building has been declared damaged or unsafe under the Uniform Building Code, Uniform Code for the Abatement of Dangerous Buildings, or other applicable safety or health codes, unless the Building Official has ordered that such building must be condemned.

Section 4-103 Change of Nonconforming Use

4-103.A. **Prohibition.** A conforming use may not be changed to a nonconforming use, notwithstanding the fact that some of the features of the lot, building, or parking are nonconforming.

4-103.B. **Replacement and Change in Use.** The Planning Director may grant a request for the replacement of a nonconforming use with a new use which is permitted in the underlying zone district, provided the new use does not constitute a change of use, as defined herein.

If the new use would constitute a change of use, it must first be reviewed and approved pursuant to the procedures and standards of Section 6-110 through 6-113 of this Title.

A change of use occurs when any one of the following results:

1. The parking does not comply with the requirements for the new use;

2. The new use is an expansion in size or impact of a nonconforming use;

3. In the Commercial Zone District, the new use constitutes an activity included under a different category in the table of uses permitted by right in Section 3-212 of this Title, and the new use is not similar in operation to the previous use, including without limitation, hours of operation, parking needs, trips generated, number of employees, and noise impact on adjacent properties; or

4. In the Residential Zone District, the new use adds additional dwelling units or requires additional parking.

Section 4-104 Modification of Nonconforming Buildings

4-104.A. **Permitted Modification.** The Planning Director may grant a request for a building modification for a nonconforming building which has less than fifty percent (50%) of the building area situated in the required setbacks from front, side or rear lot lines, if such building modification meets the setback requirements for the zone district in which the building is located, complies with all other applicable requirements of Article 3 of this Title, and is approved by H.A.R.C., pursuant to Article 7 of this Title.

4-104.B. **Prohibited Modification.** Nothing in this section shall be construed to permit expanding the height of a building any part of which exceeds the maximum height limits imposed by Article 3, except pursuant to the provisions of Article 6, Division 3, Planned Unit Developments.

4-104.C. **Other Modifications.** Any other building modification for a nonconforming building is categorized as an expansion of use and shall be reviewed under the procedures and standards of Sections 6-110 through 6-113 of this Title.

Section 4-105 Nonconforming Lots Or Parcels

4-105.A. **Permitted Activities.** The Planning Director may grant a request for the structural alteration, repair or expansion of a building on a nonconforming lot, if the applicant demonstrates:

1. the proposal will improve the building's appearance, safety, or efficiency;

2. the proposed alteration, repair or expansion of the building will meet the setback requirements of Article 3 of this Title, for the zone district in which it is located; and

3. the addition or alteration does not constitute a change of use as defined in Section 4-103 B.

4-105.B. **Other Activities.** No person shall use any other nonconforming lot or parcel without first obtaining approval under Sections 6-110 through 6-113 of this Title.

Section 4-106 Signs

4-106.A. **Conformance Required.** Signs on nonconforming lots, buildings, or uses shall conform to the requirements of Article 3 of this Title, for the zone district in which the lot is located.

4-106.B. **Discontinuation.** Nonconforming signs which were in existence on or before the effective date of this Code shall be discontinued within one (1) year from that date.

(Ord. 970, 1992; Ord. 826, 1988; Ord. 817, 1988)

ARTICLE 5 DEVELOPMENT REVIEW PROCEDURES

DIVISION 1 GENERAL

Section 5-101 Types of Development Review Procedures

Article 5 sets out the development review procedures which are common to all land development applications in the Town of Telluride. These development review procedures apply to the following types of land development processes:

A. Uses and Activities Permitted On Review (Article 6, Division 1);
B. Variances (Article 6, Division 2);
C. Planned Unit Developments (Article 6, Division 3);
D. Subdivisions (Article 6, Division 4);
E. Amendments to Land Use Code and Official Zone District Map (Article 6, Division 5);
F. Annexations (Article 6, Division 6);
G. Licensing of Mobile Home Parks (Article 6, Division 7);
H. Alteration, Addition and Erection Within Historic Preservation Overlay District (Article 7, Division 2);
I. Relocation and Demolition Within Historic Preservation Overlay District (Article 7, Division 3); and
H. Designation of Historic Landmarks and Significant Landmark Interiors (Article 7, Division 5);

Section 5-102 Stages of the Development Review Process

5-102.A. **General.** There are six (6) stages to the land development process in the Town of Telluride:

Stage 1: **Attend pre-application conference** between the applicant and the Planning Director (not required, except prior to submission of certain types of applications identified in Section 5-201);

Stage 2: **Submission of the development application** by the applicant.

Stage 3: **Staff review of the development application** to determine its completeness, its compliance with the requirements of the underlying zone district, and its conformance with all applicable development review standards;

Stage 4: **Provision of public notice** of a public hearing, if applicable to the particular development review procedure;

Stage 5: **Public action on the development application** by the appropriate reviewing body or bodies; and

Stage 6: **Actions following development approval** by the applicant in order to obtain a building permit.

Division 2 of this Article is organized in the same order as these six (6) stages, to sequentially overview the Town's land development process. The stages of the land development process are illustrated graphically in Figure 5-1.

5-102.B. **Actions.** Figure 5-2 depicts fifteen (15) actions which are performed by applicants, the staff, review bodies or the public during the land development process. These actions are also described in Division 2 of this Article.

5-102.C. **Specific Procedures.** Specific descriptions of the land development stages and actions associated with each type of land development application are contained in Articles 6 and 7.

5-102.D. **Developers Handbook.** Applicants are encouraged to consult the document entitled *Developers Handbook for the Town of Telluride* for general guidance on the development process when preparing an application. This handbook, however, is not part of the Telluride Land Use Code and should be consulted for general information purposes only.

Section 5-103 Reserved

(Ord. 1005, 1994; Ord. 970, 1992)

FIGURE 5-1: THE STAGES OF THE TELLURIDE LAND DEVELOPMENT PROCESS

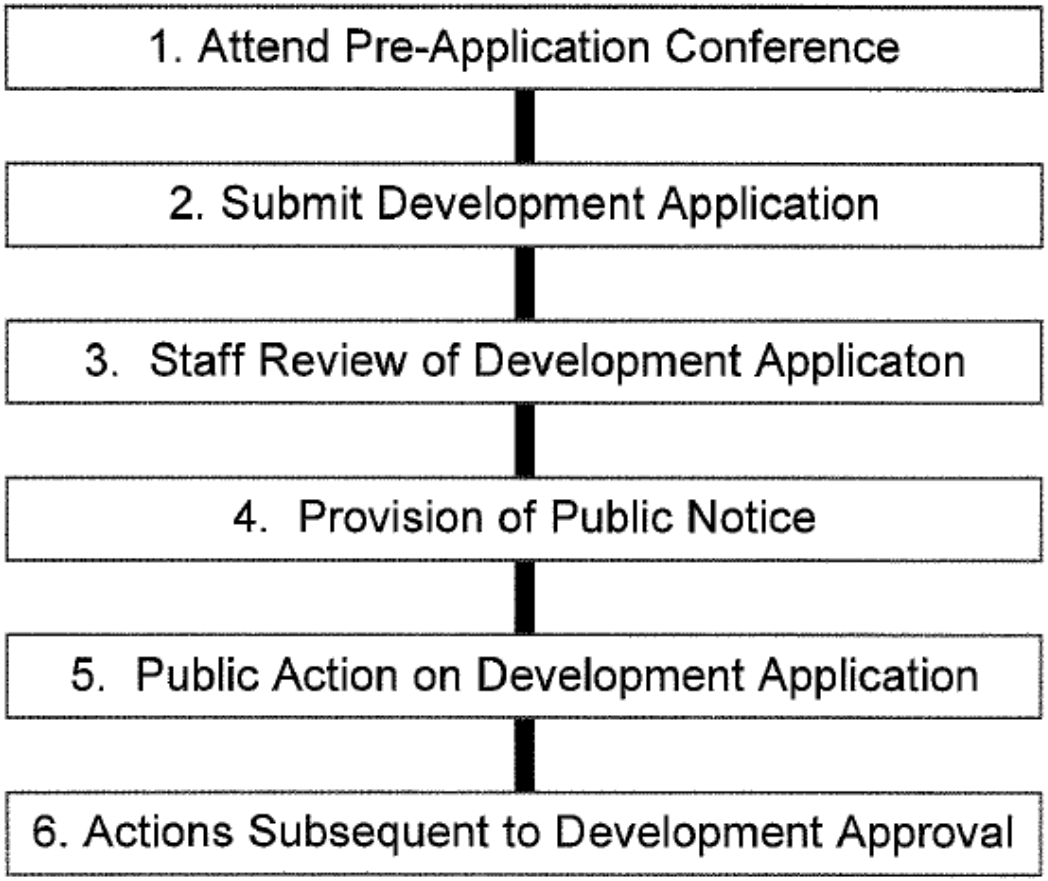


FIGURE 5-2 THE TELLURIDE LAND DEVELOPMENT PROCESS

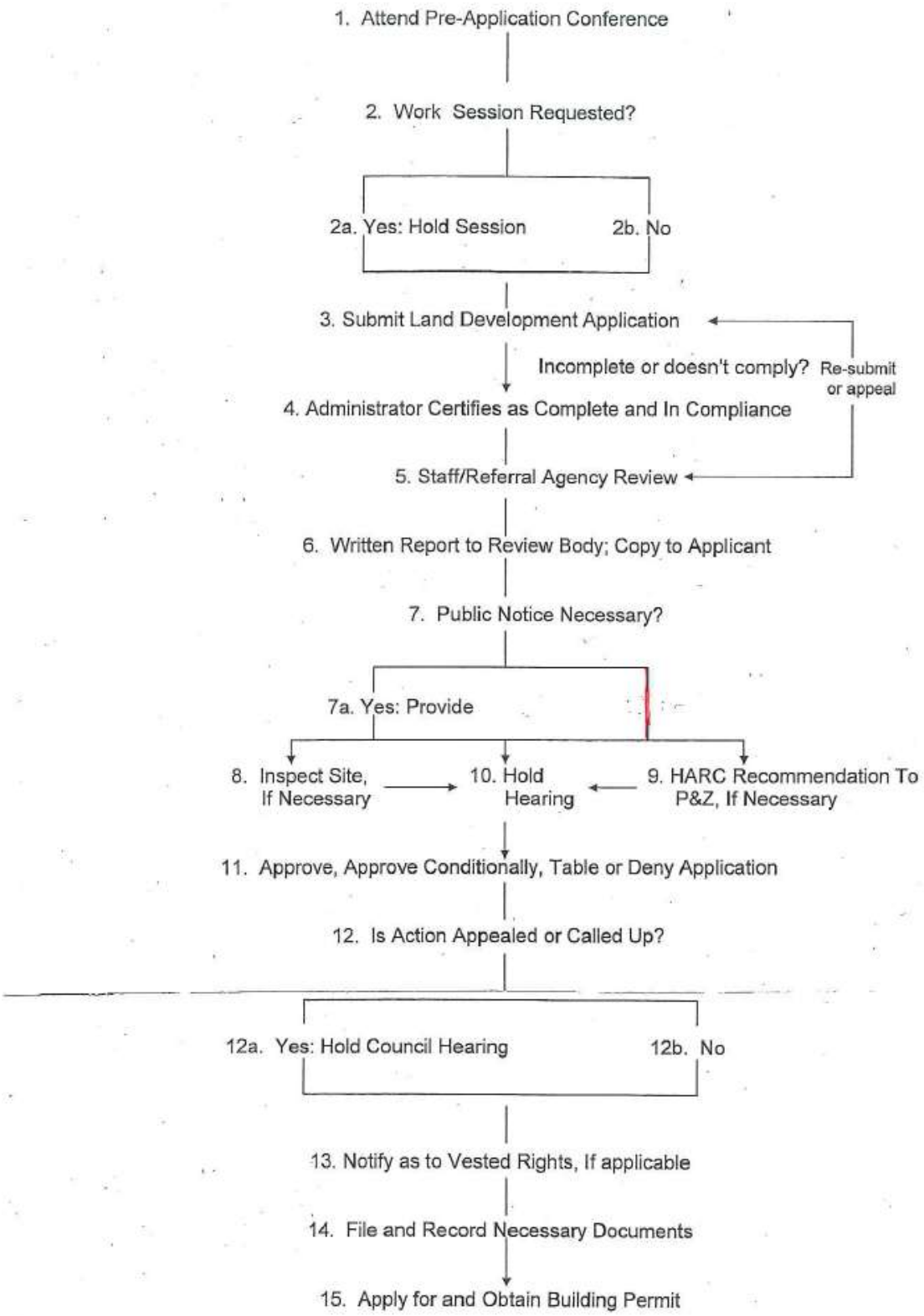


TABLE 5-1 CATEGORIZATION OF APPLICATIONS				
	Large Scale	**Small Scale**	**Minor Activities**	**Insubstantial Activity**
P&Z	1. Large Scale Subdivision or PUD 2. Annexation 3. Land Use Code Amendments 4. Zone District Map Amendments 5. Designate Areas or Activities of State and Local Interest 6. Master Plan Amendments 7. Utility Extensions Beyond Town Boundary 8. Mobile Home Park License	1. Small Scale Subdivision or PUD 2. Use or Activity Permitted on Review 3. Standard Variance 4. Vacation of a Recorded Plat (unless said vacation is a minor subdivision) 5. Major Subdivision/PUD Amendment 6. Extension of any large scale approval 7. Independent calculation of Employment Generation (see §3-740.B)	1. Minor Subdivision (see §6-406.D.2) 2. Minor Subdivision/PUD Amendment 3. Minor Amendment of Use Permitted on review 4. Secondary Unit Variance	1. Land Use Code Interpretation 2. Zone District Map Interpretation 3. Geologic Hazard & Floodplain Permit 4. Access & Encroachment Permits 5. Extension of an approval
HARC	1. New construction in all zone districts except C, HC, or AC-2> 2,500 s.f. 2. New construction in C, HC or AC-2> 5,000 s.f. 3. Addition in all zone districts except C, HC or AC-2 which increases a structure's size by > 25% and results in a building> 2,500 s.f. 4. Additions in C, HC, or AC-2 which increases structure size >25% resulting in a building > 5,000 s.f. 5. Demolition or relocation of a rated THAS Primary or local landmark structure; demolition of a THAS Secondary Structure	1. New construction in all zone districts except C, HC,or AC-2: a. Within THLD, 750 - 2,500 s.f. b. Outside THLD but within HPOD, 1,500 - 2,500 s.f. 2. New construction in C, HC, or AC-2 1,500 - 5,000 s.f. 3. Addition in all districts except C, HC, or AC-2 which increases a structure's size 10% -25% resulting in a building > 2,500 s.f. 4. Addition in all districts except C, HC, or AC-2 which increases a structure's size by > 25% resulting in building 1,000 - 2,500 s.f. 5. Addition in C, HC, or AC-2 increasing a structure's size 10%-25% resulting in a building > 5,000 s.f. 6. Addition in C, HC, or AC-2 increasing a structure's size > 25% resulting in a building 1,000 - 5,000 s.f. 7. Relocation of a rated or non-rated THAS Secondary Structure in the HPOD 8. Demolition or relocation of any non-rated THAS Primary Structure within the HPOD; demolition of any non-rated THAS Secondary Structure within the HPOD; demolition of any non-designated principal structure within the THLD; relocation of any non-designated principal structure within the HPOD 9. Alteration to significant landmark interior 10. Review and recommendation (see §7-108) 11. Extension of a CA for small and large scale activities 12. Challenge to the designation of a structure in THAS (recommendation to Council) 13. Designation of a local landmark or a significant landmark interior (recommendation to Council) 14. Repositioning of a rated or non-rated THAS Primary Structure or THAS Secondary Structure in the HPOD	1. New construction in all zone districts except C, HC, or AC-2: a. Within THLD,< 750 s.f. b. Outside THLD but within HPOD, < 1,500 s.f. 2. New construction in C, HC, or AC-2 < 1,500 s.f. 3. Addition in all districts except C, HC, or AC-2 increasing a structure's size by 10%-25% resulting in a building < 2,500 s.f. 4. Addition in C, HC, or AC-2 increasing structure's size 10%-25% resulting in a building <5,000 s.f. 5. Addition to a rated building <10% 6. Addition in all districts >25% resulting in a building <1,000 s.f. 7. Any addition in C, HC, or AC-2 <10% but >500 s.f. 8. Alteration of a rated structure not increasing s.f. 9. Relocation of any non-designated secondary structure within the HPOD 10. Sign installed on a historic landmark 11. Extension of CA for a minor activity	1. Sign installed on any building which is not a historic landmark 2. Amendment to a CA which does not constitute a vested site specific development plan* 3. Addition to non-rated or non-designated buildings in all zone districts increasing a structure's size < 10%, except additions > 500 s.f. in C, HC or AC-2 (see §7-203B.7) 4. Alteration of a non-rated or non-designated structure not increasing s.f. 5. Any fence or landscape plan 6. Any insignificant change (see §7-203 D.6) 7. Demolition of any non-designated structure within the HPOD but outside the THLD, and non-designated secondary structures within the THLD 8. Extension of a CA for an insubstantial activity 9. Repositioning of non-designated structures.

* A CA may only be amended through the same procedures by which it was originally approved. See §7-212

DIVISION 2 THE LAND DEVELOPMENT PROCESS

Section 5-201 Attend Pre-Application Conference

5-201.A. **Purpose**. Prior to filing a development application, an applicant may confer with the Planning Director to obtain information and guidance for preparing the application and to permit informal review of development concepts so the applicant may decide how to proceed before substantial commitments of time and money are made in the connection with the development.

The applicant shall attend a pre-application conference prior to making the initial submission of any large-scale P&Z or H.A.R.C. development application

5-201.B. **Content of Conference.** Items to be discussed during the pre-application conference may include, but are not limited to the following:

5-201.B.1. The applicant should provide a verbal description of the proposed development, accompanied by a survey, site plan or other map illustrating the boundaries of the site, and the applicant's initial plans for its development.

5-201.B.2. The Planning Director should identify and explain the procedural review requirements and applicable review standards for the proposed development. This should include identifying the body or bodies which will review the application, whether public notice is required, and the approximate time required to complete the review process.

5-201.B.3. The Planning Director should identify any Town, County, Special District, State and Federal agencies to which the Town will refer the application once it has been submitted and, as appropriate, provide the applicant with persons at these agencies to contact, so the applicant may determine any specific submission requirements the agency has.

5-201.B.4. The Planning Director should describe the materials required to be submitted as part of the application package, provide any applicable Town development application forms and indicate the number of copies of the application to be submitted and the applicable fee.

5-201.B.5. The Planning Director should refer the applicant to the submission requirements for each type of land development application found in Articles 6 and 7 of this Title and identify those reports, drawings or other required information necessary for the particular application.

5-201.B.6. The Planning Director may, at the pre-application conference or upon specific written request, waive certain information or submittal requirements upon a determination that the information or items are not necessary for proper review of the development application, or would duplicate information or items submitted in a pending, prior or

consolidated development application concerning the same property. A reviewing body may during its review of the application determine that additional information is necessary before it takes final action on the application.

5-201.C. **Work Session.** An applicant may request that the Planning Director schedule a work session with the reviewing body prior to submitting a development application. The applicant shall demonstrate eligibility to apply for development of the property pursuant to Section 5-202 of this Division as part of the request for the work session.

5-201.C.1. The work session shall be based on the information discussed during the pre-application conference. The applicant shall present scale drawings and/or a site plan drawn to scale at the work session.

5-201.C.2. There shall be prior public notice for all work sessions. Public notice shall be accomplished by following the Provision of Public Notice at Section 5-204.B1.a, 5-204.B.2 and 5-204.B.3. Work sessions shall follow the public hearing notice provisions, however they are not public hearings..

5-201.C.3. Work sessions shall only be scheduled for the regular meeting(s) of the reviewing body.

5-201.C.4. During the work session, the applicant may request that the reviewing body provide a preliminary evaluation of the project's likely conformance with this Title. The reviewing body may provide this preliminary evaluation verbally during the work session, or direct that it be provided by the Planning Director within thirty (30) days thereafter.

5-201.C.5. The preliminary evaluation is not intended to, and shall not, vest the applicant or public with any reliance as to the outcome of the formal development review process.

Section 5-202 Submission of the Development Application

5-202.A. **Eligibility to Apply**. A development application may only be submitted by the owners of the real property proposed to be developed. If the applicant is not the sole owner of the property, a letter shall be submitted signed by the other owners or an association representing the owners consenting to or joining in the development application. If the applicant is a contract purchaser of a development parcel, the owners of the property shall join in or otherwise authorize in writing submission of the application.

5-202.B. **Form.** The development application form, a copy of which may obtained from the Planning Office, shall be submitted and shall accompany the information and materials specified for that particular type of application in this section and Article 6 or Article 7 of this Title.

5-202.C. **Minimum Application Contents**. All development applications shall include, at a minimum, the following information and materials.

5-202.C.1. The applicant's name, address and telephone number. If the applicant is to be represented by an agent, a letter signed by the applicant shall be submitted authorizing the agent to submit and process the development application on the owner's behalf. The letter shall state the representative's name, address and phone number. Proof of ownership or agency shall be updated prior to execution or recordation of final development approval documents upon request of the Planning Director or Town Attorney.

5-202.C.2. The legal description and street address, if such exists, of the parcel on which development is proposed to occur.

5-202.C.3. A disclosure of ownership of the parcel on which the development is to occur listing the names of all owners of the property and all owners of mineral estates of record in the records of the San Miguel County Clerk and Recorder, mortgages, judgments, liens, easements, contracts and agreements affecting the parcel. The disclosure of ownership may be in the form of a current commitment from a title insurance company, deed, ownership and encumbrance report, attorney's opinion, tax assessment record, contract for purchase and sale, or other documentation acceptable to the Town Attorney. The disclosure of ownership shall demonstrate to the satisfaction of the Town Attorney that the applicant has the right to submit the development application.

5-202.C.4. An eight and one-half inch by eleven inch (8 1/2" x 11") vicinity map, locating the subject parcel within the Town of Telluride.

5-202.C.5. A written description of the proposal and an explanation in written, graphic, or model form of how the proposed development complies with the review standards in Article 6 or Article 7 applicable to the development application.

5-202.C.6. A development application fee as is established from time to time by the Telluride Town Council pursuant to Section 5-210.

5-202.D. **Consolidation**. The land development review process is designed to encourage the simultaneous review of multiple aspects of a development request. Applicants may request and the Planning Director may permit the consolidated review of more than one (1) development application for the same parcel of land. The Planning Director is authorized to waive any overlapping application requirements in the consolidated submission.

Section 5-203 Staff Review of the Development Application

5-203.A. **Certification of Completeness and Compliance.** Following receipt of the development application, the Planning Director shall determine whether the application is complete and whether the application complies with the requirements of the underlying zone district.

5-203.A.1. If the application is not complete or does not comply with the

requirements of the underlying zone district, the Planning Director shall inform the applicant of the deficiencies.

a. The Planning Director shall take no further action on the application until the deficiencies are remedied. Upon request from the applicant, the Planning Director may consider waiver of missing application contents.

b. Once the deficiencies are remedied or waived, the Planning Director shall proceed to the next step in the review process as applicable.

5-203.A.2. If the application is complete and complies with the requirements of the underlying zone district, the Planning Director shall certify it and shall affix the date of the application acceptance thereon and shall assign the application an agenda date.

5-203.A.3. A determination that an application is complete and complies with the requirements of the underlying zone district shall not preclude the Town from determining, at any subsequent review step, that the application actually is not complete, does not so comply, or does not comply with any other requirement of this Title.

5-203.A.4. Should the Planning Director determine the application is incomplete or does not comply with the requirements of the underlying zone district in an insubstantial manner, the Planning Director may assign the application an agenda date and have the applicant correct the deficiencies.

5-203.A.5. The applicant may appeal a determination that the application is not complete or does not comply with the requirements of the underlying zone district to the Town Manager. Such an appeal must be submitted in writing within ten (10) days of the Planning Director's determination. The Town Manager may grant or deny the appeal or may refer it to the applicable reviewing body.

5-203.B. **Review and Referral**. The Planning Director shall review the application to determine its general conformance with the requirements of this Title. The Planning Director may, as necessary, solicit the assistance and recommendations of any public utility or any other agency or organization deemed appropriate to complete the review.

5-203.C. **Report**. Prior to the date of a review body meeting, or hearing, the Planning Director shall compile a written report summarizing any review agency comment and which sets forth those aspects of the application that meet or fail to meet the standards and criteria required for the type of development requested. The Planning Director shall distribute a copy of the report to the reviewing body, the applicant, and shall make the report available to the public.

Section 5-204 Provision of Public Notice

5-204.A. **Notice Required.** Prior to conducting a public hearing as called for under the provisions of this Title, public notice of the hearing shall be provided pursuant to the terms of this Section.

5-204.B. **Manner of Notice**. Public notice shall be given through publication, mailing of notice to all owners of property within one hundred fifty feet (150') of the subject property, including owners of mineral estates, according to the records of the San Miguel County Assessor, and posting of notice on the property unless a different notice is specifically authorized under a separate provision of this Title.

5-204.B.1. Publication of Notice.

a. Publication of notice shall be accomplished by the Planning Department by publishing a public notice to the Town's Web Site within the Town. The public notice shall be published at least ten (10) days prior to the public hearing.

b. Publication of Public Notice shall be accomplished by the Planning Department by publishing a public notice to the newspaper of record. The public notice shall be published at least ten (10) days prior to the public hearing, except that publication of notice of a hearing before Town Council concerning the determination, establishment, enforcement, amendment or implementation of any zone district text or boundary shall occur at least fifteen (15) days prior to such hearing.

5-204.B.2. Mailing of notice shall be accomplished by the applicant, who shall obtain a copy of the form of written notice from the Planning Staff.

a. Notice shall be mailed to all property owners within one hundred fifty feet (150') of the subject property (excluding streets, right-of-ways, river courses and similar features), including individual condominium unit owners (when applicable), by first (1st) class mail at least fifteen (15) days prior to the public hearing.

b. Notice shall be mailed to all owners of mineral estates of record in the San Miguel County Assessor records by certified mail return receipt requested at least thirty (30) days prior to the public hearing.

c. The list of property owners' names and addresses shall be created by the applicant using the current list of landowners as maintained by the San Miguel County Assessor, available on the San Miguel County mapping website, or as compiled through a licensed title insurance company.

d. Mailed notice may also be effectuated by hand-delivery so long as such deliver is accomplished by leaving notice with an adult property owner, as may be required, at any given address no later than the deadlines for mailed notice described above.

5-204.B.3. Posting of notice shall be accomplished by the applicant, who shall obtain the form of the notice from the Planning Department. The posted notice shall be at least 24"x36" in size. The applicant shall post the notice in a conspicuous location on the subject property at least ten (10) days prior to the public hearing. The materials to which the notice form is affixed shall be sturdy and waterproof, or shall have a waterproof covering.

5-204.C. **Content of Notice.** Each notice shall contain:

1. the name of the owner and the applicant;
2. the property's legal description and, if available, street address;
3. the type of development approval(s) sought and a brief summary of the development proposal; and
4. the date, time and location of the hearing and name of the decision-making body conducting the hearing.

The notice shall also indicate that more complete information about the application is available at the Planning Department and shall provide a telephone number at Town Hall where inquiries may be answered.

5-204.D. **Affidavit**. The applicant shall, at least five (5) days prior to a public hearing, submit for the public record an affidavit or other evidence certifying that public notice was provided in accordance with the requirements of this Section.

5-204.E. **Adequacy of Notice.** The applicant and the Planning Director shall make every reasonable effort to comply with the notice provisions set forth in this Section. notice shall be deemed adequate if, in accordance with Section 5-204.B., notice was mailed to all property owners as listed on the current San Miguel County Assessor's list of landowners, and, with respect to the owners of mineral estates, to the owners shown in the records of the San Miguel County Clerk and Recorder’s Office, and if publication to the Town’s Web Site and posting has occurred. Notice shall not be considered insufficient because of unrecorded or subsequent transfers of title, or uncertainties concerning ownership not discernible from the tax rolls or, with respect to the owners of mineral estates, from the records of the Clerk and Recorder.

TABLE 5-2 LAND USE APPLICATION PROCEDURES AND PUBLIC NOTICE REQUIREMENTS		
Application Type	**Review Bodies**	**Public Hearing Required?**
Use or Activity Permitted On Review	P&Z	Yes.
Variance	P&Z, or P&Z Chair, as applicable	Yes.
PUD/Subdivision	P&Z and Town Council (only if improvements and dedication required)	Large Scale: Yes, at Conceptual and Preliminary Review. Small Scale: Yes, at Preliminary Review. Minor: Yes, see LUC section 6-403.B
PUD/Sub. Amendment	P&Z	No hearing required, unless a major amendment which requires repetition of conceptual or preliminary review.
Code/Map Amendments	P&Z and Town Council	Yes, for P&Z recommendation and Town Council Ordinance Adoption.
Annexation	P&Z and Town Council	Yes, for P&Z Preliminary and Final Review and for Town Council Final Review. For Zoning of Annexed Land, see required notice for Map Amendments.
Mobile Home Park License	P&Z and Town Council	Yes.
Historic and Architectural Review	H.A.R.C.	Large Scale: Yes, at Preliminary and Final Review. Small Scale: Yes, at Final Review Minor: Yes, at Final Review Insubstantial: No

Note: Consult Section 5-204 of this Division and Articles 6 and 7 of this Title for the specific notice requirements for each application type.

Section 5-205 Authority To Act On The Development Application

5-205.A. **Authority To Act.** Development approvals may be granted by the following persons or review boards within the Town of Telluride: the Planning Director, the P&Z or H.A.R.C. chairperson, P&Z, H.A.R.C., and Town Council.

Table 5-3 categorizes the development approvals each of these persons or reviewing bodies is authorized to grant.

5-205.B. **Referral.** The Planning Director shall refer to the appropriate reviewing body development applications for which that body is authorized to make a recommendation or take a final action.

5-205.B.1. The Planning Director may also, at its discretion, refer to a reviewing body any application which the Planning Director, or the P&Z or H.A.R.C. Chairperson may be authorized to approve. Such referral may be requested by the chairperson of the reviewing body. The Planning Director shall regularly advise the reviewing body chairperson as to proposed actions which may be of significant concern to the reviewing body.

5-205.B.2. In the event of disapproval by the reviewing body of a proposed action of the Planning Director, P&Z or H.A.R.C. Chairperson and Planning Director such person may either accept the decision or appeal the action through the Planning Director to the Town Council.

5-205.C. **Consent Agenda**. The consent agenda is that portion of a reviewing body regularly scheduled agenda which is used to act on, or approve collectively, development applications which do not require public discussion or comment.

5-205.C.1. The public shall be advised of an opportunity to publicly comment on consent agenda items prior to reviewing body action. Upon request of the applicant, the Planning Director, or any member of the public or the reviewing body, an item shall be removed from the consent agenda and separately heard.

5-205.C.2. When an item is removed from the consent agenda it shall be acted on at the same meeting at which the removal occurs, unless the applicant or Planning Director requests that the item be continued in order to prepare additional information or respond to the concerns of the reviewing body.

5-205.C.3. The presence of the project proponent, applicant, or the applicant's representative is not required for consent calendar items. If an item is removed from the consent calendar and discussion with the applicant is required and such person is not in attendance, the item shall be continued to the next available hearing time.

Section 5-206 Public Action on the Development Application

5-206.A. **Site Inspection**. Prior to any meeting or hearing to consider an application, a reviewing body may, either as a whole or through a committee appointed for that purpose, inspect the site of a proposed development. Reasonable advance notice of such site inspection shall be provided to the applicant by verbal or written means. The applicant shall, as requested, set flags or stakes at the development site locating property boundaries, building envelopes, and other key site development features. If a project review requires public notice of a hearing, the public notice shall also state the time and place of any site inspection and that the inspection shall be open to the public.

5-206.B. **Review Coordination**.

5-206.B.1. When a H.A.R.C. review and recommendation is required for a proposed development it shall be obtained pursuant to Article 7 of this Title prior to final action by P&Z on the development application. HARC design review shall be completed subsequent to final action by P&Z.

5-206.B.2. When a variance is necessary for a proposed development, it shall be obtained pursuant to Article 6, Division 2 of this Title prior to final action by a reviewing body on the development application, unless otherwise permitted by the reviewing body.

TABLE 5-3 REVIEWING BODY FINAL APPROVAL AUTHORITY				
Planning Director and Applicable Review Body Chair	**Town Engineer**	**H.A.R.C.**	**Planning and Zoning Commission**	**Town Council**
1. Interpret Text of Land Use Code	1. Issue Geologic Hazard Permits	Grant Large Scale Activities	1. Grant Large Scale PUD or Subdivision	1. Grant Amendments to the Zone District Map
2. Interpret Official Zone District Map Boundaries	2. Issue Floodplain Hazard Permits	Grant Small Scale Activities	2. Grant Small Scale PUD or Subdivision	2. Grant Amendments to the Land Use Code
3. Grant Minor Subdivision	3. Issue Access Permits		3. Allow Uses Permitted on Review	3. Adopt the Master Plan and Plan Amendments
4. Grant Minor and Insubstantial H.A.R.C. Activities	4. Issue Encroachment Permits		4. Allow Activities Permitted on Review	4. Approve Annexation of Land to the Town
5. Grant Subdivision or PUD Amendment	5. Issue Excavation Permits		5. Grant Standard Variances	5. Designate Areas and Activities of State and Local Interest
6. Grant Insubstantial amendment to Use Permitted on Review			6. Independent Calculation of Employment Generation	6. Approve Licenses for Mobile Home Parks
7. Grant Secondary Unit Variance				7. Hear Appeals of Decisions By All Other Review Bodies

5-206.C. **Hearing Procedure**. At a hearing to consider a development application the reviewing body shall review the data supplied by the applicant, review the findings and recommendations of the Planning Staff, and take testimony from all interested persons in attendance. The applicant shall offer competent evidence in support of the application sufficient to enable the reviewing body to consider the matter and make findings on the subject. The applicant has the burden of presenting all necessary and relevant information and evidence in support of the application. During the hearing process on all preliminary and final reviews of development applications, the reviewing body may allow for up to three continuances to hear the matter, so that the applicant may make modifications or provide additional information and evidence in support of the application. The Town Manager, upon request by the Chair or the reviewing body, may provide an exemption to the limitation on continuances when a compelling reason exists in the discretion of the Town Manager.

5-206.D. **Action By Decision-Making Body**. After hearing evidence and considering the comments of all persons interested in a matter, the reviewing body shall render a decision accompanied by any necessary findings and have them entered in its minutes. In its findings, the reviewing body should report the facts found and its conclusions and whether the development application is approved, approved with conditions, recommended for approval by another body, tabled or continued pending receipt of additional information, or denied. The reviewing body shall not be required to take final action on a development application during the same meeting at which evidence or testimony from interested persons has been taken and may continue the matter in accordance with the limitations set forth in Section 5-205.C. of this Article.

5-206.E. **Action by Planning Director or Chairperson.**

5-206.E.1. Any action or approval authorized to be taken by the Planning Director or Chairperson of the P&Z or H.A.R.C. may be referred by that person to the P&Z or H.A.R.C., as the case may warrant, for its review and approval should the action or approval be deemed to be of elevated interest to either the reviewing body or to the affected neighborhood.

5-206.E.2. A reviewing body may refer to its Chairperson and/or the Planning Director final compliance review of any condition or other concern which arises during that body's review or approval of an application.

5-206.F. **Call-Up.**

5-206.F.1. The Town Council, or any two (2) Councilpersons, may call-up a development application for review by Town Council upon written notice thereof at any time after the application is certified complete and until fourteen (14) days after the date of final decision of the reviewing body.

5-206.F.2. A copy of the written call-up notice shall be mailed by the Town Clerk to

the applicant and the reviewing body. Upon filing of such notice with the Town Clerk, any decision of the reviewing body shall be suspended.

5-206.F.3. Upon call-up, the Town Council shall be vested with jurisdiction over the development application and shall conduct its review of the application under the same process and requirements applicable to the reviewing body. Such review shall be conducted within thirty (30) days from the date of the call-up, or as soon thereafter as can be reasonably accommodated.

5-206.G. **Termination**. The Town's policy is to move projects through the review process in a reasonable and expeditious manner. The time required for development review will vary with the size and complexity of each application and the establishment of exact time requirements for review is often impractical. A reviewing body, however, may deny an application which remains inactive under the following conditions:

5-206.G.1. Whenever the Planning Director has reason to believe that an applicant is not making reasonable progress in moving a development application towards final action he may request the reviewing body to deny the development application and close the files with respect to that project. No development application shall be denied on the basis of inaction without giving sixty (60) days prior written notice to the applicant by certified mail. Such notice shall state the intent of the Planning Director to have the project denied because of inaction and the time, place, and a date when the matter will be heard before the reviewing body.

5-206.G.2. A project may be deemed inactive and subject to denial for inactivity if at the time of hearing on the denial request:

a. More than three (3) months have passed since the last meeting between the Planning Director or the reviewing body and the applicant; or

b. More than two (2) months have passed since a request for additional information was made by the Planning Director or the reviewing body to the applicant, which request has not been complied with or substantively responded to; or

c. The applicant is more than sixty (60) days in default of the payment of any fee assessed under this Title, or has not paid the fee under protest; or

d. The applicant has stated an intention to abandon the project; or

e. The application has been filed for the purpose of attempting to vest real property development rights prior to a zoning or code change without an actual intent to construct the project applied for.

5-206.G.3. An applicant may appeal to the Town Council a reviewing body's denial of a project for inactivity in the same manner as any other appeal. The action may also be called up by the Council. The Town Council may reinstate the application subject to payment of full or partial application fees, reinstate it subject to specific conditions, or deny reinstatement.

5-206.G.4. If an applicant desires to proceed with a project following termination, the applicant must start at the beginning of the review process with a new submission and payment of new application fees. The new submission shall be subject to all provisions of this Title then in effect.

5-206.H. **Payments Delinquent**. No final approval shall be granted for any application pertaining to property for which the owner is delinquent with any payment due to the Town, including, but not limited to, land use or building permit application fees and Town or County taxes and assessments.

5-206.I. **Multiple Active Development Applications**. To maintain a predictable and efficient land development review process, a reviewing body shall not approve more than one (1) active, nonamending PUD or subdivision application for an affected parcel of land.

Section 5-207 Appeals

Except as may be required by a different section of this Title that more particularly describes an appeal procedure, the following general procedures shall govern appeals from a final decision of a reviewing body or official.

5-207.A. **Persons Who May Appeal**. Upon final approval or denial by a reviewing body of any development application the following persons may appeal the action of the reviewing body to the Town Council:

1. the applicant;
2. any owner or lessee of property adjoining the subject property;
3. any owner or lessee of property within 150' of the subject property;
4. the Town Manager; or
5. any person whom the Town Attorney determines would have standing to litigate an adverse outcome.

5-207.B. **Written Notice**. An appeal from a final decision of a reviewing body may be taken by filing with the Town Clerk a written notice of appeal within fourteen (14) days after the date of the decision or final action appealed from. The notice shall:

5-207.B.1. Identify the owner, the applicant, and the property which is the subject of the appeal;

5-207.B.2. Briefly describe the reviewing body action complained of;

5-207.B.3. State the date of the action appealed from;

5-207.B.4. State the name, address, and telephone number of the person bringing the appeal (the appellant);

5-207.B.5. Describe the factual and legal basis of the appeal with particular reference to applicable Land Use Code provisions and any other Town regulatory requirement or procedure which may not have been complied with;

5-207.B.6. Describe any injury or harm to the appellant resulting from the reviewing body's action;

5-207.B.7. Request that the record compiled by the reviewing body be prepared by the Town Clerk;

5-207.B.8. Certify that a copy of the appeal has been mailed to the applicant and the reviewing body on or before the date of filing of the notice of appeal, if applicable; and

5-207.B.9. Be accompanied by an appeal fee as set forth in the fee schedule adopted pursuant to Section 5-210.

5-207.C. **Schedule Hearing**. Upon the filing of a notice of appeal, the Town Clerk shall schedule a hearing thereon before the Town Council or such other appropriate body to be commenced within thirty (30) days after the date of filing of the notice, or as soon thereafter as can be reasonably accommodated.

5-207.D. **Publish Notice**. Notice of an appeal hearing shall be published on the Town's Web Site at least five (5) days prior to the date of appeal hearing. The notice should also be included in the publication to the Town's Web Site of the Town Council's regular agenda.

5-207.E. **Mail Notice**. Notice of the appeal hearing shall be mailed by regular U.S. Mail or hand-delivered by the Planning staff to the appellant and the applicant (if different) at least ten (10) days prior to the hearing, and any other person who has previously requested such notice in writing.

5-207.F. **Consider Record**. In hearing an appeal the Town Council or other appropriate appellate body shall consider only the record as compiled at the hearing or hearings before the reviewing body. The record shall consist of the development application, a transcript of the hearing before the reviewing body and all minutes, notices, letters, approval or denial resolutions, or exhibits entered into the record by the reviewing body in reaching its decision. The record on appeal shall be finalized no less than ten (10) days prior to the hearing.

5-207.G. **Cost**. The cost of preparation and copying of the designated record shall be paid by the appellant prior to establishment of the date of the appeal hearing, pursuant

to an estimate of the cost determined by the Town Clerk. Upon the posting of a deposit or surety equal to the amount owed, the Town Council or other appropriate appellate body may delay payment, in whole or in part, of such cost in the event of unusual hardship or for other good cause. A request to waive or refund the payment shall be heard during the same meeting as the appeal and shall not be cause to delay action on the appeal hearing.

5-207.H. **Standards**. A decision of a reviewing body on appeal shall be affirmed unless on appeal it is determined that the reviewing body acted arbitrarily and capriciously, abused its discretion, exceeded its jurisdiction, acted without proper evidence or a sufficient factual basis, or otherwise failed to act in accordance with the provisions of this Title. The burden of proof shall be upon the appellant to demonstrate such grounds.

5-207.I. **Action.** Within fourteen (14) working days after the conclusion of an appeal hearing, or as soon thereafter as may be reasonably accommodated, the Town Council or other appropriate appellate body shall in writing either affirm or reverse, in whole or in part, with or without conditions, the decision of the reviewing body. The appellate body may also remand the application to the reviewing body with or without instructions, which may include requirements for additional hearings, further findings, or other specific action on the application.

5-207.J. **Extraordinary Majority Required**. To reverse, modify, or remand a decision of a reviewing body on appeal, an extraordinary majority of Town Council (i.e., five (5) Councilpersons) or other appropriate appellate body or other person must so vote, except that in the event of disqualification of one (1) or more person from participating in the appeal, the number of votes necessary shall be reduced by the same number.

5-207.K. **Disqualification**. Participation on a reviewing body by a Town Councilperson who is a member of such body shall be grounds for disqualification due to predisposition or conflict of interest from hearing and determining an appeal or call-up from a decision of that reviewing body.

5-207.L. **Court Review**. The decision of Town Council on an appeal (other than a remand) may be reviewed by a court of competent jurisdiction in accordance with the Colorado Rules of Civil Procedure.

5-207.M. **Exhaust Administrative Remedies**. The exhaustion of administrative remedies, including appeal, shall be a prerequisite for judicial review of any action on a development application made pursuant to this Code.

5-207.N. **H.A.R.C. Appeals**. Appeal of an action of H.A.R.C. shall be subject to any additional requirements of Section 7-217 of this Title.

Section 5-208 Vested Property Rights

5-208.A. **Purpose.** The purpose of this Section is to provide procedures necessary to implement the provisions of Article 68 of title 24, C.R.S., as amended, and to

effectuate local control over the creation of vested property rights to the fullest extent permitted under the Telluride Home Rule Charter.

5-208.B. **Vested Property Right**. Vested property right means the right to undertake and complete an approved development and use for property under the terms and conditions of a site specific development plan.

5-208.C. **Exceptions**. A vested property right, once established, shall preclude any zoning or land use action by the Town of Telluride which would alter, impair, or diminish the development or use of the property as set forth in an approved site specific development plan, except:

5-208.C.1. With the consent of the applicant; or

5-208.C.2. Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the property, which could not reasonably have been discovered at the time of vested rights approval, and which, if not corrected, would pose a serious threat to the public health, safety and welfare; or

5-208.C.3. To the extent that compensation is paid, as provided in Title 24, Article 68, C.R.S.

The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and applicable to all property subject to land use regulation by the Town, including, but not limited to, fee assessments and building, fire, plumbing, electrical, mechanical, water and sewer codes.

5-208.D. **Public Hearing**. Approval of a site specific development plan shall require a public hearing for which notice has been provided as specified in Section 5-204. Such notice may be combined with any other required notice.

5-208.E. **Effective Date of Approval**. A site specific development plan shall only be deemed established and approved upon the final action of the reviewing body or official designated under this Title with authority to grant final development approvals. The effective date of a site specific development plan shall be the date on which a final plat, development plan, development agreement, certificate of appropriateness, or other applicable document memorializing a development approval as specified in this Title has been duly executed. A site specific development plan which has received final approval subject to conditions to be satisfactorily performed at some future date shall result in a vested property right unless there is a failure to abide by such conditions, in which event the vested property right shall be forfeited. In the event of amendments to a site specific development plan, the effective vesting date of any amendment shall be the date of the approval of the original plan unless otherwise specifically provided in the action or document approving and memorializing the amendment.

5-208.F. **Referendum and Judicial Review**. A site specific development plan shall be subject to all rights of referendum and judicial review, except that the thirty (30) day period of time for the exercise of such rights shall not begin to run until the publication of a notice of approval as provided for in section 5-208.H infra.

5-208.G. **Document Language**. Each map, plat, or site plan or other document constituting or memorializing a site specific development plan shall contain the following language: "Approval of this plan shall create a vested property right pursuant to article 68 of Title 24 C.R.S., as amended, subject to the limitations of Telluride Land Use Code Section 5-208." Failure to contain this statement shall not invalidate the creation of the vested property right.

5-208.H. **Publish Notice**. Notice of the approval of a site specific development plan identifying the specific parcel or parcels affected and generally describing the approval and stating that a vested property right has been created shall be published once by the Town not more than fourteen (14) days after such approval in a newspaper of general circulation within the Town.

5-208.I. **Payment Of Costs**. In addition to any and all other fees and charges imposed by this Code, an applicant for approval of a site specific development plan shall be required to pay all costs occasioned to the Town as a result of the site specific development plan review, including publication of notices, public hearing and review costs.

5-208.J. **Limitations**. This Section is intended only to implement the provisions of Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said article or a judicial determination that said article is invalid or unconstitutional, this Section shall be deemed to be repealed and the provisions hereof no longer effective.

5-208.K. **Duration of Vested Rights and Extensions**. A vested property right shall remain vested for a period of three (3) years from the effective date of the site specific development plan. This vesting shall not be extended by any amendments approved to the plan, unless expressly authorized pursuant to Section 5-208 D.

5-208.K.1. Substantial failure to comply with a site specific development plan or to abide by any conditions of approval of such plan shall result in the forfeiture of vested property rights.

5-208.K.2. Upon approval by the Town Council, a property right originally vested may be extended for a period exceeding an initial three (3) year vesting period when deemed in the public interest and when warranted in light of all relevant circumstances including, but not limited to, the size and phasing of the development, economic cycles, and market conditions. Town Council shall receive a recommendation from the P&Z Chairperson and/or the HARC Chairperson, as applicable, before granting an extension of any vested right.

5-208.K.3. When a complete building permit application for the entire project is submitted at least thirty (30) days prior to the end of the project's statutory three (3) year vesting period, and the building department requires more than thirty (30) days to review the application, the statutory vesting period shall be extended but only until such time as necessary to issue the building permit.

5-208.L. **Expiration of Non-Vested Approvals**. Any applicant receiving a final development approval that does not constitute a site specific development plan and who fails to obtain and undertake action in reliance on a building permit, or who fails to timely record all necessary plats or plans, shall have its approval expire one (1) year from the date of its approval unless a shorter or longer period is specifically authorized by another section of this Code. Non-vested approvals shall be subject to all changes in the Land Use Code as may impact the approval prior to its expiration.

5-208.M. **Extension of Non-Vested Approvals**. An applicant may request an extension of a development approval which has not obtained vested rights by submitting an application for extension, along with the applicable fee, prior to the date on which the approval will expire. Extensions shall be limited to not more than six (6) months and may be granted if the reviewing body which granted the initial final approval finds all of the following criteria are met:

1. any public or private improvements which were required to be installed by the applicant prior to construction of the project have been installed;

2. the conditions applied to the project at the time of its final approval which were to have been met as of the date of application for extension have been complied with and all required documents have been filed with the Town; and

3. the project has been diligently pursued in all reasonable respects and the project is in the best interests of the community.

4. No more than one prior extension has been previously granted.

Section 5-209 Actions Following Development Approval

5-209.A. **File Required Documents.** Following approval of a development application, and except as may be otherwise required in a more specific provision of this Title, the applicant shall submit to the Planning Director those documents which are required by the approval of the application.

5-209.A.1. As a condition of approval of a development application, an applicant may be required to execute a development agreement with the Town that incorporates all conditions of the approval including, without limitation, time limits for completion of the development

a. The development agreement shall be binding upon the applicant and any successor in interest. Any violation of the development agreement shall be considered a violation of this Title.

b. The development agreement may be incorporated into a subdivision improvements agreement or a planned unit development plan, as appropriate.

5-209.A.2. For all development applications approved by the Planning and Zoning Commission and for all development applications approved by H.A.R.C. for construction of new structures, the applicant shall file with the Planning Director at least two prints containing the approved site plan and incorporating any conditions of approval. The Planning Director shall endorse and date any required mylar of the final plan upon finding it conforms with the approval granted and adequately documents all terms of approval. A mylar or other reproducible copy of the site plan shall remain on file in the Planning Department. If deemed appropriate, the Planning Director shall promptly record the final documents, upon payment of recording fees by the applicant.

5-209.B. **Application For Building Permit**. The applicant may apply to the Building Official for a building permit following execution and/or recordation of required development approval documents.

5-209.B.1. A building permit may be applied for after final approval of a development application, but no building permit shall be issued until after any appeal or call-up period has expired or, in the event an appeal or call-up occurs, until after final action on the appeal or call-up. An applicant for such permit bears all risks of any subsequent disapproval pursuant to an appeal or call-up.

5-209.B.2. Prior to issuance of a building or other permit the Building Official, in consultation with the Planning Director, shall determine whether applicable provisions or conditions of the development agreement or development approval have been met.

5-209.B.3. If applicable provisions or conditions of a development agreement or development approval have not been met, the Planning Director may refer the matter to the appropriate reviewing body which shall determine whether the applicant has failed to comply with the development agreement or approval. If so, the reviewing body may:

a. Revoke the approval; or

b. Impose additional conditions or modifications to carry out the purposes of the original approval; or

c. Recommend enforcement remedies.

5-209.B.4. At any time after the execution of a development agreement or approval document any interested person aggrieved by an alleged failure of the applicant or its successors to comply with the development agreement or approval may request a hearing before the reviewing body to determine whether the conditions of the agreement have been met.

5-209.C. **Re-Application for Development Approval**. If the Town finally denies a development application, the applicant or any successor in interest may not file a substantially similar development application for a period of one (1) year from the date of final action.

5-209.D. **Amendments**. Except as otherwise specified in this Title, development approvals may be amended by following the same procedures as for the initial application.

Section 5-210 Development Application Fees

5-210.A. **Fee Schedule**. The fees and fee structures referenced throughout the Town of Telluride Land Use Code shall be set forth by Town Council resolution. Fees and fee structures shall be reviewed every two years. Fees and fee structures may be modified at a regular meeting of the Town Council upon recommendation of P&Z, the Planning Director and/or Town Manager. In the case of application fees, the intent of establishing and collecting fees is to recover the fair and average cost of all expenses, including staff time, associated with the administration of the Town of Telluride Land Use Code. In the case of other fees, such as payment-in-lieu fees, the intent of establishing and collecting fees is to recover the full cost to the Town of providing the given activity the applicant seeks to avoid.

5-210.B. **Waiver of Fees**. Upon positive recommendation of P&Z, the Town Council may by motion and without additional notice of hearing authorize refunds or waive development review application fees. Council may authorize refunds or waivers of fees only in cases of hardship to the applicant, or economic benefit to the community, or other unique circumstances.

5-210.C. **Multiple Applications**. In the event that more than one (1) development application is simultaneously submitted to a reviewing body for the same property (for example, a P.U.D. plan and a major subdivision plan), the applicant shall pay the required fee for each development application.

(Ord. 1423, 2015; Ord. 1418, 2014; Ord. 1417, 2014; Ord. 1367, 2012; Ord. 1350, 2011; Ord. 1329, 2010; Ord. 1158, 2001; Ord. 1145, 2001; Ord. 1112, 1999; Ord. 1071, 1997; Ord. 1059, 1996; Ord. 1040, 1996; Ord. 1033, 1995; Ord. 1011, 1994; Ord. 1005, 1994; Ord. 970, 1992; Ords. 943 and 924, 1991; Ords. 826 and 817; 1988; Ord. 231, 1970)

5-209.B.4. At any time after the execution of a development agreement or approval document any interested person aggrieved by an alleged failure of the applicant or its successors to comply with the development agreement or approval may request a hearing before the reviewing body to determine whether the conditions of the agreement have been met.

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(Ord. 1367, 2012; Ord. 1350, 2011; Ord. 1329, 2010; Ord. 1158, 2001; Ord. 1145, 2001; Ord. 1112, 1999; Ord. 1071, 1997; Ord. 1059, 1996; Ord. 1040, 1996; Ord. 1033, 1995; Ord. 1011, 1994; Ord. 1005, 1994; Ord. 970, 1992; Ords. 943 and 924, 1991; Ords. 826 and 817; 1988; Ord. 231, 1970)

ARTICLE 6 LAND USE AND DEVELOPMENT APPLICATIONS

DIVISION 1 USES AND ACTIVITIES PERMITTED BY REVIEW

PART I. USES PERMITTED ON REVIEW

Section 6-101 Purpose

Uses permitted on review are those land uses which are generally compatible with the uses permitted by right in a zone district, but which require individual review by P&Z of their location, design, configuration, operating characteristics, intensity or density, in order to ensure the appropriateness of the land use in the zone district. Only those uses authorized as a use permitted on review for a particular zone district in Article 3, Division 2 may be approved by P&Z.

Section 6-102 Procedure

An applicant seeking approval of a use permitted on review shall follow the steps outlined below. The common review procedures for each stage are set out in Article 5 of this Title.

6-102.A. **Pre-Application Conference.** The applicant may attend a pre-application conference prior to submission of an application.

6-102.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director, containing those materials listed in Section 6-103 of this Division.

6-102.C. **Staff Review and Referral.** The Planning Director shall review and refer an application in conformance with Section 5-203.A and B of this Title.

6-102.D. **Public Notice.** Public notice that P&Z will conduct a hearing to consider the application for approval of a use permitted on review shall be provided as specified in Section 5-204 of this Title.

6-102.E. **Staff Report.** A staff report shall be prepared and made available as called for in Section 5-203.C of this Title.

6-102.F. **Public Action By P&Z.** P&Z shall hold a public hearing to review an application and render a decision thereon in accordance with Section 5-206.C and D of this Title.

6-102.G. **Actions Following Approval.** An applicant may obtain a building permit following approval of the use permitted on review only after the execution and recordation, if necessary, of all documents memorializing or required under the approval as specified under Section 5-209 of this Title.

6-102.H. **Notice.** A public notice announcing the final approval of the permitted use on review, except for permitted home occupations, shall be published in accordance with the provisions of Section 5-208.H of this Title.

6-102.I. **Vesting**. An approved final plan for a permitted use on review, except for a home occupation, shall constitute a site specific development plan.

Section 6-103 Application Contents

The application for approval of a use permitted on review shall contain fifteen (15) copies of the following information:

6-103.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title;

6-103.B. **Site Plan.** A site plan, which shall be drawn on a standard twenty-four inch by thirty-six inch (24" X 36") sheet, with the title block located in the lower right-hand corner, along with date of preparation and north arrow, on a scale of one inch equals twenty feet (1" = 20'), or such other scale as is approved by the Planning Director. The site plan shall include or identify:

6-103.B.1. Dimensions and square footage of all existing and proposed structures on the lot, total ground coverage, setbacks of structures from lot lines; and dimensions and square footage of the lot;

6-103.B.2. Floor plan, delineating location of requested use;

6-103.B.3. Identification of points of access, public and private roadways, street names and rights-of-way.

6-103.B.4. Vicinity map, including structures, and showing the relationship of the site to the surrounding neighborhood;

6-103.B.5. Directly adjacent off-site structures, identifying type, use, and distance from proposed lot boundaries;

6-103.B.6. Zoning and land use on adjacent property; and

6-103.B.7. Housing Mitigation Plan as required by Section 3-720.D of this Title.

6-103.C. **Written Narrative.** A written narrative, which shall address the following:

6-103.C.1. The nature of the use and operation, the number of people, the frequency of use, the duration of use, the time of use, and the number of cars associated with the use;

6-103.C.2. The current zoning of the property;

6-103.C.3. Any impacts of the use on the community in general and specific impacts on adjoining property owners and neighborhood;

6-103.C.4. The consistency of the proposed use with the Telluride Master Plan;

6-103.C.5. The compliance of the proposed use with the Land Use Code, the building codes, and all other laws that may be applicable;

6-103.C.6. The effect of the use upon the Town's services and infrastructure;

6-103.C.7. The effect that the use will have upon parking, specifying the number of parking spaces required and available; and

6-103.C.8. The improvements which are necessary to the site or the structure to accomplish the requested use.

Section 6-104 Review Standards Applicable To All Uses Permitted On Review

A use permitted on review shall be evaluated on the basis of the following standards:

6-104.A. **Neighborhood Compatibility.** The proposed use and operation shall be in harmony and compatible with the neighborhood and surrounding area and shall enhance the mix or compliment the uses in the immediate vicinity.

6-104.B. **Master Plan Consistency.** The proposed use and operation should be consistent with the Telluride Master Plan and, other pertinent Town goals and policies, including the Design Guidelines for Building in Telluride, and the intent of the zone district in which it is proposed to be located.

6-104.C. **Site Carrying Capacity.** The proposed use and operation shall not exceed the carrying capacity of the site or be found to be an over-intensive use of the site.

6-104.D. **Public Services and Facilities.** The applicant shall demonstrate that adequate public facilities and services are available to serve the proposed use or operation and that the Town will not be required to expend funds to provide public services or capital improvements solely for the benefit of the proposed use.

6-104.E. **Traffic Impacts.** The proposed use and operation shall not create vehicular or pedestrian circulation hazards, or cause parking, trash or service delivery congestion.

6-104.F. **Pollution.** The proposed use and operation shall not cause unacceptable air, water or noise pollution, odors or vibrations.

6-104.G. **Screening.** The applicant shall demonstrate that the lot has been adequately landscaped, buffered or screened to reduce the impact of the proposed use and operation.

6-104.H. **Health, Safety and Welfare.** The proposed use and operation shall not be generally detrimental to the health, safety, welfare or community spirit of Telluride.

6-104.I. **Applications for High Intensity Commercial Uses.** In addition to the above standards, the following standards apply to applications proposing High Intensity

Commercial Uses within the Commercial (C) or Accommodations II (AC-2) zone districts which are to be within fifty (50') feet of a property line which is adjacent to a property which is zoned or entirely dedicated for Open Space or Park and contains either the San Miguel River or the River Park Trail, or from the River Trail or the San Miguel River in the absence of such zoning or dedication, whichever is more restrictive, the applicant shall demonstrate that:

1. the use will not have a negative impact on existing on-site and adjacent natural features and environmental systems;

2. the use has been adequately screened and landscaped, and access points minimized or eliminated, so as to afford privacy to adjacent properties;

3. noise, lighting (interior and exterior), odor, service activities, and signage associated with the use will not have a negative impact on the environmental and recreational qualities of the adjacent lands;

4. the use will not otherwise negatively impact adjacent property.

Section 6-105 RESERVED

Section 6-106 Home Occupations As Uses Permitted On Review

A home occupation may be approved as a use permitted on review and may be exercised under the terms of this Section when P&Z finds that the use meets the definition of "Home Occupation" and conforms to the standards in Section 6-104 of this Division and all of the following standards. Approval of a home occupation shall not constitute or result in a site specific development plan for purposes of vesting a property right. An approval of a home occupation grants to the applicant a revocable license to engage in a certain use of property subject to compliance with the standards of this section and any conditions of approval. A permitted home occupation may be restricted, modifided or terminated by changes made to this Title subsequent to the approval of such use.

6-106.A. **General Standards.**

1. **Secondary Use.** The home occupation shall be incidental and secondary to the use of a dwelling for dwelling purposes;

2. **Character.** The home occupation shall not change the essential residential character of a dwelling;

6-106.B. **Permitted Uses.** The following occupations and uses are permissible as home occupations:

1. Professional offices.

2. Artists/Art Studios.

3. Contractors.

4. Drafting and graphics services.

5. Dressmaker (private individuals).

6. Individual tutoring.

7. Musical instrument instruction.

8. Personal services.

9. Writers.

10. Accounting offices, financial consultants, tax preparers, computer consultants, and other office/service uses as defined by category 1.

11. Shop craft industry as defined by Section 2-228 of this Title.

6-106.C. **Sales of Goods on Premises.** No sales of goods or products shall be allowed on-site under a home occupation, except for those goods or products produced on-site as a direct result of the home occupation.

6-106.D. **Retail Uses.** No retail use shall be permitted as a home occupation except shop craft industry type uses and other uses that produce goods on-site as described in section C above.

6-106.E. **Who.** A limit of two persons may operate the home occupation. The dwelling must be the primary place of residence of the person(s) engaged in the home occupation as demonstrated by a permanent physical presence, however, subject to approval by P&Z, a home occupation may be permitted one (1) employee which resides off-site, regardless of whether the employee is full or part-time.

6-106.F. **Storage.** There shall be no storage or display of any, goods, products, equipment, or materials outside of the dwelling, garage, or other buildings on the property containing the home occupation.

6-106.G. **Area.** The home occupation shall not occupy more than twenty-five percent (25%) of the total floor area of structures on the property, or five hundred (500) square feet, whichever is less.

6-106.H. **Signs.** The home occupation may be allowed no more than one freestanding or wall sign, not to exceed two (2) square feet per dwelling, as provided in Article 3, Division 4 of this Title.

6-106.I. **Nuisance.** The home occupation shall not cause any use or activity which is inconsistent with the residential zone or disrupts the neighborhood including, but not limited to, noise from equipment, traffic, congestion, excessive lighting, offensive odor, or electrical interference.

6-106.J. **Change in Use of Property.** Any change in the use of the property utilized for a home occupation, including a redistribution of area allocated to the primary and/or secondary dwellings on site, shall automatically constitute cause for an annual review of the UPR for the home occupation pursuant to Section 6-108 of this Title.

6-106.K. **Sale of Business**. A home occupation shall terminate upon any transfer or sale of the business to another entity.

6-106.L. **Business License Required.** All persons engaged in a home occupation must obtain and maintain a business license from the Town of Telluride prior to and during the operation of the home occupation.

6-106.M. **Revocation**. A home occupation allowed as a permitted use may only be revoked after a duly noticed public hearing before P&Z as described in Sections 6-107.C and D infra.

Section 6-107 Revocation Of Approval

6-107.A. **Compliance Required.** An approved use permitted on review must comply with the provisions set forth in the application and any conditions imposed at the time of approval. If the use is not operated in conformance with the provisions or conditions attached to it, the owner shall be subject to one or more of the following actions:

1. withdrawal of authorization for use;
2. imposition of a fine as established by law; and/or
3. a temporary suspension of use until conformance is achieved.

6-107.B. **Enforcement.** Enforcement actions shall be undertaken by the Building Official who may issue stop work orders and/or notices of zoning violations.

6-107.C. **Burden of Proof.** The Town shall have the burden of proof to prove noncompliance. Prior to revocation or temporary suspension, the Town shall attempt to obtain corrective action by the owner.

6-107.D. **Procedure.** Withdrawal of approval or suspension of a use permitted on review requires formal action by P&Z after a public hearing, with at least ten (10) days advance notice to the owner. Such action may be appealed to the Town Council in accordance with Section 5-207 of this Title.

6-107.E. **Duration.** A use permitted on review shall only be permitted for that time period specified in the application or awarded by P&Z, or until the permitted use changes or is terminated, whichever occurs first.

Section 6-108 Annual Review

Approved uses permitted on review may be subject to an annual review by the Planning Director. The annual review is intended to confirm compliance to the provisions set forth in the approved application. In addition, the Planning Director may initiate a review at any time upon a finding that probable grounds exist to believe the conditons or terms of any permitted use are being violated, and shall keep a record of all reviews in the application file. The owner shall be timely notified in writing of any nonconformance and of any subsequent action to be taken.

Section 6-109 Amendments

6-109.A. **Insubstantial Amendment.** An insubstantial amendment to an approved use permitted on review may be authorized by the Planning Director. An insubstantial amendment shall be limited to changes in the operation of a use which meet all of the following standards:

1. The change will not generate any additional traffic or increase the parking demand generated by the approved use.
2. The change will not affect the character of the neighborhood in which the use is located.
3. The change will not alter the exterior visual appearance of the building, or any minor exterior changes are approved by H.A.R.C.
4. The change will not increase the floor area approved for the use by more than ten percent (10%).
5. The change is not contrary to any representation made or condition imposed on the original approved use.

6-109.B. Other Amendments. All other amendments shall be approved by P&Z pursuant to the procedures of this Division.

PART II. ACTIVITIES PERMITTED ON REVIEW

Section 6-110 Purpose

Activities permitted on review are those land use activities which provide applicants with certain options when addressing a site's development, but which require site specific review by P&Z in order to maintain the integrity of the Town's zone districts and the compatibility of the proposed activity with surrounding land uses. Activities which may be permitted on review by the P&Z are:

1. Resumption of a discontinued nonconforming use or expansion or change of use of a nonconforming structure (other than changes to the structure which are otherwise in compliance with district standards which only require approval by H.A.R.C. pursuant to Article 7 of this title), nonconforming uses or buildings on a nonconforming lot, and uses permitted pursuant to the standards and limits in Section 4-102;

2. Payment in lieu of providing parking spaces on a lot.

Section 6-111 Procedure

An applicant seeking approval of an activity permitted on review shall follow the steps outlined below. The common review procedures for each stage are set out in Article 5 of this Title.

6-111.A. **Pre-Application Conference.** The applicant may attend a pre-application conference prior to submission of an application.

6-111.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing those materials listed in Section 6-112 of this Division.

6-111.C. **Staff Review and Referral.** The Planning Director shall review and refer an application in conformance with Section 5-203.A and B of this Title.

6-111.D. **Public Notice.** Public notice that P&Z will conduct a hearing to consider the application for approval of an activity permitted on review shall be provided as specified in Section 5-204 of this Title.

6-111.E. **Staff Report.** A staff report shall be prepared and made available as called for in Section 5-203.C of this Title.

6-111.F. **Public Action By P&Z.** P&Z shall hold a public hearing to review an application and render a decision thereon in accordance with Section 5-206.C and D of this Title.

6-111.G. **Actions Following Approval.** An applicant may obtain a building permit following approval of the activity permitted on review only after the execution and recordation, if necessary, of all documents memorializing or required under the approval, and the payment of fees, as specified under Section 5-209 of this Title. and the filing and, if applicable, recordation of any documents required by the approval.

6-111.H. **Notice.** A public notice announcing the final approval of the permitted use on review shall be published in accordance with the provisions of Section 5-208.H of this Title.

6-111.I. **Vesting**. An approved final plan for a permitted use on review, except for a home occupation, shall constitute a site specific development plan.

Section 6-112 Application Contents

An application for approval of an activity permitted on review shall contain fifteen (15) copies of the following information:

6-112.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title;

6-112.B. **Additional Contents.** A development application for an activity permitted on review shall also include:

6-112.B.1. an improvement survey of the site proposed for development; and

6-112.B.2. plans and elevations of the existing building or buildings and any new additions or renovations proposed, including, as applicable, site plans and landscaping plans at a scale of one inch equals twenty feet (1" = 20'), and building plans drawn to scale.

Section 6-113 Review Standards For Resumption of a Discontinued Nonconforming Use and Expansion, Change in Use, or Relocation of Nonconforming Uses, Buildings and Lots

P&Z may approve an application for the resumption of a discontinued nonconforming use, or for the expansion or change in use of a nonconforming use or structure (other than changes otherwise in compliance with zone district standards that require H.A.R.C. approval pursuant to Article 7 of this Title), or of a building on a nonconforming lot as defined in Sections 4-102 A., 4-103 B., 4-104 C. and 4-105 B. of this Title, when it determines all of the following criteria have been met:

6-113.A. **Alleviate Impacts.** The applicant has agreed to undertake all reasonable measures to reduce or alleviate the effects of the nonconformity upon the surrounding neighborhood including, without limitation, visual or noise pollution, vehicular traffic, storage of necessary equipment, materials and refuse, and on-street parking.

6-113.B. **Physical Appearance.** The proposed change or expansion will either reduce the degree of nonconformity of the use, building or lot, or improve the physical appearance of the structure of the site without increasing the degree of nonconformity.

6-113.C. **Zone District Standards.** The proposed change or expansion in use complies with all requirements of this Title, unless a variance to these requirements has been granted pursuant to Article 6, Division 2.

6-113.D. **Nonconformance.** The existing building or lot cannot reasonably be utilized or

made to conform to the requirements of the underlying zone district as specified in Article 3, Division 2.

Section 6-114 Review Standards For Payment-In-Lieu Of Parking

6-114.A. **Criteria.** The Planning and Zoning Commission may permit an applicant to make a payment-in-lieu of providing parking spaces on a lot or parcel and shall use the following criteria to guide its decision:

6-114.A.1. Whether the applicant demonstrates that all required parking cannot be located on-site due to site-specific physical constraints or site design requirements (such as high water table or access limitations); or

6-114.A.2. Whether the historic significance of existing buildings or other site features would be adversely affected to meet the parking requirement on site; or

6-114.A.3. Whether the property is located in close proximity to permanent public parking or public transportation routes; or

6-114.A.4. Whether the characteristics of the proposed land use reduce the need for on-site parking; or

6-114.A.5. Whether the public health, safety or welfare would be adversely affected by locating the required parking on the property.

6-114.B. **Determination of Site Coverage**. If P&Z permits an applicant to make a payment-in-lieu of providing parking, the parking spaces which are paid in lieu shall be counted as on-site, non-enclosed spaces in the determination of site coverage in zone districts which permit increases in maximum site coverage for enclosed parking.

6-114.C. **Agreement.** If P&Z permits an applicant to make a payment-in-lieu of providing parking, the applicant shall sign an agreement to pay a fee at the established rate which the Town shall record prior to the issuance of a building permit or the commencement of the use, whichever comes first. The agreement shall be executed on behalf of the Town by the P&Z Chairperson, Planning Director and Town Manager.

6-114.D. **Rate.** The payment-in-lieu rates and operations and maintenance fee are established as provided in Section 5-210. The operations and maintenance fee is payable upon payment of the Capital Expense fee and annually thereafter.

6-114.E. **Special Accounts.**

6-114.E.1. Capital expense fees collected by the Town pursuant to the payment-in-lieu provisions shall be deposited into an account within the Capital Improvements Fund entitled "Parking Facilities Development Fund." All expenditures from this fund shall be directly spent or encumbered only for the purpose of conducting parking-related studies or evaluations, the acquisition and construction of parking facilities, or for bonding with respect

to the acquisition or construction of parking facilities or transit improvements and necessary related expenses.

6-114.E.2. Annual operations and maintenance fees shall be deposited into a revenue account within the General Fund entitled "Parking Facilities Maintenance Fund". All expenditures from this fund shall be directly spent or encumbered only for the operation, maintenance and administration of parking or transit facilities.

6-114.F. **Payment Schedule.** In-lieu fees for parking shall be paid to the Town according to the following schedule:

6-114.F.1. A minimum of fifty percent (50%) of the capital expense fee shall be paid immediately prior to issuance of a building permit.

6-114.F.2. Any remaining unpaid capital expense fee shall be paid immediately prior to issuance of a temporary certificate of occupancy or the certificate of occupancy, whichever comes first.

6-114.F.3. The Town shall charge a yearly interest rate of no less than ten percent (10%) on any unpaid fee balance. Town Council may adjust the interest rate within its discretion by resolution. Any remaining fee balance shall be paid at the time of issuance of a certificate of occupancy.

6-114.F.4. An operations and maintenance fee shall be paid annually for fifteen (15) years, or as a lump sum prior to the issuance of a certificate of occupancy.

6-114.F.5. Interest charges and CPI increases may be avoided by paying the full amount of the capital expense fee or the full operations and maintenance fee at the time a building permit is issued.

6-114.F.6. Payment-in-lieu fees collected pursuant to this section shall be returned to the then present owner of the property for which a fee was paid, including any interest earned, if the fees have not been spent within seven (7) years from the date the fees were paid, unless the Council shall have earmarked the funds for expenditure on a specific project, in which case the Council may extend the time period by up to three (3) more years.

a. To obtain a refund, the present owner must submit a request to the Town Manager within one (1) year following the end of the seventh (7th) year from the date payment was received.

b. For purposes of this sub-section, payments collected shall be deemed spent on the basis that the first payment in shall be the first payment out.

6-114.F.7. Any payment made for a project for which a building permit is cancelled due to non-commencement of construction may be refunded if a request for refund is submitted to the Town Manager within three (3) months of the date of the cancellation of the building permit. All requests shall be accompanied

by proof that the applicant is the current owner of the property and by a copy of the dated receipt issued upon the original payment of the fee.

6-114.G. **Credits.** If any capital expense fees have been paid in accordance with this section and if subsequent thereto a special or local improvement district is formed and assessments levied for the purpose of paying for public parking improvements, the property for which payment-in-lieu fees were received shall be credited with the amount of the capital expense fee(s) paid.

6-114.H. **Additions.** In-lieu fees for parking for additions or enlargements to any existing building or change of use will be calculated by determining the increased number of parking spaces required for such addition, enlargement or change, and not for the entire building or use. Article 4, Nonconformities, and Section 6-113 regarding expansion or change in use of nonconforming uses, structures and lots, shall apply when there are nonconformities.

Section 6-115 Amendments

6-115.A. **Insubstantial Amendment.** An insubstantial amendment to an approved use permitted on review may be authorized by the Planning Director. An insubstantial amendment shall be limited to activities which meet all of the following standards:

6-115.A.1. The change does not increase any existing non-conformity, or increase the intensity of use, or the type, density or character of the use;

6-115.A.2. The change does not amend the parking configuration approved for the site;

6-115.A.3. The change does not increase the parking requirement for the site.

If an insubstantial amendment is approved it shall be duly recorded pursuant to Section 6-111.G or 6-114.C, as applicable.

6-115.B. **Other Amendments**. All other amendments shall be approved by P&Z pursuant to the procedures of this Division.

(Ord. 1333, 2010; Ord. 1317, 2009; Ord. 1145, 2001; Ord. 1106, 1998; Ord. 1040, 1996; Ord. 1033, 1995; Ord. 1011, 1994; Ord. 1005, 1994; Ord. 970, 1992; Ords. 932 and 924, 1991; Ord. 868, 1989; Ord. 817 and 803, 1988; Ords. 776 and 770, 1987; Ords. 729 and 725, 1986)

DIVISION 2 VARIANCES

Section 6-201 Purpose

A variance is a modification of the dimensional limitations of this Title as to lot area or width; street frontage; front, side and rear yard setbacks; building height; site coverage; or other regulations affecting the size or shape of a structure or the placement of structures upon lots, or the size of lots. A standard variance may only be granted by P&Z and only where it will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the applicant's actions, a literal enforcement of this Title would result in unnecessary hardship. A secondary unit variance shall only be granted by the P&Z Chair to facilitate the development of a secondary dwelling unit, and only if the criteria established herein are met. P&Z may also vary the application of the zone district regulations for the purpose of considering access to sunlight for solar energy devices.

Section 6-202 Procedure

An applicant seeking approval of a variance shall follow the steps below. The common review procedures for each stage are set out in Article 5 of this Title.

6-202.A. **Pre-Application Conference.** The applicant shall attend a pre-application conference prior to submission of a variance application.

6-202.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing those materials listed in Section 6-203 of this Division.

6-202.C. **Staff Review and Referral.** The Planning Director shall review and refer an application in conformance with Sections 5-203.A and B of this Title.

6-202.D. **Public Notice.** Public notice that P&Z will conduct a hearing to consider the application for approval of a standard or secondary unit variance shall be provided as specified in Section 5-204 of this Title.

6-202.E. **Staff Report.** A staff report shall be prepared and made available as called for in Section 5-203.C of this Title.

6-202.F. **Public Action By P&Z.** P&Z, or the P&Z Chair, as applicable, shall hold a public hearing to review an application and render a decision thereon in conformance with Sections 5-206.C and D of this Title.

6-202.G. **Actions Following Approval.** The applicant may obtain a building permit following approval of the variance only after the execution and recordation, if necessary, of all documents memorializing or required under the approval as specified under Section 5-209 of this Title.

6-202.H. **Vesting.** A variance in and of itself shall not constitute a site specific development plan for purposes of vesting a property right, however, it may be incorporated into a site specific development plan as part of a larger or different land use approval.

Section 6-203 Application Contents

An application to obtain a variance shall contain fifteen (15) copies of the following information:

6-203.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title;

6-203.B. **Site Plan.** A site plan, prepared at a scale of one inch equals twenty feet (1" = 20') or such other scale as is approved by the Planning Director, illustrating:

6-203.B.1. Dimensions and square footage of all existing and proposed structures on the lot;

6-203.B.2. Setbacks of structures from lot lines;

6-203.B.3. Total ground coverage;

6-203.B.4. Location and use of structures on adjacent properties; and

6-203.B.5. Any other physical features necessary to evaluate the proposed variance.

6-203.C. **Narrative.** A written narrative indicating what provisions of this Title are requested to be varied, what relief from those provisions is being sought, and the grounds upon which the appeal is being made.

Section 6-204 Standard P&Z Variance Review Criteria

P&Z may only grant variances from the provisions of this Title when it determines the variance is consistent with the purposes of this Title and all of the following criteria have been met:

6-204.A. **Uses.** The variance authorizes a use permitted or a use permitted on review in the underlying zone district;

6-204.B. **Unnecessary Hardship.** The owner is likely to suffer an unnecessary hardship if the provisions of this Title were literally enforced;

6-204.C. **Hardship Not Self Imposed.** The circumstances found to constitute a hardship were not created by the owner and were not due to or the result of known general conditions in the zone district or site and cannot be reasonably corrected in the absence of a variance.

6-204.D. **Impact on Adjacent Properties.** The variance shall not have an unreasonable negative impact on adjacent properties.

Section 6-205 Secondary Unit Variance

The P&Z Chair may only grant variances to the dimensional limitations of this Title to allow the development of a secondary residential dwelling unit when it is determined that the variance is consistent with the purpose of this Title and all of the following criteria have been met:

6-205.A. **Secondary Unit as Living Space.** The variance enables the use of a new or existing

secondary structure as a dwelling unit, for which a certificate of occupancy shall be obtained within two (2) years of the granting of the variance, or the variance shall be rendered null and void.

6-205.B. **Parking.** The variance is granted in conjunction with the establishment of legal parking space.

6-205.C. **Deed Restriction.** The dwelling unit created by the granting of the variance is deed restricted pursuant to the Town's employee or affordable dwelling unit deed restriction.

6-205.D. **Limits.** Variances to the dimensional limits of this Title shall not exceed or be increased by more than two (2) feet in height, eighteen (18) inches in yard setbacks, and ten (10) percentage points above allowable site coverage limits.

6-205.E. **Objection.** Any objection submitted in writing by an abutting property owner must be addressed by the P&Z Chair within a written finding adopted within the granting of the variance.

6-205.F. **HARC Recommendation.** If a rated structure is or will be located on the property subject to the variance, a review and recommendation of the HARC Chair shall be submitted. In the case of a relocation of a rated or non-rated structure, approval of HARC of the relocation shall be obtained prior to the consideration of the variance.

6-205.G. **Density**. The dwelling unit created by the granting of the variance shall comply with all density limits authorized under this Title.

(Ord. 1106, 1998; Ord. 1005, 1994; Ord. 970, 1992; Ord. 414, 1980)

DIVISION 3 PLANNED UNIT DEVELOPMENT

Section 6-301 Purpose

Planned Unit Development (PUD) is a review process that, upon approval, results in a detailed plan that is the basis for development of a particular property. The PUD shall be consistent with the requirements of the zone district in which the parcel is located and all other applicable provisions of this Title unless a variation or variations of the dimensional limitations or maximum density have been granted pursuant to Section 6-304.A.

The purpose of the Planned Unit Development (PUD) review procedure is to encourage innovative site planning and clustered development by allowing flexibility in the application of the Town's land development standards so as to accommodate the following:

6-301.A. **Open Space.** To encourage the establishment of common open space;

6-301.B. **Economy.** To achieve economy in the provision and maintenance of public facilities and to ensure adequate short-term accommodations for visitors;

6-301.C. **Preservation.** To preserve a site's historic features, its natural and scenic resources, and open areas;

6-301.D. **Enhanced Design.** To enhance project design through the encouragement of variations from traditional subdivision development.

The following planning techniques and review flexibility is authorized for PUD developments.

6-301.E. **Clustering.** The clustering of structures by reducing minimum yard setbacks, minimum lot area, minimum lot frontage and minimum lot width, allowing more than one principal structure on a lot, and increasing maximum site coverage;

6-301.F. **Density Transfers.** Density within clusters may be permitted provided appropriate open space and buffer areas are integrated into the site plan;

6-301.G. **Mixed Uses.** Uses permitted on review in the underlying zone district may be integrated into the development;

6-301.H. **Parking and Height.** In certain zone districts and under certain circumstances, height limits and parking standards may be varied.

Section 6-302 Applicability

6-302.A. **Location.** Application for PUD plan approval may be made for land located in any zoning district.

6-302.B. **Minimum Size.** There is no minimum parcel size requirement to be eligible for a PUD. However, in determining whether a project is a large scale or small scale PUD, all contiguous lots or land parcels under identical ownership shall be considered.

6-302.C. **Zone District Map.** An approved PUD plan shall be illustrated and designated as an overlay on the Official Zone District Map. Permanent underlying zoning designations and regulations shall remain unchanged and in the event a PUD is not completed or is terminated, the underlying zone district requirements shall continue to apply.

Section 6-303 Large Scale and Small Scale PUD's

There are two types of PUD review processes. They differ in terms of the number of steps involved and the materials which must be submitted for review. The two types of PUD's are characterized as follows:

6-303.A. **Large Scale PUD.** A large scale PUD is a project which meets one or more of the following criteria:

1. A PUD which contains more than 5 dwelling units or lots; or
2. A PUD on a parcel of land in excess of 15,000 square feet; or
3. A PUD which contains more than 5,000 square feet of commercial, office or other similar non-residential floor area; or
4. A PUD which combines 3 or more dwelling units or lots and 2,500 square feet or more of commercial, office or other similar non-residential floor area.

6-303.B. **Small Scale PUD.** A small scale PUD is a project which meets one or more of the following criteria:

1. Contains 5 or fewer dwelling units or lots.
2. Is located on a parcel of land of 15,000 square feet or less.
3. Contains 5,000 square feet or less of commercial, office or other similar non-residential floor area.
4. Combines less than 3 dwelling units or lots and less than 2,500 square feet of commercial, office or other similar non-residential floor area.

A discrete development phase within a large scale PUD may be reviewed as a small scale PUD if such phase meets the criteria for a small scale PUD.

Section 6-304 Variation of Dimensional Limitations

6-304.A. **Variations Permitted.** Certain dimensional limitations or maximum density of an underlying zone district may be modified or varied via the PUD process to the extent set forth in Table 6-1. Any limitation of the underlying zone district not explicitly varied shall be applied to development approvals granted via the PUD process. Nothing in this Division shall authorize approval of a use which is not permitted by right or permitted on review (the latter of which shall require

approval pursuant to Article 6, Division 1) within the underlying zone district. Dimensional limitations shall be calculated after areas required for land dedication have been deducted from the total PUD area.

TABLE 6-1
MAXIMUM VARIATIONS TO DIMENSIONAL LIMITS ALLOWED VIA PUD

Minimum Lot Area	Minimum Lot Width & Frontage	Minimum Yards	Maximum Site Coverage	Maximum Height	Maximum Lot Area	Maximum Floor Area	Maximum Density
All zone districts: 1,500 sq.ft.	All zone districts Width: 12 ft. Frontage:0 ft.	All Zone districts: Front, Rear & Side: 0 ft.	R, HT, HR, AC-1, DH-1, MDR zone districts: 50% (see Note 1) GCOD, AC-2: 60% HC, C, R/C, HD-2: no restriction PP: 50-75%	AC-1: 30 ft AC-2: See §3-210C(12) HC&C: 40 ft. PP: 40 ft. All other zone districts: No variation allowed	HC, C: No limitation See: §3-212.C.2.b	C:Two to One (2:1) Floor Area Ratio AC-2: No limitation	R, HT, HR, HD-1, MDR zone districts: 1,500 sq.ft. per dwelling unit HD-2 zone district: per zoning standards

Note 1: For developments within these zone districts that are located within mapped floodplain areas, the maximum site coverage may be increased by up to 15%, for a total maximum site coverage of 65%ONLY if:

a. The additional site coverage that projects above pre or post construction grade meets the definition of a basement and is used exclusively for the storage of vehicles.
b. The additional site coverage that projects above pre or post construction grade will not require a variance to the setback requirements for the zone district.
c. The additional site coverage does not increase the allowable density permitted in the zone district
d. There is no reduction in the amount of parking required.
e. The development requesting the site coverage increase contains three or more dwelling units.

6-304.B. **Maximums.** The land use variations authorized under this Division are described as maximums. Maximum variations or flexibility is not guaranteed in the review or approval of and PUD submission. Specific variations may be established and approved if requested by the applicant or required by P&Z. Each application will be reviewed on its individual merits in relation to the criteria contained in this Division.

6-304.C. **Review Standards.** P&Z may authorize variations in any of the dimensional limitations identified in Section 6-304.A when, in its sole discretion, P&Z

determines that granting the variation will enable the applicant to accomplish one or more of the following public purposes, or in the case of subsection (5) below, private purposes, which would not otherwise be achieved or required by applicable land use regulations:

1. preservation of lands as public open space or protection of wetlands, in Telluride or San Miguel County;

2. preservation of the historic character, scale, architectural integrity or cultural resources of structures on a site or within the Telluride Historic Landmark District or the Historic Preservation Overlay District as determined by H.A.R.C.;

3. provision of affordable housing, public parking facilities, public recreation facilities, or other community facilities;

4. provision of land to be used for necessary public facilities;

5. provision of short-term accommodations for visitors; and/or provision of conference facilities, and facilities for performing arts and special events, for visitors and local non-profit organizations.[1]

When granting any variation, P&Z must find that the PUD meets the review standards of Section 6-313 of this Division.

6-304.D. **Map Notation.** Any variation granted by P&Z shall be specifically noted on the final PUD plat.

Section 6-305 Variation of Parking Requirements

6-305.A. **Payment-In-Lieu.** P&Z shall determine whether it is appropriate to allow a payment-in-lieu of parking prior to considering whether to grant a variation to reduce the number of required off-street parking spaces in a PUD. Payment shall only be waived, or a reduction granted, if P&Z finds the waiver or reduction will enable the applicant to accomplish the public purposes identified in Section 6-304 C. and the applicant meets the standards of Section 6-305 B.

6-305.B. **Review Standards.** The required number of off-street parking spaces in a PUD may be decreased below that required in the underlying zone district when the applicant demonstrates that the parking needs of the residents, guests and employees of the PUD have been met taking into account the following:

1. Proposed and potential uses of the PUD and the probable number of cars

[1] "Available to local non-profit organizations" means such facility shall be available free of charge a minimum of twenty (20) days per calendar year between the hours of 6:00 a.m. and 12:00 midnight, or the number of days and times as otherwise approved by the Planning and Zoning Commission pursuant to Article 6, Division 3, "Planned Unit Development", for use by local municipal, school, religious, public service organizations, and not-for-profit educational, charitable and artistic organizations.

owned or required by residents, guests and employees of the PUD;

2. Varying periods of use whenever joint use of common parking areas is proposed;

3. The property's proximity to mass transit routes and the availability of pedestrian access from the site to major activity centers in Town; and

4. Whether the project has provided adequate areas to meet the needs of service vehicles.

The location and size of required parking spaces as specified in Section 3-109 of this Title may also be varied by P&Z in order to accomplish the purposes of this Division.

6-305.C. **Assurances.** Whenever the number of off-street parking spaces is reduced because of the nature of the occupancy and/or use of the PUD, the reviewing body shall impose such conditions of approval as deemed necessary to insure that the nature of the occupancy or use will not change.

6-305.D. **Maximum Variation.** No parking variation shall be granted which reduces the required number of parking spaces by more than fifty percent (50%).

Section 6-306 Overview Of PUD Procedure

6-306.A. **Review Process Steps.** The PUD procedure involves three review steps, conceptual, preliminary and final review. Large scale PUD's shall comply with all three of the review steps while small scale PUD's need only comply with the preliminary and final review steps.

6-306.B. **Large Scale PUD's.** Large scale PUD's shall comply with the following three-step review:

1. Conceptual review by which a sketch PUD plan and plat are reviewed and approved by P&Z at a public hearing.

2. Preliminary review by which a preliminary PUD plan and plat are reviewed and approved by P&Z at a public hearing.

3. Final review by which a final PUD plan and plat are reviewed by the Town staff. If the final PUD plan and plat conform with the preliminary approval, they will be approved by the Planning Director and P&Z Chairperson. If the final plan or plat as proposed or requested, does not substantially conform with the preliminary approval, they shall be remanded to P&Z for a new review and preliminary approval at a public hearing after which they shall be subject again to final approval as provided for herein.

6-306.C. **Small Scale PUD's.** Small scale PUD's shall comply with the following two-step

review.

1. Preliminary review by which a preliminary PUD plan and plat are reviewed and approved by P&Z at a public hearing.

2. Final review by which a final PUD plan and plat are reviewed by staff. If the final PUD plan and plat conform with the preliminary approval, they will be approved by the Planning Director and P&Z Chairperson. If the final plan or plat are proposed or requested, does not substantially conform with the preliminary approval, they shall be remanded to P&Z for a new review and preliminary approval at a public hearing after which they shall be subject again to final approval as provided for herein.

6-306.D. **Consolidation.**

1. An applicant for planned unit development approval who also intends to subdivide the project shall process the PUD application concurrently with a subdivision application. The review procedures and submission requirements for preliminary and final PUD approval are intended to be consistent with those for preliminary and final subdivision approval. Whenever the two procedures or submission requirements overlap, the requirements shall not be cumulative.

2. A preliminary annexation master plan may serve as a preliminary PUD plan provided that proper application is made specifying an intention to pursue PUD and annexation review concurrently, that required public notice is provided, and that all technical mapping requirements associated with annexation as described in Division 6 of this Article 6 are met.

6-306.E. **H.A.R.C. Review.** Before preliminary approval is granted to any large scale or small scale PUD, H.A.R.C. shall review the preliminary PUD plan submission and forward a recommendation to P&Z, the P&Z Chairperson, or the Planning Director as appropriate. Such HARC review and recommendation shall be performed as a small scale activity review and approval as specified under 7-206 of this Title.

6-306.F. **Form of PUD Approval.** Approval for a PUD shall be given in a form that states the density allocated to the property as a number of units. The configuration and mix of the units may be adjusted as described herein, but no portion of the density allocation within any approved final PUD plan may be transferred to land that was not included in the plan.

The approved plan shall, at a minimum, designate:

1. Approved uses on each development parcel or use areas within the PUD site;

2. Approved densities in total numbers of units for each development parcel identified;

3. Approved density transfers from one parcel to another, if any;

4. The phasing and general timetable of development which shall ensure the logical and efficient provision of Town services;

5. Specific conditions applied to the development of any parcels which, by their nature, are subject to special development constraints; and

6. Variations in any dimensional limitation or density expressed as either an allowable maximum or a specific maximum.

Section 6-307 Procedure For Conceptual PUD Approval

An applicant seeking conceptual approval of a PUD shall follow the steps outlined below. The common review procedures for each stage are set out in Article 5 of this Title.

6-307.A. **Pre-Application Conference.** The applicant shall attend a pre-application conference prior to submission of an application.

6-307.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing those materials listed in Section 6-308 of this Division.

6-307.C. **Staff Review and Referral.** The Planning Director shall review and refer an application in conformance with Sections 5-203.A and B of this Title.

6-307.D. **Public Notice.** Public notice that P&Z will conduct a hearing to consider the application for conceptual PUD approval shall be provided as specified in Section 5-204 of this Title.

6-307.E. **Staff Report.** A staff report shall be prepared and made available as called for in Section 5-203.C of this Title.

6-307.F. **Public Action By P&Z.** P&Z shall hold a public hearing to review an application and render a decision thereon in accordance with Sections 5-206.C and D of this Title.

6-307.G. **Actions Following Approval.** Approval of the conceptual PUD shall constitute authorization for the applicant to prepare and submit a preliminary PUD in accord with the representations made by the applicant and conditions applied to the conceptual PUD approval. Conceptual PUD approval shall be effective for a maximum period of twelve (12) months unless, upon application, P&Z grants an extension of time. A conceptual PUD shall not constitute a site specific development plan for purposes of vesting a property right.

Section 6-308 Application Contents For Conceptual PUD Approval

An application for approval of a conceptual PUD shall contain the following fifteen (15) copies of the following information:

6-308.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title.

6-308.B. **Sketch Plan.** A sketch plan of the proposed PUD, at a scale of one inch equals twenty feet (1" = 20'), or such other scale as is approved by the Planning Director. The sketch plan shall illustrate the proposed conceptual development of the PUD, depicting:

1. Existing natural and man-made features on the site and the approximate location of structures off the property within ten (10) feet of the proposed PUD;

2. Conceptual configuration and dimensions of proposed land use types, roads, sidewalks and utilities;

3. Conceptual landscaping and site design features;

4. Conceptual elevations or other architectural sketches of the proposed development, depicting general building mass and height, and relation of buildings to the site's natural features and buildings on adjacent properties.

6-308.C. **Vicinity Map.** A vicinity map, indicating the location of the proposed PUD and land uses and residential densities of other properties within four hundred (400) feet; the vicinity map should be at a scale no smaller than one inch equals one hundred feet (1" = 100').

6-308.D. **Narrative.** A written statement providing an explanation of the objectives to be achieved by the PUD. The narrative shall conceptually identify any variances from requirements of the underlying zone district that are requested and describe the conceptual features that constitute the proposed site design and building development program. The narrative shall also identify:

1. The total area of the PUD;

2. The number of lots, expected lot sizes and expected uses of all lots, specifying the number of dwelling units proposed for the PUD;

3. The land area breakdown of each type of use within the PUD, including the land area for residential and non-residential uses and the land area to be dedicated to open space, roads and other public uses;

4. The square footage breakdown of each type of use proposed to be built within the PUD;

5. The number of separate PUD filings anticipated.

6-308.E. **Housing Mitigation Plan**, as required by Section 3-720D.

Section 6-309 Procedure For Preliminary PUD Approval

An applicant seeking approval of a preliminary PUD shall follow the steps outlined below. The common review procedures for each stage are set out in Article 5 of this Title.

6-309.A. **Pre-Application Conference.** The applicant may attend a pre-application conference prior to submission of an application.

6-309.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing those materials listed in Section 6-310 of this Division.

6-309.C. **Staff Review and Referral.** The Planning Director shall review and refer an application in conformance with Sections 5-203.A and B of this Title. to determine whether it is complete, complies with the requirements of the underlying zone district and whether the preliminary plan complies with the approved conceptual plan.

1. If the Planning Director finds the application is complete and complies with the requirements of the underlying zone district, the application shall be assigned an agenda date and referred to other appropriate agencies for their comment.

2. If the application is incomplete or does not comply with the requirements of the underlying zone district, it shall be returned to the applicant and shall not be assigned an agenda date, and no further action taken until its defects are remedied.

6-309.D. **Public Notice.** Public notice that P&Z will conduct a hearing to consider the application for preliminary PUD approval shall be provided as specified in Section 5-204.B.1.a of this Title.

6-309.E. **Staff Report.** A staff report shall be prepared and made available as called for in Section 5-203.C of this Title.

6-309.F. **Public Action By P&Z.** P&Z shall hold a public hearing in accordance with Sections 5-206.C and D of this Title.

6-309.G. **Actions Following Approval.** Approval of the preliminary PUD shall constitute authorization for the applicant to prepare and submit a final PUD in accord with the representations made by the applicant and conditions applied to the preliminary PUD approval. Preliminary PUD approval shall be effective for a maximum period of twelve (12) months unless, upon application, P&Z grants an extension of time. A preliminary PUD shall not constitute a site specific development plan for purposes of vesting a property right.

Section 6-310 Application Contents For Preliminary PUD Approval

An application for approval of a preliminary PUD shall contain fifteen (15) copies of the following information:

6-310.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title.

6-310.B. **Improvements Survey.** An improvements survey.

6-310.C. **Existing Conditions Map.** An existing conditions map of the site, containing a scale and north arrow, showing the following information for the site prior to demolition of any existing improvement or any alterations to natural vegetation and terrain:

1. A vicinity map at a scale of not less than one inch equals one hundred feet (1" = 100');
2. Site boundaries and dimensions, shown in relation to existing and recorded section lines;
3. Topography, with contours at no greater than five foot (5') intervals;
4. Location and type of vegetation;
5. One hundred (100) year flood plain and high water areas;
6. Existing structures and their current uses;
7. Existing roads and road easements;
8. Alignments of existing utilities and utility easements; and
9. Such other data as may be required.

6-310.D. **Site Plan.** A site plan portraying the major features of the proposed PUD prepared at a scale of not less than one inch equals twenty feet (1" = 20'), or such other scale as is approved by the Planning Director. The site plan shall contain sufficient detail to allow for preliminary evaluation of land planning, building design, and other features of the proposed PUD. The site plan shall contain a scale and north arrow and illustrate, as applicable, the following information:

1. Proposed name of the development;
2. Identity of the subdivision of which the Planned Unit Development may be a part;
3. Locations, dimensions, and square footage of all lots or parcels proposed within the project and proposed use of all lots.
4. The location and size of all existing and proposed buildings, structures, and improvements;
5. Streets, walkways, and easements and areas to be reserved for public use; and

6. Proposed open spaces with an indication as to use and ultimate ownership, if applicable.

The following conditions shall be illustrated on separate maps unless otherwise approved by the Planning Director:

7. A summary of environmental conditions addressing, at a minimum, soil types and bearing capabilities; geologic hazard areas; high groundwater tables; slope steepness and potential erosion problems; flood-prone areas; impacts on existing fish, wildlife, vegetation and wetland designations; and any other applicable environmental conditions;

8. Proposed grading plan with finished contours at no greater than five foot (5') intervals; and

9. The proposed utility distribution system showing the location and size of water supply and sewage disposal lines, storm sewers and other drainage facilities, electric, gas and telephone lines, and fire hydrants.

6-310.E. **Architectural and Landscape Drawings.**

1. Preliminary architectural drawings depicting building mass and height for all new or remodeled buildings and the relation of buildings to the site's natural features and buildings on adjacent properties.

2. A preliminary landscape plan depicting natural and proposed vegetation, identifying the spacing, sizes and a detailed listing of the sizes, quantities and types of landscaping material. In addition, the location, height, and size of proposed signs, lighting and advertising devices shall be shown.

6-310.F. **Narrative.** A written statement submitted with the preliminary plan shall contain the following information:

1. An explanation of any modifications made to the PUD subsequent to conceptual plan approval and the reasons for those changes.

2. Detailed listing of any requested variances from the requirements of the underlying zone district and the project's conformance with the PUD review criteria in Section 6-304 of this Division to obtain said variances.

3. A statement identifying the present and proposed future ownership and tenancy included in the PUD;

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

5. Copies of any special agreements, conveyances, restrictions, or covenants which will govern the design, use, maintenance, and continued protection of the architectural or landscape features of the PUD and any of its

common areas, including open space;

6. Detailed summary of all proposed uses and areas within the PUD (including right-of-ways and other lands to be dedicated to the public), including the total area of the PUD; the proposed number of units or the amount of non-residential square footage to be built; the number of proposed lots in the PUD and their expected uses and areas; and the number of separate PUD filings anticipated; and

7. Analysis of the impact of the PUD on traffic circulation and calculating increased average and peak daily traffic volumes, and evaluating the capacity of the existing street system to handle the increased traffic.

6-310.G. **Housing Mitigation Plan**, as required by Section 3-720.D.

Section 6-311 Procedure For Final PUD Approval

An applicant seeking approval of a final PUD shall follow the steps outlined below. The common review procedures for each stage are set out in Article 5 of this Title.

6-311.A. **Pre-Application Conference.** The applicant may attend a pre-application conference prior to submission of an application.

6-311.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing those materials listed in Section 6-312 of this Division.

6-311.C. **Staff Review and Referral.** The Planning Director shall review and refer an application in conformance with Sections 5-203.A and B of this Title.

6-311.D. **Approval of Final Plan.** If the final plan and proposed plat conform with the approved preliminary plan, then it shall be finally approved by the Planning Director and P&Z Chairperson. If the final plan or plat proposed or requested, does not substantially conform with the approved preliminary plan final plan or plat, they shall be remanded to P&Z for a new review and preliminary approval at a public hearing after which it shall be subject again to final approval as provided herein.

6-311.E. **Filing.** The Mayor, P&Z Chairperson, Planning Director, and Town Engineer shall sign approved final plans and plats within a reasonable time after submission of all required documents and evidence that all applicable conditions in the PUD plan and any improvements agreement have been met. Upon prepayment by the applicant of the County Clerk's recording fee the Planning Director shall record the executed final plat together with any improvements agreement in the office of the Clerk and Recorder.

6-311.F. **Notice**. Public notice announcing the approval of a final PUD plan and plat shall be published in accordance with the provisions of Section 5-208.H of this Title.

6-311.G. **Vesting**. An approved final PUD plan and or plat shall constitute a site specific development plan; as such, it is subject to the vested rights provisions of Section 5-208 of this Title.

6-311.H. **Map Notation.** Following recordation of the final plan/plat, the Planning Director shall place a notation on the Official Zone District Map that the subject parcel is a PUD.

6-311.I. **Obtain Building Permit.** An applicant may obtain a building permit for development or construction as authorized under a final PUD approval only after the final plat and any improvements agreement have been approved, publicly noticed, executed, and filed of record, and all prerequisite conditions of approval satisfied, including the payment of all fees, as specified under Section 5-209 of this Title.

Section 6-312 Application Contents For Final PUD Approval

An application for approval of a Final PUD shall contain six (6) copies of the following information:

6-312.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title;

6-312.B. **Final Development Plan.** A final PUD plan shall be submitted on permanent mylar sheets. All drawings showing proposed site development shall have a scale of not less than one inch equals twenty feet (1" = 20'), or such other scale as is approved by the Planning Director.

1. One (1) sheet shall show the entire project and its vicinity within the Town and shall contain a key to the other final drawings.

2. The applicant shall provide final versions of all maps and narrative information required by Section 6-310. The final plan shall also include the following:

   a. Accurate dimensions for and locations of all monuments, lines, angles and curves used to describe streets and other public rights-of-way sufficient to satisfy the Preliminary Plat requirements of Division 4 of this Article, Subdivision;

   b. Detailed sizes and dimensions for the utility and drainage systems, with specific locations of fire hydrants;

   c. Detailed dimensions and treatment of all common open space, including lighting; and

   d. Final architectural and landscaping plans, as may be required by P&Z as a condition of preliminary PUD plan approval.

3. For any PUD in which zone district variations or density transfers from one portion of the site to another are approved, a note shall be placed on the final plat sufficient to place purchasers of all or part of the tract on notice exactly how zoning requirements and density allowed on the property may differ from underlying zoning requirements.

6-312.C. **PUD Agreement.** For any PUD in which variances are granted or public improvements required, the applicant shall submit a PUD agreement providing guarantees for the improvements as required of subdividers in Section 6-409 of this Division. The PUD agreement shall be referred to the Town Manager for approval in the same manner as a subdivision improvement agreement pursuant to Section 6-409.D of this Title. PUD agreements may also be required for PUDs involving numerous or complex conditions of approval. PUD agreements shall run with and be a burden upon the land to which they apply.

Section 6-313 PUD Review Standards

A PUD plan and plat shall only be approved when the reviewing body finds that they comply with the purposes of this Division, the applicable design criteria of Section 6-408, and all other requirements of this Title; and that all uses will be compatible with surrounding structures in use, density, scale, mass and circulation; and that such uses are consistent with the Telluride Master Plan; and that the effects of any differences in use or scale have been mitigated through careful planning. The reviewing body shall also find that the PUD complies with following review standards.

6-313.A. **Master Plan.** The PUD is consistent with the purposes and policies of the Telluride Master Plan.

6-313.B. **Site Design.** The PUD utilizes site design techniques that enhance the quality of the development based on the following factors or requirements:

1. **Quality of open space** including, without limitation, parks, recreation areas, and playgrounds:

   a. Open space shall be accessible, functional and usable by the people being served;

   b. Private open space shall be provided for each residential unit;

   c. The project shall provide for the preservation of natural features, including, without limitation, trees and drainage areas;

   d. Open space shall provide a relief to the density both within the project and from surrounding development; and

   e. The project shall meet the dimensional limitations of the underlying zone district absent variations of such limitations as approved pursuant to the provisions of this Division.

2. **Landscaping**:

a. The project shall provide for a variety of plant and hard surface materials and the selection of materials shall provide a variety of colors and contrasts, or a blending, depending upon the situation;

b. The project shall provide a significant and adequate amount of plant material;

c. The setbacks, yards and usable open space along public roadways shall be landscaped to provide attractive streetscapes to enhance architectural features and to contribute to the development of an attractive site plan;

d. The landscaping shall be designed to facilitate the buffering of one use from another;

e. Screening of service yards and other places which tend to be unsightly shall be accomplished by the use of walls, fencing, planting, or a combination of these; and

f. The project shall provide for continual maintenance of landscaping if necessary.

g. All landscaping shall be in conformance with adopted Town landscape plans, policies and standards.

3. **Circulation,** including the transportation system that serves the property whether public or private and whether constructed by the developer or not:

a. High speeds shall be discouraged or a physical separation between streets and the project shall be provided;

b. Pedestrian-vehicular conflicts shall be minimized;

c. Safe and convenient connections within the project and between the project and existing and proposed transportation systems shall be provided, including, without limitation, streets, bikeways, and pedestrian ways;

d. The amount of land devoted to the street system shall be minimized where possible and appropriate;

e. The project shall be designed for the types and volumes of traffic expected, including, without limitation, automobiles, bicycles, and pedestrians, and shall provide safety, separation from living areas, and control of noise and exhaust;

f. Town street construction standards shall be met where necessary or appropriate and emergency vehicle access shall be facilitated; and

g. On-site facilities shall be provided to link other modes of transportation with the development where applicable.

4. **Parking:**

a. The project shall incorporate parking design measures to provide safety, convenience, and separation of pedestrian movements from vehicular movements;

b. Parking needs shall be met using the minimum amount of land necessary;

c. The design and treatment of parking areas and lighting shall be directed at minimizing their visual impact on the project, adjacent properties, and adjacent streets;

d. Parking shall be covered or screened to the maximum extent possible; and

e. The project shall meet the parking requirements of the underlying zone district unless modified pursuant to this Division.

5. **Liveability**:

a. For residential projects, noise shall be minimized between units and within and between buildings and from external sources, both on or off-site;

b. For residential projects, visual separation shall be provided between units for both indoor and outdoor living spaces;

c. For all projects, access to sunlight shall be reasonably assured to the maximum extent feasible and shadows shall be minimized on windows, roofs, parks, recreation areas, playgrounds, open space (both public and private), and sidewalks;

d. Individual security and safety shall be provided for each building and unit as well as common areas, including, but not limited to, parks, recreation area, playgrounds, open space, and parking;

e. A lighting plan shall be provided which addresses aesthetics, conservation, safety and security;

f. View corridors toward the mountains or the town shall be

protected to the extent feasible throughout the project and internal views shall be provided where applicable; and

g. Cut and fill shall be minimized on the site and the design of structures shall conform to the natural contours of the land.

6. **Building height:**

a. The geographical position of the building and possible visual effects on existing structures on or off-site shall be considered;

b. Potential problems on neighboring sites caused by shadows, loss of solar access, loss of air circulation, closing of views, or ridgeline intrusion shall be avoided;

c. The influence on the general vicinity shall be considered, including the impact of the proposed height on existing structures, streets, traffic congestion and circulation, and adjacent open space;

d. Appropriateness of the uses within the building in the neighborhood shall be considered;

e. The following techniques to mitigate the impact of the proposed height shall be evaluated to determine their appropriateness on the PUD site:

(1) Landscaping and buffered areas or other physical separations that are proposed to buffer the site from adjacent uses;

(2) Any proposed increase in the size of the side yard areas between buildings and adjacent streets and alleys and their relationship to pedestrian traffic and open space;

(3) The provision of street level open space within the project in excess of minimum requirements; and

(4) Reduction of the height of other buildings or portions of a building to a point that is lower than allowed in the underlying zone district maximum.

f. No increase in building height shall be permitted when the effect of the height increase is to increase the allowable square footage or building volume (above grade) over the maximum which is, or would be, permitted under restrictions for the underlying zone district in which the site is located.

When determining the maximum permitted building square

footage and/or volume under the underlying zone regulations, the Planning Department shall evaluate the unit configuration proposed (i.e., the mix of hotel rooms, apartments, and commercial space) and the reasonable circulation space needed to serve that configuration, exiting requirements, light and air requirements and other requirements of the Uniform Building Code which would affect the location and placement of building volume, and not merely calculate volume based on the zone's setback and yard requirements.

7. **Building design and relationship to surrounding area:**

a. The building design and type shall provide a variety and quality that adds to the visual attractiveness of Telluride;

b. The building height, mass, scale, orientation, and configuration shall be compatible with architectural character of Town, and the Telluride Historic Landmark District. Larger scale projects are encouraged to use several structures rather than one large structure as a means to meet this standard.

c. The orientation of the building(s) shall be such as to minimize shadows or blocking of views from adjacent properties;

d. Where the character of the area, or the historic context is identifiable, the project shall be compatible with such conditions by the appropriate use of color, materials, vegetation, signs, and lighting; and

e. Building design shall be considered in terms of orientation, spacing, materials (color and texture), storage, signs, and lighting for compliance with the architectural criteria contained in *Design Guidelines for Building in Telluride*.

Section 6-314 Minor Modifications And Amendments To a PUD

6-314.A. **Minor Modifications.** Modifications to an approved final PUD may be approved by the Planning Director if such modifications are minor or are required by technical or engineering considerations which could not reasonably have been discovered prior to final approval. In determining whether a proposed change is a minor modification, the following guidelines shall apply:

1. Building or street locations may not be modified by more than two feet (2') in any direction;

2. Ground coverage for all proposed structures may not be increased by more than three percent (3%) and approved open space may not be reduced by more than three percent (3%);

3. Floor area for all proposed structures may not be increased by more than two percent (2%) and the number of dwelling units or bedrooms may not be increased by more than one percent (1%); and

4. There shall be no:

   a. alteration of the basic intent, character, uses, and restrictions of the approved final PUD;

   b. reduction of required parking; or

   c. additional variations from the project's approved dimensional limitations.

The Planning Director's evaluation shall include a comparison of the proposed modification to the original approval and, if any other modifications have been approved since the original approval, the cumulative impact of all previous modifications granted.

6-314.B. **Amendments.** Any proposed change to a PUD not falling within the guidelines for a minor modification shall be considered an amendment and shall be reviewed pursuant to the terms and procedures for approval of a preliminary and final PUD Plan.

1. An amendment shall only be approved if the P&Z determines the proposed change is consistent with or enhances the PUD and meets all other standards of this Division.

2. When evaluating the amendment, the P&Z shall take into consideration its compatibility with current community conditions and current requirements of this Title and not necessarily those in effect at the time the original PUD plan was approved.

3. Upon approval of PUD amendment, the original PUD plat, plan and or agreement shall be amended and recorded so as to be consistent with the amendment. Notice of such amendment shall also be published in a newspaper of general circulation within the Town if an extension of the vesting for the PUD site specific development plan has been granted as part of the PUD amendment.

4. If a PUD amendment seeks the conversion of a hotel into a condominium, and the developer gained certain benefits or obtained certain dimensional variations and/or public benefits for the creation of a hotel, lodge or bed and breakfast then such benefits granted to the developer that will potentially be lost shall be offset by the provision of alternative and potentially additional public benefits.

5. Whenever the PUD for a hotel is amended to allow changes to the structure, or use, the reviewing body shall impose such conditions of

approval as deemed necessary to insure that the nature of the occupancy or use will not change.

6. In addition to the foregoing requirements, submittal requirements for Hotel-condominium Conversions shall include any documents necessary as determined by the Planning Director to ensure the requirements of Section 6-412.G and Section 6-412.H. are be met, including but not limited to, condominium declarations, deed-restrictions, operating and development agreements.

(Ord. 1350, 2011; Ord. 1317, 2009; Ord. 1248, 2006; Ord. 1223, 2004; Ord. 1195, 2003; Ord. 1145, 2001; Ord. 1092, 1997; Ord. 1059, 1996; Ord. 1033, 1995; Ord. 1007, 1994; Ord. 1005, 1994; Ord. 986, 1993; Ord. 975, 1993; Ord. 970, 1992; Ord. 932, 1991; Ord. 817, 1988; Ord. 766, 1987)

DIVISION 4 SUBDIVISION

Section 6-401 Purpose

This Division establishes regulations and standards governing the subdivision of land, re-subdivision of any existing platted lots, and the replat and vacation of recorded plats, and sets forth the procedures to be followed in applying and administering these regulations and standards. Subdivision may also, consistent with the purposes of this Title, mean the consolidation and aggregation of lots into larger parcels for the purposes of development. This Division is designed and enacted to achieve the following purposes:

6-401.A. **Arrangement of Streets.** Encouraging the proper arrangement of streets in relation to existing or planned streets and the Telluride Master Plan;

6-401.B. **Open Space.** Providing for adequate and convenient open spaces;

6-401.C. **Unsuitable Lands.** Providing for drainage facilities and the restriction of development on land subject to flood, poor soils, and poorly suited for building because of danger from landslides, avalanches, mudflows or other geological hazards;

6-401.D. **Development Pattern.** Encouraging a safe and convenient pattern of land development which respects the Town's historic development pattern and which is consistent with the *Design Guidelines for Building in Telluride* and the Telluride Master Plan;

6-401.E. **Water Supply.** Providing for public water supplies as needed to furnish citizens safe potable water;

6-401.F. **Coordination.** Encouraging coordination of interjurisdictional public improvements, plans and programs; and

6-401.G. **Other.** Regulating such other matters as the Planning and Zoning Commission and the Town Council may deem necessary in order to best protect the interests of the public.

Section 6-402 Large Scale, Small Scale And Minor Subdivisions

There are three types of subdivision review processes. They differ in terms of the number of steps involved in the review process and the materials which must be submitted for review. All subdivision activities, including time sharing and condominiums, fall within one of these subdivision types. All contiguous lots or land parcel areas under the single ownership of the subdivider at the time of submission shall be included in any subdivision application.

6-402.A. **Large Scale Subdivision.** A large scale subdivision consists of the subdivision of a parcel of land in excess of fifteen thousand (15,000) square feet.

6-402.B. **Small Scale Subdivision.** A small scale subdivision consists of the subdivision of a parcel of land in excess of seven thousand five hundred (7,500) square feet,

but not more than fifteen thousand (15,000) square feet.

6-402.C. **Minor Subdivision.** A minor subdivision is any one of the following activities:

6-402.C.1. Subdivision of a parcel of land of seven thousand five hundred (7,500) square feet or less.

6-402.C.2. Minor relocation or adjustment of a lot line, property line or easement.

6-402.C.3. Correction of an engineering or survey error or other minor change to a recorded plat which has no effect on the conditions applied to the approval of the plat.

6-402.C.4. Conversion of an existing project to a condominium regardless of the number of units or the size of the parcel being condominiumized.

Section 6-403 Overview Of Subdivision Procedure

6-403.A. **Large Scale and Small Scale Subdivisions.** Large scale and small scale subdivisions shall be subject to the following two step review:

6-403.A.1. Preliminary review through which a preliminary plat is reviewed and approved by P&Z at a public hearing. Before preliminary approval is granted to any large scale or small scale subdivision, the Historic and Architectural Review Commission shall review the preliminary plat submission and forward a recommendation to P&Z, the P&Z Chairperson, or the Planning Director as appropriate. H.A.R.C. shall review and provide such recommendations pursuant to H.A.R.C.'s small scale activity review procedure as specified at Section 7-206 of this Title.

6-403.A.2. Final review through which all subdivision land dedications, if any, shall be reviewed and approved by Town Council. The proposed final plat shall be reviewed by the Town staff and upon a finding that it conforms with the preliminary approval as granted by P&Z, such plat shall be approved by the Planning Director and P&Z Chairperson. If the final plat as proposed or requested does not substantially conform with the preliminary approval it shall be remanded to P&Z for a new review and preliminary approval at a public hearing after which it shall be subject again to final review as provided for herein.

6-403.B. **Minor Subdivisions.** Minor subdivision and final plats shall be reviewed under a one-step process by the Planning Director, except for the division into lots of parcels of land of seven thousand five hundred (7,500) square feet or less, or the aggregation of lots into a parcel of land of seven thousand five hundred (7,500) square feet or less, in which event such subdivision will be approved by the P&Z Chairperson after notice and public hearing. The H.A.R.C. Chairperson shall provide recommendations regarding such minor subdivisions.

6-403.C.

Section 6-404 Procedure For Preliminary Subdivision Approval

An applicant seeking preliminary approval for a large or small scale subdivision shall follow the steps outlined below. The common review procedures for each stage are set out in Article 5 of this Title.

6-404.A. **Pre-Application Conference.** The applicant shall attend a pre-application conference prior to submission of an application.

6-404.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing those materials listed in Section 6-405 of this Division.

6-404.C. **Staff Review and Referral.** The Planning Director shall review the application to determine whether it is complete and complies with the requirements of the underlying zone district.

6-404.C.1. If the Planning Director finds the application is complete and complies with the requirements of the underlying zone district, the application shall be assigned an agenda date and shall be referred to the following agencies for their comment. Small scale subdivision need only be referred to the following agencies as deemed necessary by the Planning Director:

a. Telluride School District R-1;

b. Telluride Fire Protection District;

c. Town law enforcement agencies; and

d. All affected utility companies.

The Planning Director may, as applicable, also distribute the application to the following agencies for comment:

a. San Miguel County Planning and Zoning Commission;

b. Region 10 Council of Governments;

c. Colorado Geologic Survey;

d. Soils conservation district;

e. U.S. Forest Service;

f. Colorado State Forest Service; and

g. Telluride Housing Authority.

6-404.C.2. If the application is incomplete or does not comply with the requirements of the underlying zone district, it shall be returned to the applicant and shall not be assigned an agenda date, and no further action taken until its

defects are remedied.

6-404.D. **Engineering Review.** The application shall be reviewed by the Town Engineer who shall provide a report to the Planning Director determining whether the preliminary plan conforms with the Town development standards, and make recommendations for compliance and reporting on any other areas of engineering interest. The Town Engineer, at his discretion and as deemed necessary, may solicit additional engineering services to be performed by another engineer(s). At anytime the Town Engineer is called upon or required to conduct a review under this Section, the cost for such review shall be paid by the applicant in accordance with Chapter 15.40, T.M.C.

6-404.E. **Staff Report.** A staff report shall be prepared and made available as called for in Section 5-203.C of this Title.

6-404.F. **Public Notice.** Public notice that P&Z will conduct a hearing to consider an application for preliminary subdivision approval shall be provided as specified in Section 5-204 of this Title.

6-404.G. **Public Action By P&Z.** P&Z shall hold a public hearing to review an application and render a decision thereon in accordance with Sections 5-206.C and D of this Title.

6-404.H. **Actions Following Approval.** Approval of the preliminary plat shall constitute authorization for the applicant to prepare and submit a proposed final plat in accord with the representations made by the applicant and conditions applied to the proposed subdivision. Preliminary plat approval shall be effective for a maximum period of twelve (12) months unless, upon application, P&Z grants an extension of time. A preliminary plat approval shall not constitute a site specific development plan for purposes of vesting a property right.

Section 6-405 Application Contents For Preliminary Subdivision Approval

An application for preliminary approval of a large or small scale subdivision shall contain fifteen (15) copies of the following information:

6-405.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202.C of this Title.

6-405.B. **Small Scale Subdivision.** Application contents for preliminary review shall be those as set forth in Section 6-407 for final approval.

6-405.C. **Large Scale Subdivision.**

6-405.C.1. **Preliminary Plan.** A sufficient number of copies of the preliminary plan shall be submitted at a scale of one inch equals one hundred feet (1" = 100'). The plan shall depict the preliminary design of the subdivision, show the overall areas to be developed, and delineate separate land uses and road design so that the subdivision may be reviewed and checked against the specific design standards and improvement requirements set

forth in this Division.

The preliminary plan shall be signed by a registered land surveyor, contain the date of preparation, written and graphic scale and north arrow, and the following information:

a. Proposed name of subdivision;

b. Designation of various land uses anticipated;

c. Street and/or right-of-way layouts indicating general dimensions;

d. Contour intervals at not more than two feet (2') if the slope is less than ten percent (10%) or, if the slope is ten percent (10%) or more, contour intervals shall not be at more than ten (10) feet;

e. The location and dimensions of all proposed public improvements, public easements, lot lines, parks, and other areas to be dedicated or re-dedicated for public use, a dedication thereof to the public use, and identification of areas reserved for future public acquisition;

f. Zoning on and adjacent to the proposed subdivision;

g. The approximate location of structures off the property within ten (10) feet of the proposed plat boundary; and

h. A designation of areas subject to the one hundred (100) year flood and the estimated flow rate used in determining that designation.

6-405.C.2. **Improvements Survey.** An improvements survey, signed and sealed by a registered land surveyor, shall be submitted at the same scale as the preliminary plat depicting existing and recorded section lines, streets, easements, utilities, watercourses, improvements and any other major feature in and adjacent to the tract.

6-405.C.3. **Vicinity Map.** A vicinity map shall be submitted indicating the location of the proposed subdivision and land uses and residential densities of other properties within four hundred feet: The map should be at a scale no less than one inch equals one hundred feet (1" = 100').

6-405.C.4. **Narrative.** A written statement shall be submitted containing the following information:

a. Total area of the subdivision;

b. The number of lots, expected lot sizes, expected uses of all lots, and specifying the number of dwelling units proposed for the subdivision;

c. The land area breakdown of each type of use within the

subdivision, including the land area for residential and non-residential uses, and the land area to be dedicated to open space, roads, easements and other public uses;

d. The square footage breakdown of each type of use proposed to be built within the subdivision; and

e. The number of separate filings anticipated.

6-405.C.5. **Slope Study.** Data submitted with the preliminary plat shall include a slope study overprinted on the preliminary plat indicating the following slope categories (if no slopes within the subdivision area exceed seven percent (7%), a notation in the written submittal so stating shall suffice).

a. Zero through seven percent (0% - 7%);

b. Eight through fifteen percent (8% - 15%);

c. Sixteen through thirty percent (16% - 30%);

d. Thirty one through forty percent (31% - 40%); and

e. Over forty percent (> 40%).

6-405.C.6. **Streets and Utilities Plan.** A master streets and utility plan shall be submitted meeting the guidelines and requirements of the Town Engineer showing proposed plans for private and public utility systems including water, sewer, drainage, streets, electric, gas, telephone, telecommunications, and any other applicable services.

The utility location plan shall include statements of approval signed by a representative of the Town or other provider for water and sanitation and representatives for the electric, gas telecommunications, and telephone companies, as appropriate.

The statements shall be worded substantially as follows:

I hereby certify that:

1. I have been authorized by my company or district to review and approve the attached utility location plan for:

   Applicant Date

2. I have reviewed said utility location plan.
3. The facilities and improvements shown on the utility plan are acceptable to and serviceable by my company or district.
4. Adequate service capability exists for development utilizing this utility location plan, which is quantified as follows:

Signature:_____Title:_____

Company/District:_____

Date:_____

6-405.C.7. **Environmental Maps.** The Planning Director may, based on the site's natural features and the nature and extent of the proposed development, also require any of the following environmental conditions maps to be submitted with the preliminary plat:

a. A soils map of the subdivision overprinted on the preliminary plan accompanied by a written plan, prepared by a registered soils engineer, to overcome any soils problems or hazards along with below-grade soils horizons obtained by soil cores drilled often enough to give indication of all below-grade characteristics.

b. A geologic map overprinted on the preliminary plan, accompanied by a detailed geologic report indicating geologic characteristics affecting land use and determining the impacts of the subdivision on such geologic characteristics. The map and report shall be prepared by a licensed professional engineer or qualified geologist.

c. A map showing vegetation by type and identifying major rock formations overprinted on the preliminary plan.

d. A drainage study prepared by a professional engineer indicating one hundred (100) year and twenty five (25) year flood volumes and an appropriate street drainage plan overprinted on the preliminary plan.

e. A landscaping plan overprinted on the preliminary plan, showing utility lines and structures, accompanied by a written statement setting forth the types of vegetation and other landscaping improvements, including steps which will be taken to revegetate all exposed land surfaces and the estimated cost to accomplish the plan.

6-405.C.8. **Covenants And Restrictions.** The preliminary plan submittal shall include a preliminary draft of any protective covenant or deed restrictions proposed for the subdivision.

6-405.D. **Other.** Additional information may be required by P&Z in order to adequately review the preliminary plan.

Section 6-406 Procedure For Final Subdivision Approval

An applicant seeking final approval of a large scale, small scale or minor subdivision shall follow the steps outlined below. The common review procedures for each step are set out in Article 5 of this Title.

6-406.A. **Pre-Application Conference.** The applicant may attend a pre-application conference prior to submission of an application.

6-406.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing those materials listed in Section 6-407 of this

Division.

6-406.C. **Review By Town Council.** Land dedications and or payments in-lieu associated with large and small scale subdivisions, if any, must be reviewed and approved by Town Council. If any subdivision involves the vacation of an existing and or platted public right-of-way, Town Council shall review and approve such matter only at a public hearing. Town Council may accept, accept with conditions or reject any proposed land dedication.

6-406.D. **Approval of Final Plat.**

6-406.D.1. **Large and Small Scale Subdivisions.** Proposed final plats shall be reviewed by the Town staff after land dedications and/or payments in-lieu have been determined by Town Council as provided for in Section 6-406.C above, and if it is determined that the proposed final plat reflects and conforms to the preliminary plat as amended and approved by the P&Z, then it shall be finally approved by the Planning Director and P&Z Chairperson. If the proposed final plat as proposed or requested, does not substantially conform with the preliminary approval it shall be remanded to the P&Z for a new review and preliminary approval at a public hearing after which it shall be subject again to final approval as provided for herein.

6-406.D.2. **Minor Subdivisions**. Proposed final plats shall be reviewed by the Planning Director for conformity with all applicable requirements of the Land Use Code. For minor subdivision involving the division into lots of a parcel of land of seven thousand five hundred (7,500) square feet or less, or the aggregation of lots into a parcel of land of seven thousand five hundred (7,500) square feet or less, the P&Z Chairperson shall review and approve such subdivision only after notice and public hearing as prescribed at Sections 5-204 and 5-206.C and D of this Title. The H.A.R.C. Chairperson shall provide recommendations on such minor subdivisions. Upon a finding of conformity, the Planning Director and P&Z Chairperson shall approve the final plat. If a proposed final plat does not conform to all applicable provisions of the Land Use Code, then the submission shall be treated as a small scale subdivision in accordance with Section 6-403.A above.

6-406.E. **Filing.** The Mayor, P&Z Chairperson, Planning Director, and Town Engineer shall sign all approved final plats within a reasonable time after submission of all required documents and evidence that all applicable conditions in the subdivision approval have been met. Upon pre-payment by the applicant of the County Clerk's recording fee, the Planning Director shall record the executed final plat together with any required subdivision improvements agreement in the office of the County Clerk and Recorder. There shall be no sales, agreements to sell, leases or rentals of parcels of an approved subdivision until the final plat has been duly recorded.

6-406.F. **Notice.** Public notice announcing the approval of a final subdivison and/or subdivision plat that was subjected to a public hearing at either the preliminary or final approval stage shall be published in accordance with the provisions of Section 5-208.H of this Title.

6-406.G. **Vesting**. An approved final subdivision plan and/or plat that was subject to public hearing at either the preliminary or final approval stage shall constitute a site specific development plan.

6-406.H. **Obtain Building Permit.** A subdivider may apply for and receive a building permit for development or construction as authorized under a final subdivision approval only after the final plat and any improvements agreement have been approved, publicly noticed, executed, and filed of record, and all prerequisite conditions of approval satisfied, including the payment of all fees, as specified under Section 5-209 of this Title.

Section 6-407 Application Contents For Final Subdivision Approval

The application for final approval of a subdivision shall contain six (6) copies of the following information:

6-407.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title.

6-407.B. **Final Plat.** One original drawn with India ink on plastic or mylar, one reproducible copy, and two prints of the final plat shall be submitted.

Sheet size shall be twenty-four inches by thirty-six inches (24" X 36") with a one-half inch (1/2") border on the top, bottom and right-hand side, and a one-and-one-half inch (1 1/2") border on the left-hand side. (As many sheets as necessary may be submitted for a single plat or filing. If more than one sheet is used, the first sheet shall contain a sheet index map showing the relationship of the various sheets).

The final plat shall provide a permanent and accurate record of the exact size, shape, location and authorized use of the lots, blocks, streets, easements, improvements, monuments, common areas and other parcels of land within the subdivision and ensure that public improvements are located, constructed, and dedicated in an acceptable manner.

The final plat shall contain a north arrow and the following information:

1. Exact name of the subdivision (including the filing number, when applicable);

2. Written and graphic scale drawn at one inch equals twenty feet (1" = 20') or such other scale as is determined by the Planning Director;

3. The exact dimensions of easements;

4. Location of the subdivision by reference to permanent survey monuments, with a tie to a section corner or a one-quarter (1/4) section corner;

5. Bearings and dimensions to the nearest hundredth of a foot (1/100') of lot lines and street centerlines;

6. All lots and blocks shall be numbered in consecutive order for ease of identification;

7. Area of each lot or parcel in acres or unit in square feet;

8. Proposed ownership and use of out lots;

9. All streets shall be named;

10. The names of abutting subdivisions, or in the case of abutting unplatted property, the notation "Unplatted" shall appear;

11. All section, range and township lines shall be shown and must close within the limits of one in ten thousand (1/10,000); all boundary lot lines must close within the limits of one in ten thousand (1/10,000);

12. All curve data shall be shown in chart form on the face of the plat;

13. Radii, angles, points of curvature and length of all arcs;

14. Information and measurements complying with all monumentation, plat or survey requirements of Articles 50 and 51 of Title 38, C.R.S.; and

15. Any other information required by P&Z during its subdivision review.

6-407.C. **Approvals And Certificates.** The following statements shall be required on the final plat if applicable and shall be worded substantially as follows:

1. The heading of the final plat shall include the complete name of the subdivision, the land section, township, range, principal meridian, "Town of Telluride, San Miguel County, Colorado." Also, where applicable, the United States mineral claim name, number and mining district shall be shown.

2. a. Dedication: Know all persons by these presents: That (printed name of owner(s)), being the owner(s) of the land described as follows: (insert legal description of land being subdivided and include area in acres to two decimal places) in the Town of Telluride, San Miguel County, Colorado, under the name of (complete name of subdivision in capital letters), has laid out, platted and subdivided same as shown on the plat, and by these presents do(es) hereby dedicate to the perpetual use of the Town of Telluride, San Miguel County, Colorado, the streets, alleys, roads and other public areas as shown hereon and hereby dedicate those portions of land labeled as utility easements for the installation and maintenance of public utilities as shown hereon.

In witness hereof the said (printed name of owner(s)) has caused (his, her, their, its) name to be here unto subscribed this_____day of _____A.D. 20_____.

BY: _____
Owner(s)

b. Notarial:

State of _____
County of _____

The foregoing instrument was acknowledged before me this _____day of_____A.D. 20_____, by (printed name of owner(s). (If by natural persons here insert name; if by persons acting in a representative official capacity, or as attorney-in-fact then insert the name and said capacity of said person and reference document establishing such capacity; if by officer of a corporation, then insert the name of said officer as the president or vice president of such corporation, naming it; if by a general partner of a partnership, then insert the name of said person as a general partner).

My commission expires on:
Witness my hand and official seal.
(Signature)_____(Seal)
(Printed name of Notary)
Notary Public

c. Mortgagee's Consent (if applicable): The undersigned (insert name), as a beneficiary of a deed of trust (or identify other mortgage instrument or agreement creating security interest) which constitutes a lien upon the declarant's property, recorded at Book _____, Page _____, San Miguel County Clerk and Recorder, hereby consents to the dedication of land to streets, alleys, roads and other public areas, as designated on this Plat, and hereby forever releases said lands from the lien created by said instrument.
(print name of beneficiary)

_____
(signature) Date:_____
_____ Address:_____
(print title)
_____

d. Notarial:

State of Colorado
County of _____
The foregoing mortgagee's consent was acknowledged before me this _____day of_____A.D. 20_____, by (printed name of

mortgagee (s). (If by natural persons here insert name; if by persons acting in a representative official capacity, or as attorney-in-fact then insert the name and said capacity of said person and reference document establishing such capacity; if by officer of a corporation, then insert the name of said officer as the president or vice president of such corporation, naming it; if by a general partner of a partnership, then insert the name of said person as a general partner).

My commission expires on:

Witness my hand and official seal.

(Signature)_____(Seal)

(Printed name of Notary)

Notary Public

3. Attorney's Opinion: I, (printed name of attorney), being an Attorney-at-Law duly licensed to practice before the Courts of record in the State of Colorado, and representing the Owner(s), do hereby certify that I have examined the title to all lands herein dedicated and shown upon this plat and that title to such lands is in the dedicator free and clear of all liens, taxes, and encumbrances, except as follows:

(List same or indicate NONE)

and I further certify that this Plat complies with and conforms to all applicable subdivision laws and requirements of the Town of Telluride and the State of Colorado.

Dated this _____ day of _____, A.D. 20__.

(Signature)_____

Attorney-at-Law, Colorado Reg. No._____

NOTE: This certification may be provided by a Colorado licensed title company.

4. Land Surveyor's Certificate: I, (printed name of Land Surveyor) being a Registered Land Surveyor in the State of Colorado, do hereby certify that this plat and survey of (name of subdivision in capital letters) was made by me and under my supervision and that both are accurate to the best of my knowledge. I further certify that all monuments and markers were set as required by the Town of Telluride Land Use Code and Articles 50 and 51 of Title 38, C.R.S.

Dated this _____ day of _____, A.D., 20__.

(Signature)_____(Seal)

Colorado Registration Number_____

5. Planning and Zoning Commission Approval (if required):

The Planning and Zoning Commission of Telluride, Colorado did hereby authorize and approve this plat of the above subdivision at a meeting of P&Z held on the _____ day of _____, A.D., 20____.

(Signature)_____

(Printed name of Chairperson)
Chairperson

6. Approval by the Town: The within plat of (name of subdivision) is authorized and approved for filing this _____ day of _____, 19___. The dedication of land and public ways shown hereon are accepted by the Town Council of the Town of Telluride, State of Colorado, subject to the condition that the Town shall undertake the maintenance of said public ways only after construction of said public ways has been satisfactorily completed to the Town's specifications by subdivider and a Resolution of the Telluride Town Council, Colorado accepting the same has been adopted and placed on record.

Town of Telluride

By:_____ ATTEST:_____

Mayor Clerk

Approved:

_____ _____

Planning Director Town Engineer

7. County Treasurer's Certificate: I certify that according to the records in the San Miguel County Treasurer's office, there are no liens against the property included in the subdivision, or any part thereof, for unpaid State, county or municipal ad valorem taxes or special assessments certified to the County Treasurer for collection.

_____ _____

County Treasurer Date

8. San Miguel County Clerk's acceptance (to be placed in the lower right-hand corner of the cover sheet): This plat was accepted for filing in the office of the Clerk and Recorder of San Miguel County, Colorado on this _____ day of _____, A.D. 19____. Book Number____, Page Number_____, Reception Number _____, Time _____.

_____ _____

County Clerk and Recorder Date

9. Recordation of protective covenants (if applicable):

Protective Covenants recorded in: Book Number ____, Page Numbers _____.

10. The approval of this plat is subject to all terms, conditions, obligations and restrictions set forth in the (insert title of subdivision improvements agreement) recorded in the Office of the San Miguel County Clerk and Recorder at Book Number_____, Page Numbers_____.

6-407.D. **Supplemental Information Embodied.** The final plat submittal shall include a certified statement by the applicant stating that all additional information as may have been requested as a condition of preliminary plat approval is embodied in the

final plat.

6-407.E. **Covenants And Restrictions.** Three (3) copies of all the protective covenants or restrictions placed on the subdivision shall be included with the final plat submittal, one (1) copy of which shall be filed with the plat.

6-407.F. **Conveyances To Town.** The final plat submittal shall include where applicable a warranty deed conveying to the Town all lands to be dedicated to the Town other than streets, alleys, and rights-of-way as shown on the plat.

6-407.G. **Improvements Agreement.** The final plat submittal shall include where applicable a subdivision improvements agreement as specified in Section 6-409 and a proposal to meet the land dedication requirements of Section 6-410.

6-407.H. **Improvements Data.** The final plat submittal shall include where applicable engineering plans, descriptions, and cost estimates for all public improvements required by the subdivision improvements agreement as specified in Section 6-409.

6-407.I. **Improvements Security.** The final plat submittal shall include financial security for any public improvements as required in Section 6-409.

Section 6-408 Subdivision Design Criteria

All subdivisions shall comply with the design criteria set forth in this Section and all other applicable requirements of this Title. Only P&Z may vary the planning design requirements (but not the floodplain, geohazard or utility construction specifications) of this Section, or the dimensional limitations or parking requirements applicable to the subdivision, and only by granting the project a PUD variation pursuant to Division 3 of this Article 6. All subdivisions shall also meet the standards contained in the Town's Streetscape Design Standards and construction specifications. For each new subdivision the subdivider shall agree, pursuant to Sections 6-409 and 3-302, as to the type, location and extent of necessary public improvements. Improvements shall be made at the subdivider's expense and according to agreed specifications.

6-408.A. **Steep Slopes.** Special consideration and study shall be given to development on lands with slopes greater than thirty percent (30%) as defined and controlled by Article 8, Division 5 of this Title. In general, land with a slope of greater than thirty percent (30%), unstable land, and land with inadequate drainage shall not be platted unless a part of each lot sufficient to accommodate a building unit is deemed buildable by a qualified engineer, subject to the requirements of said Division. Particular attention must be paid to geologic and soil conditions, road grades, cut-and-fill slopes and revegetation. Special precautions, such as cribbing and retaining walls, may be required where needed.

6-408.B. **Site Requirements.** Subdivisions shall comply with the following conditions:

6-408.B.1. Building lots must meet the minimum size, setback and frontage requirements and all other applicable dimensional limitations of the underlying zone district and all applicable architectural review criteria.

6-408.B.2. Building lots, where appropriate, shall be laid out respecting existing Town patterns.

6-408.B.3. Building lots shall be built with adequate space for off-street parking and shall have safe access to public streets. Driveways shall not exceed a ten percent (10%) grade. The preferred intersection angle is ninety (90) degrees; minimum intersection angle is forty-five (45) degrees.

6-408.B.4. Each lot shall have access to a public street.

6-408.B.5. Each lot shall have at least twenty-five feet (25') of frontage on a public street.

6-408.B.6. Lots with double frontage shall be avoided, except where necessary to provide separation from incompatible land uses or because of the slope of the lot.

6-408.B.7. Residential lots shall be shaped so as to accommodate a dwelling unit within the setbacks provided by the zoning district.

6-408.B.8. Lots with unusual configurations will be discouraged, unless unusual planning considerations suggest otherwise.

6-408.B.9. Sites shall be graded for surface drainage and drainage easements shall be dedicated in areas of natural drainage, prohibiting structures thereon.

6-408.B.10. Adequate space for snow storage shall be provided. For planning purposes, one (1) square foot of snow storage space is generally necessary for each two (2) square feet of area to be cleared. The ratio may be somewhat greater or lesser depending on individual circumstances. On-site snow storage space shall be encouraged, but removal of snow may be allowed if planning considerations so dictate.

6-408.B.11. Multifamily developments shall provide adequate garbage collection facilities and access, suitable service access, and other such facilities deemed desirable.

6-408.B.12. Excavations and fills shall be designed in a manner compatible with adjacent properties.

6-408.C. **Streets.**

6-408.C.1. Streets and alleys, where appropriate, shall be laid out with respect to existing town bearings, N17^0 54' E and N72^0 06' W.

6-408.C.2. Streets, public or private, shall be constructed by the subdivider to conform to the development standards of the Town.

6-408.C.3. Streets shall be designed to avoid undue traffic congestion.

6-408.C.4. Streets shall be coordinated with the Town's overall transportation systems

and transportation systems on adjacent land.

6-408.C.5. Developers shall construct and dedicate to the Town bicycle and pedestrians paths in conformity with the Town's plan for such routes.

6-408.C.6. Block lengths, where appropriate, shall be two hundred fifty feet (250'), and shall conform to existing town patterns unless unusual planning considerations suggest otherwise.

6-408.C.7. Vehicular or pedestrian access across railroad tracks and rivers, planned or existing, shall be carefully limited.

6-408.D. **Floodplain Areas.** Development in the one-hundred (100) year floodplain shall be limited by governing authorities. Federal requirements shall be controlled through FEMA regulations. Local control shall be administered by P&Z pursuant to Article 8, Division 6 of this Title.

6-408.D.1. All subdivision proposals shall be consistent with the need to minimize flood damage;

6-408.D.2. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

6-408.D.3. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage; and

6-408.D.4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

6-408.E. **Geologic Hazards Areas.** Development in geologic hazards areas shall be limited by governing authorities. Local control shall be administered by P&Z as directed through Article 8, Division 5 of this Title.

6-408.F. **Environmental Protection**.

6-408.F.1. Subdividers shall make every effort to preserve existing waterways, primary tree cover, rock formations and other natural vistas.

6-408.F.2. Under no circumstances shall untreated discharges of critical pollutants occur into existing waterways or surface runoff.

6-408.G. **Solar Access.** Because subdivision layout can affect the future orientation of buildings and consequently determine the natural access to sunlight, and since the importance of solar access is recognized, subdivision plans shall be reviewed utilizing concepts presented in Department of Housing and Urban Development Document H-2573, "Protecting Solar Access for Residential Development," available at Town Hall.

6-408.G.1. Streets should be oriented in the east-west directions and lots on a north south axis to provide a greater opportunity for southerly orientation of windows in a majority of buildings.

6-408.G.2. Where appropriate, the subdivider shall establish setbacks, easements or building envelopes protecting solar access to adjacent lots.

6-408.G.3. Open space may be required to create a buffer between zone districts permitting different heights. Such a buffer could protect a small building from a shadow cast by an adjacent higher building of another zone district.

6-408.G.4. Protection of both existing solar easements and dedication of new solar easements may be required.

6-408.G.5. Solar easements shall be described and enforced as provided by Article 32.5 of Title 38, C.R.S.

6-408.H. **Street Drainage.** Ditches shall be required on both sides of streets and designed to flow into the overall storm drainage system for the subdivision. Ditches shall be located between the shoulders of the street and sidewalk where sidewalks are required.

6-408.I. **Walkways And Sidewalks.** Walkways and sidewalks shall be constructed as required by Town regulations throughout the subdivision connecting existing or proposed sidewalks, walkways, paths and trails at the boundaries of the subdivision to promote the free movement of pedestrians traveling through the subdivision. Sidewalks shall be designed and built according to standards developed by the Town.

6-408.J. **Street Signs And Names.** The subdivider shall erect signs at street intersections setting forth the names of intersecting streets. Such signs will be consistent with standard design. New streets which are extensions of or in alignment with existing streets will bear the names of such streets. All new names of streets shall be approved by the Town Council. Signs shall be installed by the Town at the subdivider's expense.

6-408.K. **Water Supply And Sewage Disposal.** All subdivisions shall be connected to public water supply and sanitary sewage disposal facilities. Water supply and sanitary sewage disposal laterals shall be required to all lots where paved surfaces are used. Water supply and sanitary sewage disposal facilities shall be designed and built according to standards developed by the Town.

6-408.L. **Fire Hydrants.** Fire hydrants shall be required in all subdivisions and will be located so that no hydrant is farther than two hundred fifty feet (250') from any other hydrant. No fire hydrant shall be acceptable unless the outlet threads correspond with the hose threads uses by the Telluride Fire Protection District.

6-408.M. **Storm Drainage.** Storm drainage shall be required to accommodate an expected maximum flow in any twenty-five (25) year period for residential and collector

streets and the one-hundred (100) year period for arterial streets. Culverts or drainage pipes shall be galvanized, corrugated steel or the approved equivalent and shall be a minimum of eighteen inches (18") in diameter.

6-408.N. **Street Lighting.** Street lighting shall be provided in all subdivisions as required by P&Z or Town Council. Street lighting shall be designed and built according to standards developed by the Town.

6-408.O. **Electricity, Gas And Telephone Lines.** Electricity, gas and telephone lines shall be placed underground to preserve the natural character of the area.

6-408.P. **Bridges.** Bridges shall be designed by a registered engineer and will be constructed to prevent obstruction to a one-hundred (100) year flood. A floodplain permit shall be obtained for all bridges prior to construction. There shall be no culverts used as bridges over the San Miguel River.

6-408.Q. **Fencing.** When the subdivision adjoins property in an agricultural use, the subdivider shall construct a six-foot (6') fence capable of preventing small animals from passing through along his property line adjacent to the agricultural use.

6-408.R. **Recreational Facilities.** Any recreational facility proposed for dedication to the Town or other public agency shall be included in the subdivision improvements agreement.

6-408.S. **Landscaping**.

6-408.S.1. Landscape plans shall provide for planting of indigenous vegetation or such other vegetation as may be recommended by the State Forest Service. Cut-and-fill slopes shall be no steeper than a ratio of two (2) horizontal to one (1) vertical unless otherwise recommended by a qualified consultant. All exposed ground surfaces shall be revegetated. No vegetation shall be located so as to interfere or obstruct the clear view of traffic signs, street signs and intersecting streets.

6-408.S.2. Because landscaping is essential to aesthetics, ecology and soil conservation, the Council finds and declares all landscaping, whether on public or private land, to be of interest and benefit to the general public as well as the individual landowner. As such, landscaping shall be subject to regulation in the subdivision improvements agreement and ensured by guarantees for completion as provided in this Division.

6-408.S.3. To ensure the preservation of existing vegetation in a developed area, an existing vegetation map may be required indicating vegetation to be removed and vegetation to be added to the developed area. Installation of vegetation protection devices may be required during the construction stage.

6-408.S.4. All landscaping shall be installed and maintained in conformance with adopted Town landscape plans, policies and standards.

6-408.T. **Off-Street Parking.** Off-street parking as required by Article 3 of this Title shall be constructed for all structures and facilities and shall meet the requirements of Sections 3-108 and 3-109 of this Title. Pavement may be required by the Town for drives and parking areas or other types of structure and facilities when deemed consistent with the purposes of this Section.

6-408.U. **Survey Monuments.** All surveying data shall be tied to primary control points, the location and description of which shall be recorded with the county clerk. Permanent survey monuments shall be set at all subdivision boundary corners, at points within the subdivision where there is a change of direction, and at all lot corners and intersections of street centerlines. The monuments shall not be more than one thousand three hundred twenty feet (1,320') apart. Construction of survey monuments shall be as set forth in standards developed by the Town. All monuments and surveys shall be set and performed in accordance with Articles 50 and 51 of Title 38, C.R.S.

6-408.V. **Other Improvements.** Other improvements not specifically provided for in this Section but found appropriate and necessary given the characteristics or requirements of the subdivision shall be constructed within such time and in conformance with such specifications as agreed upon by the subdivider.

Section 6-409 Subdivision Improvements Agreement (SIA)

6-409.A. **Purpose.** A subdivision improvements agreement is a written contract between the Town and a subdivider providing for and describing conditions of approval for public and private improvements to be constructed as part of a subdivision development. It shall, at a minimum, set forth construction specifications for required public improvements, provide dates for completion of the improvements, and identify the terms and conditions for the acceptance of the improvements by the Town. It shall also provide for such financial assurances as necessary to insure the proper and timely installation of improvements.

6-409.B. **Agreement Required.** No final subdivision plat shall be signed by the Town and no building permit issued for any subdivision involving or requiring the installation of public improvements absent the execution of a written subdivision agreement as provided for in this Section. However, in the case of a minor subdivision or subdivisions which have previously been the subject of an SIA, the Planning Director may waive the requirement for an SIA in lieu of one or both of the methods and provisions outlined in Section 3-302.D. of this Title. All agreements for the installation of public improvements are to be recorded simultaneously with the recording of the final subdivision plat unless a final plat is not required. Any agreements shall run with and be a burden upon the land to which they apply. The determination of the type, location, and extent of public improvements to be specified within an agreement shall be completed pursuant to Section 3-302 of this Title.

6-409.C. **Approvals.** Subdivision agreements shall be reviewed and approved by the Town Manager in consultation with the Planning Director and Town Attorney. SIA's

shall be recorded concurrently with the final subdivision plat.

6-409.D. **Amendments to Subdivision Improvements Agreements.**

6-409.D.1. **Purpose.** Approved subdivision agreements may be amended to allow administrative flexibility when changing conditions affect the completion of required public improvements. Such conditions may include weather conditions, Town policies regarding street improvements, or changes in the amount or type of improvement collateral deposited with the Town.

6-409.D.2. **Criteria**.

a. The Town Manager may approve a one-time extension of a deadline for completion of a required public improvement, amendments to include successors in interest if adequate evidence of title and financial responsibility are demonstrated by such successors, and amendments to modify the type of collateral used to secure completion of the public improvements if determined adequate pursuant the requirements of Section 6-409.C.

b. Amendments which involve the type, quantity, or configuration of public improvements must be approved by P&Z subject to the requirements of this Division.

6-409.E. **Collateral Required.**

6-409.E.1. All public improvements as required to be installed as a condition of subdivision development shall be secured by collateral in a sufficient amount and form so as to insure their satisfactory and timely construction. Collateral may be required to be posted at the time of execution of the subdivision improvements agreement. Collateral may be posted in the form of cash, cash bond, letter of credit, certificate of deposit, or such other instrument as may be deemed acceptable by the Town Manager. When public improvements are required as part of a subdivision, the collateral securing same shall be identified in the subdivision agreement.

6-409.E.2. A failure to provide or maintain collateral in an amount or form sufficient to insure the satisfactory installation of public improvements may result in the revocation of subdivision approval.

6-409.E.3. No permit may issue for any construction or building within a subdivision prior to the completion of required subdivision improvements or the posting of collateral to secure the timely installation of such improvements as required in this section.

6-409.F. **Release of Collateral.** A subdivider may apply in writing to the Town Manager for a partial release or full release of posted collateral from time to time as improvements secured by the collateral are completed. Upon receipt of a request to release collateral, the Town Manager shall direct the Town Engineer to inspect

such improvememts as have been completed. If the Town Engineer determines from an inspection that the improvements have been installed in a satisfactory manner consistent with the final plat and subdivision approval(s), such portion of the collateral corresponding to the percentage of the improvements completed shall be released by the Town Manager. In no event shall the amount of collateral retained by the Town be reduced below that necessary to secure the full and timely completion of any improvements not yet fully installed. Partial releases of collateral shall only be made in increments of not less than twenty percent (20%) of the total amount initially posted, except for the final release after the completion and acceptance of all required improvements.

6-409.G. **Use of Collateral By Town.** If the Town Manager determines that reasonable grounds exist to believe that a subdivider is failing or will fail to install improvements as required by the subdivision agreement, the Town Manager shall notify the subdivider in writing that: 1) the Town intends to draw on the collateral for the purpose of completing the improvements; 2) the reasons therefor; and 3) the subdivider may request a hearing before the Town Council on the matter, such request to be made no less than fifteen (15) days from the date of the notice. Should a hearing not be requested within fifteen days, or should the Town Council conduct a hearing and thereafter determine that the subdivider is failing or has failed to satisfactorily install required improvements, the Town may thereafter draw on the collateral as necessary to construct the improvements. In such event, the Town shall be entitled to recover such costs as are reasonable to administer the construction of the improvements.

6-409.H. **Phased Inspections and Correction of Defects.**

6-409.H.1. Upon the completion of any phase of the construction of improvements as set forth in a subdivision agreement, the subdivider shall notify the Town Engineer and request inspection. The Town Engineer shall thereafter inspect all improvements and notify the subdivider in writing if any unsatisfactory conditions were found to exist.

6-409.H.2. Upon notification of unsatisfactory conditions, the subdivider shall take necessary corrective measures and shall again request inspection from the Town Engineer. Such process shall continue until all improvements have been satisfactorily installed as determined by the Town Engineer.

6-409.I. **Preliminary Acceptance.**

6-409.I.1. Upon completion of improvements the subdivider shall notify the Town Engineer and request inspection. The Town Engineer shall inspect all improvements and notify the subdivider in writing of nonacceptance or preliminary acceptance. If the public improvements are not acceptable, the reasons for nonacceptance shall be stated and corrective measures shall be outlined.

6-409.I.2. Upon preliminary acceptance of public improvements the Town will, as applicable, assume responsibility for snow removal in regard thereto, but

the subdivider shall remain responsible for all other maintenance and repairs pending final acceptance. Upon application after preliminary acceptance of any improvements, the Town may release up to eighty percent (80%) of the total collateral securing such improvement.

6-409.I.3. The Town shall not be required to make inspections or accept improvements during any period when climatic conditions make thorough inspection impractical.

6-409.J. **Final Acceptance and Release Of Collateral.**

6-409.J.1. Final acceptance of public improvements shall only be made by Town Engineer.

6-409.J.2. Twelve (12) months following any preliminary acceptance, the Town Engineer shall inspect all public improvements for final acceptance, except that landscaping shall be inspected only in the month of July and only after the expiration of no less than twelve (12) months from preliminary acceptance. If improvements are not acceptable, the reasons for nonacceptance shall be stated and corrective measures outlined. The Town shall not be required to make inspections or accept improvements during any period when climatic conditions make thorough inspections impractical.

6-409.J.3. Upon final inspection and approval by the Town Engineer the Town shall release all remaining collateral and assume normal maintenance responsibilities for all public improvements.

Section 6-410 Subdivision Dedication Requirements

6-410.A. **Purpose.** Parks, open space, recreational and other municipal service facilities have been determined by the citizens of the Town of Telluride to be desirable and essential features of the Town. It has further been determined that land development inherently contributes to increases in the Town's population and the number of persons visiting the Town, thus, placing greater demands and pressures on existing parks, open space, recreational and other municipal service facilities. In order to protect and maintain community standards regarding the availability, quality and accessibility of parks, open space, recreational and other municipal facilities, the Town Council finds that it is necessary and appropriate to enact land development dedication requirements as provided for in this Section so as to ensure that new development pays a fair and equitable share of the cost of providing for new or expanded facilities necessitated by such development and to provide relief to current Town residents from having to bear the full costs of mitigating the impacts of such development.

6-410.B. **Applicability.** Every large scale subdivision shall include a dedication of ten percent (10%) of the gross land area of the subdivision to the Town or other entity as determined by the Town Council to be used for public parks and recreation areas, open space, or municipal purposes requiring land. Small scale subdivisions

may also be required upon the recommendation of P&Z to include a public dedication of land of up to ten percent (10%) if such subdivision will impose a burden upon public facilities. Town Council shall approve or disapprove any small scale subdivision dedication. Land dedications as provided for in this section shall not be required where a dedication was previously obtained as a result of an earlier subdivision approval, except when the new subdivision imposes an increased incremental impact upon public facilities.

6-410.C. **Form of Dedication.** All dedications of land as required under this section shall be dedicated in fee simple to the Town as a condition of subdivision approval. If Town Council determines that such a dedication is inappropriate or impractical as a result of the nature, location or geography of the subdivision, then a payment in-lieu corresponding to the value of such dedication shall be required. Note: Calculations establishing the dimensional requirements or limitations for development within a subdivision or PUD, as well as calculating other additional dedications, shall be based on that total project area remaining after the deduction of the ten percent (10%) land dedication requirement as provided for in this Section.

6-410.D. **Specifications For Dedicated Lands.**

6-410.D.1. Dedicated land may include floodplain, open space, historical or natural features, and proposed public areas. Land proposed to be dedicated for parks shall not include technical, private or public schools, sites for service organizations which are not open to the general public, and sites unsuitable for public use due to steep slopes, hazardous geologic formations, adverse topography, utility easements, or other features which may be harmful to health and safety.

6-410.D.2. A minimum of eighty percent (80%) of land dedicated should lend itself to utilization for municipal and public recreation purposes, picnic sites, trails, buildings, and offices.

6-410.D.3. Wherever a development proposal includes land or areas identified in the Telluride Master Plan or any other adopted community plan for the installation or connection any part of a pedestrian, bicycle, equestrian or skiing trail, as identified a public easement or right-of-way shall be conveyed or dedicated to the Town to offset pedestrian traffic, and/or loss of open space as created by such development and such easement shall be credited against any required land dedication.

6-410.D.4. A dedication of adequate water rights must accompany all municipal facility and park land dedications.

6-410.D.5. The Town, at its sole discretion, may elect to use dedicated land for any municipal or public function deemed necessary. Such use shall be compatible with surrounding uses.

6-410.E. **Private Recreation Facilities.** The total area required for any land dedication

may be reduced by up to fifty percent (50%) when private recreation facilities are to be provided as part of any development and Town Council finds all of the following:

6-410.E.1. The private recreation facilities will meet a major portion of the recreational demands generated by the residents or employees of the proposed development, or will be made available for joint use by the public;

6-410.E.2. The private recreation facilities will be completed at the same time or prior to the residential and other facilities in the development;

6-410.E.3. The private recreation facilities will be maintained as a permanent feature of the development.

6-410.F. **Payment In Lieu of Dedication.**

6-410.F.1. Fee payments made in lieu of land dedications shall be based on the amount of land which otherwise would be required to be dedicated, less any reductions or deductions for trails or private recreation facilities as provided in subsections D.3 and E above. The Town Council shall set an in-lieu fee schedule from time to time by resolution. P&Z may provide a recommendation to Town Council regarding amendments or other changes to the fee schedule.

6-410.F.2. Town Council may accept property not within the development in lieu of or as partial payment toward a fee as required hereunder. The value of such other property shall be established by its market value as determined by a qualified appraiser approved jointly by the Town Manager and the applicant.

6-410.F.3. Payments in lieu of land dedication shall be due and payable at execution of the final subdivision plat and shall be specifically described in the subdivision agreement or development permit.

6-410.F.4. Payments in lieu of dedication shall be held by the Town in a special interest bearing account reserved solely for the acquisition and capital development of land which shall be available for the full use and enjoyment of the residents of the subdivision.

6-410.F.5. Payment in lieu fees pursuant to this section shall be returned, with any accrued interest, to the current owner of property for which a fee was paid if the fee has not been spent within seven (7) years from the date it was collected, unless Town Council shall have earmarked the fee for expenditure on a specific project, in which case the Council may extend the time period by up to three (3) more years.

a. To obtain a refund the present owner must submit a request to the Town Manager within one (1) year following the end of the

seventh (7th) year from the date the fee payment was received.

b. For the purposes of this subsection, fees shall be deemed spent on the basis that the first fees collected shall be the first fees expended.

6-410.F.6. Any payment in lieu fee made for a project for which a building permit is canceled due to non-commencement of construction may be refunded if a request for refund is submitted to the Town Manager within three (3) months of the date of the cancellation of the building permit. All requests shall be accompanied by proof that the applicant is the current owner of the property and a copy of the dated receipt issued upon the original payment of the fee. Fees shall not be returned where they have been spent or encumbered prior to the date of the refund application.

Section 6-411 Impact Fees (Reserved)

Section 6-412 Condominium Subdivision and Conversion

6-412.A. **Purpose.** The purpose of this section is to provide review processes to ensure that the creation or conversion of condominium subdivisions will comply with the Uniform Building Code as amended by the Town of Telluride and other provisions of this Title.

6-412.B. **Definitions.** As used in this section the following terms shall mean as follows unless the context in which a term appears otherwise requires:

1. *Common interest community.* Real estate described in a declaration with respect to which a person, by virtue of such person's ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in a declaration. "Ownership" does not include a leasehold interest of less than forty years, including renewal options, as measured from the commencement date of the initial term.

2. *Condominium.* A common interest community in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate ownership portions.

3. *Cooperative.* A common interest community in which the real property is owned by an association, each member of which is entitled by virtue of such member's ownership interest in the association an exclusive possession of a unit

4. *Planned community.* A common interest community that is not a condominium or cooperative.

5. *Map.* A printed instrument depicting all or a portion of a common interest community in three dimensions. A map and a plat may be combined in

one instrument.

6. *Plat.* A printed instrument that is a land survey depicting all or a portion of a common interest community in two dimensions. A plat and map may be combined in one instrument.

6-412.C. **Procedure.**

6-412.C.1. The procedure and standards for review and approval of a condominium subdivision shall be the same as that specified for other subdivisions within this Division. The applicable review procedures and requirements shall be determined by whether the condominium is a large scale, small scale or minor subdivision as defined in Section 6-402 of this Division.

6-412.C.2. Condominium conversion shall be reviewed as a minor subdivision regardless of the number of units or size of the parcel proposed for conversion.

6-412.C.3. Any subsequent change in the approved use(s) for a condominium subdivision shall be subject to the same review procedures as would be applied for a new condominium subdivision. Subsequent changes in approved use(s) automatically require reapproval pursuant to the provisions of this Division.

6-412.C.4. Notwithstanding anything in this Title to the contrary, no requirement for public improvements, dedication of land to public use, or other subdivision requirement shall be imposed as a condition of approval for a condominium subdivision or common interest community which would not be imposed upon a physically-identical development under a different form of ownership. This provision shall not be construed to prevent the Town from imposing the review requirements of this Title upon any change of use, expansion of use, increase in intensity of use, or other change in a condominium or common interest community unrelated to its form of ownership.

6-412.D. **Application Contents.**

6-412.D.1. The information to be submitted for condominium subdivision review shall be as follows:

a. The minimum application contents for all applications specified in Section 5-202.C of this Title.

b. five (5) copies of a preliminary condominium plat/map showing:

(1) Exact name of condominium subdivision;

(2) Written and graphic scale, north arrow and date of preparation;

(3) Location of the condominium subdivision by reference to streets, lots and blocks;

(4) Lot lines and property lines to the hundreth foot (1/100');

(5) Zoning and existing densities on adjacent properties;

(6) Required parking spaces and joint trash collection areas;

(7) Floor plans, elevations and site plan as required to show separate ownership of all separate units, common elements and limited common elements labeled as such and numbered for ease of identification. All dimensions shall be to the nearest hundreth foot (1/100');

(8) Number, type and floor area of units, common elements and limited elements, delineated in square feet and fractions thereof; proposed use for each unit; land area; percentage of open space; and floor area ratio;

(9) Statement of the total number of units shown on the proposed plat;

(10) Traffic mitigation plan, if required, must be submitted at the discretion of the Planning Director; and

(11) Land surveyor's certificate signed by a land surveyor registered by the State of Colorado.

6-412.D.2. In addition to the statements specified under Section 6-407.C, the following statements shall be required on the final condominium plat and shall be worded substantially as follows:

a. Heading: The heading of the final condominium plat shall include the complete name of the condominium subdivision, the land sections, township, range, principal meridian, "Town of Telluride, San Miguel County, Colorado". Also, where applicable, the United States mineral claim name, number and mining district shall be shown.

b. Land Surveyor's Certificate: I, (printed name of Land Surveyor) being a Registered Land Surveyor in the State of Colorado, do hereby certify that this plat and survey of (NAME OF CONDOMINIUM SUBDIVISION IN CAPITAL LETTERS) was made by me and under my supervision and that both are accurate to the best of my knowledge. I further certify that monuments and markers were set as required by the Town of Telluride Subdivision Ordinance and Articles 50 and 51 of Title 38, C.R.S.
Dated this ____ day of _____, A.D., 20___.
(Signature) _____

Colorado Registration Number _____ (SEAL)

c. Town of Telluride: This condominium map for (NAME OF CONDOMINIUM SUBDIVISION IN CAPITAL LETTERS) is hereby approved as conforming to all applicable laws of the Town of Telluride, Colorado.

_____ Date _____
Chairperson Planning and Zoning Commission

_____ Date _____
Building Official

_____ Date _____
Planning Director

d. County Treasurer's Certificate: I certify that according to the records in the San Miguel County Treasurer's office, there are no liens against the property included in the subdivision, or any part thereof, for unpaid state, county or municipal ad valorem taxes or special assessments certified to the County Treasurer for collection.

_____ _____
County Treasurer Date

e. In addition to the foregoing requirements, submittal requirements for Hotel-condominium conversions shall include any documents necessary as determined by the Planning Director to ensure the requirements of Section 6-412.G and Section 6-412.H. are met, including but not limited to, condominium declarations, deed-restrictions, operating and development agreements.

6-412.E. **Condominium Conversion.**

6-412.E.1. Prior to recording a declaration which would convert an existing multi-unit development to condominium units, the owner of such property shall meet with the Town Building Official regarding the proposed conversion and shall demonstrate that the following provisions have been met.

a. The structure subject to the proposed condominium conversion shall meet current off-street parking requirements for the underlying zone district found in Article 3, Division 2. Each residential condominium unit shall be considered a separate dwelling unit for purposes of determining parking compliance.

b. A minimum one (1) hour fire wall may be required between units as a condition of Town approval of any condominium plat involving a condominium conversion.

c. Owners of properties proposed for condominium conversion shall notify all residential tenants in writing of the conversion at least ninety (90) days prior to termination of any residential tenancy in

accordance with C.R.S. 38-33-112, as amended. Copies of the notification shall be filed with the Town Clerk as proof of notification.

6-412.F. **Standards for Review of Condominium Subdivisions.**

6-412.F.1. Condominium subdivisions shall comply with the review standards applied to other subdivisions as specified in Section 6-408 of this Division.

6-412.F.2. Condominium subdivisions shall comply with the following supplemental review standards:

a. the density of the development as proposed for condominiumization shall not be greater than the maximum density as allowed by the underlying zone district; and

b. the traffic impacts of the proposed condominium subdivision shall be evaluated and any impacts to the neighborhood must be mitigated. A traffic mitigation plan must be submitted and approved by the Planning Director prior to approval of the condominium subdivision.

6-412.G. **Standards for Condominium-Hotels.**

6-412.G.1. Any application for the conversion of an existing hotel into a condominium, or the creation of a new condominium-hotel project shall be required to meet the requirements of this section concurrent with the Town's evaluation of the condominium map.

6-412.G.2. Each condominium-hotel room shall be incorporated in a condominium-hotel project by the creation of a condominium and each condominium-hotel unit and the condominium-hotel project will meet the following conditions, restrictions and requirements, which shall be set forth in the condominium's declaration with enforcement power granted to the Town:

a. The condominium-hotel project shall include the following on-site physical or operational features or components: a ground floor lobby or lounge area with an onsite registration station, which shall include night-call availability, guest services and housekeeping services. The condominium-hotel project may also have a lounge, dining and bar area, food and beverage room service and concierge services.

b. One professional property management company ("Property Management Company"), selected by the developer prior to or during the sales of the condominium-hotel units and then by the condominium owners association, thereafter, and formed in accordance with the condominium documents, shall be retained to

manage the condominium hotel-project. Priority shall be given by the developer, and then the condominium owners association thereafter, to retain a Property Management Company experienced in managing and marketing smaller, service-intensive lodging properties located in resort settings. The Property Management Company may be changed from time-to-time as desired by the homeowners association.

c. The Property Management Company shall be responsible for the implementation, management and operation of the condominium-hotel project, including the marketing of each of the condominium-hotel units ("Management and Marketing Program"). The Management and Marketing Program is intended to manage, market and promote the condominium-hotel project and the use and occupancy of the condominium-hotel units in the condominium-hotel project as accommodation styled rooms. The Management and Marketing Program is further intended to provide for the use and rentals of all condominium-hotel units, which are required to be made available to the general public as hotel-type lodging units, except when the condominium-hotel units are occupied by an owner as allowed by this section of the LUC.

d. The condominium owners association shall cause the Property Management Company to provide a written report to the Town Planning Department annually in September, addressing each of the following matters:

(1) Evidence that the condominium-hotel units in the Condominium-Hotel Project are available for the use and rental to the general public as hotel accommodation styled units, except when such units are occupied by an owner as allowed by this section of the LUC.

(2) Evidence of the occupancy statistics of the condominium-hotel units, including but not limited to room nights, duration of stays and other relevant occupancy statistics commonly used in the lodging industry.

(3) Evidence that the occupancy level is consistent with similar type units in the Town of Telluride, based upon information that is made available by the Town of Telluride and/or information provided by local visitor/guest service bodies or entities.

(4) Evidence that every condominium-hotel room is available for occupancy in accordance with Section 6-412.G.2.e.

e. Each condominium-hotel units in the condominium-hotel project must be included in the Management and Marketing Program and

managed by the Property Management Company. A separate unit management agreement for each unit must be executed at the time of closing on a condominium-hotel unit, consistent with this section of the LUC, the condominium documents and the management contract. When not in use by the owner of a condominium-hotel unit, each condominium-hotel unit must be included in and available for rental occupancy and accommodations by guests.

f. With respect to each condominium-hotel unit, the restrictions set forth in this section shall be reflected in a separate deed restriction for each condominium-hotel unit so that the owner of each unit is affirmatively stating that their unit(s) will be available to paying guests when not in use by the owner, in accordance with this requirement.

g. The Property Management Company and not the individual owners of a condominium-hotel unit, will establish maximum room rental rates and yield manage the inventory, other than during owner's allowed usage periods.

h. Parking spaces in the condominium-hotel project shall be designated as common elements and shall be allocated and made available for use only by such persons then using the condominium-hotel units or an employee of the condominium-hotel project. An owner of a condominium-hotel unit shall not be allowed to park or store a vehicle in a parking space during times that the owner is not occupying their condominium-hotel unit.

i. A condominium-hotel project may retain the prior pattern of separate hotel rooms, or divide such into suites connected by doors, but will not consist of suites that contain more than five rooms.

j. The maximum size of a condominium-hotel room is 600 sq. ft. unless it can be proven that such unit was bigger prior to the adoption of these regulations (March 14, 2006), in which case, the room size is grand-fathered.

k. Alteration or elimination of any walls shown on the condominium map, or changes to the individual rooms that eliminate the number of beds approved by the Town are prohibited unless such changes are reviewed and approved by the Town in accordance with these regulations, and provided that such change will not reduce the number of beds available in the condominium-hotel project.

l. If one of the condominium-hotel rooms in a suite is not furnished with a bed for sleeping, such a room shall have a sleeper sofa to enable individual use of the room as a condominium-hotel room.

m. For conversions of hotels into condominiums, each of the original hotel rooms shall be accessible from the common hallways, requiring that such units shall have their own room number and a separate locking system than the other condo-hotel rooms in a suite.

n. No structural changes shall be made to the exterior or the interior of the Condominium-Hotel Project unless otherwise approved in accordance with the provisions of the LUC.

o. The condominiums documents and other documents as required by this section shall be drafted to address the requirements of this section to the satisfaction of the Town.

p. The condominium-hotel units shall be designed and constructed to meet the then in effect building codes and fire codes.

q. The condominium-hotel units shall not be the primary residence of the owner.

r. The total counter, appliance and island area of a kitchen shall not exceed 45 sq. ft.

s. The owner shall provide lead-time on notice of occupancy; with February 28th the deadline for providing intended summer occupancy dates, and September 30 for winter occupancy dates. The owner may use the condominium-hotel unit at other times without any lead-time notice if the unit is not reserved for lodging purposes.

6-412.H. **Criteria for Conversions of Hotels into a Condominium Hotel Project:** The conversion of a hotel into a condominium-hotel project shall meet the following criteria:

6-412.H.1. The proposed conversion is consistent with the requirements of Section 6-412.G.

6-412.H.2. If the conversion of a hotel into a condominium is located in a PUD, and the developer gained certain benefits for the creation of a hotel, then such benefits granted to the developer that will potentially be lost shall be offset by the provision of alternative public benefits.

6-412.H.3. Whenever the PUD for a hotel is amended to allow changes to the structure, or use, the reviewing body shall impose such conditions of approval as deemed necessary to insure that the nature of the occupancy or use will not change.

6-412.H.4. If the conversion of a hotel into a condominium is located in a PUD, and a PUD modification is required to allow such a change, the PUD modification criteria and requirements have been satisfied.

Section 6-413 Time Share Projects

6-413.A. **Purpose.** The requirements of this section shall apply to all time-sharing projects and sales within the Town and are in addition to other applicable requirements set forth by the State.

6-413.B. **Location And Review Procedure.** Time-sharing may only be permitted within zone districts where it is designated as a use permitted by right. A request for approval of a time-sharing project must be submitted in accordance with the requirements and procedures contained in this Division 4.

6-413.C. **Application Contents.** An application for a time-share development shall contain the following information:

6-413.C.1. The minimum contents for all applications specified in Section 5-202 C of this Title;

6-413.C.2. A site plan drawn to one inch equals twenty feet (1" = 20') scale on standard twenty-four inch by thirty-six inch (24" x 36") sheet of the proposed project illustrating the following:

a. existing and proposed structures, access, parking, landscaping, natural features, amenities and recreational facilities;

b. total lot and building square footage and total lot coverage;

c. layout of typical units;

d. adjacent uses, structures and zoning; and

e. any other information as may be determined necessary by the Town staff or P&Z to adequately evaluate the proposal.

6-413.C.3. A written statement of the employee housing needs and requirements as specified in this Title and how they will be met.

6-413.C.4. Disclosure statement as is more particularly described in subsection E. of this section.

6-413.C.5. If the project sought to be time-shared is located within an existing structure, subdivision or condominium, written proof that any existing declarations or covenants allow time-sharing.

6-413.C.6. A written narrative description of the project including:

a. Project concept;

b. Maximum number of occupants to be generated on-site by the time-share use, including marketing and sales personnel;

c. Underlying zoning;

d. Existing site structures, their use, their ability to accommodate the added intensity of time-sharing;

e. Any improvements necessary to accommodate time-sharing, a time frame for completion of improvements, who will be responsible for improvement costs and how they will be financed;

f. The maximum number of cars to be generated and/or parked on-site;

g. The ability of the project to comply with other codes and regulations, including but not limited to, building code, fire code, health codes and this Title;

h. Anticipated impacts or demands on municipal services.

6-413.C.7. The marketing plan for the project.

6-413.C.8. A statement indicating the manner in which all applicable real estate transfer taxes will be collected and further demonstrating the manner in which an entity, with the power to operate and manage the time-share project through a managing agent, shall be responsible for payment of the taxes, assessments and fees as set forth in this Section.

6-413.C.9. Documentation establishing the adequacy of a reserve fund to assure that the project is satisfactorily maintained.

6-413.C.10. An affidavit by the applicant attesting that the required documentation and facts contained therein are true and accurate and an acknowledgment that the requirements of this section shall be binding on the successors and assigns of the applicant.

6-413.D. **Standards And Review Criteria.** In addition to those standards and review criteria generally pertaining to subdivision and use permitted on review, the following shall also be considered in evaluating a time-share project or unit:

6-413.D.1. There shall be no use of public areas, streets or malls within the Town for the promotion, marketing or sales of time-share units.

6-413.D.2. A time-share project's recreational facilities and amenities shall be sufficient so as to not create an undue burden on public facilities and to accommodate the intensive use demands of the project.

6-413.D.3. Parking shall be sufficient to meet the demands of the project and meet the standards contained in Article 3, Division 2 of this Title.

6-413.D.4. All units converted to a time-share shall be inspected and comply with all applicable fire, safety and other building codes.

6-413.D.5. A reserve account shall be established to assure that the project will be satisfactorily maintained throughout the lifetime of the project.

6-413.D.6. Occupancy levels throughout the life of the project shall be in compliance with applicable building and fire code requirements.

6-413.E. **Disclosure.** A written sworn disclosure statement containing sufficient detail and information to allow the Town to verify the information shall be filed with the Town at the time the application is submitted and updated as required in this Section. Prior to a purchaser's signature on any contract of sale, the purchaser shall be provided a copy of the disclosure statement and informed of its contents. The disclosure statement shall contain and accurately disclose the following:

6-413.E.1. The name and address of the owner/developer of the project.

6-413.E.2. A description of the physical dimensions of the time-sharing units, including a schedule for completion of all buildings, units, project amenities, site improvements and dates available for use.

6-413.E.3. If the time-share plan is located in a condominium or a similar form of ownership, a description of the project and any pertinent provisions of the project instruments.

6-413.E.4. Any restraints on the transfer of the purchaser's time-share interest in the time-share units or plan.

6-413.E.5. Notice of any liens, title defects or encumbrances on or affecting the title to the units or project and, if there are encumbrances or liens, a statement as to whether, when and how they will be removed.

6-413.E.6. A description of the maintenance responsibilities to be supplied to the time-share units, how such maintenance will be provided, and a designation of what specific time periods will be set aside for maintenance purposes only for each unit.

6-413.E.7. A description of the on-site amenities and recreational facilities which are available for use by the unit owners.

6-413.E.8. A statement of the limitations on the number of persons who can occupy a unit at any time for each unit in the project.

6-413.E.9. An identification of the person or agent who shall serve as the owner's designated agent for the service of process (in a manner sufficient to satisfy the requirements of persons service in state, pursuant to Rule 4, C.R.C.P., as amended) or legal notice pertaining to the time-share project.

6-413.F. **Updating And Filing.** The applicant and applicant's successors and assigns and/or homeowners association, other than individual unit purchasers, shall have a continuing duty to update the disclosure statement and file it with the Town. No amendment which shall significantly alter the disclosure statement or time-share project instruments shall be effective unless approved and accepted by the town and filed in the office of the county clerk and recorder.

6-413.G. **Time For Provision Of Disclosure Statement.** Before transfer of a time-share unit and no later than the date of execution of any contract of sale, the applicant or any other seller of a time-share unit shall provide the intended transferee with a copy of the disclosure statement and any amendments thereto.

6-413.H. **Building Code, Health And Safety Requirements.** Previously existing structures which are converted to time-sharing use shall comply with current fire and building codes. In such cases the Building Official shall inspect the structure and determine that there is no present danger to the health and safety of occupants.

6-413.I. **Time-Share Project Instruments.** Time-share project instruments shall include, without limitation, the following documentation or information:

6-413.I.1. A disclosure statement.

6-413.I.2. The following instruments or information for a time-share estate:

a. The legal description, street address or other description sufficient to identify the property.

b. Identification of time-sharing time periods by letter, name, number of combination thereof.

c. Identification of the time-share estate and the method whereby additional time-share estates may be created.

d. The formula, fraction or percentage of the common expenses and any voting rights assigned to each time-share estate.

e. Any restrictions on the use, occupancy, alteration or alienation of time-share units.

6-413.J. **Marketing Practices.** The marketing and sale of time-share units shall be governed by the real estate laws set forth in Title 12, Article 61, C.R.S. 1973, as amended.

6-413.K. **Binding Effect.** The requirements of this section and any approval granted pursuant to this section shall be binding on the applicant and the applicant's successors or assigns.

6-413.L. **Disclosure Of Information.** This Section is intended to regulate the creation and sale of time-share interests within the Town, and no warranty or guarantee is made by the Town with regard to the completeness or accuracy of any information or documentation submitted to the Town or any approval granted by the Town. No person may advertise or represent that the Town or any of its officers or employees have recommended the sale or purchase of time-share units.

6-413.M. **Sales Tax.** Occupancy of any time-share unit by anyone other than the owner thereof who pays a fee for the use of the unit shall be subject to the Town's sales tax, if any, the same as if such occupancy were of a hotel or lodge unit. The

manager of the association shall be responsible for obtaining a business license and the timely collection of the sales tax for the Town.

6-413.N. **Remedies.** In addition to all remedies provided by law and this Title, the provisions of this section are enforceable as follows:

6-413.N.1. The Town may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent or enjoin a use, occupancy or conveyance relating to a time-share project or to enjoin any property owner, developer or applicant from selling, agreeing to sell, or offering to sell or otherwise convey a time-share use, before full compliance with the provisions of this Section and all approvals required in this Section are obtained.

6-413.N.2. The Town Council may withdraw any approval of a plan or plat or require certain corrective measures to be taken following the determination that information provided by the applicant, or by anyone on his behalf, was materially and substantially false or inaccurate. The Town Council shall cause written notice to be served on the applicant, or his assignees, setting out the alleged false or inaccurate information provided by the applicant or by agents on his behalf and directing the applicant to appear at a time certain for a hearing before the Town Council not less than thirty (30) days after the date of service of the notice.

Section 6-414 Withdrawal of Approval

6-414.A. **Authority.** The Town Council may void, withdraw, or rescind any approval of a final plat or any portion of such final plat, or any related subdivision agreement, upon determination that information provided by a subdivider upon which such approval was based is false or inaccurate.

6-414.B. **Public Hearing.** Upon a determination that reasonable grounds exist to believe that false or inaccurate information may have been provided on an application for a subdivision approval, subdivision plat, or subdivision agreement, the Town Council may set a public hearing at which any interested person may present testimony.

6-414.B.1. The Council shall cause a public notice to be published to the Town's Web Site at least fifteen (15) days prior to the date of the public hearing setting forth the nature of the hearing, a description of the property concerned and plat map, and the date, time and place at which the hearing will be held.

6-414.B.2. Such notice shall also be posted in or around the subdivision in question in accordance with Section 5-204.B.3 of this Title.

6-414.B.3. The subdivider and all owners of property within the subdivision shall be sent notice of the hearing by regular mail at least fourteen (14) days prior to the hearing. For purposes of this Section, it shall be sufficient that the notice be mailed to the owners and addresses on record with the County

Assessor's office.

6-414.C. **Resolution.** If approval of a recorded plat and/or subdivision improvements agreement is withdrawn and/or a plat declared vacated, the decision of the Council shall be detailed in a written resolution stating findings of fact and a description of the property. Such resolution shall then be recorded with the County Clerk and Recorder and shall be effective from the date of recording. Written notice of the action by the Council shall be mailed by regular mail to all owners of property in the affected subdivision.

(Ord. 1329, 2010; Ord. 1248, 2006; Ord. 1112, 1999; Ord. 1106, 1998; Ord. 1092, 1997; Ord. 1071, 1997; Ord. 1059, 1996; Ord. 1040, 1996; Ord. 1037, 1995; Ord. 1033, 1995; Ord. 1005, 1994; Ord. 970, 1992; Ord. 932, 1991; Ord. 817, 1988; Ord. 687, 1985; Ord. 422, 1980; Ord. 401, 1979, Ord. 379, 1978)

DIVISION 5 AMENDMENTS TO LAND USE CODE AND ZONE DISTRICT MAP

Section 6-501 Initiation

6-501.A. **Code Amendments.** Amendments, supplements, changes or repeals of this Title or any section thereof may be initiated by application of:

1. Owners of property located in Telluride;
2. Persons who hold a Town business license;
3. Persons registered as a municipal elector of the Town of Telluride;
4. The Planning and Zoning Commission; or
5. The Town of Telluride.

6-501.B. **Map Amendments.** Amendments, supplements, changes, or repeals of the Official Zone District Map may be initiated by application of:

1. Property owners within the zone district sought to be amended;
2. The Planning and Zoning Commission; or
3. The Town of Telluride.

6-501.C. **Map Notation of PUD Approval.** Notwithstanding anything in this Division to the contrary, the Planning and Zoning Commission may finally approve a proposed planned unit development plan and cause a notation thereof to be affixed to the Official Zone District Map in accordance with Division 3 of this Article 6, Planned Unit Development.

Section 6-502 Procedure

An applicant seeking approval of an amendment to the Land Use Code or the Official Zone District Map shall follow the process outlined below. The common review procedures for each stage are set out in Article 5.

6-502.A. **Pre-Application Conference.** The applicant shall attend a pre-application conference prior to submission of an application.

6-502.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing those materials listed in Section 6-503 of this Division.

6-502.C. **Staff Review and Referral.** The Planning Director shall review the application to determine whether it is complete and complies with the requirements of this Title.

1. If the Planning Director finds the application is complete and complies with all applicable requirements, the application shall be assigned an agenda date and referred to other appropriate agencies for their comment.
2. If the application is incomplete or does not comply with all applicable requirements it shall be returned to the applicant and shall not be assigned an agenda date, and no further action taken until its defects are remedied.

6-502.D. **Public Notice.** Public notice that P&Z will conduct a hearing to consider the application for an amendment to the Land Use Code or the Official Zone District Map shall require publication of notice in a newspaper of general circulation within the Town in accordance with the requirements of Section 5-204.B.1.b of this Title.

6-502.E. **Staff Report.** Prior to the public hearing to consider the application, the Planning Director shall prepare and forward a report to P&Z summarizing any review agency comments received evaluating the application's compliance with the review standards contained in this Division and other applicable provisions of this Title.

6-502.F. **Public Action By P&Z.** P&Z shall hold a public hearing to review the conformance of the application with all applicable provisions of this Title. P&Z shall certify a recommendation to the Town Council of approval, approval with conditions, or denial of the application within thirty (30) days after the final public hearing thereon. P&Z's recommendation shall be based on specific findings of fact as to compliance of the application with the standards set forth in this Division. P&Z may continue the hearing from time to time as it deems necessary.

6-502.G. **Public Notice for Council Hearing.** The Town Council may only approve proposed amendments to the Official Zone District Map or text of the Land Use Code by ordinance in accordance with the notice, public hearing, and publication requirements of Section 4.12 of the Telluride Home Rule Charter.

6-502.H. **Public Action By Town Council.** The Town Council shall act upon the recommendations of P&Z at a public hearing. The Council may remand a proposed code amendment or amendment to the zone district map to P&Z for additional study. P&Z shall conduct a hearing on any remanded matter pursuant to Section 5-204 B.1.b of this Title.

6-502.I. **Actions Following Approval.** Upon the approval of an amendment to the Official Zone District Map, the Planning Director shall place the amendment on the Town's official district map.

6-502.J. **Temporary Suspension of Building Permits and Development Applications Exceptions.**

1. Whenever the Town Council has by resolution directed the preparation of an amendment to the text of this Title or to the Official Zone District Map, no building permit not already authorized pursuant to a vested site specific development plan shall be issued for development or construction activity which would be prohibited by or subject to the proposed amendment. Similarly, no pending or newly submitted land use application that would be prohibited by or subject to a proposed text or map amendment upon adoption shall be processed or approved during the pendency of such amendment, except in conformance with the proposed amendment. If the Town Council shall by motion or resolution direct the abandonment of a proposed text or map amendment, or should an ordinance adopting such amendment, or an amendment substantially similar to the proposed amendment, fail to pass Town Council within a reasonable period of time from the date it was first directed or proposed, then all building permits and land use development approvals applied for and/or pending shall be issued or permitted to proceed to approval in accordance with the provisions of this Title then in effect. All proposed text and map amendments shall be diligently processed and adopted in a reasonable and timely fashion so as to minimize delays in the review and

approval of new or pending land use development applications.

2. Town Council may by resolution and within its discretion grandfather building permits or land use development applications pending or submitted during the period of time a text or map amendment is being processed as provided for in this Section upon a finding that exempting such application would not seriously impair the purpose, intent, or effectiveness of the proposed text or map amendment after its adoption, and is otherwise in the best interest of the public health, safety and welfare.

3. Notwithstanding any other provision in this subsection 6-502.J, complete and fully submitted land use applications that have been subject to a public hearing prior to such time as the Town Council has directed or initiated amendments to the text of this Title, or to the Official Zone District Map, shall be processed and reviewed in accordance with the land use regulations and ordinances then in effect.

Section 6-503 Application Contents

The application for approval of an amendment to the Land Use Code or the Official Zone District Map shall contain fifteen (15) copies of the following information:

6-503.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title;

6-503.B. **Code Amendments.** If the application requests an amendment to the text of the Land Use Code, the precise wording of the proposal shall be provided along with an explanation of why the amendment should be adopted.

6-503.C. **Map Amendments.** If the application requests an amendment of the Official Zone District Map, the application shall include:

1. A legal description of land area to be rezoned along with a sketch to scale showing the boundaries of the area to be rezoned which indicates the current zoning for all areas adjacent to the area proposed to be rezoned;

2. A statement of the requested new zone district classification and justification for the rezoning;

3. Description and sketches of buildings or uses proposed in the area proposed to be rezoned, along with a description of land and building uses within two hundred feet (200') in all directions;

4. A time schedule for any contemplated new construction or uses; and

5. A description of the effect that the rezoning would have on uses of adjacent properties in the neighborhood of the area proposed to be rezoned and on the Town generally. The determination of the "neighborhood of the area proposed to be rezoned" shall be made solely by the P&Z and/or by the Town Council.

Section 6-504 Review Standards For Code and Map Amendments

P&Z may recommend approval and the Town Council may approve an amendment to the Land Use Code or the Official Zone District Map when any one of the following criteria has been met:

6-504.A. There has been a substantial change in conditions in the neighborhood or area proposed to be rezoned since the date of approval of the existing zoning map designation;

6-504.B. There has been a substantial change in the circumstances or conditions of the Town at large;

6-504.C. There is demonstrated to be an error in the existing zoning or LUC text;

6-504.D. The proposed amendment is in conformance with or would implement the Telluride Master Plan, as amended;

6-504.E. The area proposed to be rezoned is peculiarly suitable for the uses permitted in the proposed new zone district; or

6-504.F. There exists a substantial and compelling public interest in such amendment.

(Ord. 1350, 2011; Ord. 1005, 1994; Ord. 970, 1992; Ord. 932 and 924, 1991; Ord. 403, 1979; Ord. 231, 1970)

DIVISION 6 ANNEXATIONS

Section 6-601 General Provisions

6-601.A. **Master Plan Consistency.** All annexations shall be consistent with the Telluride Master Plan.

6-601.B. **Utility Service Extensions.** Consent to annexation by benefited landowners shall be a condition of extension or expansion of municipal utility service outside of the municipal boundaries, as provided in Section 31-12-121, C.R.S., or otherwise, unless waived by the Town Council.

Section 6-602 Overview of Procedure

The Town Council will request a recommendation from the Planning and Zoning Commission on a proposed annexation to the Town of Telluride. The review and recommendation from the Planning and Zoning Commission shall be made pursuant to the following two-step review process unless the Town Council shall waive any one or more of the requirements in its request. The review and recommendation shall be completed by a date and time established by the Town Council but in no event later than the first reading of any annexation ordinance or date of an annexation election. The review and recommendation provided for in this Division 6 shall be in addition to any and all other land use reviews, recommendations or approvals otherwise required by this Land Use Code or by the Colorado Municipal Annexation Act.

6-602.A. **Preliminary Annexation Review.** Preliminary review of the annexation by the Planning and Zoning Commission.

6-602.B. **Final Annexation Review by P&Z.** Final annexation review before the Planning and Zoning Commission.

Preliminary and Final annexation reviews may be combined with the approval of the Planning Director.

Section 6-603 Procedure For Preliminary Annexation Review

For the purposes of this Division 6, a landowner initiated annexation is one in which owners of one hundred (100%) percent of the land proposed for annexation have signed an annexation petition.

6-603.A. **Pre-Application Conference.** In the case of a landowner initiated annexation, the applicant shall attend a pre-application conference with the Planning Director prior to submission of a preliminary application for annexation review to the Town.

6-603.B. **Submit Application.** In the case of a landowner initiated annexation, the applicant shall submit a complete application to the Planning Director, containing those materials listed in Section 6-604 of this Division. In the case of other than a landowner initiated application, the Town Manager shall determine who shall prepare and process the application which may include Town staff, if appropriate. The designated person or entity will hereinafter be referred to as the applicant.

6-603.C. **Staff Review and Referral.** The Planning Director shall review the application to

determine whether it is complete and is consistent with the requirements of the Telluride Master Plan.

1. If the Planning Director finds the application is complete, the application shall be assigned an agenda date and referred to other appropriate agencies for their comment.

2. If the application is incomplete, it shall be returned to the applicant, shall not be assigned an agenda date, and no further action taken until its defects are remedied.

6-603.D. **Public Notice.** Public notice that P&Z will conduct a hearing to consider the preliminary application for annexation review to the Town shall be provided as specified in Section 5-204 of this Title. If, in the opinion of the Planning Director, the size of the proposed annexed area makes mailing individual notices unduly burdensome, the provisions of Section 5-204.B.2. a. through d.,in all or in part, may be waived.

6-603.E. **Staff Report.** Prior to the public hearing to consider the application, the Planning Director shall prepare and forward a report to P&Z summarizing any review agency comments received and evaluating the application's compliance with the review standards contained in this Division and other applicable provisions of this Title.

6-603.F. **Public Action By P&Z.** P&Z shall hold a public hearing to review the conformance of the application with all applicable provisions of this Title. At the preliminary review hearing, P&Z shall certify a recommendation to the Town Council of approval, approval with conditions or denial of the application. P&Z is also authorized, at its discretion or upon request by the applicant, to table the application so the applicant may make modifications or provide additional information before it takes final action.

Section 6-604 Preliminary Annexation Application Contents

In the case of landowner initiated annexations, the applicant for preliminary annexation review shall submit fifteen (15) copies of the following materials to the Planning Director. In the case of non-landowner applications, the Planning Director shall determine which of the following materials will be required of the applicant. In the event any of the following is waived by the Planning Director, he/she may, with the consent of the applicant, require any documents or information reasonably calculated to satisfy the purpose of the waived requirement(s).

6-604.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202. C of this Title;

6-604.B. **Vicinity Map.** A vicinity map which shows the relationship of the area to be annexed and the existing Town limits including existing and proposed:

1. land uses;

2. residential densities;

3. streets;

4. watercourses;

5. utilities;

6. easements;

7. any other major feature in and adjacent to the tract of land proposed for annexation;

8. zoning of all adjacent properties;

9. special districts within the area to be annexed; and

10. contour intervals of not more than ten (10) feet.

6-604.C. **Preliminary Master Plan.** The preliminary master plan for the proposed land use and requested or suggested zoning of the area to be annexed, including:

1. A written report containing the following information:

   a. A statement addressing consistency with the Telluride Master Plan;

   b. Estimates of the current population, assessed property value and the costs of providing public services such as fire protection, trash removal, and street maintenance;

   c. The name(s) of the special district(s) providing services that would be affected by the annexation. If the unincorporated area to be annexed is part of a special district or county service area whose responsibilities are to be assumed by the Town, a statement shall be required indicating what steps will be taken to ensure a smooth transition in service delivery;

   d. A statement and plan showing that sufficient water, free of encumbrances, will be given to the Town to offset the potential population of the annexed property; or, if none is available, what mitigation is being offered in lieu of water rights.

   e. A statement and timetable of how the applicant will develop and finance the extension and undergrounding, where necessary, of utilities and services including, but not limited to, water and sewer, electricity, gas, cable television, and telephone;

   f. A statement and description of what land areas are to be dedicated for public use, or what equivalent benefit in money will be paid, and what other types of public benefit will be provided within a contracted period of time, specifically addressing affordable housing, parking and transportation structures, recreational corridors and facilities, installation and undergrounding of utilities, drainage, other environmental impacts, and conveyance of tributary and non-tributary water rights.

g. A statement of how the extension of municipal services, other than utilities, will be financed.

6.604.D. **Annexation Impact Analysis.** An annexation impact analysis for all annexations, unless waived by P&Z, or the Town Council, that includes:

1. General information (to be clearly and separately tabulated):

   a. Gross acreage of annexation;

   b. Approximate number and type of units;

   c. Acreage of streets and parking;

   d. Acreage and percentage of open space to be created, analyzed as to the amount to be deeded or dedicated to the Town, the amount to be retained in private ownership, and estimated Town maintenance costs;

   e. Density ratio: number of units compared to net acreage (gross acreage less streets, parking and open space); and

   f. Statement of effect upon local public school system, including estimated number of students generated and capital construction required.

2. Population impacts:

   a. Projected addition to the Town's population, both permanent and transient;

   b. Projected population by dwelling unit type; and

   c. Impact on police and fire protection services, to be reviewed and comments provided by police and fire protection district.

3. Traffic impacts:

   a. Projected vehicle trips to enter or depart the site: daily peak-hour average;

   b. Projected community-wide impact;

   c. Impact related to existing and proposed street segment capacities within the zone district;

   d. Projected maintenance costs on new and existing streets; and

   e. Public transportation ties.

4. Utilities impacts:

   a. Projected demand for municipal water, including year-round

average and seasonal peak demand and consumptive use;

b. Impact on existing water and sewer capacity and the potential need for additional facilities; and

c. Potential solid waste disposal costs.

5. Environmental analyses:

a. Soil types and bearing capabilities;

b. Geologic hazard areas;

c. High groundwater tables;

d. Slopes and potential erosion problems;

e. Flood-prone areas;

f. Effects on existing fish, wildlife and vegetation;

g. Aesthetic considerations; and

h. Wetlands designations.

6.604.E. **Cost/Benefit Report.** An annexation cost/benefit report for all annexations, unless waived by P&Z, or the Town Council, that, at a minimum, includes:

1. Definition of the Annexation Area in terms of geography, existing and potential land uses, public service and infrastructure uses;

2. Describes the existing jurisdictional relationships of the annexing territories, including current governance and service providers including those provided by the County and special districts;

3. Describes the specific changes that will occur on a "service by service" basis:

a. governmental administration;

b. schools;

c. police;

d. fire;

e. water and sewer;

f. streets and parking;

g. public transportation;

h. parks and recreation;

i. building services;

j. affordable housing; and

k. public works administration and services;

4. Quantifies the fiscal impacts on the Town:

a. anticipated new revenues;

b. changes in revenue flows and expenditure levels for each service; and

c. identifies major capital costs that will be triggered by taking on additional commitments;

5. Summarizes the fiscal analysis in a manner consistent with the relevant statutory and charter requirements.

Section 6-605 Procedure For Final Annexation Review

6-605.A. **Pre-Application Conference.** The applicant may attend a pre-application conference prior to submission of an application for final annexation of land to the Town.

6-605.B. **Submit Application.** If preliminary approval of the annexation application is granted by P&Z, and the Town Council, after a hearing conducted pursuant to Sections, 31-12-108,109, C.R.S., shall have determined that the proposed annexation meets the applicable requirements of Sections 31-12-104,105, C.R.S., the applicant may submit an application for final annexation to the Planning Director, containing those materials listed in Section 6-606 of this Division.

6-605.C. **Staff Review and Referral.** The Planning Director shall review the application to determine whether it is complete.

1. If the Planning Director finds the application is complete, the application shall be assigned an agenda date and referred to other appropriate agencies for their comment.

2. If the application is incomplete, it shall be returned to the applicant, shall not be assigned an agenda date, and no further action taken until its defects are remedied.

6-605.D. **Staff Report.** Prior to the public hearing to consider the application, the Planning Director shall prepare and forward a report to P&Z summarizing any review agency comments received and evaluating the application's compliance with the review standards contained in this Division and other applicable provisions of this Title.

6-605.E. **Public Notice.** Public notice that P&Z will conduct a hearing to consider the final application for annexation of land to the Town shall be provided by publication of the hearing date, along with a map of the proposed annexation, in a newspaper of general circulation in Town.

6-605.F. **Public Action By P&Z.** P&Z shall hold a public hearing to review the

conformance of the application with all applicable provisions of this Title. At the conclusion of its final review hearing, P&Z may send its final recommendation to the Town Council, or may continue the public hearing.

1. P&Z shall make a final recommendation to the Town Council of approval, approval with conditions or denial of the application, within thirty (30) days of the day the first public hearing is opened, unless a time extension is mutually agreed upon between P&Z and the applicant.

2. P&Z's recommendation shall be based on specific findings of fact as to the application's compliance with the standards set forth in this Division.

Section 6-606 Final Annexation Application Contents

In the case of a landowner initiated annexation, the applicant for final annexation review shall submit fifteen (15) copies of the following materials to the Planning Director. In the case of non-landowner applications, the Planning Director shall determine which of the following materials will be required of the applicant. In the event any of the following is waived by the Planning Director, he/she may, with the consent of the applicant, require any documents or information reasonably calculated to satisfy the purpose of the waived requirement(s).

6-606.A. **Map.** A mylar map of the boundaries of the property proposed to be annexed shall be submitted for final review. The map shall be prepared at a scale of one inch equals twenty feet (1" = 20'), or such scale as is determined by the Planning Director, shall state the date of preparation, written and graphic scale and north arrow and shall contain the following information:

1. Proposed name of area to be annexed;

2. Designation of proposed zoning;

3. Legal description of the property;

4. Proposed street layouts, including all dimensions; and

5. Contour intervals of not more than ten (10) feet.

6-606.B. **Annexation Agreement.** A copy of a proposed annexation agreement, if any, shall be submitted, describing and guaranteeing public benefit to the Town. The agreement shall specify what land areas are to be dedicated for public use, or what equivalent monetary benefit will be paid, and what other types of public benefit will be provided within a contracted period of time, specifically addressing employee housing, parking and transportation structures, recreational corridors and facilities, installation and undergrounding of utilities, drainage, and conveyance of tributary and non-tributary water rights.

Section 6-607 Annexation Review Standards

The Planning and Zoning Commission shall find that the following criteria have been met before finally recommending approval on the annexation request:

6-607.A. **Use.** That the plan for the use of the area to be annexed is acceptable;

6-607.B. **Open Space.** That proposed open spaces have a workable program established for maintenance and upkeep and are coordinated with the Town's open space program, when possible;

6-607.C. **Necessary.** That the proposed annexation is necessary or desirable and will contribute to the general well-being of the community;

6-607.D. **Health, Safety and General Welfare.** That the proposed annexation will not be detrimental to the health, safety or general welfare of persons residing within the corporate boundaries or injurious to property or improvements in the vicinity;

6-607.E. **Master Plan.** That the proposed annexation is in harmony with the intent of the Telluride Master Plan;

6-607.F. **Advantages.** That the advantages of the annexation to the Town outweigh the disadvantages;

6-607.G. **Defined Town Edge.** That the annexation and the development or land uses proposed would tend to maintain the compact development patterns of the Town;

6-607.H. **Logical Road System.** That the area has incorporated in its design, if a design has been developed, a logical extension of road and/or transportation systems where necessary;

6-607.I. **Utilities.** That the extension of municipal water and sewer lines would be feasible in the area;

6-607.J. **Maps.** That the applicant has agreed to update any geologic hazard, floodplain and other applicable mapping for the area to be annexed. The update work shall be done by a qualified person of the Town's choosing and shall be paid for by the applicant.

(Ord. 1193, 2003; Ord. 1188, 2003; Ord. 1033, 1995; Ord. 1005, 1994; Ord. 970, 1992; Ord. 932, 1991; Ord. 906, 1990; Ord. 457, 1980; Ord. 320, 1976)

DIVISION 7 LICENSING OF MOBILE HOME PARKS

Section 6-701. Prohibited Locations

6-7 01.A. **Lots or Tracts.** It is unlawful to park a mobile home on any lot or tract of ground within the Town, other than in a licensed mobile home park, subject to the requirements established in this Division.

6-701.B. **Streets or Alleys.** It is unlawful within the limits of Town for any person to park any mobile home on any street, alley, highway or other public place, except for emergency or temporary stopping or parking. Such emergency or temporary stopping or parking shall be limited to a period of time not in excess of twenty-four (24) hours' duration and subject to any other and further prohibitions, regulations and limitations imposed by the traffic and parking regulations or ordinances for and applicable to the street, alley or highway right-of-way.

Section 6-702 Temporary Permits

6-702.A. **Requirements.** A temporary mobile home permit may be issued by the Town Council, upon a determination that all of the following requirements have been met:

1. That the mobile home is located at a site temporary in nature and the granting of such permit is necessary to maintain the public health, safety and general welfare of the residents of the Town;

2. That a foundation and/or building permit has been issued for other than a mobile home structure to replace the mobile home;

3. That a temporary certificate of appropriateness has been issued by the Historic and Architectural Review Commission.

6-702.B. **Expiration.** Any such permit authorized pursuant to this Section shall expire automatically six (6) months from the date of issuance, unless within such six (6) month period an extension has been granted.

Section 6-703 Existing Mobile Homes Outside of Parks

6-703.A. **License Required.** Any occupied mobile home space which is located outside the boundaries of a licensed mobile home park on the effective date of the ordinance from which this section originally derives and any spaces used or held for use for school faculty or business purposes shall be permitted to be continued for such purpose so long as the required annual license fee is paid to the Town Clerk for each such space, by March 15th of each year. Such uses shall be deemed abandoned and no longer entitled to the benefits of this section if any of the following conditions are found to exist:

1. Failure to pay the annual license fee on the date specified in this section of each year;

2. Affirmative action of the owner of the site indicating an intent to discontinue use for mobile home purposes; or

3. By unoccupancy thereof for any continuous period of sixty days (60) after the effective date of the amending ordinance from which this section derives.

6-703.B. **Eligibility.** To come within the provisions of this section, the occupant of the mobile home or the owner of the space must register the same with the Town Clerk within thirty (30) days of the effective date of the amending ordinance from which this section originally derives and obtain a permit for the mobile home. Thereafter, upon compliance with this division and payment of the annual license fee, the Town Clerk shall issue a permit each year.

Section 6-704 Mobile Home Park License Required

It is unlawful for any person to maintain or operate a mobile home park within the Town unless such person first obtains a license therefor.

Section 6-705 Procedure For Obtaining License

An applicant seeking to obtain a license for a mobile home park shall follow the stages of the Telluride Land Development Process outlined below. The common review procedures for each stage are set out in Article 5 of this Title.

6-705.A. **Pre-Application Conference.** The applicant shall attend a pre-application conference prior to submission of an application to obtain a license for a mobile home park.

6-705.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director, containing those materials listed in Section 6-706 of this Division.

6-705.C. **Staff Review and Referral.** The Planning Director shall review the application to determine whether it is complete and complies with the requirements of the underlying zone district.

1. If the Planning Director finds the application is complete and complies with the requirements of the underlying zone district, the application shall be assigned an agenda date and referred to other appropriate agencies for their comment.

2. If the application is incomplete or does not comply with the requirements of the underlying zone district, it shall be returned to the applicant, shall not be assigned an agenda date, and no further action taken until its defects are remedied.

6-705.D. **Public Notice.** Public notice that P&Z will conduct a hearing to consider the application for approval of a mobile home park license shall be provided as

specified in Section 5-204 of this Title.

6-705.E. **Staff Report.** Prior to the public hearing to consider the application, the Planning Director shall prepare and forward a report to P&Z summarizing any review agency comments received and evaluating the application's compliance with the review standards contained in this Division and other applicable provisions of this Title.

6-705.F. **Public Action By P&Z.** P&Z shall hold a public hearing to review the conformance of the application with all applicable provisions of this Title. P&Z shall certify a recommendation to the Town Council of approval, approval with conditions or denial of the application, within thirty (30) days after the final public hearing thereon. P&Z's recommendation shall be based on specific findings of fact as to compliance of the application with the standards set forth in this Division.

6-705.G. **Public Action By Town Council.** The Town Council shall act upon the recommendations of P&Z at a regular meeting. The Town Council may approve, approve with conditions, or deny the application, based on its determination of whether the plans for the mobile home park are in compliance with all provisions of this Division and all other applicable Town regulations. The Council may also, at its discretion or upon request by the applicant, table the application so the applicant may make modifications or provide additional information before the Council takes final action.

6-705.H. **Actions Following Approval.** The applicant may apply for a building permit following approval of the use permitted on review and the filing and, if applicable, recordation of any documents required by the approval. Upon completion of the park according to the approved plans, the Town shall issue a mobile home park license to the applicant.

Section 6-706 License Application Requirements

The application to obtain a mobile home park license shall contain fifteen (15) copies of the following information:

6-706.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title;

6-706.B. **Site Plan.** A site plan of the mobile home park, which shall be in conformance with the standards of Section 6-707 of this Title;

6-706.C. **Building Plans.** Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the mobile home park; and

6-706.D. **Additional Information.** Such further information as may be requested by P&Z to enable it to determine if the proposed mobile home park will comply with all requirements of this Title.

Section 6-707 Minimum Standards For All Mobile Home Parks

6-707.A. **Parcel Size And Contiguity.** The land used for a mobile home park shall be a single, unified parcel in which all the parts thereof are contiguous one with another, except for any intervening streets and alleys. The parcel shall consist of not less than three (3) nor more than ten (10) acres, exclusive of such streets and alleys.

6-707.B. **Independent Mobile Homes.** Only independent mobile homes are permitted in mobile home parks.

6-707.C. **Drainage--Grade.** The mobile home park shall be built in a well drained site of not over seven percent (7%) grade, which is not subject to flooding.

6-707.D. **Access To Street.** The mobile home park shall have access to a public street or highway.

6-707.E. **Common Open Area.** The mobile home park shall provide a common open space, for exclusive use of the residents of the park, which shall contain not less than six hundred (600) square feet per mobile home space. If playgrounds are provided within the common open area, such playgrounds shall be completely fenced and protected from automobile traffic.

6-707.F. **Spaces, Lots and Pads.**

1. The area devoted to each mobile home space shall be no less than two thousand seven hundred (2,700) square feet. No mobile home shall be parked closer than eighteen feet (18') to its nearest neighbor. All mobile homes shall be parked on a concrete slab of not less than four inches (4") in thickness and at least fifteen feet (15') wide by forty feet (40') long.

2. Double mobile homes of approximately twenty-four feet (24') by sixty feet (60') shall be located on lots of no less than five thousand four hundred (5,400) square feet providing one thousand two hundred (1,200) square feet of common open area. Such homes shall be parked no closer than twenty-five feet (25') to their nearest neighbor, and shall be parked on a concreted slab not less than four inches thick (4") and at least thirty feet (30') wide and forty feet (40') long.

6-707.G. **Off-Street Parking.** Each mobile home space shall provide an off-street, hard-surfaced parking space for one (1) automobile.

6-707.H. **Plan Of Ways, Walks And Spaces.** The applicant shall also show on the plan all entrances and exits to the park, driveways and walks, and the design and arrangement of all mobile home spaces.

6-707.I. **Driveways And Streets.** All mobile home spaces shall abut upon a one-way paved driveway of not less than twenty-eight feet (28') in width which shall have unobstructed access to a public street or highway. Two (2) way traffic within the park shall require thirty-six-foot (36') wide paved streets. The posted speed limit in the mobile home park shall be five (5) miles per hour.

6-707.J. **Walkways.**

1. Walkways not less than two (2) feet wide shall be provided from the mobile home spaces to the service buildings.

2. All walkways within the park shall be hard-surfaced and lighted at night with electric lamps of not less than one hundred fifty (150) watts each and spaced at intervals of not more than one hundred feet (100').

6-707.K. **Electrical Outlets.** An electrical outlet complying with all applicable codes, and supplying at least two hundred twenty (220) volts shall be provided for each mobile home space.

6-707.L. **Landscaping.** All common open areas shall be planted in a grass appropriate to the region. A substantial amount of landscaping and vegetative screening is required. Possible examples of landscaping include tree planting, hedges, border beds and gardens. All common areas will be maintained by the mobile home park management for the exclusive use and enjoyment of the tenants. This service will be provided at no additional cost over and above the rental fee. Additional recreational facilities may be added as the need develops.

6-707.M. **Water Supply.** Water shall be supplied from the Telluride water system to all buildings and mobile home spaces within the park. Each mobile home space shall be provided with a cold water tap.

6-707.N. **Sewerage.** All sewerage from the mobile home park shall be discharged into the Telluride sewer system. Each mobile home space shall be provided with a trapped sewer at least four inches (4") in diameter for which the license shall pay the standard tap fee.

6-707.O. **Service Building Specifications.** Each mobile home park shall provide a service building to house toilet and laundry facilities and other necessary services, meeting the following specifications.

1. Service buildings shall be permanent structures complying with all applicable Town codes.

2. Service buildings housing sanitation or laundry facilities shall be located not closer than twenty feet (20') from any mobile home space upon which an independent mobile home is harbored.

3. All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

4. Every mobile home park which accommodates only independent mobile homes shall provide emergency sanitary facilities in a service building. These facilities shall consist of at least one flush-type toilet for each sex, and a washbowl with hot and cold running water.

5. For independent mobile home parks, not less than two (2) automatic washing machines and a laundry tray for the first twenty-five (25) or less mobile home spaces shall be provided. For mobile home spaces in excess of twenty-five (25), not less than one (1) additional automatic washing machine and laundry tray shall be provided for every twenty-five (25) additional mobile home spaces, or fractional number thereof. Also, one (1) automatic spin dryer for every two (2) washing machines shall be installed.

6. An adequate number of two-hundred-twenty (220) volt electrical outlets and adequate plumbing facilities shall be provided.

7. Shielded or opaque fencing of outdoor laundry drying areas shall be provided in addition to the dryers.

6-707.P. **Garbage Cans.** Metal garbage cans with tight-fitting covers shall be provided in quantities adequate to permit disposal of all garbage and rubbish. Garbage cans shall be located not farther than three hundred feet (300') from any mobile home space. The cans shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to ensure that the garbage cans will not overflow.

6-707.Q. **Additions--Skirting.** Porches, cabanas and awnings open on at least two (2) sides may be added to mobile homes, provided the addition does not extend more than six feet (6') from the mobile home. Skirting of mobile homes is permissible, provided such skirting does not permanently attach the mobile home to the ground. All additions to mobile homes shall meet the structural requirements of the Building Official.

6-707.R. **Register.**

1. It shall be the duty of each licensee and permittee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

   a. The name and address of each mobile home occupant and age of minor occupants;

   b. The name and address of the owner of each mobile home and motor vehicle by which it is towed;

   c. The make, model, year and license number of each mobile home and motor vehicle;

   d. The state, territory or county issuing such licenses; and

   e. The date of arrival and of departure of each mobile home.

2. The park shall keep the register available for inspection at all times by the law enforcement officers, health officials and other officials whose duties

necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the park.

6-707.S. **Cleanliness--Supervision.** The licensee shall be in charge at all times to keep the park, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this division to which the licensee or permittee is subject.

Section 6-708 Administrative Requirements

6-708.A. **Posting of License.** The license certificate or temporary permit shall be conspicuously posted in the office of, or on the premises of, the mobile home park at all times.

6-708.B. **Renewal of License.** Upon application in writing by a licensee for renewal of a license, the Building Official shall inspect the mobile home park to ensure that the requirements of this Division are implemented. After this inspection, P&Z shall, based on the results of the inspection, reissue or refuse to reissue the license.

6-708.C. **Transfer Of License.** Upon application in writing for transfer of license and payment of the transfer fee, the Town Clerk shall issue a transfer of license.

6-708.D. **Revocation Of License.** The Town may revoke any license to maintain and operate a park when the licensee has been found guilty of violating any provision of this Division.

(Ord. 1040, 1996; Ord. 970, 1992; Ord. 817, 1988; Ord. 467, 1981; Ord. 284, 1975; Ord. 235, 1970)

DIVISION 8 TEMPORARY USES AND STRUCTURES

Section 6-801 Purpose and Application

The purpose of this division is to provide flexibility in the review and approval of land uses and structures which are needed and intended to serve legitimate public or private purposes on a temporary and non-permanent basis. Temporary uses and structures are those uses and structures that may or may not be permitted in a given zone district, but which may be allowed on a non-permanent and temporary basis upon individual review of their proposed nature, location, duration, impact, and compatibility with surrounding permitted uses and structures within the underlying zone district; excepting outdoor merchandising or retail uses or displays, which shall not be permitted as temporary uses. Notwithstanding the foregoing, this division shall not be applicable to temporary uses or structures associated with major or minor festival events, which shall be reviewed and permitted in accordance with Chapter 11, Article 4 of the Municipal Code.

Section 6-802 Authorization for Temporary Uses

No temporary use or structure shall be permitted except upon review and approval of the Town Council in accordance with the procedures, standards and limitations set forth in this division.

Section 6-803 Criteria Applicable to All Temporary Uses and Structures

When considering a development application for a temporary use or structure, Town Council shall evaluate, among other pertinent factors, the following criteria as they, or any of them, relate thereto.

6-803.A. The location, size, design, operating characteristics, and visual impacts of the proposed use or structure.

6-803.B. The compatibility of the proposed temporary use or structure with the character, density and use of structures and uses in the immediate vicinity.

6-803.C. The impacts of the proposed temporary use or structure on pedestrian and vehicular traffic and traffic patterns, municipal services, noise levels, and neighborhood character.

6-803.D. The duration of the proposed temporary use or structure and whether a temporary use or structure has previously been approved for the structure, parcel, property or location as proposed in the application.

6-803.E. The purposes and intent of the underlying zone district in which the temporary use or structure is proposed.

6-803.F. The relation of the temporary use or structure to conditions and character changes which may have occurred in the area and underlying zone district in which the use or structure is proposed.

6-803.G. How the proposed temporary use will enhance or diminish the general public health, safety or welfare.

Section 6-804 Exemption From Architectural Design and Historic Review Guidelines

In that uses or structures as applied for and granted under the terms of this division are to be transitory and temporary in nature, the architectural, design and historic preservation regulations as set forth or incorporated in Article 7 "Historic and Architectural Review" of this Title, shall not be applied or controlling in the evaluation, approval or denial of a temporary use or structure, and development applications as submitted under this division shall be exempt from the review and jurisdiction of the Historic and Architectural Review Commission. Notwithstanding the exemption as granted by this section, nothing shall prohibit the Town Council from referring a development application for a temporary use or structure to the Historic and Architectural Review Commission for the commission's comments and recommendations thereon.

Section 6-805 Conditions of Approval

The Planning Director may recommend and the Town Council may impose such conditions on a temporary use or structure as deemed necessary to protect the integrity of the underlying zone district and the surrounding uses and structures in the neighborhood in which a temporary use or structure is to be permitted. This may include, but is not limited to, setting requirements for, or imposing restrictions upon, size, bulk, location, open space, landscaping, buffering, screening, lighting, noise, signage, parking, operations, hours of operation, set-backs, building materials, sanitation, dust control, and requiring such financial security as deemed necessary to ensure compliance with any or all conditions of approval and/or to restore the subject property to its original use and condition.

Section 6-806 Section 6-801 Duration and Expiration of a Temporary Use

6-806.A. Temporary uses and structures may be granted for a period not to exceed one hundred eighty (180) days from the date upon which the Town Council approved same, unless a shorter period is specified in the approval.

6-806.B. Town Council may grant one extension of an approved temporary use or structure. Requests for an extension must be submitted in writing to the Planning Director no less than thirty (30) days prior to the expiration of the initial permit period for the subject temporary use or structure. All proposed extensions of a temporary use or structure shall be evaluated under the same criteria as set forth in Sections 6-803 and 6-805 above. Town Council shall hear and approve or deny all extension requests at a public meeting. No extension shall exceed one hundred eighty (180) days. A timely and properly filed request for an extension shall allow the continuation of an existing temporary use or structure until such time as the Town Council has ruled on the extension request.

Section 6-807 Procedure for Temporary Use or Structure Approval

A development application for a temporary use or structure shall be submitted to the Planning Director who shall forward it with comments and recommendations to the Town Council. Town Council shall then, after a public hearing, grant, grant with conditions, or deny the application. The hearing before the Town Council shall be preceded by timely notice as specified in Section 5-204.B.1.a of this Title, and all hearings shall be conducted in accordance with the procedures set

forth in Sections 5-206.C and 5-206.D of this Title.

Section 6-808 Application

A development application for a temporary use or structure shall include the following information.

6-808.A. The general application information required in Section 5-202.C of this Title.

6-808.B. A site plan showing property lines and existing and proposed features relevant to the temporary use or structure and its relationship to uses and structures in the immediate vicinity.

6-808.C. If the application involves development of a new structure, or expansion or remodelling of an existing structure, then proposed elevations of the structure must be provided.

6-808.D. Such other information as deemed necessary by the Planning Director for purposes of evaluating the application.

Section 6-809 Amendment of Development Order

6-809.A. **Insubstantial Amendment**. An insubstantial amendment to an approved development order for a temporary use or structure may be authorized by the Planning Director. An insubstantial amendment shall be limited to design, technical or engineering considerations first discovered during actual development of the temporary use or structure which were unknown and could not reasonably have become known prior to or during the approval process, or any other minor amendment to the approval which the Planning Director has determined to have no affect on the nature of, or the conditions imposed upon, a temporary use or structure.

6-809.B. **Other Amendment.** All amendments not constituting an insubstantial amendment must be reviewed and approved by the Town Council at a public hearing.

Section 6-810 No Vesting of Temporary Uses or Structures

A development application for and an approval of a temporary use and/or structure, or development plan, shall not constitute nor be interpreted by any property owner, developer or court as a site specific development plan entitled to vesting under Article 68 of Title 24 of the Colorado Revised Statutes, or Section 5-208 of this Title. Temporary uses and structures shall be considered transitory variances at all times and shall not vest. The failure of an applicant to adhere to any condition of approval for a temporary use or structure shall result in the immediate forfeiture of approval and such use or structure shall immediately cease and may be subject to abatement as a public nuisance as provided for in the Municipal Code.

Section 6-811 Actions Following Development Approval

Applicants granted approval for a temporary use and/or structure shall comply as necessary and applicable with the documentation and building permit requirements as set forth in Section 5-209 of this Title.

Section 6-812 Appeals

Any appeal from a decision of the Town Council in regard to a temporary use or structure shall be filed in the district court in and for San Miguel County in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(Ord. 1350, 2011; Ord. 1012, 1994)

ARTICLE 7 HISTORIC AND ARCHITECTURAL REVIEW

DIVISION 1 HISTORIC PRESERVATION OVERLAY DISTRICT

Section 7-101 Findings

The Town Council finds that:

A. **Impacts.** The alteration, addition to, relocation and demolition of structures, construction of new structures, and development in general can have substantial impacts on the architectural integrity of the entire Town and the unique historic character and scale of the Town's core area.

B. **Specific Regulations Needed.** Certain aspects of development are subtle and not fully amenable to regulation through legislation which does not address specific land use proposals. Among these aspects are the general form of the land before and after development, the spatial and architectural relationships of the structures and open spaces to adjacent and nearby land uses, and the appearance of buildings and open spaces as they contribute to the area being developed, the Town, and its mountain setting as a whole.

C. **Public Review Board.** The preservation of the Town's historic character and architectural integrity requires the timely exercise of judgment on a case-by-case basis by a public review board which applies specific design guidelines and review criteria to authorize, condition, or deny historical or architectural aspects of certain development proposals which may otherwise be permitted by the Town's laws, including, but not limited to, compliance with specific zone district dimensional limitations such as maximum height, floor area and site coverage, and minimum setbacks.

Therefore, the Historic Preservation Overlay Zone District (HPOD) and Telluride Historic Landmark District (THLD), which is a subdistrict of the HPOD, are hereby created, to be administered by the Historic and Architectural Review Commission (H.A.R.C.).

Section 7-102 Intent And Purpose

The purposes of the Historic Preservation Overlay District are:

7-102.A. **Preserve Historic Character.** To preserve, maintain, and enhance the historic character, scale, architectural integrity, and cultural resources of the Town and the Telluride Historic Landmark District;

7-102.B. **Protect Cultural Resources.** To protect the national cultural resources of the Town and its designation by the National Park Service as a National Historic Landmark District under the Historic Site Act of 1935;

7-102.C. **Foster Attractiveness and Utility.** To foster the attractiveness and functional utility of the community as a place to live, work and visit; and

7-102.D. **Promote Sense of Community.** To promote a sense of community based on

maintaining the historic and architectural quality of the Town.

Section 7-103 Boundaries

7-103.A. **Historic Preservation Overlay District.** The boundaries of the Historic Preservation Overlay District are the municipal boundaries of the Town as they currently exist or as they may hereafter be extended or adjusted.

7-103.B. **Telluride Historic Landmark District.** The exterior boundaries of the Telluride Historic Landmark District, a subdistrict of the Historic Preservation Overlay District, shall be set forth on the Official Zone District Map as directed by ordinance of the Town Council and may be amended from time to time.

7-103.C. **Telluride National Historic Landmark District.**

Telluride National Historic Landmark District ("TNHLD") is the district listed by the National Register of Historic Places, National Park Service, U.S. Department of Interior, the boundaries of which have been established by the same.

Section 7-104 Certificate Of Appropriateness Required

The erection, alteration, addition to, demolition, or relocation of any structure, significant landmark interior, or sign within the Historic Preservation Overlay District shall be prohibited unless a Certificate of Appropriateness (CA) or temporary Certificate of Appropriateness has first been issued pursuant to the provisions of this Article 7.

7-104.A. **Consistency Required.** No CA shall be approved unless a reviewing body finds that a proposed activity is consistent with the Design Guidelines, General Standards for Review and Design Considerations, as stated in Section 7-105, and the purposes of this Division 1 and this Article 7.

7-104.B. **Significant Landmark Interiors.** Applications for a CA for significant landmark interiors shall be evaluated in accordance with the "Building Interior" standards as contained in "Standards for the Treatment of Historic Properties" (1995) as published by the Secretary of the Interior, which shall be deemed incorporated into the section by this reference. No application for demolition, alteration, or addition to a significant landmark interior shall be denied if by virtue of such denial the owner would be deprived of all economically beneficial use of such interior. The burden of proof for establishing such deprivation shall be on the owner.

Section 7-105 Design Guidelines, General Standards for Review and Design Considerations

In examining applications for issuance of or amendment to a CA or providing recommendations to other Commissions or Town Council, H.A.R.C. shall consider the architectural aspects of the proposed design. For properties located within the Telluride Historic Landmark District, the historical aspects of design shall be evaluated in addition to architectural aspects. Every development application shall be examined with respect to:

7-105.A. **Design Guidelines.** The applicable design guidelines for the affected treatment area as defined in Design Guidelines for Building in Telluride, a copy of which is

incorporated herein by reference;

7-105.B. **General Standards for Review.** The general standards for review as defined in Design Guidelines for Building in Telluride; and

7-105.C. **Design Considerations.** The following design considerations:

7-105.C.1. The relationship of the development application to adjacent buildings and buildings within the same treatment area;

7-105.C.2. The impact of the development application on neighboring land uses with respect to light, views, open space, access, traffic, natural conditions and hazards;

7-105.C.3. The impact of the development application on the historic character of the Telluride Historic Landmark District;

7-105.C.4. The impact of the development application on the architectural integrity of the Historic Preservation Overlay District;

7-105.C.5. The degree to which existing historic character and architectural integrity are maintained and enhanced;

7-105.C.6. The degree to which the existing historic character and/or architectural integrity of the specific treatment area are preserved and enhanced;

7-105.C.7. The rating or designation of the structure pursuant to the Telluride Historic Architectural Surveys and, if appropriate, other available secondary resource materials such as the 1978 Historical Boundaries and Landmarks Survey in Telluride, Colorado, and the impact of the development application upon any new historic rating or designation proposed for the structure.

7-105.C.8. The impact of the development application upon the rating or designation of adjacent structures and structures within the applicable treatment area;

7-105.C.9. The condition of existing improvements and whether or not they constitute a hazard to public health or safety;

7-105.C.10. The purposes of the land use, density, height, bulk, ground coverage, and setback restrictions within the applicable underlying zone district; and

7-105.C.11. The benefit to and impact of the development proposal on the Town.

Section 7-106 Underlying Zone District Requirements

7-106.A. **Underlying Requirements the Same.** The uses permitted by right, uses permitted on review, dimensional limitations, parking requirements, and sign regulations within the Historic Preservation Zone District shall be the same as those required by the underlying zone district. Each of the underlying zone district regulations shall be complied with in the Historic Preservation Overlay District, except as may be varied, modified or waived pursuant to any zoning incentive granted pursuant to Section 7-506 of this Division, or as otherwise authorized by this Title.

7-106.B. **Modification by H.A.R.C.** HARC may modify certain dimensional limitations as specified in Division 2 of Article 3 of this Title as part of the development review process. HARC is also empowered when issuing a CA to make more restrictive any dimensional limitation applicable to a property within the HPOD to insure that the proposed development activity complies with the purposes of this Division, the *Design Guidelines*, and the General Standards for Review and Design Considerations in Section 7-105 of this Division.

Section 7-107 Limitations On Review.

7-107.A. **Design Assistance.** H.A.R.C. shall not design or assist in the design of any buildings or projects submitted for approval. H.A.R.C. shall restrict its considerations to a reasonable and professional review of the proposal and plans, leaving full responsibility for the design and development to the applicant.

7-107.B. **Creativity Encouraged.** Individual creativity and innovation are to be encouraged in accordance within the limits of the design guidelines and the intent and purpose of this Article.

7-107.C. **Conformance Required.** An application shall address and reasonably conform to the purposes and requirements of allapplicable provisions of this Article including the general standards for review and the specific design guidelines for the applicable treatment area.

7-107.D. **Economic Considerations.** In trying to improve the quality of a design and maintain and enhance the architectural integrity and historic character of existing structures, H.A.R.C. may consider economic factors. However, economic considerations and cost shall not override the other objectives of this Article.

7-107.E. **Restrictions.** Subject to the provisions of Section 7-106 of this Division, H.A.R.C. shall not unduly restrict building types or materials, or unduly vary the specific allowances or restrictions of this Title unless the project would otherwise fail to meet applicable approval criteria.

Section 7-108 Recommendation to P&Z.

H.A.R.C. shall provide recommendations to P&Z concerning applications for amendments to the Official Zoning Map and Land Use Code text amendments pertaining to districts within the Telluride Historic Landmark District or the Transitional Hillside Treatment Area, as well as applications for preliminary large scale or small scale subdivisions or PUD's. The H.A.R.C. Chairperson shall provide recommendations regarding certain minor subdivisions. P&Z shall not take final action on any such application prior to receipt of a recommendation from H.A.R.C.except for minor subdivisions. H.A.R.C. shall review and provide such recommendations pursuant to H.A.R.C.'s small scale activity review procedures; however, public notice requirements shall be limited to posting of the property per Section 5-204.B.3 and by publication of the meeting agenda on which the activity shall be heard to the Town's Web Site.

(Ord. 1326, 2010; Ord. 1145, 2001; Ord. 1112, 1999; Ord. 1106, 1998; Ord. 1033, 1995; Ord. 1005, 1994; Ord. 970, 1992; Ord. 929, 1991; Ord. 867, 1989; Ords. 846, 843 and 817, 1988; Ord. 466, 1981; Ord. 415, 1980; Ord. 254, 1972)

DIVISION 2 ALTERATION, ADDITION AND ERECTION

Section 7-201 Applicability

The following types of development activities shall require a Certificate of Appropriateness (CA) or temporary CA.

7-201.A. **Historic Preservation Overlay District.** Erection, alteration, addition to, demolition of, or relocation of any structure or sign in the Historic Preservation Overlay District; and

7-201.B. **Designated Significant Landmark Interior.** Renovation, restoration, alteration, addition to, demolition, or modification of any designated significant landmark interior. The intent of such review shall be to preserve existing historic features. Complete restorations of such interiors shall be undertaken at the option of the owner and shall not be required by H.A.R.C. as a condition of approval for a lesser or partial restoration.

Section 7-202 Overview of H.A.R.C. Application Types

There are four H.A.R.C. application types which differ in terms of when the applications may be submitted for review, the number of steps involved in the review process, whether public notice is required, and the body which reviews the application.

7-202.A. **Large Scale Activity.** Large scale activities must be approved by H.A.R.C. and require a preliminary and final application and review. The procedures for H.A.R.C. review of large scale activities are fully described in Sections 7-204 and Section 7-206 of this Division.

7-202.B. **Small Scale Activities.** Small scale activities must be approved by H.A.R.C. and require only a final application and review. The procedures for H.A.R.C. review of small scale activities are more fully described in Section 7-206 of this Division.

7-202.C. **Minor Activities.** Minor activities are approved by the H.A.R.C. Chairperson and require only a final application. The procedures for review of minor activities are fully described in Section 7-211 of this Division.

7-202.D. **Insubstantial Activities.** Insubstantial activities are approved by the Planning Director and require only a final application. The procedures for review of insubstantial activities are fully described in Section 7-211.

Section 7-203 Classification of Applications

H.A.R.C. activities are classified into four (4) application types, as follows.

7-203.A. **Large Scale Activities.** Activities classified as large scale are as follows:

7-203.A.1. New construction in all zone districts except Commercial, Historic Commercial, or Accommodations II which will contain more than two thousand five hundred (2,500) square feet of floor area;

7-203.A.2. New construction in the Commercial, Historic Commercial or Accommodations II zone districts which will contain more than five thousand (5,000) square feet of floor area;

7-203.A.3. Additions to existing buildings in all zone districts except Commercial, Historic Commercial, or Accommodations II zone districts which will increase a structure's floor area by more than twenty-five percent (25%) and result in a building which will contain more than two thousand five hundred (2,500) square feet of floor area;

7-203.A.4. Additions to existing buildings in the Commercial, Historic Commercial, or Accommodations II zone districts which will increase a structure's floor area by more than twenty-five percent (25%) and result in a building which will contain more than five thousand (5,000) square feet of floor area; and

7-203.A.5. Demolition or relocation of a rated THAS Primary Structure or local landmark structure; demolition of a rated structure.

7-203.B. **Small Scale Activities.** Activities classified as small scale are as follows:

7-203.B.1. New construction in all districts other than the Commercial, Historic Commercial, or Accommodations II zone districts which:

a. is located within the THLD and will contain seven hundred fifty (750) square feet or more of floor area, but not more than two thousand five hundred (2,500) square feet of floor area; or

b. is located outside the THLD, but within the HPOD, and will contain one thousand five hundred (1,500) square feet or more of floor area, but not more than two thousand five hundred (2,500) square feet of floor area;

7-203.B.2. New construction in Commercial, Historic Commercial, or Accommodations II zone districts which will contain one thousand five hundred (1,500) square feet or more of floor area, but not more than five thousand (5,000) square feet of floor area;

7-203.B.3. Additions to existing buildings in all zone districts except the Commercial, Historic Commercial, or Accommodations II zone districts which will increase a structure's floor area by less than twenty-five percent (25%) but greater than ten percent (10%) and result in a building which will contain more than two thousand five hundred (2,500) square feet of floor area;

7-203.B.4. Additions to existing buildings in all zone districts except in the Commercial, Historic Commercial, or Accommodations II zone

districts which will increase a structure's floor area by more than twenty-five percent (25%) and result in a building which will contain more than one thousand (1,000) but less than two thousand five hundred (2,500) square feet of floor area;

7-203.B.5. Additions to existing buildings in the Commercial, Historic Commercial, or Accommodations II zone districts which will increase a structure's floor area by less than twenty-five percent (25%) but greater than ten percent (10%) and result in a building which will contain more than five thousand (5,000) square feet of floor area;

7-203.B.6. Additions to existing buildings in the Commercial, Historic Commercial, or Accommodations II zone district which will increase a structure's floor area by more than twenty-five percent (25%) and result in a building which will contain more than one thousand (1,000) but less than five thousand (5,000) square feet of floor area;

7-203.B.7. Relocation of a rated or non-rated THAS Secondary Structure;

7-203.B.8. Demolition or relocation of any non-rated THAS Primary Structure within the HPOD; demolition of any non-rated THAS Secondary Structure within the HPOD; demolition of any non-designated principal structure within the THLD; or the relocation of any non-designated prinicipal structure within the HPOD;

7-203.B.9. Alteration to a significant landmark interior;

7-203.B.10. Reviews and recommendations by H.A.R.C. for P&Z as called for under Section 7-108 of this Title;

7-203.B.11. Extension of a certificate of appropriateness for small and large scale activities;

7-203.B.12. Challenges to the designation of a structure as listed in the 1986 or 1987 THAS;

7-203.B.13. Designation of a local landmark or significant landmark interior; and

7-203.B.14. Repositioning of a rated or non-rated THAS Primary Structure or THAS Secondary Structure in the HPOD.

7-203.C. **Minor Activities.** Activities classified as minor are as follows:

7-203.C.1. New construction in all districts other than Commercial, Historic Commercial, or Accommodations II zone districts which:

a. is located within the THLD and will contain less than seven hundred fifty (750) square feet of floor area; or

b. is located outside the THLD, but within the HPOD, and will

contain less than one thousand five hundred (1,500) square feet of floor area;

7-203.C.2. New construction in Commercial, Historic Commercial, or Accommodations II zone districts which will contain less than one thousand five hundred (1,500) square feet of floor area;

7-203.C.3. Additions to existing buildings in all zone districts except the Commercial, Historic Commercial, or Accommodations II zone districts which will increase a structure's floor area by more than ten percent (10%), but less than twenty-five percent (25%) resulting in a building less than 2,500 square feet;

7-203.C.4. Addition to an existing building in Commercial, Historic Commercial, or Accommodations II zone districts which will increase the structure's floor area by more than ten percent (10%), but less than twenty-five percent (25%) resulting in a building less than 5,000 square feet;

7-203.C.5. Addition to a rated building which will increase the structure's floor area by less than ten percent (10%);

7-203.C.6. Addition in all districts which will increase the structure's floor area more than 25% resulting in a building less than 1,000 square feet;

7-203.C.7. Any addition in the Commercial, Historic Commercial, or Accommodations II zone districts which will increase the structure's floor area by less than 10% but greater than 500 square feet;

7-203.C.8. Alteration of a rated structure which does not increase its floor area;

7-203.C.9. Relocation of any non-designated secondary structure within the HPOD;

7-203.C.10. Installation of a sign on a historic landmark building;

7-203.C.11. Extension of a certificate of appropriateness for a minor activity; and

7-203.C.12. Wireless telecommunication facilities and equipment, pursuant to Section 7-214.

7-203.D. **Insubstantial Activities.** Activities classified as insubstantial are as follows:

7-203.D.1. Installation of a sign on a building which is not a historic landmark;

7-203.D.2. An amendment to a certificate of appropriateness that does not constitute a vested site specific development plan;

7-203.D.3. Addition to non-rated and non-designated buildings in all zone districts which will increase a structure's floor area by less than ten

percent (10%), except additions which are greater than 500 square feet in the Commercial, Historic Commercial and Accommodations II zone districts which qualify as small scale activities under Section 7-203.B.7;

7-203.D.4. Alteration of a non-designated or non-rated structure which does not increase its floor area;

7-203.D.5. Any fence or landscape plan;

7-203.D.6. Insignificant changes to a non-designated and non-rated structure including by way of example and not by limitation:

a. changes in surface materials such as roofing and siding;

b. architectural detailing, minor fenestration changes or skylight additions;

c. deck and porch detailing or additions; and

d. changes which do not alter the structure's surface plane or envelope;

7-203.D.7. Demolition of any non-designated structure within the HPOD, but outside the THLD; and non-designated secondary structures within the THLD;

7-203.D.8. Extension of a certificate of appropriateness for insubstantial activity; and

7-203.D.9. Repositioning of a non-designated structure in the HPOD.

Section 7-204 Procedures for Preliminary Review for Large Scale Activity

An applicant seeking preliminary approval for a large scale activity shall follow the steps outlined below. The common review procedures for each stage are set out in Article 5 of this Title.

7-204.A. **Pre-Application Conference.** The applicant shall attend a pre-application conference prior to submission of an application.

7-204.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing those materials listed in Section 7-205 of this Division.

7-204.C. **Staff Review and Referral.** The Planning Director shall review and refer application in conformance with Sections 5-203.A and B of this Title.

7-204.D. **Public Notice**. Public notice that H.A.R.C. will conduct a hearing to consider the application shall be provided as specified in Section 5-204 of this Title.

7-204.E. **Staff Report.** A staff report shall be prepared and made available as called for in

Section 5-203.C of this Title.

7-204.F. **Site Visit.** The Planning Director shall schedule a site visit as part of H.A.R.C.'s review of an application. A site visit shall be considered as part of the public hearing and shall be noticed pursuant to subsection D of this Section 7-204.

7-204.G. **Action By H.A.R.C.** H.A.R.C. shall hold a public hearing in accordance with Sections 5-206.C and D of this Title to review and render a decision on whether the proposed preliminary plan conforms or does not conform with all applicable provisions of this Title. Approval shall not be entered unless all substantive issues regarding the project application have been resolved and the proposed plan meets all applicable requirements. Failure by H.A.R.C. to render a decision on a preliminary plan application shall be construed and entered as a denial of the application.

7-204.H. **Actions Following Approval**. Approval of a preliminary plan shall not constitute final approval. Approval of a preliminary plan for a large scale activity shall constitute authorization for the applicant to prepare and submit a final plan in accord with the representations made by the applicant and any condition applied to the preliminary plan approval. Applications for final approval shall be submitted within sixty (60) days of the preliminary approval or the approval shall be deemed void. A preliminary plan approval as granted under this section shall not constitute a certificate of appropriateness or site specific development plan for purposes of vesting a property right.

Section 7-205 Contents For Preliminary Applications for Large Scale Activity

The preliminary application for review of a large scale activity to obtain a CA shall contain:

7-205.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title.

7-205.B. **Elevations.** Front, rear, and side elevations of the exterior of the proposed project which clearly indicate the design intent and provide a rendered indication of the materials to be used. These exterior elevations shall include structures and significant natural features on abutting properties.

7-205.C. **Existing Improvements.** A drawing or photograph of the existing structure, if any, and of the site. If the application is for an addition, elevations of the existing structure and a site plan, illustrating all existing improvements, shall also be provided.

7-205.D. **Site Plan.** A site plan clearly showing the following:

7-205.D.1. A topographic survey performed by a surveyor licensed in Colorado indicating the pre-construction elevation, dimensions, corners, and orientation of each lot, and including the following:

a. its relation to adjoining properties and the existing improvements thereon;

b. the existing topography and proposed grading changes;

c. existing significant vegetation and landscape features;

7-205.D.2. The layout of the entire project and its relation to surrounding properties and the existing buildings and improvements thereon;

7-205.D.3. The benchmark elevation of the project stated in U.S. Geologic Survey elevations;

7-205.D.4. The location of points of entry and exit of motor vehicles and the project's internal vehicular circulation pattern and the location of required parking;

7-205.D.5. The location and layout of all parcel areas including required off-street parking and loading facilities;

7-205.D.6. Any improvements to the site, including, but not limited to walls and fences, exterior lighting, and the design placement of any sign or other advertisement;

7-205.D.7. A landscape plan clearly indicating the existing conditions and proposed condition of the parcel subsequent to development with notations clearly identifying existing significant vegetation to be removed.

7-205.E. **Floor Area.** An indication of the gross floor area of any existing structure(s) and any proposed addition(s) or new structure(s).

7-205.F. **Floor Plans**. Floor plans drawn to one-quarter inch equals one foot (1/4"=1') scale, except for projects in the Commercial, Historic Commercial or Accommodations II zone districts when floor plans shall be drawn to one-eighth inch equals one foot (1/8"=1') scale. Such plans shall indicate the intensity and type of use.

7-205.G. **Street Profile.** A street profile at one-eighth-inch (1/8") scale indicating the size and height of the project in relationship to neighboring structures and all other structures on the block, and outstanding natural features, including but not limited to trees, rock outcroppings, gullies, and vegetation.

7-205.H. **Impact Statement.** An impact statement which indicates the scope of the project, its design intentions, its compliance with all requirements of the underlying zone district, and a comment on the project's visual impact on its surroundings.

7-205.I. **Models.** All applications shall include a one-eighth-inch equals one foot (1/8" = 1') scale model of the project. Within the Commercial, Historic Commercial and Accommodations II districts, a one inch equals twenty square feet (1"=20') scale massing model which includes all property up to 150' of the project exclusive of ROWs shall also be required as deemed necessary by the Planning Director. Only

one of each model is required.

7-205.J. **Facade Drawing.** For projects located within the Commercial or Historic Commercial zone districts, a one-quarter-inch equals one foot (1/4" = 1') scale drawing of the primary facade.

7-205.K. **Visual Device.** The applicant shall erect a visual device which is structurally sound, including by way of example and not limitation, plastic pipe or wood silhouettes which generally identify the height and mass of the proposed construction and the building footprint. The device shall be erected at least seventy-two (72) hours prior to preliminary approval hearing, and maintained at least twenty-four (24) hours after the hearing or such other times as deemed necessary by the Planning Director.

7-205.L. **Reduced Plans**. In addition, ten (10) sets of reduced scale site plans, elevations, and floor plans at a one-eighth inch or one-sixteenth inch equals one foot (1/8" or 1/16"=1') scale shall be submitted at the request of the Planning Department.

7-205.M. **Housing Mitigation Plan**, as required by Section 3-720.D.

The scale of all drawings and elevations other than street profiles shall be one-quarter-inch equals one foot (1/4" = 1') for buildings in the AC-1, R/C and all residential-type zone districts, and one-eighth-inch equals one foot (1/8" = 1') for all buildings in the C, HC and AC-2 zone districts, unless otherwise provided for herein.

Section 7-206 Procedures for Final Review for Large and Small Scale Activities

An applicant seeking final approval for a large scale or small scale activity shall follow the steps outlined below. The common review procedures for each stage are set out in Article 5 of this Title. Review procedures, application contents and review standards particular to applications for demolition and relocation are found in Division 3 of this Article 7. Review procedures, application contents and review standards particular to applications for designation of local landmarks and significant landmark interiors are found in Division 5 of this Article 7.

7-206.A. **Pre-Application Conference.** The applicant may attend a pre-application conference prior to submission of an application.

7-206.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing the materials applicable to the type of activity proposed listed in Sections 7-207 through 7-210 of this Division.

7-206.C. **Staff Review and Referral.** The Planning Director shall review and refer an application in conformance with Sections 5-203.A and B of this Title.

7-206.D. **Public Notice.** Public notice that H.A.R.C. will conduct a hearing to consider the application shall be provided as specified in Section 5-204 of this Title.

7-206.E. **Staff Report.** A staff report shall be prepared and made available as called for in Section 5-203.C of this title.

7-206.F. **Site Visit**. The Planning Director shall schedule a site visit as part of H.A.R.C.'s review of an application for relocation of a rated secondary structure. A site visit shall be considered as part of the public hearing and shall be noticed pursuant to subsection D of this Section 7-206.

7-206.G. **Public Review and Action By H.A.R.C.** H.A.R.C. shall hold a public hearing to review an application and render a decision thereon in accordance with Sections 5-206.C and D of this Title.

7-206.H. **Actions Following Approval.** Conditions of approval requiring actions prior to issuance of a certificate of appropriateness must be addressed by the applicant and submitted within sixty (60) days of the rendering of a decision of approval, or the approval shall be deemed null and void. The CA shall be effective upon the date of signature of the HARC Chairperson.The applicant may apply for a building permit following approval of an application and the filing and recordation, as necessary, of any documents required by the approval or as specified under Section 5-209 of this Title. All fees must be paid. H.A.R.C. shall transmit a copy of each approved CA to the Building Official to authorize issuance of the permit.

7-206.I. **Notice**. Public notice announcing the approval of a large scale or small scale activity shall be published in accordance with the provisions of Section 5-208.H of this Title.

7-206.J. **Expiration and Extensions**. Approval of a large scale or small scale activity shall expire three (3) years from the effective date of the applicable site specific development plan.

7-206.J.1. H.A.R.C. may grant an extension of the activity approval for an additional period of up to three (3) years if the applicant demonstrates a legitimate need to delay the start of construction, including inclement weather, financing difficulties, or similar factors. Note: extensions of a vested property right may only be granted by the Town Council in accordance with Section 5-208 of this Title and an activity plan extension as awarded by H.A.R.C. may be subject to changes in the Land Use Code absent a corresponding extension in a vested property right.

7-206.J.2. An application for extension of a CA shall be submitted to the Planning Director no less than two (2) months prior to the expiration of the CA and H.A.R.C. shall act on such extension request prior to the expiration date of the CA.

Section 7-207 Application Contents For Final Review - New Construction

The development application for final review to obtain a CA for new construction shall contain three (3) copies of the following information:

7-207.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title.

7-207.B. **Drawing.** A drawing or photograph of the existing site.

7-207.C. **Site Plan.** A site plan drawn to scale clearly showing the following:

7-207.C.1. A survey by a licensed Colorado surveyor indicating the dimensions, corners, and orientation of each lot to be built upon or otherwise used, including the following:

a. its relation to adjoining properties and the existing improvements thereon;

b. the existing topography and proposed grading changes;

c. existing significant vegetation and landscape features;

7-207.C.2. The layout of the entire project, its relation to adjoining properties and the existing buildings and improvements thereon;

7-207.C.3. The benchmark elevation of the project stated in U.S. Geologic Survey elevations;

7-207.C.4. The location of the points of entry and exit for motor vehicles and the project's internal vehicular circulation pattern;

7-207.C.5. The location and layout of all parcel areas including required off-street parking and loading facilities;

7-207.C.6. Any improvements to the site, including, but not limited to, walls and fences, exterior lighting, and the design placement of any sign or other advertisement; and

7-207.C.7. A landscape plan clearly indicating the existing conditions and proposed condition of the parcel subsequent to development with notations clearly identifying existing significant vegetation to be removed.

7-207.D. **Floor Area.** An indication of the project gross floor area.

7-207.E. **Floor Plans.** Floor plans drawn to one-quarter inch equals one foot (1/4" = 1') scale. Such plans shall indicate the intensity and type of use.

7-207.F. **Street Profile.** Street profile indicating the mass and scale of the project in relationship to neighboring structures and significant natural features.

7-207.G. **Exterior Elevations.** Front, rear and side elevations of the exterior drawn at the appropriate scale which clearly show the design intent.

7-207.H. **Sign Plan.** For projects within the Historic-Commercial or Commercial zone districts, a sign plan showing the location and overall sign areas and the proposed sign area allocation.

7-207.I. **Exterior Materials.** Indication of the type of all exterior materials.

7-207.J. **Impact Statement.** An impact statement which indicates the scope of the project, design intentions and the project's visual impact on its surroundings.

7-207.K. **Reduced Plans**. In addition, ten (10) sets of reduce scale site plans, elevations, and floor plans at a one-eighth inch or one-sixteenth inch equals one foot (1/8" or 1/16"=1') scale shall be submitted.

7-207.L. **Housing Mitigation Plan**, as required by Section 3-720.D.

Section 7-208 Application Contents for Final Review - Additions and Alterations

The development application for final review to obtain a CA for an addition or alteration shall contain three (3) copies of the following information:

7-208.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title.

7-208.B. **Existing Improvements.** A drawing or photograph of the existing structure and site and elevations of the existing structure and a site plan, illustrating all existing improvements.

7-208.C. **Site Plan.** A site plan clearly showing the following:

7-208.C.1. A survey by a licensed Colorado surveyor indicating dimensions, corners, and orientation of each lot to be built upon or otherwise used, and including the following:

a. its relation to adjoining properties and the existing improvements thereon;

b. the existing topography and proposed grading changes;

c. existing significant vegetation and landscape features;

d. if the application is a minor submission, this information need not be in the form of a survey.

7-208.C.2. The layout of the entire project, its relation to adjoining properties and the existing buildings and improvements thereon;

7-208.C.3. The benchmark elevation of the project stated in U.S. Geologic Survey elevations;

7-208.C.4. The location of points of entry and exit of motor vehicles and the project's internal vehicular circulation pattern and the location of required parking;

7-208.C.5. The location and layout of all parcel areas including required off-street parking and loading facilities;

7-208.C.6. Any improvements to the site, including, but not limited to, walls and fences, exterior lighting, and the design placement of any sign or other advertisement; and

7-208.C.7. Proposed landscaping, with notations clearly identifying existing conditions, existing significant vegetation to be removed, and the proposed condition of the site subsequent to development.

7-208.D. **Floor Area.** Indication of the gross floor area of the existing building and any additions.

7-208.E. **Floor Plans.** Floor plans drawn to one-quarter inch equals one foot (1/4" = 1') scale. Such plans shall indicate the intensity and type of use.

7-208.F. **Elevations.** Front, rear and side elevations of the exterior which clearly show the design intent. These exterior elevations shall include structures and significant natural features on abutting properties.

7-208.G. **Street Profile.** Street profile indicating the project's size and height in relation to neighboring structures if the proposed addition increases the floor area by over fifty (50%) percent or if the roof line is proposed to be raised.

7-208.H. **Exterior Materials.** Indication of type of all exterior materials.

7-208.I. **Impact Statement.** Impact statement indicating the scope of the project, design intentions, and a comment on the project's visual impact on its surroundings.

7-208.J. **Reduced Plans.** In addition, ten (10) sets of reduce scale site plans, elevations, and floor plans at a one-eighth inch or one-sixteenth inch equals one foot (1/8" or 1/16"=1') scale shall be submitted.

7-208.K. **Housing Mitigation Plan**, as required by Section 3-720.D.

Section 7-209 Application Contents for Final Review - Significant Landmark Interiors

The development application for final review to obtain a CA for demolition, renovation restoration, modification, addition or alteration of a designated Significant Landmark Interior shall contain three (3) copies of the following information:

7-209.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title.

7-209.B. **Existing Interior.** A drawing or photograph(s) of the existing interior.

7-209.C. **Working Drawings.** Complete working drawings clearly indicating the existing conditions and proposed work and identifying all historic spaces, materials, features and finishes which may be affected by the proposed work.

7-209.D. **Materials.** Indication of all materials to be used, removed or replaced.

7-209.E. **Impact Statement.** Impact statement indicating the scope of the project, design intentions, and comment on the project's visual impact on its surroundings.

7-209.F. **Housing Mitigation Plan**, as required by Section 3-720.D.

Section 7-210 Application Contents for Final Review - Signs

The development application for final review to obtain a CA for a sign shall contain three (3) copies of the following information:

7-210.A. **Minimum Contents.** The minimum contents for all applications specified in Section 5-202 C of this Title.

7-210.B. **Rendering.** A rendering of the proposed sign indicating its overall dimensions.

7-210.C. **Elevation.** An elevation of the proposed sign if it will be located on a building or structure.

7-210.D. **Site Plan.** A site plan indicating the location of the proposed sign on the lot.

7-210.E. **Photograph.** A photograph of the existing site.

7-210.F. **Impact Statement.** A brief statement addressing the visual impact of the sign upon the surrounding area.

Section 7-211 Procedures for Final Review for Minor or Insubstantial Activities

An applicant seeking a CA for a minor or insubstantial activity shall follow the steps outlined below. The common review procedures for each stage are set out in Article 5 of this Title.

7-211.A. **Pre-Application Conference.** The applicant may attend a pre-application conference prior to submission of an application.

7-211.B. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing the materials applicable to the type of activity proposed listed in Sections 7-207 through 7-210 of this Division.

7-211.C. **Staff Review and Referral.** The Planning Director shall review and refer an application in conformance with Sections 5-203.A and B of this Title.

7-211.D. **Public Notice.** Public notice and hearing shall be required for minor activity applications. Approvals for insubstantial activities shall be handled administratively and, therefore, do not require public notice except as provided for in Section 7-303.A. Notice for minor activities shall be accomplished by the applicant pursuant only to Section 5-204 B.3 of this Title and by publication of the meeting agenda on which the activity shall be heard to the Town's Web Site.

7-211.E. **Staff Report.** A written staff report evaluating the application's compliance with the review standards contained in this Article and other applicable provisions of this Title shall not be required for minor or insubstantial activities. The staff shall provide a verbal report at the meeting of the H.A.R.C. Chairperson.

7-211.F. **Public Review and Action.** The H.A.R.C. Chairperson shall hold a public hearing to review the conformance of a proposed minor activity with all applicable provisions of this Title. Insubstantial activities may be reviewed without public notice, except as provided for in Section 7-303.A. All hearings and decisions shall be conducted and rendered in accordance with Sections 5-206.C and D of this Title. Any final action on an application by the H.A.R.C. Chairperson or Planning Director may be appealed in accordance with Section 7-217 *infra*.

7-211.G. **Actions Following Approval.** Conditions of approval requiring actions prior to issuance of a certificate of appropriateness must be addressed by the applicant and submitted within sixty (60) days of the rendering of a decision of approval, or the approval shall be deemed null and void. The CA shall be effective upon the date of signature of the HARC Chairperson.The applicant may apply for a building permit following approval of the application and the filing and recordation, as necessary, of any documents required by the approval or as specified under Section 5-209 of this Title. All fees must be paid. The H.A.R.C. Chairperson and Planning Director shall transmit a copy of each approved CA to the Building Official to authorize issuance of the permit. The Building Official shall follow the requirements of Section 7-206.H of this Division in issuing a building permit.

7-211.H. **Notice**. Public notice announcing the approval of a minor activity shall be published in accordance with the provisions of Section 5-208.H of this Title, excepting approvals for the installation of signs and approvals for extensions to CA's that do not constitute site specific development plans.

7-211.I. **Vesting**. An approval of a final plan for minor activity shall constitute a site specific development plan, except for final plan approvals for the installation of signs and approvals for extensions of CA's that do not constitute site specific development plans. Insubstantial activity approvals shall not constitute site specific development plans.

7-211.J. **Expiration and Extension**s. An approval of a minor or insubstantial activity shall expire three (3) years from the effective date of the minor activity site specific development plan.

7-211.J.1. H.A.R.C. Chairperson or Planning Director, respectively, may grant an extension of a minor or insubstantial activity approval for an additional period of up to three (3) years if the applicant demonstrates a legitimate need to delay the start of construction, including inclement weather, financing difficulties, or similar factors. Note: extension of a vested property right may only be granted by the Town Council in accordance with Section 5-208 of this Title and a minor activity plan extension as awarded by H.A.R.C. Chairperson may be subject to changes in the Land Use Code absent a corresponding extension in a vested property right.

7-211.J.2. An application for extension of a CA shall be submitted to the Planning Director no less than two (2) months prior to the expiration

of the CA and the HARC Chairperson shall act on such extension request prior to the expiration date of the CA.

Section 7-212 Amendment of a CA

7-212.A. **Purpose.** A CA may be amended for the purpose of making design changes.

7-212.B. **Procedure.** Except as may be permitted pursuant to other sections of this Division due to the nature or scope of a proposed amendment, a CA may only be amended through the same procedures by which it was originally approved. Proposed amendments to a CA shall be classified for review purposes pursuant to Section 7-203.

7-212.C. **Application Contents.** A development application to amend a CA shall contain three (3) copies of the following information:

7-212.C.1. The minimum contents for all applications specified in Section 5-202.C.

7-212.C.2. The most recently approved plans for which changes are proposed, showing all of the proposed changes (only one (1) set required);

7-212.C.3. Revised plans incorporating the proposed changes; and

7-212.C.4. An impact statement indicating all changes in the scope of the project, explaining the design intentions and visual impact on the project's surrounding.

7-212.C.5. Revised Housing Mitigation Plan, if applicable.

7-212.D. **Review Standards**. The review standards to be followed for amending a CA shall be those in effect at the time of the consideration of the amendment.

Section 7-213 Waiver of or Addition to Application Contents

7-213.A. **Waiver of or Addition to Application Contents.**

7-213.A.1. The H.A.R.C. Chairperson and Planning Director may waive any of the application requirements of this Division which may be unnecessary to achieve the purposes of any particular review, except that application fees may not be waived except by the Town Council in accordance with Section 5-205 C. of this Title. The Chairperson and Planning Director may require such additional information and exhibits as they deem reasonably necessary to enable H.A.R.C. to review an application.

7-213.B. **H.A.R.C. Waiver of or Addition to Application Contents.** H.A.R.C., by majority vote, may waive any application requirements as called for in this Division, except for fees may require additional information or overrule any waiver decision made by the Chairperson and Planning Director. Additional

information which may be required includes, but is not limited to:

7-213.B.1. Scale drawings of signs;

7-213.B.2. Models or drawings of proposed buildings which give a three (3) dimensional view (axonometric, isonometric or perspectives);

7-213.B.3. Street profiles or elevations; and

7-213.B.4. Landscape plans.

Section 7-214 Wireless Telecommunications Services, Facilities and Equipment

7-214.A. **Purpose**. The purpose of this section is to provide design standards for wireless telecommunication facilities to ensure their compatibility with surrounding development. Predictable and balanced standards for the siting and screening of wireless telecommunication services, facilities, and equipment are necessary to:

7-214.A.1. Preserve the character and aesthetics of areas in close proximity to the facilities and equipment;

7-214.A.2. Protect the health, safety, and welfare of persons living and working in the area surrounding services, facilities, and equipment;

7-214.A.3. Facilitate the Town's permitting process to encourage fair and meaningful competition between service providers, and to extend high quality wireless communication services at reasonable costs; and,

7-214.A.4. Encourage the joint use, clustering, and concealment of antenna sites and structures to the maximum extent practical, and to avoid unnecessary proliferation of facilities and equipment.

7-214.B. **Applicability.**

These provisions and criteria do not apply to non-commercial satellite dish antennae, as well as radio and television transmitters and antennae incidental only to residential use. Wireless telecommunications equipment that: a) extends less than eighteen (18) inches from the highest vertical surface from which it is attached; b) extends less than thirty-six (36) inches from the horizontal exterior surface from which it is attached; and, c) is less than five hundred and seventy-six (576) square inches (four square feet) in perceived or projected size, shall be exempt from these provisions. These latter dimensional limits shall only apply to solitary, unrelated fixtures spaced at least twenty-five (25) feet apart.

7-214.C. **Procedure.** Prior to acquisition of a building permit to permit installation of wireless telecommunication facilities the design of such facilities and equipment shall be submitted for approval as a Minor Activity, as applicable under Section 7-203.C. and Section 7-211 of this Title. The procedure for the review of such facilities and equipment is further subject to the standards and supplemental review referral process described in Article 5, Division 2 of this Title.

7-214.D. **Application Contents.** In addition to the minimum application contents specified under Section 5-202.C. of this Title, an application for approval of a new, modified, or additional wireless telecommunication facilities shall include the following:

7-214.D.1. A site plan drawn at a minimum scale of one inch equals twenty feet (1" = 20'), or at another scale that may be approved by the Planning Director, with photos or drawings accurately representing existing and proposed conditions, specifying the location of antennas, support structures, transmission buildings, and other accessory structures, uses, access, parking, fences, signs, existing and proposed landscaping, and lighting, as well as all adjacent land uses within one hundred feet (100').

7-214.D.2. Site improvement survey, including topography, vegetation, and easements, certified by a land surveyor registered in the State of Colorado.

7-214.D.3. Elevation drawings or before and after simulations/drawings specifying the height and location of antennas, support structures, transmission building(s), and any accessory uses, fences, or signs.

7-214.D.4. Lighting plan or photometric study indicating the size, height, location, and wattage of all proposed outdoor lighting sources. This requirement may be waived if little or no outdoor lighting is proposed.

7-214.D.5. Structural Integrity Report from a professional engineer licensed in the State of Colorado that documents tower height and design, total anticipated capacity of the structure, failure characteristics, and specific design/reconstruction plans to allow shared use.

7-214.D.6. Statement from the Federal Communications Commission (FCC), or applicable federal agency, that the application complies with the regulations of the FCC or applicable federal agency with regard to maximum radio frequency and electromagnetic frequency emissions, or a statement from the applicant that no such compliance is necessary, and the reasons therefore.

7-214.D.7. Written documentation in the form of signed affidavit demonstrating a good faith effort to locate facilities pursuant to the site selection order of preference noted under Section 7-214.D. below. If deemed necessary by the Planning Director, evidence that an effort was made to locate on an existing wireless telecommunications services facility including coverage/interference analysis and capacity analysis and a brief statement as to other reasons for success or lack thereof.

7-214.D.8. A master development plan outlining the service provider's plan

for future facilities in the next five years. The master development plan shall identify the approximate locations of future facilities and area of service, but is not required to detail the specific type of facility.

7-214.D.9. If deemed necessary, the applicant shall erect a visual device which is structurally sound and which specifically identifies the height and mass of the proposed facilities. The visual device shall be erected at least seventy-two (72) hours prior to any approval.

7-214.E. **General Requirements and Provisions.** The following provisions shall apply to all applications for wireless telecommunications facilities and equipment:

7-214.E.1. Towers, typically consisting of a structure with three (3) or four (4) support legs, and typically using lattice work for lateral support, shall be prohibited. Freestanding towers shall be prohibited in all residential zones.

7-214.E.2. Siting of facilities and equipment shall follow the following order of preference: first, on existing structures; second, in locations where existing topography, vegetation, or structures provide adequate screening; third, on Town-owned or controlled property; and fourth, on vacant ground with low visibility.

7-214.E.3. Types of facilities and equipment shall follow the following order of preference: first, concealed façade attached; second, roof attached or above roof line; third, unconcealed façade attached; fourth, street pole attached; and fifth, freestanding tower.

7-214.E.4. Radio interference shall be prohibited.

7-214.E.5. Leasing of publicly-owned structures, multi-use facilities, and co-location, or sharing of facilities with other service providers is encouraged.

7-214.E.6. All equipment and facilities shall be maintained in the safe and responsible manner, free from graffiti, debris, and litter.

7-214.E.7. All required approvals will be in effect only so long that the facilities and equipment are in operation on the site. A written notice of a decision to abandon a facility shall be provided to the Town Planning Director within 30 days that use is discontinued.

7-214.E.8. All wireless communication facilities and equipment shall be removed within 30 days of discontinuance of use. A landowner who fails to secure removal of abandoned or discontinued equipment shall be deemed in violation of the Land Use Code.

7-214.E.9. Approval by the Town of a wireless communication facilities and equipment shall not be construed to waive any applicable zoning or

other regulations.

7-214.F. **<u>Review Standards</u>.** In addition to the standards contained in the Town Design Guidelines, the following standards shall apply. Notwithstanding the following, height, setback, and landscaping standards may be waived or varied for stealth or camouflaged facilities deemed not visible to the naked eye, if deemed appropriate within review and approval. Stealth or camouflaged facilities shall provide a determination by a licensed structural engineer that failure will occur within property boundaries.

7-214.F.1. **Height.**

a. Roof attached facilities shall not exceed five feet above the highest portion of the roof membrane. However, the antenna and support system for whip antennas shall not exceed ten (10) feet above the highest portion of roof membrane, not including parapet walls.

b. Facade attached facilities shall not exceed five feet above the facade to which it is attached.

c. Street pole attached facilities may only extend six feet above the existing street pole. A maximum extension of fifteen (15), from the top of the street pole, may be permitted if a utility disturbance can be clearly demonstrated.

7-214.F.2. **Setbacks.** All facilities shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

a. *Street Pole Attached*. No setback when constructed within the public right-of-way.

b. *Facade Attached.* The maximum projection shall be eighteen (18) inches. The location of a facility on the wall of a legal non-conforming structure is permitted. However, the facility shall not be located on an exterior wall in a manner that will increase the degree of nonconformity.

c. *Roof attached.* Facilities shall be set back from the edge of the building the height of the antenna and support system as measured from the roof membrane, or ten (10) feet from the edge of the building, whichever is less.

d. *Freestanding Tower*. Setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located. Towers shall be set back from all property lines one hundred twenty-five (125) percent of the tower

height as measured from ground level.

e. *Equipment Enclosure.* Underground vaults or above ground structures shall comply with the setback requirements of the underlying zoning district.

f. No freestanding facilities or equipment enclosures shall be located between the face of a structure and a public street, trail, park or residential development, except for approved facade-attached facilities located on existing or new permitted structures in accordance with this Chapter.

7-214.F.3. **Evaluation Standards.** The following design criteria shall be addressed by each applicant seeking wireless communication facility permit approval:

a. All facilities shall be designed to minimize the visual impact to the greatest extent feasible, considering technological requirements, by means of placement, screening and camouflage, to be compatible with existing architectural elements and building materials and other site characteristics. The applicant shall use the smallest and least visible antennas possible to accomplish the owner/operator's coverage objectives.

b. Colors and materials for facilities shall be chosen to minimize visibility. Facilities shall be painted or textured using colors to match or blend with the primary background.

c. Facilities shall be located on buildings, walls or roofs, shall blend with the existing building's architecture by painting or shielding with material which is consistent with the design features and materials of the building.

d. Support structures and equipment enclosures shall be installed so as to maintain and blend with existing landscaping on-site, including trees, foliage and shrubs, whether or not utilized for screening.

e. Additional landscaping and screening shall be installed to visually screen the support structures and above ground equipment enclosures. Landscaping and screening shall consist of any combination of trees, foliage, decorative walls or fences, other features, or shrubs of dense spacing.

f. Upon completion, the owner(s)/operator(s) of the facility shall be responsible for the continued maintenance and replacement of all required landscaping and screening

materials.

7-214.F.4. **Parking.** None, unless the facility is not fully automated, in which case one (1) space shall be required.

7-214.F.5. **Access.** In addition to ingress and egress requirements of the Uniform Building Code, access to and from facilities and equipment shall be regulated as follows:

a. No facilities or equipment shall be located in a required parking, maneuvering or vehicle/pedestrian circulation area such that it interferes with, or in any way impairs, the functionality of a required parking space.

b. The facilities shall be secured from access by the general public but access for emergency services must be ensured. Access roads shall comply with Fire District standards for emergency vehicular access.

7-214.F.6. **Environmental Standards**.

a. Facilities shall not be located in wetlands. Facilities shall also be avoided whenever possible in wetland buffer areas and disturbance to wetland buffer areas shall be minimized.

b. Facilities shall not be located within river and river park corridor setbacks.

c. Facilities locating within the floodplain shall comply with the additional placement standards as identified within this Title and provide proof of FCC acceptance of the proposed location.

d. Above ground equipment for facilities, exclusive of roof and facade attached facilities, shall not generate noise in excess of fifty (50) decibels (db) at the property line.

e. Roof or facade attached equipment for facilities shall not generate noise in excess of fifty (50) db at ground level at the base of the structure closest to the antenna.

7-214.F.7. **Facility Specific Standards.** Street pole and façade attached facilities shall meet the following conditions and criteria in addition to the other standards identified in this Section.

a. Facade attached facilities. Equipment enclosures shall be located within the structure in which the facility is placed or located underground if site conditions permit.

b. Street pole attached facilities:

(1) Only one facility shall be permitted on any one street pole. The antenna shall be equal to or less than six feet in height, including the support system, if any. Surface area of an antenna shall not exceed five hundred eighty (580) square inches. The antenna shall be either fully concealed within the street pole or camouflaged to appear to be an integrated part of the street pole. An antenna not flush mounted on the side of the street pole shall be centered on the top of the street pole to which it is attached and camouflaged or disguised.

(2) Utility Separation. In the event that a utility located upon the street pole requires vertical separation between its utility facilities and the antenna so attached, the antenna may be raised by a support system to accommodate the separation requirement to an elevation not exceeding an additional fifteen (15) feet or the required separation, whichever is less. Any such support shall not be greater in diameter than the existing street pole and shall be designed to blend into the colors and textures of the existing street pole.

(3) Pole Replacement. Existing street poles may be replaced with a new street pole of the same height, dimensions and appearance as the existing street pole. An antenna located upon the new street pole shall meet the standards for attaching an antenna to an existing street pole, as set forth above.

(4) Underground facilities within the public right-of-way shall obtain a revocable encroachment permit.

7-214.G. **Updating.** Changes to the wireless communication industry's facility needs, particularly reductions in facility sizing and scope, shall be monitored by the Planning Department. Amendments to this Land Use Code section shall be considered if review processes are found to be needlessly burdensome.

Section 7-215 Reserved.

Section 7-216 Reserved.

Section 7-217 Appeals.

7-217.A. **Right of Appeal**.

7-217.A.1. Those persons identified in Section 5-207 A. of this Title shall have the right to appeal H.A.R.C. actions to the Town Council.

7-217.A.2. Those persons identified in Section 5-207 A. of this Title shall have the right to appeal the actions of the H.A.R.C. Chairperson and the Planning Director to the H.A.R.C. board.

7-217.A.3. No building permit shall be issued pending the outcome of an appeal.

7-217.B. **Appeal Procedures.** All appeals shall be governed by the procedures and requirements of Section 5-207 of this Title, except as when necessary to process appeals as described in Section 7-217.A.2 above. The H.A.R.C. Chairperson shall be disqualified from participating in any appeal as initiated under Section 7-217.A.2 above.

(Ord. 1423, 2015; Ord. 1367, 2012; Ord. 1346, 2011; Ord. 1329, 2010; Ord. 1317, 2009; Ord. 1218, 2004;Ord. 1163, 2002; Ord. 1145, 2001; Ord. 1112, 1999; Ord. 1106, 1998; Ord. 1071, 1997; Ord. 1059, 1996; Ord. 1033, 1995; Ord. 1012, 1994; Ord. 1005, 1994; Ord. 970, 1992; Ord. 932, 1991; Ord. 929, 1991; Ord. 923, 1991; Ord. 867, 1989; Ord. 846, 1988; Ord. 843, 1988; Ord. 817, 1988; Ord. 815, 1988; Ord. 766, 1987; Ord. 634, 1984; Ord. 543, 1983; Ord. 466, 1981; Ord. 415, 1980; Ord. 231, 1970)

DIVISION 3 RELOCATION AND DEMOLITION

Section 7-301 Purpose

7-301.A. **Primary.** The purpose of this Division is to provide a system by which the moving and demolition of structures and buildings shall be regulated. The primary intent is to preserve the historical integrity and architectural character of Telluride Historic Landmark District (THLD) through the preservation, retention and maintenance of all structures rated by the Town as "contributing" or "supporting" in their original locations.

7-301.B. **Secondary.** This Division also seeks to protect non-rated structures that contribute to a neighborhood's historical integrity, to maintain existing street and alleyscapes, and to preserve and enhance the traditional mass and scale of the architecture in the Historic Preservation Overlay District (HPOD).

Section 7-302 Applicability

The relocation or demolition of any structure located within the HPOD shall be prohibited unless a CA for such activity has been issued in accordance with the provisions of this Division and the applicable provisions of Divisions 1 and 2 of this Title 7.

7-302.A. **Demolition of Rated and Landmark Structures.** No demolition or removal of any contributing or supporting rated THAS Primary Structure or THAS Secondary Structure within the Telluride Historic Landmark District (THLD), or of any subsequently designated local landmark or rated structure, shall be permitted unless the demolition is first approved by H.A.R.C. in accordance with the standards of Section 7-306.A.

7-302.B. **Demolition of Non-Rated Structures Within the HPOD and Non-Designated Principal Structures Within the THLD.** No demolition or removal of any non-rated THAS Primary Structure or THAS Secondary Structure within the HPOD, or of a non-designated building which is a principal structure within the THLD, shall be permitted unless the demolition or removal is first approved by H.A.R.C. in accordance with the standards of Section 7-306.B.

7-302.C. **Demolition of Non-Designated Structures Within HPOD, Outside the THLD; Non-Designated Secondary Structures Within the THLD.** No demolition or removal of any non-designated structure or building within the HPOD, but outside the THLD, or of any non-designated building which is a secondary structure or accessory building within the THLD, shall be permitted unless the demolition or removal is first approved by the Planning Director, in accordance with the standards of Section 7-306.B. The Planning Director shall have the authority to refer such decision to H.A.R.C.

7-302.D. **Relocation of Rated Structure.** No relocation of a rated structure located within the HPOD, shall be permitted unless the relocation is first approved by H.A.R.C., in accordance with the standards of Section 7-305.A.

7-302.E. **Relocation of Non-Rated THAS Primary Structure or Non-Designated Principal Structures**. No relocation of any non-rated THAS Primary Structure or non-designated principal structure within HPOD, shall be permitted unless the relocation is first approved by HARC in accordance with the standards of Section 7-305.B.

7-302.F. **Relocation of Non-Rated or Non-Designated THAS Secondary Structures.** No relocation of any non-rated THAS Secondary Structure or non-designated secondary structure or accessory building within the HPOD shall be permitted unless the relocation is first approved by HARC in accordance with the standards of Section 7-305.B.

7-302.G. **Demolition By Neglect**. No owner of a rated structure, and no lessee of a rated structure who is obligated by such lease to maintain and repair the structure (other than the interior), shall allow, cause, or permit the structure to suffer or experience demolition by neglect.

7-302.H. **Designated Employee Housing Unit**. In addition to the preceding provisions, no demolition, removal, or relocation of any structure which contains a designated employee dwelling unit shall be permitted unless the action is first approved by P&Z in accordance with the provisions of Section 6-105 of this Title.

7-302.I. **Partial Demolition.** The partial demolition of a structure which occurs solely as part of a remodel, alteration, or addition to an existing structure, and any repositioning of a structure, shall only be subject to the applicable procedures and standards of Division 2 of this Article 7.

7-302.J. **Conflict.** In the event of any conflict or inconsistency between the provisions of this Division 3 and those of Division 2 of this Article 7, the provisions of this Division 3 shall control.

Section 7-303 Procedure For Relocation Or Demolition

An applicant seeking approval to relocate or demolish a structure within the HPOD shall follow the steps outlined in Sections 7-204 or 7-206 or 7-211, as applicable, of this Article. The applicant shall also comply with the following requirements:

7-303.A. **Public Notice.** Notice that H.A.R.C. or H.A.R.C. Chairperson will conduct a hearing to consider an application for demolition or relocation shall be as provided in Section 5-204, as applicable, except that public notice for applications for demolition of any non-designated structure located outside the THLD but within the HPOD, or demolition of any non-designated secondary structure or accessory building located within the THLD, shall consist of posting of the property pursuant to Section 5-204.B.3.

7-303.B. **Action By H.A.R.C., H.A.R.C. Chairperson and Planning Director.** When taking final action on applications for demolition or relocation of structures, the following rules shall also be followed.

7-303.B.1. Applications for demolition or relocation of structures designated as

local landmarks, or of THAS Primary Structures which are rated as contributing or supporting, or non-rated THAS Primary Structures within the THLD may be approved only upon the affirmative vote of five (5) H.A.R.C. members at both the preliminary and final review. Applications for relocation of rated THAS Secondary Structures shall only require a final hearing, pursuant to 7-206 of this Title, and may be approved only upon the affirmative vote of five (5) H.A.R.C. members.

7-303.B.2. Applications for demolition or relocation of non-rated THAS Primary Structures located outside of the THLD, or any non-rated THAS Secondary Structure may be approved only upon the affirmative vote of four (4) H.A.R.C. members.

7-303.B.3. Applications for demolition or relocation of non-designated structures, including applications for relocation of any structure into the HPOD, or any application which has been referred to H.A.R.C. by the H.A.R.C. Chair or the Planning Director, or any action of H.A.R.C. in administering this Division may be approved upon affirmative vote of a simple majority of H.A.R.C. members present at a duly constituted meeting of H.A.R.C., when a quorum is present.

7-303.B.4. Any reduction, suspension or termination of a moratorium may be approved only upon the affirmative vote of four (4) H.A.R.C. members.

7-303.B.5. H.A.R.C. and the Planning Director may delay the effective date of their approval for up to thirty (30) days.

7-303.B.6. The applicant shall be encouraged to sell or reclaim a structure and the materials to be demolished or permit others to salvage them and to provide an opportunity for others to purchase or reclaim the building or its materials for use in the HPOD.

7-303.C. **Actions Following Approval.** An applicant may apply for a building permit following the effective date of the approval demolition or relocation application and the filing and recordation, if necessary, of all documents memorializing the approval or required under Section 5-209 of this Title.

An applicant may be required to advertise the availability of the structure and materials for sale or salvage in a local newspaper on at least three (3) occasions prior to demolition.

No building permit for demolition or relocation shall be issued unless the Building Official has also issued a total building permit for the replacement structure. In the event no such structure is required, as part of a redevelopment plan, then a letter of credit or other acceptable security to ensure performance of conditions of approval shall be posted with the Town in a form acceptable to the Town Manager.

7-303.D. **Appeals**. Any person aggrieved by the approval or denial by H.A.R.C., the H.A.R.C.

Chairperson or the Planning Director of an application for relocation or demolition or by the imposition of a building permit or certificate of occupancy moratorium may appeal such action to the Town Council in accordance with the provisions of Section 7-217.A of this Title. A moratorium shall stay in effect until final action on the appeal by the Town Council.

7-303.E. **Notice.** A public notice announcing the final approval of a demolition or relocation application shall be published in accordance with the provisions of Section 5-208.H of this Title, except demolitions approved as an insubstantial activity.

7-303.F. **Vesting**. An approved final plan for the relocation or demolition shall constitute a site specific development plan, except demolitions approved as an insubstantial activity.

Section 7-304 Application Contents For Relocation Or Demolition

7-304.A. **Local Landmarks and Rated Structures**. For relocation or demolition applications involving local landmarks and rated structures located within the HPOD, the applicant shall submit the following materials:

7-304.A.1. The minimum contents for all applications specified in Section 5-202 C of this Title;

7-304.A.2. Elevations, drawings, plans, statements, and other materials which satisfy the requirements preliminary and final review for new construction under Section 7-205 and 7-207 of this Title, for any replacement structure or structures to be erected or constructed pursuant to a development plan;

7-304.A.3. A redevelopment plan for any originating, receiving, or demolition site, and a statement of the effect of the proposed redevelopment on the architectural and historical qualities of other structures and the character of the neighborhood around the sites;

7-304.A.4. An economic feasibility report prepared by an architect, developer, or appraiser, or other person who is experienced in rehabilitation of structures that addresses:

a. the estimated market value of the property on which the structure lies, both before and after demolition or removal; and

b. the feasibility of rehabilitation or reuse of the structure proposed for demolition or partial demolition;

7-304.A.5. A report from a licensed engineer or architect regarding the soundness of the structure and its suitability for rehabilitation; and

7-304.A.6. A statement addressing compliance with each applicable review standard for demolition or relocation.

7-304.B. **Non-Rated Structures and Non-Designated Principal Structures.** For demoli-

tion or relocation applications involving non-rated structures and non-designated principal structures within the HPOD, the applicant shall submit the materials identified in Section 7-304.A.1 thru A.4.

7-304.C. **Non-Designated Secondary Structures.** For demolition or relocation applications involving non-designated secondary structures and accessory buildings within the HPOD, the applicant shall submit the materials identified in Section 7-304.A.1 and A.2.

7-304.D. **Additional Information.** H.A.R.C. may require the applicant to submit such additional information and exhibits as it deems reasonably necessary to enable it to review the application, including, but not limited to, historic photographs and Sanborn Insurance Maps.

Section 7-305 Standards For Review Of Relocation

7-305.A. **Rated Structure or Local Landmark.** Relocation of a rated structure or local landmark within the HPOD shall only be approved if H.A.R.C. finds all of the following standards are met:

7-305.A.1. The structure cannot be rehabilitated or reused on its originating site as part of any reasonable beneficial use of the property;

7-305.A.2. The relocation activity is demonstrated to be the best method for preservation of the character and integrity of the structure and the historical integrity of the existing neighborhoods and of structures adjacent to the receiving and originating sites will not be diminished due to the relocation;

7-305.A.3. The structure to be relocated must retain sufficient historic features, integrity of design, materials, workmanship, feeling, and association, so as to continue to convey its architectural significance;

7-305.A.4. The historic and present orientation, immediate setting, and general environment of the relocated structure at the receiving site must be compatible with the architectural qualities and/or historic associations of structures in the neighborhood of the receiving site;

7-305.A.5. The historical character and architectural integrity of the area of the proposed receiving site and the origination site, if located in the Town of Telluride, and of the structure itself, will not be substantiality compromised or diminished and the proposal for subsequent development on the origination site will add to the character of the neighborhood more than the structure(s) to be moved;

7-305.A.6. The structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting based on a structural report by a licensed engineer attesting to the soundness of the structure proposed for relocation;

7-305.A.7. The applicant has agreed to comply with a preservation, rehabilitation, and restoration plan for the relocated structure which has received the approval pursuant to the provisions and requirements of Division 4 of this Article 7;

7-305.A.8. The applicant has agreed to post with the Town a bond or other suitable collateral as determined by the Town Manager, ensuring the safe relocation, preservation, rehabilitation and repair of the structure, receiving site preparation, and infrastructure connections; and

7-305.A.9. The receiving site is compatible in nature to the structure or structures proposed to be moved, the character of the neighborhood is consistent with the architectural integrity of the structure, and the relocation of the structure would not diminish the integrity or character of the neighborhood of the receiving site.

7-305.B. **Non-Rated or Non-Designated Structure.** Relocation of a non-rated or non-designated structure shall only be approved if H.A.R.C. or the H.A.R.C. Chairperson finds all of the standards of Section 7-305.A.5 through 9 are met.

Section 7-306 Standards For Review Of Demolition

7-306.A. **Rated Structure or Local Landmark**. Demolition of a rated structure or local landmark shall only be approved if H.A.R.C. finds all of the following standards are met:

7-306.A.1. The structure cannot be rehabilitated or reused on site as part of any economically beneficial use of the property;

7-306.A.2. The structure proposed for demolition is structurally unsound despite efforts by the owner to properly maintain the structure;

7-306.A.3. The structure cannot be practicably moved to another site within the THLD;

7-306.A.4. The demolition proposal mitigates to the greatest extent practical any impact to the character of the "neighborhood" of the property on which the demolition is proposed to occur;

7-306.A.5. The historical integrity and architectural character of the area where the proposed demolition of a structure is to take place will not be substantially diminished or compromised. For the purposes of this Section, the term "architectural character" shall include, but not be limited to, height, coverage, setbacks, massing, siting, fenestration, streetscape, alleyscape, materials, and scale of materials;

7-306.A.6. Subsequent development on the property will add to the architectural character of the neighborhood more than the structure(s) to be demolished;

7-306.A.7. The demolition proposal mitigates to the greatest extent practical any impact to the historical importance of other structures located on the property and on adjacent parcels and on the integrity of the THLD and Telluride National Historic Landmark District;

7-306.A.8. The demolition proposal mitigates to the greatest extent practical any impact on the architectural character of a designated historic structure or part thereof; and

7-306.A.9. The applicant has agreed to redevelop the originating site after demolition pursuant to an approved redevelopment plan which provides for a replacement structure, which plan is compatible with and/or enhances the historical integrity and architectural character of the immediate area, neighborhood, the applicable Treatment Area, and the Telluride Historic Landmark District. This standard may be waived by H.A.R.C. or the Planning Director if the applicant agrees to deed restrict the property to open space uses and H.A.R.C. finds that such restriction constitutes a greater benefit to the THLD or the HPOD than redevelopment would.

7-306.B. **Non-Rated or Non-Designated Structure.** Demolition of a non-rated structure or non-designated structure shall only be approved if H.A.R.C. or the Planning Director finds all of the standards of Section 7-306 A. 5 through A. 9 are met.

Section 7-307 Penalty

7-307.A. **Penalties Authorized**. Any person who intentionally causes, intentionally permits, or knowingly fails to prevent the unauthorized demolition, removal, or relocation of a rated structure which the person owns or leases, or who has knowingly permitted demolition by neglect of any rated structure which such person owns or leases, or who has violated any provision of this Division is guilty of a misdemeanor and shall be punished in the Telluride Municipal Court by a fine in an amount not to exceed one thousand dollars ($1,000.00), or imprisonment of up to ninety (90) days, or both.

7-307.B. **Moratorium Authorized**. Upon conviction, pursuant to Section 7-307 A., of an owner of a rated structure for unauthorized demolition, removal, relocation, or demolition by neglect of a rated structure, H.A.R.C. shall be authorized to impose a ten (10) year moratorium on issuance of building permits or certificates of occupancy upon the property on which the structure was demolished, removed from, or relocated from.

7-307.C. **Hearing.** Such moratorium may be imposed only after a public hearing preceded by five (5) day's prior written notice mailed to the owner by registered mail. An affirmative vote of a majority of the members present and voting shall be required in order to impose any such moratorium, provided that at least four members actually vote. Imposition of a moratorium shall be subject to the appeal provisions of Section 5-207 of this Title.

7-307.D. **Temporary Moratorium Authorized.** Upon the commencement of any prosecution

in Municipal Court pursuant to Section 7-307 A., H.A.R.C. may impose a temporary moratorium on the issuance of building permits or certificates of occupancy for the property on which the rated structure was demolished, removed, or relocated from. Such moratorium shall remain in effect for the duration of the prosecution and any appeal therefrom. Upon application by an owner or lessee of the property subject to a temporary moritorium, HARC shall conduct a hearing to determine whether the moritorium should be terminated or modified. Such hearing shall be conducted within two (2) weeks of a request therefor.

7-307.E. **Record Notice.** Notice of the imposition and duration of any moratorium imposed pursuant to Section 7-307 B. shall be recorded with the San Miguel County Clerk and Recorder.

7-307.F. **Suspension of Moratorium Authorized.** No sooner than one (1) year after imposition of the moratorium pursuant to Section 7-307.B., H.A.R.C. may suspend, reduce, or terminate a moratorium on issuance of a building permit or certificate of occupancy, with or without conditions, after considering the following factors:

7-307.F.1. The impact of the demolition or removal upon the historical integrity and architectural character of the National Historic Landmark District, the THLD, and the neighborhood area;

7-307.F.2. Factual circumstances concerning the cause of the demolition or removal, as may be identified by investigation of the Building Official or Fire Marshal;

7-307.F.3. Whether the demolition or removal would have been approved by H.A.R.C. had an application been submitted;

7-307.F.4. Whether the purposes of the moratorium have been achieved; and

7-307.F.5. The effect of a moratorium as an incentive to the owner to restore or rehabilitate any remaining portion of the demolished or relocated structure, if such action would substantially contribute to the historical integrity and architectural character of the THLD.

7-307.G. **Penalties Cumulative**. The penalty provisions of this Section are cumulative, and are in addition to any other remedies at law or in equity, or any other judicial or administrative remedies (including abatement) which may be available to the Town.

(Ord. 1423, 2015; Ord. 1106, 1998; Ord. 1033, 1995; Ord. 1005, 1994; Ord. 970, 1992; Ord. 923, 1991)

DIVISION 4 SURVEY AND EVALUATION

Section 7-401 Adoption Of Survey

"The 2013 *Telluride Historic and Architectural Survey*" (*THAS)*, (*THAS*, as it may be amended from time to time) is hereby adopted in its entirety and incorporated herein by this reference. Copies of the *THAS* shall be available for inspection or purchase at the office of the Planning Director.

Section 7-402 Periodic Update Of Survey And Evaluation

H.A.R.C. shall periodically update the *THAS* as alteration and addition to structures occurs.

Section 7-403 Procedure For Challenge Of Evaluation

7-403.A. **Initiation**.

7-403.A.1. A written request by the owner of the evaluated structure or a vote by a majority of the Historic and Architectural Review Commission shall be necessary to challenge the designation of any structure designated in the *THAS*.

7-403.A.2. A written request by the owner of the evaluated structure shall be necessary to challenge the designation of any structure designated in the *THAS*.

7-403.B. **Permits Prohibited**. H.A.R.C. shall have the power to prohibit the issuance of building, exterior remodeling, or demolition permits affecting any property under consideration for an evaluation change. The prohibition may remain in effect for the length of time required by H.A.R.C. and Town Council to take final action on the proposed evaluation.

7-403.C. **Public Hearing**. Following a request or a vote to challenge an evaluation, H.A.R.C. shall hold a public hearing at its next regularly scheduled meeting and schedule a site visit prior to the meeting. Notice of the meeting and site visit shall be published to the Town's Web Site prior to the public hearing and shall be posted on the officially designated posting site. The owner of record of the structure whose designation is being challenged shall be notified by certified mail of the meeting and site visit. A recommendation by H.A.R.C. to change the designation of structure may only be approved by an extraordinary majority of H.A.R.C. members.

7-403.D. **H.A.R.C. Recommendation**. The person challenging a designation shall have the burden of presenting evidence substantiating the challenge. The staff or any interested citizen may also present evidence as to why the evaluation of the structure should or should not be changed. Within fifteen (15) days after the date of the public hearing, H.A.R.C. shall make a recommendation to the Town Council whether or not to amend the evaluation based on the criteria set forth for evaluation of structures in the 1986, 1987, or 1997 *THAS*.

7-403.E. **Council Action**. The Town Council shall hold a meeting to discuss the proposed evaluation modification after the date of the H.A.R.C. recommendation. The Council shall make a decision via resolution to amend the evaluation or not within thirty (30) days after the date of its first meeting. The decision shall be based on the criteria set forth for evaluation of structures in the *THAS*.

(Ord. 1398, 2013; Ord. 1329, 2010; Ord. 1106, 1998; Ord. 1069, 1997; Ord. 1033, 1995; Ord. 1005, 1994; Ord. 970, 1992; Ord. 451, 1980)

DIVISION 5 DESIGNATION OF LOCAL LANDMARKS

Section 7-501 Applicability

This Division shall apply to the designated local landmark buildings, structures and sites, and significant landmark interiors, within the geographic boundaries of the Telluride National Historic District.

Section 7-502 List of Designated Local Landmarks and Significant Landmark Interiors

7-502.A. **Local Landmarks.** In addition to any local landmarks subsequently designated, the following buildings, listed as surviving structures in the nomination form for the Telluride National Historic District, shall be designated as local landmarks:

1. The County Courthouse;
2. Town Hall;
3. The Sheridan Hotel;
4. The Miner's Union;
5. The Sheridan Opera House;
6. The Old School;
7. The Catholic Church;
8. The Depot;
9. The Pick & Gad;
10. The Telluride Institute, also known as the Cornell House, 427 W. Columbia Ave., Lots 6-9, Block 3, West Telluride Addition;
11. The E.L. Davis House, also known as the Reichel Residence, 207 N. Oak Street, Lots 5 and 7, Block 20, Town of Telluride;
12. The Bordello Cribs, located in "Popcorn Alley", Condominium Units 2, 3 and 4 in the Popcorn Alley Condominiums, 121, 123 & 127 E. Pacific Ave., Lots 3, 5 & 7, Block 8, Town of Telluride;
13. The Finn Hall, 440 W. Pacific Avenue, Parcel B according to the Replat of Lots 28, 29 and 30, Block 6 West Telluride Addition;
14. The Miller Residence, 513 W. Columbia, Lots 2 and 3, Block 10, West Telluride Addition;
15. The Charles D. Waggoner House, also known as the Boyd Residence, 235 N. Pine Street, Lot 17, Parcel B, Block 24, Town of Telluride; and
16. The Telluride Historical Museum, also known as the Hall's, Miners' or Hadley Hospital, 201 W. Gregory Avenue, Lots 11, 12, 13, and 14 Block A, Halls Subdivision;
17. The Old First National Bank Building, also known as the Nugget or Old Elks Building, 207 W. Colorado Avenue, the south 100' of Lots 35, 37 and 39, Block 3, Town of Telluride.

7-502.B. **Significant Landmark Interiors.** In addition to those local landmarks subsequently designated, the interiors of certain local landmark shall be designated as significant landmark interiors. Those interiors are:

1. The County Courthouse;
2. The Sheridan Hotel;
3. The Sheridan Opera House; and
4. The Telluride Historical Museum.

Section 7-503 Initiation of Designation

7-503.A. **Initiation.** H.A.R.C. shall consider for local landmark designation any property proposed by motion of any H.A.R.C. member and voted on by at least three (3) H.A.R.C. members, or any property proposed by its owner.

7-503.B. **Procedure For Other Designations.** The procedure set out in Section 7-504 shall be adhered to in designating any building, structure, site, monument or other local landmark that is worthy of preservation.

Section 7-504 Procedure for Designation

7-504.A. **Submit Application.** The applicant shall submit a complete application to the Planning Director containing the minimum application contents specified in Section 5-202 C. of this Title.

7-504.B. **Public Notice.** Public notice that H.A.R.C. will conduct a hearing to consider an application to designate a local landmark shall be provided as follows:

7-504.B.1. If the proposed designation has been initiated by H.A.R.C., the Town shall send notice by registered mail to the owner of the property proposed for local landmark designation or significant landmark interior containing that information specified in Section 5-204 C. of this Title. The Town shall also provide notice of the proposed designation to the public in accordance with the requirements of Section 5-204 of this Title.

7-504.B.2. If the proposed designation has been initiated by the owner of the property, notice shall be provided in accordance with the requirements of Section 5-204 of this Title.

7-504.B.3. For purposes of this Division, "owner" means any person who alone, or jointly or severally with others, has title or a possessory legal interest in any building, and includes any person who as agent, executor, administrator, trustee or guardian of an estate has charge, care or control of any building.

7-504.C. **Public Action By H.A.R.C.** H.A.R.C. shall hold a public hearing to review the conformance of the application with all applicable provisions of this Title.

7-504.C.1. H.A.R.C. may solicit expert testimony or documentary evidence regarding the historic and architectural importance of the building,

structure, site, monument, area or other local landmark under consideration for designation.

7-504.C.2. H.A.R.C. shall afford to the owner of the property and to any other interested party reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of the proposed local landmark property.

7-504.C.3. Within fifteen (15) days after the date of the public hearing, H.A.R.C. shall render a recommendation to the Town Council regarding the proposed designation and shall give written notice of its decision to the owner of the property proposed for designation, setting forth its reasons thereof.

7-504.C.4. Four (4) votes of H.A.R.C. members shall be required to recommend that a building or site be designated as a local landmark. A simple majority vote shall be required to recommend that an interior of a local landmark be a significant landmark interior.

7-504.C.5. H.A.R.C. shall maintain a record of testimony and documentary evidence submitted at the public hearing for consideration of a proposed local landmark or a significant landmark interior designation.

7-504.D. **Public Action By Town Council.** The Town Council shall within forty five (45) days after the date of H.A.R.C.'s recommendation ratify or overturn the recommendation to designate a local landmark or a significant landmark interior. The Council action shall occur at any regular or special meeting of the Town Council. An affirmative vote of an extraordinary majority of the Town Council as defined at Section 5-207.J of this Title shall be required to ratify the H.A.R.C. recommendation.

7-504.E. **Actions Following Approval**.

7-504.E.1. Within thirty (30) days after the date on which the Town Council ratifies any building, structure, site or monument as a local landmark worthy of preservation, or as significant landmark interior, the Council shall cause to be filed in the County Clerk and Recorder's office a certificate of notification that such property is designated a local landmark or as significant landmark interior.

7-504.E.2. The certificate of notification shall be maintained on the public records unless the local landmark designation is withdrawn by the Town Council following H.A.R.C. recommendation. An affirmative vote of five (5) members of the Town Council shall be required to withdraw local landmark, or significant landmark

interior designation. Local landmark designation shall not be withdrawn if zoning incentives have been granted for the subject property or structure, pursuant to Section 7-506 of this Title.

7-504.E.3. At such time as a local landmark or local landmark site has been finally designated in accordance with this Division, H.A.R.C. may have a suitable plaque prepared and, with the consent of the property owner, erected on the local landmark or local landmark site declaring it as a local landmark building and/or local landmark site.

Section 7-505 Standards For Designation

7-505.A. **Local Landmark or Significant Landmark Interior.** The following criteria shall be considered when making a local landmark designation or significant landmark interior recommendation. Buildings or sites to be designated as a local landmark shall have two (2) or more of the following characteristics:

7-505.A.1. The structure is representative of a unique historical social activity of an era;

7-505.A.2. The structure dominates the neighborhood by virtue of its mass, architecture or location;

7-505.A.3. The structure was an historically or architecturally important public building;

7-505.A.4. The structure has a unique historical significance beyond a local level;

7-505.A.5. The parcel was the site of an important historic event or activity; and

7-505.A.6. The structure has a "contributing or qualified contributing" rating on the THAS.

7-505.B. **Significant Landmark Interior.** In addition to the above criteria, the following criteria shall be considered by H.A.R.C and Town Council when designating a significant landmark interior. To be designated a significant landmark interior, the building or site shall have the following characteristics:

7-505.B.1. The structure has been previously designated as local landmark pursuant to this Division; and

7-505.B.2. The structure has, throughout a substantial portion of its existence, been available to use by the public.

Section 7-506 Zoning Incentives

7-506.A. **Incentives Authorized.** P&Z, based upon the recommendation of H.A.R.C., may consider zoning incentives for designated and identified local landmark buildings or for local historic sites that do not conform with existing zoning regulations. P&Z may grant such incentives as deemed necessary to assure the preservation of a local landmark.

7-506.B. **Procedure.** P&Z shall follow all of the procedures and requirements of Article 6, Division 1 of this Title, Uses Permitted On Review, when considering granting any such zoning incentives.

7-506.C. **Standards.** The Planning and Zoning Commission and Town Council may grant necessary zoning incentives upon a finding of one of the following:

7-506.C.1. That such use or feature as proposed will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity;

7-506.C.2. That such use or feature proposed will not adversely impact the Town of Telluride Master Plan;

7-506.C.3. That such use or feature proposed is conducive to the preservation of the historic or architectural characteristics of the building or site;

7-506.C.4. That such use or feature has a substantial public benefit; and

7-506.C.5. That such use or feature is necessary for the preservation and enhancement of the building in question.

(Ord. 1145, 2001; Ord. 1136, 2000; Ord. 1123, 1999, Ord. 1050, 1996; Ord. 1033, 1995; Ord. 1005, 1994; Ord. 970, 1992; Ord. 958, 1992; Ord. 929, 1991; Ord. 841, 1988; Ord. 817, 1988; Ord. 442, 1980)

DIVISION 6 MAINTENANCE OF LANDMARKS

Section 7-601 Duty to Maintain and Prevent Demolition by Neglect

An owner of a rated structure has the duty to maintain the structure in good condition and repair and to prevent the structure from becoming unsafe or dangerous, and to prevent its demolition by neglect.

Section 7-602 Substandard Conditions

Any building in which there exists 1) an unsafe or dangerous building as provided for Uniform Code for the Abatement of Dangerous Buildings or the Building Code, or 2) any of the following conditions to the degree that the preservation of the building or the safety of the public is substantially endangered is, for the purposes of this Division, a "substandard local landmark building":

7-602.A. **Structural Defects or Hazards.** Structural defects or hazards, including but not limited to the following:

7-602.A.1. Footings or foundations which are weakened, deteriorated, insecure or inadequate or of insufficient size to carry imposed loads with safety;

7-602.A.2. Flooring or flooring supports which are defective, deteriorated or of insufficient size or strength to carry imposed loads with safety;

7-602.A.3. Members of walls, partitions or other vertical supports that split, lean, list, buckle or are of insufficient size or strength to carry imposed loads with safety;

7-602.A.4. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, buckle or are of insufficient size or strength to carry imposed loads with safety;

7-602.A.5. Fireplaces or chimneys which list, bulge, settle or are of insufficient size or strength to carry imposed loads with safety; or

7-602.A.6. Those buildings that have parts thereof that are so attached that they may fall and injure members of the public or property.

7-602.B. **Defective Weather Protection.** Defective or inadequate weather protection, including but not limited to the following:

7-602.B.1. Crumbling, broken, loose or falling interior wall or ceiling covering;

7-602.B.2. Broken or missing doors and windows;

7-602.B.3. Deteriorated, ineffective or lack of waterproofing of foundations or

floors;

7-602.B.4. Deteriorated, ineffective or lack of exterior wall covering, including lack of paint or other approved protective coating;

7-602.B.5. Deteriorated, ineffective or lack of roof covering; or

7-602.B.6. Broken, split, decayed or buckled exterior wall or roof covering.

7-602.C. **Fire Hazards.** Defects increasing the hazards of fire or accident, including but not limited to the following:

7-602.C.1. Accumulation of rubbish and debris; or

7-602.C.2. Any condition which could cause a fire or explosion or provide a ready fuel to augment the spread or intensity of fire or explosion arising from any cause.

Section 7-603 Inspections And Initiations Of Proceedings

7-603.A. **Inspection.** The Planning Director and/or the Building Official shall inspect all local landmark buildings suspected to be substandard local landmark buildings upon the complaint of: 1) the Historic and Architectural Review Commission ("HARC") or a member thereof, 2) a Town official or employee or 3) any other citizen of the Town. The Planning Director may also request that the local fire department inspect a local landmark building suspected of being a substandard local landmark buildings with respect to fire hazards described in Section 7-602.C.

7-603.B. **Report.** Whenever the Planning Director, the Building Official or the Fire Marshal has inspected or caused to be inspected a building, structure, premises, land or portion thereof, and has determined it to be a substandard local landmark building in violation of this Division, the Town may, at its discretion, commence enforcement of the requirements of this Division in accordance with the procedures set forth herein.

Section 7-604 Content of Correction Notice And Order

If the Planning Director determines to commence proceedings, the Planning Director shall issue a written notice and order directed to the owner of the building as shown upon the records of the County Clerk in the manner prescribed in Section 7-605, with a copy to the H.A.R.C. and Town Manager. The notice and order shall contain:

7-604.A. **Description.** The street address, when available, and a legal description of the real property and/or personal property involved;

7-604.B. **Statement of Violation.** A statement that the Town has found the building to be in violation of this Division, and a brief and concise description of the conditions found to be in violation;

7-604.C. **Statement of Corrective Action.** A statement of the corrective action required to be taken. If the Planning Director has determined that corrective work is required, the order shall require that all required permits be secured, any H.A.R.C. approval obtained and the work physically commenced and be completed within such time as the Planning Director shall determine is reasonable under the circumstances;

7-604.D. **Statement of Penalty.** A statement specifying the amount of any penalty that would be assessed based on the Town Municipal Code in light of the violation and, if applicable, the conditions on which assessment of such penalty is contingent;

7-604.E. **Statement of Permit Procedures.** A statement informing the recipient that the work for the corrective action must comply with required permit procedures for historic buildings as provided for in Article 7, including but not limited to the requirements for obtaining a certificate of appropriateness;

7-604.F. **Advice of Abatement.** A statement advising that if any required work is not commenced or completed within the time specified the Planning Director may proceed to abate the violation and charge the costs thereof as a lien against the property if not paid; and

7-604.G. **Advice Order is Final.** A statement advising that the order shall become final no later than fifteen (15) days after the notice and order are served, unless the owner requests in writing an appeal hearing before the H.AR.C.

Section 7-605 Informal Enforcement Procedure Required.

Notwithstanding the foregoing, the Planning Director shall first contact and communicate with the owner by telephone or in person, and describe the substandard condition(s) of the Landmark Structure in light of the Town's maintenance requirements, and provide the owner with an opportunity to take corrective action by a date certain. A follow-up letter will be sent to the owner that includes a statement of the violation(s), the corrective action needed, a statement of permit procedures, and a statement of advice on abatement. If the corrective work is not commenced and/or completed by the specified date, or if necessary permits or H.A.R.C. approvals are not obtained by a specified date, the Town shall commence the more formal proceedings outlined in Section 7-700, *et seq.*

Section 7-606 Service of Correction Notice And Order

Service of a notice and order as called for in Section 7-604 shall be made in a manner as provided for by law; provided, that when personal service is obtained upon it shall not be necessary to post a copy of the notice and order on the property.

Section 7-607 Appeal of Correction Notice And Order

7-607.A. **Right to Appeal.** A party aggrieved of an order of the Planning Director or its designated Town Employee shall have the right to appeal to the H.A.R.C. For purposes of this Division, "party aggrieved" means any owner, tenant or other

person having a direct financial interest in the subject building.

7-607.B. **Filing of Appeal.** In order for an appeal to be perfected the following provisions must be followed:

7-607.B.1. The appeal must be filed with the Town Clerk not later than the fifteenth (15th) day following service upon the appellant of the notice and order of the Planning Director.

7-607.B.2. The appeal must be in writing and state clearly and concisely the specific exceptions and objections to the notice and order of the Planning Director.

7-607.C. **Set Hearing Date.** The H.A.R.C. shall set a date for hearing the appeal within the thirty (30) days and shall provide no less than ten (10) days written notice to the appellant and the Planning Director.

7-607.D. **Hearing Rules.** The appeal hearing shall be a new or de novo hearing. Substantial weight shall be given to the notice and order of the H.A.R.C. and the Planning Director. The burden of establishing the contrary shall be upon the appealing party.

7-607.E. **Council Authority.** The H.A.R.C. may affirm, modify, reverse or remand the notice and order of the Planning Director, or grant other appropriate relief.

7-607.F. **Decision.** Within ten (10) days after a hearing, a written decision containing findings of fact and conclusions shall be transmitted to the appellant and the Planning Director. The decision shall be mailed via certified mail to the appellant.

Section 7-608 Final Correction Notice And Order

7-608.A. **Order Final.** Any order duly authorized by the Planning Director and issued by the Town pursuant to the procedures contained in this Division shall become final fifteen (15) days after service of the notice and order, unless a written request for an appeal hearing is received by the Town Clerk within that fifteen (15) day period.

7-608.B. **Order Final After Appeal.** An order appealed under Section 7-607 shall become final upon the date the H.A.R.C.'s decision is mailed to the appellant.

7-608.C. **Order Filing.** All final orders shall be filed by the Planning Director with the Town Clerk.

Section 7-609 Supplemental Correction Notice And Order

The Planning Director may at any time add to, rescind in part, or otherwise modify a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notices and orders contained in this Division.

Section 7-610 Enforcement of Correction Notice And Order

7-610.A. **Enforcement Authorized.** If after any final order issued by the Planning Director the person to whom such order is directed fails, neglects or refuses to obey such order, the Planning Director may:

7-610.A.1. Institute an action in Municipal Court to enforce the provisions of this Division ; and/or

7-610.A.2. Abate the violation using the procedures of this Division as outlined in Section 7-611, with the approval of the H.A.R.C.

7-610.B. **Enforcement Stayed.** Enforcement of any notice and order of the Planning Director issued pursuant to this Division shall be stayed during the pendency of any appeal under Section 7-607, except when the Planning Director determines that the violation will cause immediate and irreparable harm and so states in the notice and order issued.

7-610.C. **Funds Unavailable.** In the event that the Minimum Maintenance Historic Building Revolving Fund does not contain funds or the Planning Director and H.A.R.C. elect not to abate the violation through repair, alteration or improvement of the building in the manner specified in Section 7-611, the Planning Director shall file a statement with the Town Clerk stating that there is no money currently available to fund such abatement and that the action will be held in abeyance until such time as funding is available, or he will state why the H.A.R.C. elected not to abate the violation in the manner specified in Section 7-611.

Section 7-611 Abatement

7-611.A. **Abatement Authorized.** In addition to or as an alternative to any other judicial or administrative remedy provided in this Division or by law or other ordinance, the Planning Director may order conditions which constitute a violation of this Division to be abated. The Planning Director may order any owner of a building in violation of this Division to commence corrective work and to complete the work within such time as the Planning Director determines reasonable under the circumstances.

7-611.B. **Repairs By Town Authorized.** If the owner fails to comply with a final order, the Planning Director, by such means and with such assistance as may be available to him and with the H.A.R.C. approval, is authorized to cause such building to be repaired, altered or improved and the costs thereof shall be recovered by the Town in the manner provided by law.

7-611.C. **Payment.** The cost of such work shall be paid from amounts appropriated for abatement purposes. Unless the amount of the costs thereof are repaid within sixty (60) days of the completion of the work, they shall be assessed against the real property as to which such costs were incurred as follows.

7-611.C.1. Upon certification by the Planning Director to the Town Finance Director of the assessment amount being due and owing, the Town Finance Director shall certify the amount to the County Treasurer.

7-611.C.2. The County Treasurer shall enter the amount of such assessment upon the tax rolls against such real property for the current year to be collected at the same time and with interest at such rates and in such manner as provided for by law, as amended, for delinquent taxes. The assessment shall constitute a lien against the property of equal priority with State, County and Municipal taxes.

7-611.C.3. When collected, the payment shall be deposited in the general fund and credited to the Minimum Maintenance Historic Building Fund, as provided in Section 7-601.

Section 7-612 Maintenance Fund Established

There is created in the Town treasury a special fund designated the "Local Landmark Minimum Maintenance Revolving Fund," from which fund shall be paid costs and expenses incurred by the Town in connection with a repair, alteration or preservation of any substandard local landmark building as defined by this Division and ordered repaired, altered or preserved by the H.A.R.C., and into which fund shall be deposited:

7-612.A. **Reimbursements.** Such sums as may be recovered by the Town as reimbursement for costs and expenses of repair, alteration or improvement of historic buildings and structures found to be substandard;

7-612.B. **Appropriations**. Such other sums as may by ordinance be appropriated to or designated as revenue of such fund;

7-612.C. **Fines**. All penalties collected under this Division; and

7-612.D. **Contributions**. Gifts, donations and other charitable contributions.

Section 7-613 Other Remedies

The remedies provided for in this Division to accomplish preservation of substandard local landmark structures are not exclusive and this Division shall not be construed to supersede or repeal by implication the remedies available for enforcement under any other ordinances of the Town or other remedies as may be provided for by law.

(Ord. 1254, 2006; Ord. 1005, 1994; Ord. 970, 1992; Ord. 958, 1992; Ord. 929, 1991; Ord. 841, 1988; Ord. 817, 1988; Ord. 422, 1980)

DIVISION 7 MAINTENANCE OF RATED STRUCTURES

Section 7-701 Duty To Maintain and Prevent Demolition by Neglect

An owner of a rated structure has the duty to maintain the structure in good condition and repair and to prevent the structure from becoming unsafe or dangerous, and to prevent its demolition by neglect.

Section 7-702 Substandard Conditions

Any building that is classified as a "rated structure" by the Telluride Historic Architectural Survey ("T.H.A.S.") in which there exists 1) an unsafe or dangerous building as provided for in the Uniform Code for the Abatement of Dangerous Buildings or the Building Code, or 2) any of the following conditions to the degree that the preservation of the building *or* the safety of the public is substantially endangered is, for the purposes of this Division, a "substandard rated structure".

7-702.A. **Structural Defects or Hazards.** Structural defects or hazards, including but not limited to the following:

7-702.A.1. Footings or foundations which are weakened, deteriorated, insecure or inadequate or of insufficient size to carry imposed loads with safety;

7-702.A.2. Flooring or flooring supports which are defective, deteriorated or of insufficient size or strength to carry imposed loads with safety;

7-702.A.3. Members of walls, partitions or other vertical supports that split, lean, list, buckle or are of insufficient size or strength to carry imposed loads with safety;

7-702.A.4. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, buckle or are of insufficient size or strength to carry imposed loads with safety;

7-702.A.5. Fireplaces or chimneys which list, bulge, settle or are of insufficient size or strength to carry imposed loads with safety; or

7-702.A.6. Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property.

7-702.B. **Defective Weather Protection.** Defective or inadequate weather protection, including but not limited to the following:

7-702.B.1. Crumbling, broken, loose or falling interior wall or ceiling covering;

7-702.B.2. Broken or missing doors and windows;

7-702.B.3. Deteriorated, ineffective or lack of waterproofing of foundations or floors (Note, some rated structures do not historically have floors or waterproof foundations);

7-702.B.4. Deteriorated, ineffective or lack of exterior wall covering, including lack of paint or other approved protective coating;

7-702.B.5. Deteriorated, ineffective or lack of roof covering; or

7-702.B.6. Broken, split, decayed or buckled exterior wall or roof covering.

7-702.C. **Fire Hazards.** Defects increasing the hazards of fire or accident, including but not limited to the following:

7-702.C.1. Accumulation of rubbish and debris; or

7-702.C.2. Any condition which could cause a fire or explosion or provide a ready fuel to augment the spread or intensity of fire or explosion arising from any cause.

Section 7-703 Inspections And Initiations Of Proceedings

7-703.A. **Inspection.** The Planning Director and/or its designated Town employee or agent shall inspect all buildings suspected to be substandard rated structures upon the complaint of: 1) the Historic and Architectural Review Commission ("H.A.R.C.") or a member thereof, 2) a Town official or employee or 3) any other citizen of the Town. The Planning Director may also request that the Building Official and/or the local fire department inspect a building suspected of being a substandard rated structure with respect to fire hazards described in Section 7-602.C.

7-703.B. **Report.** Whenever the Planning Director or its designated Town employee, the Building Official or the Fire Marshal has inspected or caused to be inspected a building, structure, premises, land or portion thereof, and has determined it to be a substandard rated structure in violation of this Division, the Town may, at its discretion, commence enforcement of the requirements of this Division in accordance with the procedures set forth herein.

Section 7-704 Content of Correction Notice And Order

If the Planning Director determines to commence proceedings, the Planning Director shall issue a written notice and order directed to the owner of the building as shown upon the records of the County Clerk in the manner prescribed in Section 7-705, with a copy to the Historic and Architectural Review Commission and the Town Manager. The notice and order shall contain:

7-704.A. **Description.** The street address, when available, and a legal description of the real property and/or personal property involved;

7-704.B. **Statement of Violation.** A statement that the Town has found the building to be in violation of this Division, and a brief and concise description of the conditions found to be in violation;

7-704.C. **Statement of Corrective Action.** A statement of the corrective action required to be taken. If the Planning Director has determined that corrective work is required, the order shall require that all required permits be secured, any H.A.R.C. approval obtained and the work physically commenced and be completed within such time as the Planning Director shall determine is reasonable under the circumstances;

7-704.D. **Statement of Penalty.** A statement specifying the amount of any penalty that would be assessed based on the Town Municipal Code in light of the violation and, if applicable, the conditions on which assessment of such penalty is contingent;

7-704.E. **Statement of Permit Procedures.** A statement informing the recipient that the work for the corrective action must comply with required permit procedures for historic buildings as provided for in Article 7, including but not limited to the requirement for obtaining a certificate of appropriateness;

7-704.F. **Advice of Abatement.** A statement advising that if any required work is not commenced or completed within the time specified, the Planning Director may proceed to abate the violation and charge the costs thereof as a lien against the property if not paid; and

7-704.G. **Advice Order is Final.** A statement advising that the order shall become final no later than fifteen (15) days after the notice and order are served, unless the owner requests in writing an appeal hearing before the H.A.R.C..

Section 7-705 Informal Enforcement Procedure Required.

Notwithstanding the foregoing, the Planning Director shall first contact and communicate with the owner by telephone or in person, and describe the substandard condition(s) of the Landmark structure in light of the Town's maintenance requirements, and provide the owner with an opportunity to take corrective action by a date-certain. A follow-up letter will be sent to the owner that includes a statement of the violation(s), the corrective action needed, a statement of permit procedures, and a statement of advice on abatement. If the corrective work is not commenced and/or completed by the specified date, or if necessary permits or H.A.R.C. approvals are not obtained by a specified date, the Town shall commence the more formal proceedings outlined in Section 7-700 et seq.

Section 7-706 Service of Correction Notice And Order

Service of a notice and order as called for in Section 7-704 shall be made in a manner as provided for by law; provided, that when personal service is obtained upon it shall not be necessary to post a copy of the notice and order on the property.

Section 7-707 Appeal of Correction Notice And Order

7-707.A. **Right to Appeal.** A party aggrieved of an order of the Planning Director or its designated Town employee shall have the right to appeal to the H.A.R.C.. For purposes of this Division, "party aggrieved" means any owner, tenant or other person having a direct financial interest in the subject building.

7-707.B. **Filing of Appeal.** In order for an appeal to be perfected the following provisions must be followed:

7-707.B.1. The appeal must be filed with the Town Clerk no later than the fifteenth (15th) day following service upon the appellant of the notice and order of the Planning Director.

7-707.B.2. The appeal must be in writing and state clearly and concisely the specific exceptions and objections to the notice and order of the Planning Director.

7-707.C. **Set Hearing Date.** The H.A.R.C. shall set a date for hearing the appeal within the thirty (30) days and shall provide no less than ten (10) days written notice to the appellant and the Planning Director.

7-707.D. **Hearing Rules.** The appeal hearing shall be a new or de novo hearing. Substantial weight shall be given to the notice and order of the Planning Director. The burden of establishing the contrary shall be upon the appealing party.

7-707.E. **H.A.R.C. Authority.** The H.A.R.C. may affirm, modify, reverse or remand the notice and order of the Planning Director, or grant other appropriate relief.

7-707.F. **Decision.** Within ten (10) days after a hearing, a written decision containing findings of fact and conclusions shall be transmitted to the appellant and the Planning Director. The decision shall be mailed via certified mail to the appellant.

Section 7-708 Final Correction Notice And Order

7-708.A. **Order Final.** Any order duly authorized by the Planning Director and issued by the Town pursuant to the procedures contained in this Division shall become final fifteen (15) days after service of the notice and order, unless a written request for an appeal hearing is received by the Town Clerk within that fifteen (15) day period.

7-708.B. **Order Final After Appeal.** An order appealed under Section 7-707 shall become final upon the date the H.A.R.C.'s decision is mailed to the appellant.

7-708.C. **Order Filing.** All final orders shall be filed by the Planning Director with the Town Clerk.

Section 7-709 Supplemental Correction Notice And Order

The Planning Director may at any time add to, rescind in part, or otherwise modify a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notices and orders contained in this Division.

Section 7-710 Enforcement of Correction Notice And Order

7-710.A. **Enforcement Authorized.** If after any final order issued by the Planning Director the person to whom such order is directed fails, neglects or refuses to obey such order, the Planning Director may:

7-710.A.1. Refer the final order to the Town Attorney to institute an action in Municipal Court to enforce the provisions of this Division; and/or

7-710.A.2. Abate the violation using the procedures of this Division as outlined in Section 7-611, with the approval of the H.A.R.C.

7-710.B. **Enforcement Stayed.** Enforcement of any notice and order of the Planning Director issued pursuant to this Division shall be stayed during the pendency of any appeal under Section 7-607, except when the Planning Director determines that the violation will cause immediate and irreparable harm and so states in the notice and order issued.

7-710.C. **Funds Unavailable.** In the event that the Minimum Maintenance Historic Building Revolving Fund does not contain funds or the Planning Director and the H.A.R.C. elect not to abate the violation through repair, alteration or improvement of the building in the manner specified in Section 7-611, the Planning Director shall file a statement with the Town Clerk stating that there is no money currently available to fund such abatement and that the action will be held in abeyance until such time as funding is available, or he will state why the H.A.R.C. elected not to abate the violation in the manner specified in Section 7-611.

Section 7-711 Abatement

7-711.A. **Abatement Authorized.** In addition to or as an alternative to any other judicial or administrative remedy provided in this Division or by law or other ordinance, the Planning Director may order conditions which constitute a violation of this Division to be abated. The Planning Director may order any owner of a building in violation of this Division to commence corrective work and to complete the work within such time as the Planning Director determines reasonable under the circumstances.

7-711.B. **Repairs By Town Authorized.** If the owner fails to comply with a final order, the Planning Director, by such means and with such assistance as may be available, and with H.A.R.C. approval, is authorized to cause such building to be

repaired, altered or improved and the costs thereof shall be recovered by the Town in the manner provided by law.

7-711.C. **Payment.** The cost of such work shall be paid from amounts appropriated for abatement purposes. Unless the amount of the costs thereof are repaid within sixty (60) days of the completion of the work, they shall be assessed against the real property as to which such costs were incurred as follows.

7-711.C.1. Upon certification by the Planning Director to the Town Finance Director of the assessment amount being due and owing, the Town Finance Director shall certify the amount to the County Treasurer.

7-711.C.2. The County Treasurer shall enter the amount of such assessment upon the tax rolls against such real property for the current year to be collected at the same time and with interest at such rates and in such manner as provided for by law, as amended, for delinquent taxes. The assessment shall constitute a lien against the property of equal priority with State, County and Municipal taxes.

7-711.C.3. When collected, the payment shall be deposited in the general fund and credited to the Minimum Maintenance Historic Building Fund, as provided in Section 7-601.

Section 7-712 Preservation Of Rated Structures

7-712.A. **Preservation Preferred.** In any abatement action, the Planning Director shall strive to ensure the continued existence of any rated structure and prevent its unauthorized demolition. Demolition shall be considered the least acceptable option and may be approved only after consideration of all other available alternatives and remedies.

7-712.B. **Correction.** In issuing any notice and order to abate deficiencies in an unsafe or dangerous rated structure, the Planning Director shall order the correction or repair of any deficiencies and not the total demolition of the structure unless such correction or repair poses an unreasonable risk of physical injury to persons who may undertake the repair, or to the public health or safety.

Section 7-713 Waiver on the Full Application of the Building Code

An owner seeking to maintain an unoccupied rated structure until such is fully rehabilitated may do so without meeting all of the applicable requirements of the Building Code if all of the following conditions are met

7-713.A. **Restrictive Covenant.** The owner has executed a restrictive covenant that prohibits the structure from being occupied until it is brought into full compliance with the Building Code in accordance with the requirements of Article 7.

7-713.B. **Compliance with H.A.R.C. Requirements.** The Owner has obtained approval for any proposed alterations, additions, erections, demolitions or relocation in accordance with the provisions of Article 7.

7-713.C. **Building and Planning Department Approval.** The owner has submitted a narrative explaining the intended maintenance work prior to the commencement of such work, and any hand drawings that roughly illustrate the work that might be available, and the Planning Department has issues a letter of approval for such work in consultation with the Building Department.

Section 7-714 Maintenance Fund Established

There is hereby created a special fund designated the "Historic Structure Minimum Maintenance Revolving Fund" from which fund shall be paid any costs and expenses incurred by the Town in connection with a repair, alteration or preservation of any dangerous rated building as defined by this Division, and into which fund the following sums shall be deposited:

7-714.A. **Reimbursements.** Such sums as may be recovered by the Town as reimbursement for costs and expenses of repair, alteration or improvement of historic buildings and rated structures which are unsafe or dangerous;

7-714.B. **Appropriations.** Such other sums as may by ordinance be appropriated to or designated as revenue of such Fund;

7-714.C. **Fines.** All fines imposed and collected under this Division; and

7-714.D. **Contributions.** Gifts, donations and other charitable contributions.

Section 7-715 Other Remedies

The remedies provided for in this Division to accomplish preservation of unsafe or dangerous rated structures are not exclusive, and this Division shall not be construed to supersede or repeal by implication the remedies available for enforcement under any other laws or ordinances of the Town.

(Ord. 1254, 2006; Ord. 1040, 1996; Ord. 1005, 1994; Ord. 970, 1992; Ord. 923, 1991)

ARTICLE 8 MATTERS OF LOCAL AND STATE INTEREST

DIVISION 1 GENERAL PROVISIONS

Section 8-101 Purpose

The purpose of this Article is to facilitate identification, designation and administration of matters of local and state interest, consistent with the statutory requirements and criteria set forth in C.R.S. 24-65.1-101 et seq. and 29-20-101 et seq., as amended, and to provide for certain inclusions in the Telluride Master Plan.

Section 8-102 Findings

The Town Council finds that:

8-102.A. **Notice.** The notice and public hearing requirements of C.R.S. 31-23-304, as amended, have been followed;

8-102.B. **Regulations Necessary.** These regulations are necessary due to the intensity of current and foreseeable development pressures on and within the Town;

8-102.C. **Entire Town.** These regulations apply to all areas within the incorporated limits of the Town, as it presently exists or as subsequently modified or enlarged; and

8-102.D. **Designated Areas and Activities.** These regulations interpret and apply to any regulations adopted for specific areas of local or state interest and specific activities of local and state interest which have been or may be designated by the Town Council.

Section 8-103 Authority

These regulations are authorized by the powers reserved to a home rule municipality pursuant to Colorado Constitution Article XX, Sec. 6; and C.R.S. Sections 24-65.1-101 et seq., 31-23-101 et seq., 31-12-101, et seq. and 29-20-101 et seq., as amended.

Section 8-104 Applicability

These guidelines and regulations shall apply to all proceedings concerning identification and designation of and development in any area of local or state interest or any activity of local or state interest which has been or may be designated by the Town Council.

Section 8-105 Existing Development Or Activity

The portions of these regulations authorized under C.R.S. Sections 24-65.1-101 et seq. and 29-20-101 et seq., as amended, shall not apply to any development in an area of local or state interest or any activity of local or state interest if, on December 31, 1977, the specific development or activity was covered by a current building permit issued by the Town.

Section 8-106 Maps

8-106.A. **Adopted.** Each map referred to in designations and regulations for a particular matter of local or state interest adopted by the Town Council is deemed adopted herein as if set out in full.

8-106.B. **Location.** Maps referred to in any such designation and regulation shall be filed with and be available for inspection at the office of the Town Clerk and shall also be available for inspection in the Planning Department.

(Ord. 1420, 2015; Ord. 970, 1992; Ord. 854, 1989; Ord. 361, 1978)

DIVISION 2 IDENTIFICATION

Section 8-201 Technical Step

The technical step in identification of any matter of local and state interest shall be made by report and must be completed for the appropriate matter of local and state interest before adoption of a matter of local and state interest by the Town Council.

Section 8-202 Master Plan Inclusion

After completion of the technical step, identification of a matter of local and state interest by P&Z and the Town Council is completed when adopted as part of the Telluride Master Plan or when a designation or regulation based thereon is adopted.

Section 8-203 Adoption

Adoption of identification shall be accomplished under the procedures followed for adoption of the Master Plan, specified in Section 9-109 and under the following additional procedures:

8-203.A. **Studies.** The "careful and comprehensive studies and surveys" upon which the Master Plan must be based according to C.R.S. 31-23-107, as amended, shall include the technical step as described in Section 8-201.

8-203.B. **Review.** If any other local governmental jurisdiction would be directly or indirectly affected, the proposed identification shall be submitted at least thirty (30) days before adoption of official identification as part of the Master Plan.

8-203.C. **Adoption resolution.**

1. The Planning and Zoning Commission's adoption of the identification as part of the Master Plan shall be made by resolution.

2. Before adoption, the Planning and Zoning Commission shall hold at least one (1) public hearing thereon, with notice of the hearing given by publication in a newspaper of general circulation in the Town.

3. Adoption shall refer to any maps and descriptive matter intended to be a part of the identification. The action taken shall be recorded on any such map or descriptive matter by the signature of the chairperson or secretary of the Planning and Zoning Commission.

Section 8-204 Certification

Once the identification of a matter of local and state interest is adopted as part of the Master Plan, the Planning and Zoning Commission shall certify a copy of the identification to the Town Council, and, after adoption by the Town Council shall be filed with the Clerk and Recorder of the County.

(Ord. 1420, 2015; Ord. 970, 1992; Ord. 854, 1989; Ord. 361, 1978)

DIVISION 3 DESIGNATION

Section 8-301

Designations or revocations of designations of matters of local and state interest may be initiated in five (5) ways:

8-301.A. **Pursuant to Identification.** After a matter of local and state interest has been identified as provided in Division II of this Article, the Town Council may designate such matter in accordance with the provisions of this Article and C.R.S. 24-65.1-401 et seq., as amended; or

8-301.B. **Emergency Basis.** If the Town Council finds that it would be inappropriate to await identification of any matter of local and state interest by the Planning and Zoning Commission, the Town Council may, on an emergency basis, designate such matter prior to adoption of the identification; or

8-301.C. **State Mandated.** If the State of Colorado submits a formal request to the Town Council with regard to a specific matter which the State of Colorado considers to be of state interest within the Town, the Town Council shall publish notice and conduct a hearing pursuant to C.R.S. 24-65.1-404, as amended; or

8-301.D. **Petition.** If the Town Council receives a petition signed by a number of qualified electors equal to at least eight percent (8%) of the total number of votes for all candidates for governor in the last general election in the Town requesting designation of any matter of local and state interest, the Council shall begin designation proceedings on that matter of local and state interest as set out in this Article; or

8-301.E. **Court Order.** At any time after the designation of any matter of local or state interest by the Town Council pursuant to court order, a proceeding to revoke or amend any such designation may be held only upon the subsequent order of the same court which ordered the designation.

Section 8-302 Moratorium During Consideration

After the Town Council has received a formal request or determined a need to take action with regard to a specific matter which may be of local or state interest within the Town's jurisdiction, no person shall engage in development in the area or conduct the activity specifically described in the request until the Town Council has held its hearing and issued its order relating thereto.

Section 8-303 Procedure

Designation of a matter of local and state interest shall require the Town to meet the following procedural requirements.

8-303.A. **Public Hearing.** The Town Council shall hold a public hearing before designating

any matter of local or state interest and adopting regulations for the administration thereof. The hearing shall be held not less than thirty (30) nor more than sixty (60) days after the Council's receipt of the petition described in Section 8-301 D. In the event that the State of Colorado submits a formal request to take action, such public hearing for designation shall be held within ninety (90) days after receipt of such request.

8-303.B. **Hearing Notice.** The Planning Director shall prepare a notice of the designation hearing which shall contain that information required in Section 5-204 C. of this Title and include a description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property which would be included. The notice should include, when practicable, both the legal description of the property as well as any general or popular names of the property.

1. The notice shall be published in a newspaper of general circulation in the Town at least thirty (30) days but not more than sixty (60) days before the date of the public hearing.

2. The notice shall be mailed to:

   a. all persons who would receive notice if the designation were an amendment of the Official Zone District Map, pursuant to Article 6, Division 5 of this Title;

   b. Persons on a mailing list to be maintained by the Planning Director. The mailing list shall contain the names of those persons requesting that their names and addresses be placed on the list and paying an annual fee. In order to have his name and address retained on the mailing list, the person shall resubmit his name and address and pay such fee before January 31st of each year.

   c. In the discretion of the Planning Director, members of the news media and any other person considered to be likely to be affected by the proposed designation;

   d. Any other local governmental jurisdiction which would be directly or indirectly affected; and

   e. State and federal agencies, as deemed appropriate in the discretion of the Planning Director.

8-303.C. **Evidence at Public Hearing.** At the public hearing, the Town Council shall consider such evidence as may be appropriate including, as a minimum:

1. The intensity of current and foreseeable development pressures in the matter proposed for designation;

2. The matters and considerations set forth in any applicable guidelines for identification and designation;

3. The boundaries of the proposed area;

4. Reasons why the particular area or activity is of local or state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such activity in a coordinated manner;

5. Any master or comprehensive plan pertaining to or affected by the area or activity under consideration;

6. The recommendations of the Planning and Zoning Commission; and

7. Other relevant testimony and documents presented.

8-303.D. **Record of Hearing.**

1. The Town Clerk will collect and preserve the following record of the public hearing, as a minimum:

   a. Notice of the hearing;

   b. Certificate of publication of the notice;

   c. Names and addresses of persons who presented written or oral statements;

   d. Evidence of the identification of the matter of local or state interest proposed to be designated; and

   e. Written findings concerning each of the matters referred to in Section 8-303 C.

2. Any person may, at his own expense, provide for the recording of the hearing and transcription thereof; provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Town Clerk and shall become part of the record.

8-303.E. **Adoption Of Designation.**

1. At the conclusion of the hearing described in this Section 8-303, the Town Council may adopt, adopt with modification or reject the proposed designation which was the subject of the public hearing. If designation and

regulation under C.R.S. 24-65.1-101 et seq., as amended, is rejected, the Council may regulate the matter under any other available land use control authority or it may reject regulation of the matter entirely.

2. Such action shall be taken by order and shall at a minimum:

   a. Specify the boundaries of the designated area of local or state interest or the boundary of the area in which an activity of local or state interest has been designated;

   b. State reasons why the particular area or activity is of local or state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner; and

   c. Specify the regulations applicable to the designated matter of local or state interest.

3. In the event that the Town Council "finally determines" that any matter is a matter of local or state interest, or if the Council is acting pursuant to court order, it shall be the Council's duty to designate such matter and adopt regulations for the administration thereof.

8-303.F. Actions Following Designation.

1. A notice of the designation shall be certified by the Town Council to the County Clerk and Recorder for filing in the same manner as any document affecting real property.

2. After a matter of local or state interest is designated pursuant to this Division, no person shall engage in development in such area and no such activity shall be conducted until the designation and regulations for such area or activity are finally determined pursuant to C.R.S. 24-65.1-404(4) or 29-20-101 et seq., as amended.

(Ord. 1420, 2015; Ord. 1040, 1996; Ord. 970, 1992; Ord. 854, 1989; Ord. 361, 1978)

DIVISION 4 ADMINISTRATION

Section 8-401 Responsibilities

8-401.A. **Planning Director.** Unless otherwise specifically provided herein, it shall be the duty of the Planning Director to perform all functions set forth in all regulations for matters of local and state interest.

8-401.B. **Building Official.** It shall be the duty of the Building Official to determine that all requirements of this Article have been met prior to issuance of a building permit, and that the permit requirements of this Division are completed prior to issuance of a certificate of occupancy.

8-401.C. **Town Engineer.** The Town Engineer is designated as the Permit Authority for the Town and shall exercise all duties and functions relating to issuance of permits as prescribed by these regulations.

Section 8-402 Boundary Disputes

8-402.A. **Permit Authority Responsible.** Where interpretation is needed as to the exact location of the boundary of any designated area and where there appears to be a conflict between a mapped boundary and actual field conditions, the Permit Authority shall make the necessary determination of the boundary.

1. The Permit Authority shall make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

2. Any person contesting the location of the boundary shall be given an opportunity to appeal the location to the Permit Authority. The appeal shall include detailed studies appropriate to Telluride's unique geologic or hydraulic environment, prepared by a qualified engineering geologist or professional engineer.

8-402.B. **Appeal.** Determinations of the Permit Authority as to boundary disputes may be appealed to the Town Council, pursuant to Section 8-410 of this Division.

Section 8-403 Amendments

Amendments to this Article may be made on petition of any interested party to the Town Council. Amendments shall undergo the same procedures for adoption as followed for original adoption and shall be adopted in a manner provided by this Title.

Section 8-404 Permit Required

Any person desiring to engage in a development in a designated area of local or state interest or to conduct a designated activity of local or state interest must first obtain a permit from the Permit Authority.

Section 8-405 Complete Applications

An application shall not be accepted unless it is complete. If the application is considered incomplete by the Permit Authority, the Permit Authority shall specify what additional information is required. When a submitted application is considered to be complete by the Permit Authority or the applicant, the Permit Authority shall note upon the application the date and hour of its receipt. The required contents of a complete application are specified in Divisions 5 and 6 of this Article 8.

Section 8-406 Multiple Activities

When an applicant seeks a permit to engage in development in more than one (1) area of local or state interest, or to conduct more than one (1) activity of local or state interest, or to engage in development in one (1) area of local or state interest and to conduct one (1) activity of local or state interest, the application may be completed for all such activities or developments and may be reviewed by the Permit Authority in a consolidated hearing.

Section 8-407 Review Procedure

8-407.A. **Publish Notice.** Not later than ten (10) days after receipt of a completed application for a permit, the Permit Authority shall set and publish notice of a date, time and place for a hearing on the application. Such notice shall be published once in a newspaper of general circulation in the Town, at least fourteen (14) days before the date set for hearing and shall also be given to any owner of property within one hundred feet (100') of the subject property, exclusive of public rights of way and streams.

8-407.B. **Notice to Telluride Fire Protection District.** Notice of permit hearing for geologic hazards review shall also be sent to the Telluride Fire Protection District, along with complete submission materials. The Fire Protection District may comment on their ability to adequately provide fire protection and ambulance service to the proposed development. Comments may be submitted in person or in writing at the public hearing.

8-407.C. **Public Hearing Exemption.** When the applicant seeks permission to construct a one-family dwelling unit or an addition to an existing structure, the application may be exempted from the public notice and hearing requirement. Upon petition to the Permit Authority, an applicant who seeks to construct multiple units may request exemption from the public notice and hearing requirement upon submission of sufficient evidence that

the specific area is safe from the defined hazard(s). The exemption is at the discretion of the Permit Authority.

8-407.D. **Hearing Conduct Generally.** The Permit Authority shall conduct the public hearing in such a manner to afford procedural due process to the applicant as well as to any person interested in the issuance of the permit.

8-407.E. **Testimony.** The Permit Authority shall hear testimony and receive evidence, including:

1. The recommendations of the Planning Director, the Building Official, and other municipal employees or consultants with expertise in the designated matter of local or state interest; and

2. Relevant testimony and documents presented.

8-407.F. **Rules of Procedure.** Although the Colorado Rules of Civil Procedure do not govern the conduct of the hearing, persons appearing at the hearing in person or by counsel shall be afforded the right of cross-examination and reasonable opportunity to offer evidence in rebuttal. Any person engaging in cross-examination or offering evidence in rebuttal shall thereby become a party.

8-407.G. **Recording and Transcription.** Any person may, at his own expense, provide for the recording of the hearing and transcription; provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Permit Authority and shall become part of the record.

8-407.H. **Record.** The Permit Authority shall collect and preserve the following record of the public hearing:

1. The permit application and notices of the hearing thereon;

2. Any written statements or documents presented in support of or in opposition to the permit application;

3. The names and addresses of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence;

4. Any recording or transcript, if any, of the hearing as provided in Section 8-407 G.;

5. Written minutes of the Permit Authority relating to the public hearing;

6. The order of the Permit Authority granting, granting with conditions, or denying the permit application; and

7. A copy of the permit, if issued.

8-407.I. **Denial--Continuance.** If the Permit Authority finds that there is not sufficient information concerning any material feature of a proposed development or activity, the Permit Authority may deny the application, or may continue the hearing until the additional information has been received.

8-407.J. **Approval.** The Permit Authority shall approve an application for a permit to engage in development in an area of local or state interest or for the conduct of an activity of local or state interest if the proposed development or activity complies with the provisions of the regulations governing such area or activity. If the proposed development does not comply with such regulations, the permit shall be denied.

8-407.K. **Written Decision.** The Permit Authority conducting a hearing pursuant to this Article shall record its findings and conclusions.

8-407.L. **Decision Deadline.** The Permit Authority shall reach a decision on a permit application within thirty (30) days after the completion of the permit hearing, or the permit shall be deemed approved.

8-407.M. **Issuance.**

1. The permit shall be issued on the form adopted by the Permit Authority.

2. The permit shall be valid for two (2) years after issuance.

3. Copies or notice of the permit shall be sent to the San Miguel County Planning Commission, and to any other person requesting a copy thereof on payment of the cost of reproduction.

4. A copy of the permit shall be certified by the Permit Authority to the County Clerk and Recorder for recording in the same manner as any other document relating to real property, and the certified copy of the permit shall be presented by the Permit Authority to the Clerk and Recorder for recording.

Section 8-408 Combined Designation and Permit

If a person proposes to engage in development in an area of local or state interest or to

conduct an activity of local or state interest not previously identified, designated or for which regulations have not been adopted, the Town Council alone may hold one (1) hearing for determination of identification, designation and regulations as well as for granting or denying the permit. No permit that is granted at the conclusion of any such hearing shall be authority to engage in development or to conduct an activity until the identification, designation and regulations are finally determined.

Section 8-409 Financial Security

Before any permit is issued, the Permit Authority may, in its discretion, require the applicant to provide a guarantee of financial security deemed adequate by the Town Manager and payable to the Town.

8-409.A. **Purpose.** The purpose of the financial guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements of the permit or applicable regulations adopted by the Town.

8-409.B. **Amount.** The amount of the financial guarantee shall be established upon consideration of the following applicable criteria:

1. The estimated cost of returning the site of the permitted development or activity to its original condition or to a condition acceptable to the Town in accordance with standards adopted by the Town for the matter of local or state interest for which the permit is being granted;

2. The estimated cost of completing the permitted development or activity; and

3. The estimated cost of complying with any conditions of the permit.

4. Estimated cost shall be based on the applicant's submitted cost estimate plus the Permit Authority's estimate of the additional cost to the Town of bringing in personnel and equipment to accomplish any unperformed purposes of the financial guarantee. The Permit Authority shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation. The Permit Authority may require, as a condition of the permit, that the financial security shall be adjusted upon receipt of bids.

8-409.C. **Cash Deposit.** At least ten percent (10%) of the amount of the financial guarantee shall be in cash deposited with the Town Treasurer and shall be placed in an earmarked escrow account.

8-409.D. **Release.** The financial guarantee may be released only when:

1. The permit has been surrendered to the Permit Authority before commencement of any physical activity on the site of the permitted development or activity; or

2. The development or activity has been abandoned and the site thereof has been returned to its original condition or to a condition acceptable to the Town in accordance with the standards adopted by the Town for the matter of local or state interest for which the permit is being granted; or

3. The project has been satisfactorily completed; or

4. Applicable guaranteed conditions have been satisfied.

8-409.E. **Cancellation.** Any security may be canceled by a surety only upon receipt of the Permit Authority's written consent which may be granted only when such cancellation will not detract from the purposes of the security.

8-409.F. **Failure of Surety.** If the license to do business in Colorado of any surety upon a security filed pursuant to this Division is suspended or revoked by any state authority, then the applicant or permittee, within sixty (60) days after receiving notice thereof, shall substitute a good and sufficient surety licensed to do business in the state. Upon failure of the permittee to make substitution of surety within the time allowed, the Permit Authority shall suspend the permit until proper substitution has been made.

8-409.G. **Forfeiture.**

1. If the Permit Authority determines that a financial guarantee should be forfeited because of any violation of the permit or any applicable regulations, the Permit Authority shall provide written notice to the surety and to the permittee that the financial guarantee will be forfeited unless the permittee makes written demand to the permit authority within thirty (30) days after the permittee's receipt of notice, requesting a hearing before the Permit Authority. If no demand is made by the permittee within that period, then the Permit Authority shall order the financial guarantee forfeited.

2. The Permit Authority shall hold a hearing within thirty (30) days after the receipt of the demand by the permittee. At the hearing, the permittee may present for the consideration of the Permit Authority statements, documents and other information with respect to the alleged violation. At the conclusion of the hearing, the Permit Authority shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.

3. The cash deposit described in Section 8-409 C. may be used by the Permit Authority of the Town in the event of the default or alleged default of the permit holder only for the purposes of recovering on the surety or fulfilling the permit obligations of the permit holder. In the event that the ultimate reviewing body determines that there has been no default by the permit holder, that portion of any moneys expended by the Town from the segregated funds relating to such default shall be replaced in the segregated account immediately following such determination. The Town may arrange with a lending institution, which provides money for the permit holder, that the institution may hold in escrow any funds required for the cash deposit. Funds shall be disbursed out of escrow by the institution upon the Town's demand for the purposes specified in this section.

8-409.H. **Inadequacy.** If the forfeiture results in inadequate revenues to cover the costs of accomplishing the purposes of the financial guarantee, the Town Attorney shall take such steps as he or she deems proper to recover such costs where recovery is deemed possible.

Section 8-410 Review of Permit Decision

8-410.A. Any person affected by a decision of the permit authority may obtain review of that decision by the Town Council by written notice of appeal which specifies the basis of objections and which is filed with the Permit Authority and the Town Council not later than twenty (20) days after the permit authority's order or decision.

8-410.B. The Town Council shall commence its review of the decision of the permit authority at a public hearing held within thirty (30) days after filing of the notice of appeal, or at the Council's second regular meeting after the notice of appeal is filed, whichever is later.

8-410.C. Notice shall be given and the public hearing shall be conducted in substantially the same manner as the permit hearing conducted by the Permit Authority.

8-410.D. During the pendency of any appeal to the Town Council and during any judicial review thereof, the applicant shall not engage in development or the activity requested in the application, unless the permittee can obtain a court order permitting the development or engaging in an activity under the provisions of the permit.

Section 8-411 Temporary Suspension

When it comes to the attention of the Permit Authority that the provisions of any permit

or the terms of any regulation for administration have been violated by the holder of the permit, the Permit Authority may temporarily suspend the permit for a period of thirty (30) days. Before making such a temporary suspension, the Permit Authority shall give the permit holder written notice of the specific violation and shall allow the permit holder a period of at least fifteen (15) days to correct the violation. If the permit holder does not concur with the alleged violation, he shall, within fifteen (15) days of his receipt of the notice, show cause to the Permit Authority why temporary suspension should not be ordered. A hearing shall be held within the thirty (30) day period pursuant to Section 8-412.

Section 8-412 Permanent Suspension Or Revocation

Either prior to or subsequent to a temporary suspension, the Permit Authority may permanently revoke or suspend the permit after conducting a public hearing in substantially the same manner and after substantially the same notice as for permit issuance hearings, and if the Permit Authority finds:

8-412.A. **Violation.** A violation of the provisions of the permit or any applicable municipal regulation; or

8-412.B. **Inactivity.** That the applicant has failed to take substantial steps to initiate the permitted development or activity within twelve months from the date of the permit or, if such steps have been taken, the applicant has failed to complete the development or activity with reasonable diligence.

Section 8-413 Occupancy Permits

Prior to the issuance of a certificate of occupancy, the Building Official shall examine all requirements of the permit requirements of this Division and shall investigate the site to determine that all requirements have been met. If permit requirements have not been completed, the Building Official shall withhold issuance of the certificate of occupancy until permit compliance is obtained.

(Ord. 1420, 2015; Ord. 970, 1992; Ord. 854, 1989; Ord. 413, 1980; Ord. 364, 1978; Ord. 361, 1978)

DIVISION 5 GEOLOGIC HAZARD CONTROL

PART I. GENERAL PROVISIONS

Section 8-501 Purposes

The geologic hazard control regulation codified in this Division has been established with the following intended purposes:

8-501.A. **Minimize Impact.** To minimize the impact of geologic hazards to life and property by:

1. Prohibiting land uses which are dangerous to life or property in areas of geologic hazard;

2. Regulating land uses which would be hazardous to the public health or property in geologic hazard areas so as to minimize the hazardous conditions to life and property; and

3. Requiring permitted land uses in geologic hazard areas, including public facilities which serve such uses, to have geologic hazard investigations and construction of any improvements pursuant to the investigations.

8-501.B. **Protect Occupants.** To protect geologic hazard area occupants or users from the impacts of geologic hazards which may be caused by their own, or their land uses and which is or may be undertaken without full realization of the danger by:

1. Regulating the areas in which, or the manner in which, structures designed for human occupancy may be constructed; and

2. Designating, delineating and describing areas that are adversely affected by geologically hazardous conditions.

8-501.C. **Avoid Public Costs.** To protect the public from the burden of excessive financial expenditures from the impacts of geologic hazards and relief by:

1. Regulating land uses within geologic hazard areas so as to produce a pattern of development or a soundly engineered manner of construction which will minimize the intensity and/or probability of damage to property and loss of life or injury to the inhabitants or the users of geologic hazard areas, and/or adjoining property owners;

2. Regulating the cutting, filling, drainage changes or other manmade changes which could initiate or intensify adverse conditions within geologic hazard areas; and

3. Encouraging such uses as agriculture, grazing, greenbelt, open space and recreation within geologic hazard areas.

Section 8-502 Applicability

8-502.A. **Designated Areas.** This Division is applicable to all lands within designated geologic hazard areas within the Town.

8-502.B. **Mapped and Known Hazard Areas.** This Division shall apply to all lands within the incorporated Town as follows:

1. All geologic hazard areas described on the "Official Geologic Hazard Area Map."

   a. A designated geologic hazard area is an area containing identified geologically hazardous conditions.

   b. The identified geologically hazardous conditions include:

      (1) Active Debris Fans;
      (2) Avalanches;
      (3) Active Soil Creep;
      (4) Landslides;
      (5) Mancos Shale;
      (6) Potentially Unstable Slopes;
      (7) Rockfall Hazard Areas;
      (8) Slopes in Excess of Thirty Percent (30%); and
      (9) Talus rockfall source.

   c. The identified geologically hazardous conditions maps shall be updated as more detailed and comprehensive data is developed and made available.

2. Any areas which are not mapped but in which a geologic hazard is known or found to be present.

Section 8-503 Maps Adopted

The maps mentioned in Section 8-502, together with all explanatory material thereon and attached thereto, are hereby adopted, approved and incorporated herein by reference under authority of C.R.S. 24-65.1-101 et seq., as amended, and are made a part of this Article. These maps shall be certified and filed in the Planning Office, in the office of the County Clerk, in the office of the Building Official, and in the office of the Town Engineer.

Section 8-504 Administration

The Town Engineer shall administer the provisions of this Division. When necessary, he shall call upon the Colorado Geological Survey for their professional assistance to provide technical and scientific assistance in administering the provisions of this Division.

Section 8-505 Interpretation

The provision of this Division shall be held to be the minimum requirements and shall be liberally construed in favor of the Town, and shall not be deemed a limitation or repeal of any other powers of the Town.

Section 8-506 Degree Of Protection--Liability Denied

8-506.A. **Reasonable Protection.** The degree of protection from geologic hazards intended to be provided by this Division is considered reasonable for regulatory purposes, and is based on accepted geologic and scientific methods of study. This regulation is intended to minimize the dangers, costs and impacts from geologic hazards. Therefore, unforeseen or unknown geologic conditions or natural or manmade changes in conditions may contribute to future damages to structures and land uses even though permitted within designated geologic hazard areas. This Division does not imply that areas outside designated geologic hazard area boundaries or land uses permitted within such areas will be free from all impacts of geologic hazards.

8-506.B. **No Liability Created.** This Section shall not create liability on the part of the Town or any officer, agent, or employee thereof, or the Colorado Geological Survey or any employee thereof, for any personal or property damage that may result from reliance on this Division or from acts in furtherance thereof by any officer agent, or employee of the Town, or from damages occurring in areas which for any reason have not been officially designated as geologic hazard areas.

PART II. DESIGNATED GEOLOGIC HAZARD AREAS

Section 8-507 Applicability Of Regulations

The provisions of this Division shall apply to all geologic hazard areas for which appropriate identification and evaluation have been made, which have been reviewed by the Colorado Geological Survey and which have been designated by the Town Council.

Section 8-508 Delineation On Maps

The designated geologic hazard areas shall include the areas delineated on the official maps referred to in Section 8-502.

Section 8-509 Location And Boundaries

The location and boundaries of the designated geologic hazard areas established by this Division are shown upon the official Geologic Hazard Area Map of the Town. The Map and all amendments thereto shall be as much a part of this Division as if fully set forth and described herein.

PART III. PERMITS

Section 8-510 Uses Permitted Without Permit

The following uses are excluded from the meaning of "development" and shall not require a permit,

as required in this Division. Such uses may be permitted by the Building Official or the Planning Director, upon a finding that they conform with the requirements of this section; provided that such uses shall be subject to all other requirements of this Title.

8-510.A. **Recreational Uses.** Public and private recreational uses not requiring permanent structures designed for human habitation such as parks, picnic grounds, wildlife and natural preserves, skiing and hiking areas if such uses do not cause intense concentrations of people in areas of high hazard probability.

8-510.B. **No Human Habitation.** None of the uses described in subsection A of this section shall include permanent structures for human habitation.

Section 8-511 Fee

Any person desiring to undertake development or to make land use changes in a designated geologic hazard area, upon filing an application for a permit with the Town Permit Authority, shall also submit an application fee pursuant to Section 5-210 of this Title. These fees shall be set sufficient to cover the cost of holding the necessary hearings and must be paid at the time of filing such application.

Section 8-512 Application Contents

The application for development in a designated geologic hazard area shall include:

8-512.A. **Minimum Contents.** The minimum application contents as specified in Section 5-202 C of this Title;

8-512.B. **Vicinity Topography Map.** A vicinity topography map showing the location of the permit area and its relationship to surrounding topographic and cultural features. Two foot (2') and five foot (5') contour interval maps are available for most of the Town. The map shall indicate major land uses such as commercial, residential, parks, public facilities, roads and other significant natural and manmade features within one-half (1/2) mile of the property;

8-512.C. **Development Map.** A topographic map or maps showing the location, nature and density of the proposed development or land use change. Such maps shall be on a scale sufficiently detailed to meet the purposes of this Division, but in no case less detailed than one inch equals two hundred feet (1" = 200');

8-512.D. **Geologic Conditions Map.** A map or maps portraying the geologic conditions of the area, with particular attention given to adopted geologic hazard areas and those geologic, hydrologic, soil and topographic factors affecting geologic hazard conditions. If appropriate or needed, subsurface geologic cross-sections shall also be utilized to portray such conditions at depth. Such maps shall also show the topography with a contour interval of five feet (5') or smaller. Such maps shall be on a scale sufficiently detailed to meet the objectives of this Division but, in no case, less detailed than one inch equals two hundred feet (1' = 200'). If possible, the geologic maps shall be at the same scale and format as the development map;

8-512.E. **Technical Report.** A geologist's or registered geotechnical engineer's report explaining the maps and cross-sections required in this section with particular emphasis on evaluating and predicting the impact of such geologic or hazardous conditions on the proposed land use changes and developments. It shall also include recommended mitigating procedures to be employed in meeting the purposes of this Division;

8-512.F. **Description of Development.** The applicant, in narrative, pictorial or graphic form shall explain the nature, density and intensity of the proposed development or land use change, and shall explain mitigation procedures which will be needed and are planned to carry out the purposes of this Division;

8-512.G. **Additional Materials.** Any additional reports, maps or other information deemed necessary in the opinion of the staff or any referral agency to demonstrate conformance with the guidelines of this Division.

Section 8-513 Map Specifications

All maps shall show a true north arrow and shall show section corners and the appropriate land grid.

Section 8-514 Geologic Map And Report Preparation

All geologic maps and reports prepared under this Division shall be prepared by or under the responsible direction of and signed by a professional geologist (as defined by C.R.S. Chapter 34, Article I, as amended) or registered geotechnical engineer who also has adequate experience in the specialty of engineering geology.

Section 8-515 Engineering Work Preparation

All engineering work prepared under the requirements of this Division shall be prepared by or under the responsible charge of a registered geotechnical engineer as defined in C.R.S. Chapter 12, Article 25, as amended. Such engineer shall also be experienced and competent in the specialty required to meet the objectives of this Division.

Section 8-516 Waiver Of Requirements

8-516.A. **Waiver Authorized.** The Permit Authority may waive any part but not all of the submission requirements imposed by this regulation upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an insubstantial impact on the surrounding area. Such a waiver may be granted, after due consideration by the permit authority, upon a written determination that the information to be submitted is sufficient for the permit authority to arrive at a permit decision in full compliance with the law and this Division and that the proposed development will have an insubstantial impact on the surrounding areas.

8-516.B. **Public Hearing; Exemption.** The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in compliance with the provisions of Section 8-407, except when the applicant seeks permission to construct one (1) unit or an addition or alteration to an existing structure, the applicant shall be exempt from the public notice and hearing requirement. Upon petition to the Permit Authority, an applicant who seeks to construct multiple units may also request exemption from the public notice and hearing requirements, if sufficient evidence is submitted that the specific area is safe from the defined hazard(s). The exemption shall be at the discretion of the Permit Authority. When applicants are exempt from the public notice and hearing requirement, the Permit Authority shall render a decision at a regular meeting of the Permit Authority.

Section 8-517 Approval Criteria--General

The Permit Authority shall approve an application for a permit to engage in development in a geologic hazard area only if all of the following criteria are met:

8-517.A. **Procedural Compliance.** All of the provisions of the permit application procedure have been complied with;

8-517.B. **Health, Safety and Welfare.** Provision is made for the protection of the long-term health, safety and welfare of the public from geologic hazards to life, property and associated investments;

8-517.C. **Financial Burden.** The proposed development will not create an undue financial burden on existing or future residents of the area or community;

8-517.D. **Minimize Danger to Humans.** Structures designed for human occupancy and sites designed for human use shall be constructed so as to minimize the danger to human life or property;

8-517.E. **Avoid or Mitigate Hazards.** Permitted land uses, including public facilities which serve such uses, shall avoid or mitigate geologic hazards at the time of initial construction using the techniques set forth in this Division;

8-517.F. **Natural Conditions.** Manmade changes shall not initiate or intensify adverse natural conditions within a geologic hazard area;

8-517.G. **Colorado Geological Survey.** Recommendations concerning the proposed development in the designated geologic hazard area by the Colorado Geological Survey may be solicited and considered. The Colorado Geological Survey shall be allowed no less than thirty (30) days in which to respond to such referrals;

8-517.H. **Disclosure.** Provision is made for disclosure, prior to sale, of all geologic hazards and mitigation procedures undertaken and for attaching a delineation and description of the hazard and mitigation measures to all deeds, titles and recorded documents involving a transfer of ownership of the subject land;

8-517.I. **Open Space.** Nonconflicting open space uses such as agriculture, greenbelt and recreation are incorporated into the development plan to the greatest practicable extent. Such maximization of open space uses shall be in addition to other required mitigation procedures;

8-517.J. **Emergency Services.** That adequate fire protection and ambulance service can be achieved, based upon fire department review and recommendation, if available.

Section 8-518 Approval Criteria--Specific

For each specific type of geologic hazard additional criteria which may be added from time to time shall be met.

Section 8-519 Denial

The permit shall be denied if the development does not meet all of the approval criteria in Sections 8-517 and 8-518 and the development regulations of Part IV of this Division.

PART IV. DEVELOPMENT REGULATIONS

Section 8-520 Mitigation Of Hazards

Any development of activity which is permitted in a geologic hazard area shall be engineered in such a manner as to mitigate the hazard to public health and safety or to property due to geologic hazards.

Specific regulations for specific geologic hazards are as set out in this Part IV.

Section 8-521 Avalanche Areas

The following regulations apply in avalanche areas:

8-521.A. **Site Location and Design.** The applicant shall show that the proposed development is either located in a site free from avalanche danger or is adequately protected by avalanche defenses or structural provisions.

8-521.B. **Access.** No development shall be accessible only by crossing dangerous active avalanche paths.

8-521.C. **Removal of Vegetation.** The development shall not result in timber clear cutting or other large-scale removal of vegetation in avalanche hazard areas. Alteration of plant cover which would decrease the stabilizing effect shall be prohibited, especially on slopes above the proposed development. Where any alteration of vegetation cover is allowed, revegetation shall be initiated promptly and provisions ensuring seedling protection, including an acceptable irrigation plan, shall be enforced until seedlings are large enough to stabilize the snow cover.

8-521.D. **Extractive Operations.** Extractive operations shall not be conducted in historic or

high-hazard avalanche areas during winter without an adequate program of avalanche control and defense measures.

8-521.E. **Utilities.** Utility lines or pipes crossing historic avalanche areas shall be buried underground, and surface pipes and poles or towers for suspended transmission lines in historic avalanche areas shall be adequately protected by avalanche diversion or direct-protection structures.

8-521.F. **Roads for Winter Use.** Roads intended for winter use shall avoid avalanche hazard areas.

8-521.G. **Temporary or Seasonal Uses.** Building restrictions may be modified for construction of underground utilities such as water reservoirs or for temporary buildings used only in non-avalanche season and either removed or protected in the winter.

8-521.H. **Warning Signs.** Warning signs of avalanche danger shall be placed along roads and trails that are commonly traveled in winter where they cross avalanche paths characterized by high frequency of activity.

8-521.I. **Artificial Release.** Artificial release of avalanche by explosive control or artillery shall not be considered an acceptable mitigation technique for areas of potential human occupancy.

Section 8-522 Landslide Areas

Correction of adverse conditions through engineered design and construction may be an acceptable mitigation technique if the methods are supported by careful investigation and evaluation, by a registered geotechnical engineer or by an engineering geologist registered in the state, of the physical extent, seriousness and causes of geologic problems. Those methods may involve, among others, refraining from removing natural support materials in the area, addition of artificial support to the area in the form of rock or earth fill buttressing, retaining walls or cribbing, concrete slurry, rock bolting and reinforced pilings, permanent improvement and control of surface and subsurface drainage, and stabilization of the slide area by bridging weak zones, removal of unstable material, and avoidance of loading on unstable areas.

Section 8-523 Potentially Unstable Slopes

The following regulations apply in areas of potentially unstable slopes:

8-523.A. **Required Practices.** Any development proposal in a potentially unstable slope area shall evaluate the severity of slope instability. Geophysical or subsurface investigation shall be required in this evaluation. In extremely hazardous areas development shall be discouraged. In areas determined by Permit Authority to be of moderate hazard, development shall only be permitted if the applicant provides an engineered design and construction stabilization plan and appropriate maintenance measures as approved by a qualified professional geotechnical engineer or engineering geologist registered in the state of Colorado and as approved in the site plan, and if the applicant assumes the risk of damages to adjoining property or

structures.

8-523.B. **Prohibited Practices.** Any land use in a potentially unstable slope area shall not be allowed to:

1. Cut into the slope without providing adequate mechanical support where necessary;

2. Add water to the slope that would significantly cause decreasing stability;

3. Provide inadequate surface and subsurface drainage;

4. Remove vegetation from the slope without adequate revegetation; or

5. Over-steepen slopes by cut or fill.

Section 8-524 Rockfall Hazard Areas

The following regulations apply in Rockfall Hazard Areas:

8-524.A. **Structures Discouraged.** Structural construction associated with residential, commercial, industrial, industrial development and high-hazard recreational activity shall be discouraged in Rockfall Hazard Areas.

8-524.B. **Uses Permitted.** The following uses in addition to open space uses listed in Section 8-510 and other similar uses shall be permitted uses subject to the terms and conditions of this section:

1. Buried utilities;

2. Ditches; and

3. Surface utilities.

8-524.C. **Measures Required.** Any other development or activity shall not be approved unless adequate engineering construction and design stabilization and maintenance measures are assumed by the applicant as approved in the site plan. Measures shall minimize visual impacts to the community, and may be subject to Town Development Standards. Such measures shall be periodically maintained.

1. Such measures will include and are not limited to:

   a. Site and structure-specific quantitative rockfall studies for all new habitable structures, or when Substantial Improvements occur to an existing habitable structure, within Rockfall Hazard Zone A; and

   b. Structural and architectural designs based on the findings of the site and structure-specific rockfall studies for all new habitable

structures, or when Substantial Improvements occur to an existing habitable structure, in Rockfall Hazard Zone A.

c. Site-specific mitigation measures based on the findings of the site and structure-specific rockfall studies for all new habitable structures, or when Substantial Improvements occur to an existing habitable structure, in Rockfall Hazard Zone A.

2. Measures may include and are not limited to:

a. Site and structure-specific quantitative rockfall studies for all new habitable structures, or when Substantial Improvements occur to an existing habitable structure, within Rockfall Hazard Zone B;

b. Structural and architectural designs based on the findings of the site and structure-specific rockfall studies for all new habitable structures, or when Substantial Improvements occur to an existing habitable structure, within Rockfall Hazard Zone B;

c. Site-specific mitigation measures, based on the findings of the site and structure-specific rockfall studies, for all new habitable structures, or when Substantial Improvements occur to an existing habitable structure within Rockfall Hazard Zone B;

3. Site-specific mitigation measures may include but are not limited to: slowing or diverting moving rocks by rock fences, screening, channeling and dams, or by concrete barriers or covered galleries; installation of physical barriers against rock impact around vulnerable structures; removal of unstable rocks (scaling), cribbing or installation of retaining walls.

8-524.D. **Prohibited Practices.** Any land use in a Rockfall Hazard Area shall not:

1. Increase water supply to cliffs or overhangs, or remove protective vegetation;

2. Add unnecessary weight or otherwise disturb overhanging strata;

3. Make any excavations that remove underlying support;

4. Increase erosion that removes underlying support; or

5. Increase the hazard to adjoining property or structures.

Section 8-525 Slopes of Thirty Percent (30%) Or More

The following regulations apply to slopes of thirty percent (30%) or more:

8-525.A. **Development Discouraged.** Development shall be discouraged on slopes of thirty

percent (30%) or more, unless problems of stability and erosion can be overcome. Any development approval shall be based on a detailed site survey including geologic and engineering analysis and shall include but not be limited to complying with the following:

1. Cuts shall not be made into slopes steeper than thirty percent (30%) unless direct slope mechanical support is provided when necessary.

2. Steepness of cut and fill slopes shall be the maximum which will ensure stability and still allow revegetation. Maximum standards shall be a ratio of one and one-half to one (1 1/2:1) for cuts, and two to one (2:1) for fill areas.

3. Exposed areas shall not be left open or uncompleted between November 1st and March 31st.

4. Mulches or temporary cover shall be used on exposed soil areas and reestablishment of permanent vegetation and installation of erosion-control measures shall take place as soon as possible.

5. Natural drainage patterns shall be incorporated into the development plan. Adequately designed culverts, sediment basins and other engineering measures shall be used where necessary to control erosion.

Section 8-526 Alluvial Fans

The following regulations apply to alluvial fans:

8-526.A. **Evaluation Required.** Any development or activity proposal in an alluvial fan area shall evaluate the site to determine the potential for flash flooding and mud flows or debris flows. Correction of adverse conditions through engineered design and construction may be an acceptable mitigation technique if supported by proper technical evidence. This may include channelization, diversion dikes, debris catchment basins, special foundation and other means.

8-526.B. **Prohibited Practices.** Disturbance in the drainage basin above the fan shall not be permitted without first evaluating the effect on runoff and stability of the fan.

Section 8-527 Talus Slope

The following regulations apply to talus slopes:

8-527.A. **Structures Prohibited.** Any structural construction associated with residential, commercial and industrial development and high-impact recreational activity shall be prohibited in talus slope areas.

8-527.B. **Minimize Site Disturbance.** Site disturbance shall be minimized to avoid inducing instability in the slope.

8-527.C. **Mechanical Support Required.** The toe of the talus slope shall not be removed

without providing adequate mechanical support.

Section 8-528 Brush Basin Or Mancos Shale Area

The following regulations apply to brush basins and Mancos Shale areas:

8-528.A. **Evaluation Required.** Any application for development or activity in a Mancos Shale area shall evaluate the proposal's effect on slope stability and shrink-swell properties and shall consider vegetation, runoff effects on sub-surface water and bottom support for possible use of special foundations.

8-528.B. **Impoundments.** Impoundment of water on or above shale slopes shall not be allowed, unless it is determined that there will be no adverse effects;

8-528.C. **Drainage.** Adequate surface drainage shall be provided.

8-528.D. **Runoff Control.** Concentrated runoff from impervious surfaces into natural drainages shall not be allowed, unless it is demonstrated that there will be no adverse effect.

Section 8-529 Faults

The following regulations apply to faults:

8-529.A. **Structures Prohibited.** Structures shall not be located on active faults or under cliffs or overhangs in heavily faulted regions.

8-529.B. **Sewage Disposal Facilities.** Sewage lines and treatment systems shall not be placed across fault lines without incorporating adequate engineering measures.

8-529.C. **Wells.** No wells shall be drilled that pump or force fluids into any active or inactive fault.

8-529.D. **Uniform Building Code.** Engineered design and earthquake-resistant construction are also provided in the Uniform Building Code.

Section 8-530 Expansive Soil Or Rock

Any development or activity in an identified area of expansive soil and rock shall only be permitted upon approval of engineered foundations and floor systems designs. Engineered design for correction of adverse conditions shall include a suitable combination of the following four (4) methods: foundation design, well-planned site drainage, landscaping to enhance drainage, and careful interior construction details.

Section 8-531 Referral Agencies

Appropriate referral agencies shall include but not be limited to: The Colorado Geological Survey, the State Soil Conservation Board of the local soil conservation district, or the U.S. Geological

Survey, and qualified consultants retained by the Town.

PART V. NONCONFORMING USES

Section 8-532 Continuation

The existing lawful use of land, structures or premises which is not in conformity with the provisions of this Division may be continued subject to the conditions set out in this Article.

Section 8-533 Discontinuance Or Destruction

The provisions of this Division shall not apply to any nonconforming use existing on the date the area is designated or subjected to regulation; provided, that when such a nonconforming use is discontinued for twenty four (24) months or more, or a nonconforming structure is damaged or destroyed to the extent of at least fifty percent (50%) of the appraised value, any re-use, reconstruction or replacement of such structure shall be deemed a new use and shall be subject to the provisions of this Division.

Section 8-534 Nuisances Or Severe Hazards

Uses or adjuncts thereof which are nuisances, or which significantly increase the severity of geologic hazards and create an increasingly severe impact on current or proposed land use in or adjacent to a designated geologic hazard area, shall not be permitted to continue as non-conforming uses.

Section 8-535 Alteration, Addition Or Repair

Any alteration, addition or repair to any non-conforming structure or significant change in land use permitted pursuant to this Division shall be designed to minimize, mitigate or avoid the significant adverse impact of geologic hazards.

PART VI. MAPPING DISPUTES

Section 8-536 Right To Contest

Any person contesting the location of an adopted boundary of a designated geologic hazard area shall be given a reasonable opportunity to present his case to the Permit Authority. The Town Council, after recommendation by the Permit Authority, may, if appropriate, exclude the property from the designated area.

Section 8-537 Evidence Submitted

The applicant shall submit sufficient technical data to allow review for compliance with the provisions of this Division, including, where appropriate, the submission contents specified in regulations concerning particular areas of local and state interest.

Section 8-538 Standard For Granting Exclusion

The Council shall not grant the exclusion unless the technical evidence presented clearly and

conclusively establishes that the map location of the line is incorrect.

Section 8-539 Recommendation Of Permit Authority

The Council shall not act on a request for exclusion until it has received a written recommendation from the Permit Authority, and there shall be a concurring vote of an extraordinary majority of the Council to override a recommendation of the permit authority.

Section 8-540 Notation Of Exclusion

If the Council grants the exclusion, the Permit Authority shall note such exclusion on the official geologic hazard area map.

Section 8-541 Redesignation Of Area

Without further cost or delay to the applicant, the Council shall undertake any necessary proceedings to redesignate or amend the area to reflect the amendment of the official map.

PART VII. IDENTIFIED GEOLOGIC CONDITION DISPUTES

Section 8-542 Right To Contest

Any person contesting the location or existence of identified geologic conditions shall be given a reasonable opportunity to be heard by the permit authority, which may, if appropriate, relieve the applicant of the responsibility of meeting the requirements with regard to that particular geologic condition.

Section 8-543 Evidence Submitted

The applicant shall submit sufficient technical data including, where appropriate, the materials specified for regulations concerning particular identified geologic conditions.

Section 8-544 Standard For Granting Relief

The Permit Authority shall not grant a relief from provisions of the regulations concerning an identified geologic hazard condition unless the technical evidence presented clearly and conclusively establishes that the identification of the geologic condition is incorrect or that hazard conditions do not present a significant hazard to the public health, safety or to the property at the specific location for the particular proposed use.

Section 8-545 Notation Of Relief

If the Permit Authority grants the relief, the authority shall note the change on the identified geologic conditions map.

PART VIII. PENALTIES

Section 8-546 Violations

Any person engaging in a development in a geologic hazard area who does not first obtain a permit pursuant to this Division, or who does not comply with the permit requirements, or who acts outside the authority of the permit, may be enjoined by the Town from engaging in such development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law.

Section 8-547 Penalties

Any person who knowingly engages in development in a geologic hazard area, and who does not first obtain a permit pursuant to this Division, or who does not comply with permit requirements, or who acts outside the authority or contrary to the condition of the permit, is guilty of a misdemeanor for each such violation or occurrence, and each day of a continuing violation shall be deemed to be a separate offense. Such person may be punished by a fine not to exceed three hundred dollars ($300), or by imprisonment for a period not to exceed ten (10) days, or by both such fine and imprisonment.

(Ord. 1420, 2015; Ord. 970, 1992; Ord. 854, 1989; Ord. 364 and 361, 1978)

DIVISION 6 FLOODPLAIN HAZARD CONTROL

PART I. GENERAL PROVISIONS

Section 8-601 Findings

The Town Council finds that within the Town there are various floodplains constituting natural hazards of local and state interest. The flood hazard areas of the Town of Telluride are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when obstructions are inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

Section 8-602 Purpose

It is the purpose of this Division to promote the public health, safety and general welfare pursuant to the authority delegated to the Town under the Local Government Land Use Control Enabling Act of 1979, as amended, and pursuant to the home-rule powers and nuisance control and abatement powers reserved to the Town, to:

8-602.A. **Permit Safe Uses.** Permit only such uses within the designated floodplains as will not endanger life, health, public safety or property in times of flood;

8-602.B. **Prohibit Flow Obstructions.** Prohibit the placement of fill, culverts, bridges and other structures or materials which would obstruct flood flows or cause potentially damaging debris to be carried downstream;

8-602.C. **Minimize Flood Control Costs.** Minimize expenditures of public funds for costly flood-control projects;

8-602.D. **Minimize Rescues.** Minimize rescue and relief efforts, generally undertaken at the expense of the general public;

8-602.E. **Prevent Interruptions.** Prevent avoidable business and commercial interruptions;

8-602.F. **Minimize Damages.** Minimize damages to public facilities, critical facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

8-602.G. **Notify Buyers.** Ensure that potential buyers are notified that property is in an area of special flood hazard;

8-602.H. **Minimize Pollution.** Minimize the pollution of water by prohibiting the disposal of

garbage and other solid waste materials in floodplains.

8-602.I. **Maintain Stable Tax Base.** Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas; and

8-602.J. **Occupant Responsibility.** Ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

Section 8-603 Degree Of Protection--Liability Denied

8-603.A. **Degree of Protection Reasonable.** The degree of flood protection required by this Division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Division does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damage. This Division shall not create liability on the part of the Town of Telluride, any officer or employee thereof, or FEMA, for any flood damages that result from reliance on this Division or any administrative decision lawfully made thereunder.

8-603.B. **Temporary Floodway Maps.** Utilization of temporary floodway maps which have not received final approval from FEMA does not imply that the flood boundaries of the approval maps by FEMA will be the same as the temporary maps. Neither the Town nor its officers, employees, or agents shall be liable in any manner for an applicant's reliance on the maps approved under Section 8-604.

PART II. MAPS

Section 8-604 Applicability Of Provisions--Maps Designated

The areas of special flood hazards are identified by FEMA in a specific engineering report entitled "The Flood Insurance Rate Study for San Miguel County, Colorado and Incorporated Areas," dated September 30, 1992, with an accompanying Flood Insurance Rate Map (FIRM) dated September 30, 1992, as amended by FEMA Letter of Map Revision ("LOMAR") dated February 10, 2006.. The Flood Insurance Study and Rate Map are hereby adopted and incorporated herein by reference.

Section 8-605 Adoption

The maps listed in Section 8-604, together with all explanatory material thereon or attached thereto, are adopted by reference under authority of CRS, 24-65.1-101 et seq., as amended, and made a part of this Article. These maps and studies shall be filed in with the Planning Director, Building Official, Town Engineer, and office of the Town Clerk.

Section 8-606 Floodplain Designated

The floodplains of the Town are defined as encompassing all those land areas of the Town in and adjacent to a stream which lie within the area which would be inundated by a Base Flood as designated by the Town Council in the manner prescribed in this Division.

Section 8-607 Copies On File

True and official copies of maps of floodplains so designated by the Town Council shall be kept and maintained for public inspection in the offices of the Town Clerk and the Town Planning Department. Such maps shall be in sufficient detail and scale so as to permit ready identification of the flood hazard area, including the low-hazard area, if any, and areas of shallow flooding, by ground inspection or survey.

Section 8-608 Interpretation

The Permit Authority is empowered to make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 8-626. . In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

Section 8-609 Incorporation with Zoning Map

The Official Zone District Map shall identify the floodplains and flood hazard areas designated pursuant to this Division.

Part III. PERMITS

Section 8-610 Permit Required

It is unlawful to develop, fill or occupy, or to construct, reconstruct or alter any building or structure within a designated floodplain without the property owner or his authorized representative first obtaining a permit from the Permit Authority in accordance with the procedures outlined in Division 4 of this Article 8, or if not required, a valid building permit from the Building Official.

Section 8-611 Application Submission Requirements

Application for a development permit shall be made on forms furnished by the Permit Authority and may include, but shall not be limited to: plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

8-611.A. **Minimum Contents.** The minimum application contents as specified in Section 5-202 C of this Title;

8-611.B. **Certified Plan.** One hard copy and one electronic copy of a plan certified by a registered professional engineer, registered in the state, locating the proposed

development with respect to the following:

1. The boundaries of the designated or regulated flood hazard area(s) as well as the boundaries of the floodplain within the flood hazard area and the boundaries of the floodway zone and low-hazard zone;

2. The existing zoning of the property;

3. The nature of the proposed activity or development;

4. Building floor elevations;

5. Proposed floodproofing measures;

6. Specifications for building construction and materials, filling, dredging, grading, channel changes, storage of materials, water supply systems and sanitary facilities;

7. Descriptions of any construction activity which would affect the hydraulic capacity of the floodway;

8. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

9. Elevation in relation to mean sea level to which any structure has been floodproofed;

10. Certification by a registered professional engineer or an architect licensed in Colorado, that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 8-627; and

11. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

8-611.C. **Maps.** One hard copy and one electronic copy of the following maps or drawings:

1. A map showing the stream and channel, the designated flood hazard area, the floodplain, the floodway and other hazard zones, as appropriate, surrounding the channel, the area to be occupied by the proposed development, and all available flood elevation studies, water surface elevations and base flood elevations; and

2. A map with surface view showing elevations or contours of the ground, pertinent structures, fill or storage elevations, size, location and spatial arrangement of all proposed and existing structures on the site, location and elevation of streets, water supply systems, sanitary facilities and soil types; and

3. Drawings showing the profile of the bottom of the channel at the thalweg

and the water surface profiles described in subdivision 1 of this subsection. The elevations of fill and structures must be shown.

8-611.D. **Elevation.** The applicant shall submit the elevation (in relation to mean sea level) of the lowest floor (including basement) of the structure and where the lowest floor is below grade on one or more sides, the elevation of the floor immediately above.

8-611.E. **Coordination.** The applicant shall submit evidence satisfactory to the Permit Authority that the applicant has coordinated adequately with the upstream, downstream or adjacent communities adversely affected by any development, fill encroachment or alteration or relocation of a watercourse;

8-611.F. **Floodproofing.** Where floodproofing is utilized for a particular structure in accordance with this Division, a registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the one-hundred-year flood. The applicant shall also provide the elevation in relation to mean sea level to which any structure has been floodproofed.

8-611.G. **Watercourse Alteration.** No person shall engage in any development that would cause alteration or relocation of an established watercourse as a result of proposed development.

8-611.H. **Properties Removed from the Floodplain by Fill.**

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision on Fill (LOMR-F), unless such new structure or addition complies with the following:

1. Residential Construction

   The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other attendant service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

2. NonResidential Construction.

   The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

8-611.I. **Additional Material.** The applicant shall submit such other material as may be required by the Permit Authority in order to determine if appropriate design and performance standards have been met.

Section 8-612 Waiver Of Application Requirements

8-612.A. **Waiver Authorized.** The Permit Authority may waive any part but not all of the submission requirements imposed by this Division upon petition of the applicant that:

1. A portion of the submission requirements is inapplicable to the development for which the permit is sought; and/or

2. Full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have insubstantial impact on the surrounding area.

8-612.B. **Standards.** Such a waiver may be granted, after due consideration by the Permit Authority, upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and this Division and that the proposed development will have an insubstantial impact on the surrounding area.

8-612.C. **Procedure.** The petition shall be considered and the decision rendered by the Permit Authority at a meeting of the Permit Authority, which shall be open to the public.

Section 8-613 Map Specifications

8-613.A. **Scale.** All maps required shall be of a scale sufficiently detailed to allow the Permit Authority to determine whether the proposed development and the topographic features of the land meet the requirements of this Division. In no event shall the scale of maps be less than one inch equals one hundred feet (1" = 100') or such other scale as may be determined by the Permit Authority.

8-613.B. **Contour Intervals.** All maps required shall show existing topographic contours of not greater than two foot (2') intervals.

8-613.C. **Accuracy.** All maps prepared by private contractors or consultants shall meet the following standards of accuracy: Ninety percent (90%) of the contour lines must be within one-half (1/2) contour interval; the remaining contour lines must be within one (1) contour interval.

8-613.D. **Elevations.** All maps submitted by an applicant seeking a permit to develop a specific site shall show existing (dashed lines) and finished (solid lines) elevation contours of the site at an interval of no greater than one foot (1') within a designated flood hazard area.

Section 8-614 Approval

The Permit Authority shall approve an application for a permit to engage in development in a flood hazard area if the application complies with all of the following requirements:

8-614.A. **Information Requirements.** The applicant has submitted all information required by Section 8-611;

8-614.B. **Standards.** The development will not violate any of the applicable prohibitions, restrictions or design standards set out in this Division; and

8-614.C. **Purpose and Intent.** The development will not otherwise violate the purpose and intent of this Division.

Section 8-615 Denial

The Permit Authority shall deny the permit if the development does not meet all of the applicable criteria set out in this Divisions.

Section 8-616 Violations

Any person engaging in a development in a designated area of local or state interest or conducting a designated activity of local or state interest who does not obtain a permit pursuant to these regulations for administration, who does not comply with the permit requirements, or who acts outside the authority of the permit, may be enjoined by the Town or the Colorado Land Use Commission from engaging in such development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law.

Section 8-617 Penalties

Any person who knowingly engages in development in a floodplain or flood hazard area or any other area subject to regulation under this Division, and who does not first obtain a permit pursuant to this Division, or who does not comply with permit requirements, or who acts outside the authority or contrary to the condition of the permit, is guilty of a misdemeanor for each such violation or occurrence, and each day of a continuing violation shall be deemed to be a separate offense. Such person may be punished by a fine not to exceed one thousand dollars ($1,000.00), or by imprisonment for a period not to exceed ninety (90) days, or by both such fine and imprisonment.

PART IV. DEVELOPMENT STANDARDS

Section 8-618 Floodway Zone--Permit Required

8-618.A. **Permit Required.** No person shall engage in any development in any floodway zone without a permit.

8-618.B. **Standards.** Located within areas of special flood hazard established in Section 8-604 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential

projectiles, and erosion potential, the following provisions apply within the floodway:

1. No encroachments, including fill, new construction, substantial improvements, and other development shall be permitted unless certification by a registered professional engineer or architect is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If the provisions of Section 8-618 B.1 are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Part IV of this Division.

Section 8-619 Floodway Zone--Prohibited Effects

No development on or over any portion of a floodway shall be permitted which alone, or cumulatively with other such activities, would cause or result in any of the following:

8-619.A. **Hazardous Materials.** The storage or processing of materials that in time of flooding are buoyant, flammable, explosive or otherwise potentially injurious to human, animal or plant life;

8-619.B. **Solid Waste Disposal.** The disposal of garbage or other solid waste materials;

8-619.C. **Human Occupation.** The human occupation of structures, either fixed or mobile, for residential purposes, either permanent or temporary;

8-619.D. **Debris.** Substantial solid debris being carried downstream by flood waters;

8-619.E. **Obstruction.** Any obstruction which would adversely affect the efficiency of or restrict the flow or capacity of designated floodplain so as to cause foreseeable damage to others, wherever located.

Section 8-620 Floodway Zone--Increase In Flood Levels

Any encroachment, including fill, new construction, substantial improvements and other development within the floodway that would result in any increase in flood levels within the community during the occurrence of the base flood discharge, is prohibited.

Section 8-621 Special Flood Hazard Areas--Permit Required

No person shall engage in any development in any area of special flood hazard zone without a permit.

Section 8-622 Special Flood Hazard Areas--Design Requirements

Except as may be provided elsewhere in this Division, development in an area of special flood hazard shall be designed so that:

8-622.A. **Prohibited Activities.** The development proscribed in Section 8-619.A. and B.

shall not be allowed in the area of the special flood hazard.

8-622.B. **Development.** No new construction, substantial improvements or other development (including fill) shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within Town.

8-622.C. **Setback.** Any residential or nonresidential building or structure, whether fixed or mobile, designed for human occupancy or the storage of property, and occupying a space greater than one hundred (100) square feet, shall be constructed, located or improved so that any external wall is not less than fifteen feet (15') horizontally from the floodway.

8-622.D. **Elevation.** The lowest floor (including basement) of any residential structure shall be elevated to or above the maximum water elevation of the computed base flood. The lowest floor (including basement) of any nonresidential structure shall be elevated to or above the maximum water elevation of the computed base flood, unless such structure has been adequately floodproofed to or above the maximum water elevation. The floodproofing of nonresidential structures must be certified by a registered professional engineer or architect that the new design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph D. Such certifications shall be provided to the permit authority as set forth in Section 8-636.

8-622.E. **Anchoring.** All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.

8-622.F. **Manufactured Homes.** Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and be capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:

1. Over-the-top ties shall be provided for each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, provided that manufactured homes less than fifty feet (50') long require only one (1) additional tie per side;

2. Frame ties shall be located at each corner of the home with five (5) additional ties per side at intermediate points, provided that manufactured homes less than fifty feet (50') long require only four (4) additional ties per side;

3. All components of the anchoring system shall be capable of carrying a force

of forty eight hundred (4,800) pounds;

4. Any additions to the manufactured home shall be similarly anchored;

5. Manufactured homes shall be anchored in accordance with the provisions set forth above;

6. Manufactured homes that are placed or substantially improved within zones AO and AE as shown on the FIRM on sites (a) Outside of a manufactured home park or subdivision, (b) In a new manufactured home park or subdivision, (c) In an expansion to an existing manufacture home park or subdivision, or (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.

7. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions in (6) above be elevated so that either (a) the lowest floor of the manufactured home is at or above the base flood elevation, or (b) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

8. **Additional Floodproofing.** In the event that the flood waters in an area of special flood hazard can be expected to attain a velocity greater than three feet (3') per second (at any point where the proposed added development is to occur), additional floodproofing shall be required sufficient to withstand such greater water velocity.

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

8-622.G. **Recreational Vehicles**. All recreational vehicles shall (a) be on site for fewer than one hundred eighty (180) consecutive days, (b) be fully licensed and ready for highway use, or (c) meet the permit requirements and elevation and anchoring requirements for manufactured homes.

Section 8-623 Special Flood Hazard Areas--Permit Requirements

A permit to engage in new construction or substantial improvements in the area of special flood hazard may be issued by the Permit Authority only if the following design and performance

standards are met. All new construction or substantial improvements shall be:

8-623.A. **Anchoring.** Designed so that the proposed construction (including prefabricated homes) is anchored to prevent flotation, collapse or lateral movement of the structure;

8-623.B. **Flood Resistance.** Constructed with materials and utility equipment resistant to flood damage and constructed using methods and practices that minimize flood damage;

8-623.C. **Utilities.** Designed so that all utility and sanitary facilities attendant to new construction and substantial improvements of residential and nonresidential structures are floodproofed using flood-resistant materials to or above the level of the intermediate regional flood;

8-623.D. **Drainage.** Designed so that adequate drainage is provided so as to reduce exposure to flood hazards;

8-623.E. **Infiltration.** Designed so that new or replacement water supply systems and sanitary sewage systems minimize or eliminate infiltration of flood waters, and discharge from the systems into flood waters, and provide for on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during or subsequent to flooding; and

8-623.F. **Floodproofing.** Designed so all utility and sanitary facilities attendant to new construction and substantial improvements of residential and nonresidential structure are floodproofed to or above the level of the base flood.

Section 8-624 Shallow Flooding Area--Requirements

Located within the official FIRM map are areas designated as areas of shallow flooding. These areas have special flood hazards associated with base flood depths of more than one foot (1') to three feet (3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and intermediate. In areas of shallow flooding the following provisions shall apply:

8-624.A. **Residential Structures.** All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

1. Within any AO or AH Zone on the FIRM, all new construction and substantial improvements of residential structures shall have the lowest floor (including basement and attendant utilities) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on

the FIRM, or at least three feet (3') if no depth number is specified.

2. Within Zones AO of AH adequate drainage paths around structures on slopes shall be provided to guide flood waters around and away from proposed structures.

8-624.B. **Non-Residential Structures.** With the exception of Critical Facilities new construction and substantial improvements of any commercial, industrial or other non-residential structure shall either have the lowest floor (including basement) electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above base flood elevation, or together with attendant utility and sanitary facilities, shall, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specification, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator.

1. Within any AO or AH Zone on the FIRM, all new construction and substantial improvements of nonresidential structures shall have the lowest floor (including basement and utilities) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the FIRM, or at least three feet (3') if no depth number is specified together with attendant utility and sanitary facilities shall be completely floodproofed to that level

2. Within any AO or AH Zone on the FIRM, adequate drainage paths around structures on slopes shall be provided to guide flood waters around and away from proposed structures.

8-624.C. **Openings Below the Lowest Floor**

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in any area other than a basement which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall

be provided.

2. The bottom of all openings shall be no higher than one foot above grade.

3. Openings may be equipped with screens, valves, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Section 8-625 Shallow Flooding Area--Prohibited Uses

Except as may be provided elsewhere in this Division, development in an area of shallow flooding shall be designed so that the development proscribed in Section 8-619 A and B is not allowed in the area of shallow flooding.

Section 8-626 Variances And Exceptions

8-626.A. **Generally.** Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided subsections (1) through (11) of Section H, below, have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justifications required for issuing the variance shall increase.

1. Variances may be issued for the repair, reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or to structures locally designated as an historic landmark without regard to the procedures set forth in the remainder of this Section. The proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure.

2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

3. Variances shall only be issued upon:

   a. determination the variance is the minimum necessary, considering the flood hazard, to afford relief;

   b. a showing of good and sufficient cause;

   c. determination that failure to grant the variance would result in exceptional hardship to the applicant;

   d. determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of nuisances, or cause fraud on or victimization of the public, as defined in subsection H, below, or conflict with existing local laws or ordinances.

8-626.B. **Written Notice.** Any applicant to whom a variance is granted shall be given written notice by the Permit Authority that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

The permit authority shall also notify the applicant in writing that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars ($25) per one hundred dollars ($100) of insurance coverage; and

2. Such construction below the base flood level increased risk to life and property. Such notification shall be maintained with a record of all variance actions where applicable.

8-626.C. **Technical Data.** Applications for a variance from provisions of Sections 8-618 through 8-625 must include sound technical data as to foundation anchoring, floodproofing for flood resistivity with flood-resistant materials and an engineering analysis of material design to withstand and resist hydrostatic and hydrodynamic loads.

8-626.D. **Records of Variances.** The Permit Authority shall maintain a record for all variance actions including justification for their issuance, and shall report such variances issued in its annual report to the Flood Insurance Administration Administrator.

8-626.E. **Existing Structures Exempt.** The provisions of Sections 8-618 through 8-625 shall not apply to any fixed building or structure already lawfully in place or for which a lawful permit has been granted at the time of the ordinance from which this section derives; provided, that in the event of substantial improvement of such building or structure, its reconstruction or replacement shall be considered a new use and be governed by the other applicable provisions of Sections 8-618 through 8-625.

8-626.F. **Appeals.** P&Z shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Town Engineer in the enforcement or administration of this Division. Those aggrieved by the decision of P&Z, or any interested taxpayer, may appeal such decisions to the Town Council pursuant to Section 5-207 of this Title, and thereafter to the District Court of San Miguel County, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

8-626.G. **Standards.** In passing upon an appeal or request for variance, P&Z and the Permit Authority, as applicable shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Division, and:

1. the danger that materials may be swept onto other lands and injure persons

and property;

2. the danger of life and property due to flooding or erosion damage;

3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. the importance of the services provided by the proposed facility to the community;

5. the necessity to the facility of a waterfront location, where applicable;

6. the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

7. the compatibility of the proposed use with the existing and anticipated development;

8. the relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

9. the safety of access to the property on times of flood for ordinary and emergency vehicles;

10. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

11. the costs of providing public services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

8-626.H. **Conditions.** Upon consideration of the purposes of this Division, P&Z and the Permit Authority, as applicable, may attach such conditions to the granting of appeals or variances as it deems necessary to further the purposes of this Division.

8-626.I. **Records of Appeals.** The Permit Authority shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

Section 8-627 Floodproofing

Where floodproofing is to be used for a particular structure in accordance with this Division, a registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and a record of such certificates indicating the specific elevation in relation to mean sea level) to which such structures are floodproofed shall be maintained with the Planning Director.

Section 8-628 Water Supply Systems

Within any flood hazard area, all new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the water system.

Section 8-629 Sanitary Sewage Systems

Within any flood hazard area, all new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system, and discharge from the systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Section 8-630 Subdivisions

8-630.A. **Permit Authority Duties.** As part of the approval process, the Permit Authority shall review subdivision proposals to determine whether such subdivision is reasonably safe from flooding. The Permit Authority shall review the subdivision proposal to assure that it is designed in a manner consistent with the need to minimize flood damage in flood-prone areas, and that all public utilities and facilities are located and constructed to minimize or eliminate flood damage, and that adequate drainage is provided to reduce exposure to flood hazards.

8-630.B. **Data.** Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres, whichever is less.

Section 8-631 Methods of Reducing Flood Losses

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

8-631.A. **Restricting Hazardous Uses.** Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

8-631.B. **Protecting Vulnerable Uses.** Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

8-631.C. **Controlling Alteration.** Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

8-631.D. **Controlling Development.** Controlling filling, grading, dredging, and other development which may increase flood damage; and

8-631.E. **Preventing Flood Barriers.** Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 8-632 Compliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Division and other applicable regulations. Nothing herein shall prevent the Town of Telluride from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

Section 8-633 Abrogation and Greater Restrictions

This Division is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this Division or any other ordinance, easement, covenant, deed restriction, are at variance or in conflict, whichever imposes the more stringent restriction upon property use or development rights shall prevail.

Section 8-634 Standards for Critical Facilities

A Critical Facility is a structure or other improvement that, because of its function, size, service area, or uniqueness, has the potential to cause serious bodily harm, extensive property damage, or disruption of vital socioeconomic activities if it is destroyed or damaged or if its functionality is impaired. Critical facilities include health and safety facilities, utilities, government facilities and hazardous materials facilities. For the purposes of a local regulation, a community may also use the International Codes' definition for Category III and IV buildings.

8-634.A. **<u>Classificaiton of Critical Facilities</u>**

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

It is the responsibility of the Town of Telluride to identify and confirm that specific structures in their community meet the following criteria:

1. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

   These facilities consist of:

   a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);

   b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctor's offices, and non-urgent care medical structures that do not provide these functions);

   c. Designated emergency shelters;

d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular sustems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);

e. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and

f. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars)).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town of Telluride that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Section, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town of Telluride on an as-needed basis upon request.

2. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities may include:

a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);

b. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;

c. Refineries;

d. Hazardous waste storage and disposal sites; and

e. Above grade gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety

and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R.§ 302(2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 D.F.R. §1910 (2010). The Environmental Protection Agency (EPA) regulations "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. §1910 (2010) are incorporated herein by reference and included the regulations in existence at the time of the promulgation this ordinance, but exclude later amendments to or editions of the regulations.

Specific exemptions to this category include:

a. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.

b. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.

c. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

3. At risk population facilities including medical care, congregate care, and schools. These facilities consist of:

   a. Elder Care (nursing homes);

   b. Congregate care serving 12 or more individuals (daycare and assisted living);

   c. Public and private schools (pre-schools, K-12 schools), before school and after-school care serving 12 or more children.

4. Facilities vital to restoring normal services including governmental operations. These facilities consist of:

a. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);

b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Town of Telluride that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town of Telluride on an as-needed basis upon request.

8-634.B. **Protection for Critical Facilities.**

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

1. Location outside the Special Flood Hazard Area; or

2. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

8-634.C. **Ingress and Egress for New Critical Facilities.**

New Critical Facilities shall, when practicable as determined by the Town of Telluride, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

PART V. ADMINISTRATION AND ENFORCEMENT

Section 8-635 Generally

8-635.A. **Appointment.** The Permit Authority is hereby appointed to administer, implement, and enforce this Division by granting or denying development permit applications in accordance with the provisions of this Article.

8-635.B. **Duties.** Duties of the Permit Authority shall include, but not be limited to the review all development permits to determine if the proposed development is located in the Floodway. If a development is located in the Floodway, the Town Engineer shall assure that the encroachment provisions of Section 8-620 are complied with.

The Permit Authority shall review all development permits to determine that the permit requirements of this Division have been satisfied.

Section 8-636 Other Required Permits

The Permit Authority shall review all proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, as amended.

Section 8-637 Building Elevation Records

8-637.A. **New or Improved Structures.** The Building Official shall obtain and record the actual elevation of the lowest floor of all new or substantially improved structures, whether or not the structure contains a basement.

8-637.B. **Floodproofed Structures.** For all new or substantially improved floodproofed structures, the Permit Authority shall:

1. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed;

2. Maintain the floodproofing certifications required in Section 8-627;

3. Maintain for public inspection all records pertaining to the provisions of this Division.

Section 8-638 Use Of Available Flood Elevation Data

When base flood elevation data has not been provided in accordance with Section 8-604, the Permit Authority shall obtain, review, and utilize any base flood elevation and floodway data reasonably available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A are administered in accordance with this Division.

Section 8-639 Alteration Of Watercourses

8-639.A. **Notification.** The Permit Authority shall notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and shall submit copies of such notification to FEMA.

8-639.B. **Flood Carrying Capacity.** The Permit Authority shall ensure that no permit will be issued which would allow any watercourses to be altered or relocated which would diminish the flood-carrying capacity for such watercourses.

Section 8-640 Violations--Order To Remedy

8-640.A. **Notification.** The Planning Director shall notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a

watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

8-640.B. **Violations.** If a violation is found to exist, the Permit Authority shall, by written order, direct that such remedial action be taken forthwith as will result in full compliance with the applicable provisions of this Division; provided, however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as set forth in Section 8-617, Division 4 of this Article 8 or in Article 1, Division 3; and provided that compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of this Division in any court action instituted seeking full compliance therewith, but evidence of compliance with such order may be introduced as pertinent to mitigation and extenuation.

(Ord. 1400, 2014; Ord. 1268, 2007; Ord. 1116, 1999; Ord. 1112, 1999; Ord. 970, 1992; Ord. 882 and 854, 1989; Ord. 734, 1986; Ord. 375, 364 and 361, 1978)

DIVISION 7 GROUNDWATER PROTECTION

Section 8-701 Purpose

The purpose of this Division is to ensure adequate measures are in place to protect groundwater flows and the groundwater dependent environment from adverse impacts of construction below the groundwater table, without placing an unreasonable burden on applicants seeking development approval. Adverse impacts can be long or short term in nature; they include impacts on wetlands, riparian habitat, nearby structures, and the San Miguel River. In general, this division is intended to discourage construction below the water table that impedes or disrupts the natural flow of groundwater in the Town. This legislation also furthers the conclusions and recommendations of the report entitled "Groundwater Investigation and Guidelines for Groundwater Studies Town of Telluride," dated February 18, 1997. These regulations describe:

8-701.A. Acceptable type of construction for buildings below the water table;

8-701.B. The location in which the regulations should apply; and

8-701.C. Requirements for groundwater studies by development applicants.

Section 8-702 Applicability

8-702.A. This Division shall apply to all lands within the incorporated Town as described on the Town of Telluride Official Groundwater Zone Map, certified and on file with the Planning Department, the Office of the Town Clerk, and the Office of the Town Engineer. However, subsurface utility work conducted within street right-of-way is exempted. Zone boundaries may be altered or extended, from time to time, as warranted by the collection of additional data. The zone boundaries are general in nature and shall not be used to limit the acquisition of additional data.

8-702.B. *Zone 1* is the area in which there is a high probability that the seasonal high water table will be five (5) feet or less from the surface. As a result, construction activities and structures may be expected to routinely penetrate groundwater. Zone 1 also includes all significant wetland and riparian resources within the zone. The Zone 1 corridor is generally within two hundred (200) feet of significant wetlands and the San Miguel River.

8-702.C. *Zone 2* is the area in which there is a probability that the seasonal high water table will vary between five (5) and twenty (20) feet below the ground surface. In this area construction activities may intercept groundwater depending on location within the zone and type of construction.

8-702.D. *Zone 3* is the area in which there is a high probability that the seasonal high water table will be greater than twenty (20) feet deep. In this area it is anticipated that normal construction activities will not penetrate groundwater. It is unlikely that this Division shall apply in this zone.

Section 8-703 Minimum Construction Standards and Groundwater Investigation Determinations

8-703.A. **Water Proof Foundations Required and Permanent Dewatering Prohibited.** Foundations designed and constructed below the water table shall not incorporate permanent dewatering capabilities, and shall be waterproofed. Dewatering is permitted during the construction phase only. Dewatering activities shall be undertaken pursuant to direction found within the applicable groundwater investigation and the standards described within Section 8-705, unless otherwise directed by the Town. Dewatering activities shall occur during periods of low water in the Town and when the water table is most likely to be negatively impacted; generally, this period occurs between August 15 of one year and March 31 of the following year. Suggested waterproofing techniques include, but shall not be limited to, double-walled foundations, specialized concrete coatings, or other foundation layering methods.

A waterproof structure may include permanent, emergency dewatering capabilities. Emergency dewatering systems must not be designed to drawdown the water table beneath and surrounding a structure. These systems shall only be allowed to remove water seeping into a structure through an unanticipated leak or leaks in the water proofing system.

8-703.B. **Maximum Water Table Intrusion**. Unless authorized by P&Z, the depth of permanent subsurface construction other than spread footer foundation support shall be limited to one level below pre-construction grade of the site, unless groundwater is not encountered. Authority to exceed this limit may be authorized by P&Z at a public hearing noticed pursuant to Section 5-204. P&Z may approve exceeding this limit only if: 1) P&Z finds that adequate evidence exists to ensure that the proposed construction will not cause negative impacts on groundwater flows in the Town; 2) the land owner fully accepts responsibility to correct any potential negative impacts on groundwater flows; and, 3) assessments of all potential alternatives to the proposed subsurface construction are completed by the applicant.

8-703.C. **Preliminary Groundwater Investigations Required.** Preliminary investigations, and if necessary, detailed groundwater investigations, shall be required of all development applicants proposing projects in Zone 1, pursuant to Section 8-704.

8-703.D. **Groundwater Investigations Outside Zone 1.**

1. If, in the opinion of the Town there is a reasonable probability that a project will encounter groundwater, a preliminary investigation is required, pursuant to Section 8-704. (By way of example, if an applicant is proposing a structure which will use a shallow spread footer foundation it is highly improbable that groundwater will be encountered and no investigation should be required. However, if the applicant is proposing a deep basement, a preliminary investigation would be appropriate.)

2. Excepting single family and duplex home development in Zone 3, a detailed

groundwater investigation is required outside of Zone 1 anytime it is determined that construction dewatering is required. This investigation requirement may be triggered by the results of a preliminary investigation, or when construction activity encounters groundwater. If groundwater is encountered during construction, a detailed investigation of dewatering impacts must be conducted immediately. The investigation and recommended construction standards shall be completed pursuant to Section 8-704.B.

Section 8-704 Scope and Review of Groundwater Investigations

8-704.A. **Preliminary Investigations.**

1. A preliminary investigation shall determine if a project will encounter groundwater. Preliminary investigations must be certified by a professional engineer whose experience is sufficient to determine the location of the high water table and its relationship to a proposed structure.

2. A preliminary groundwater investigation must be of sufficient detail to determine the extent to which the proposed construction activity or final construction project will penetrate the water table. The method of investigation is at the applicant's discretion; at a minimum, it shall consist of test pits, borings or other methods that can accurately characterize the location of the water table throughout the entire area to be excavated. The preliminary investigation may be conducted contemporaneously with a geotechnical site investigation.

3. The applicant must submit a written report of the results of the investigation along with three (3) sets of the proposed project's sub-surface construction plans. The report may be made a part of a geotechnical engineer's report. If the investigation concludes that the construction activity and the final construction product will not penetrate the groundwater table, additional groundwater studies shall not be required.

8-704.B. **Detailed Groundwater Investigations.**

1. A detailed groundwater investigation is required when the preliminary investigation determines that the project will encounter groundwater or that the proposed construction or final construction project will penetrate the seasonal low water table. Typically, an expectation of pumping of groundwater on site during construction is enough to require this investigation. Detailed groundwater investigations must be completed and certified by a person whose education and experience qualify them to conduct such investigations. This shall include Colorado Licensed Professional Engineers, Hydrologists or Geologists with at least four (4) years experience in groundwater investigations.

2. The purpose of the investigation is to characterize the short term (construction period) impacts of the project on the groundwater system; and,

if necessary, the applicant must characterize the long term impacts, as applicable, of the dewatering on wetlands, seeps and springs and/or adjacent structures. Long term impacts are expected when substantial water table intrusion is undertaken adjacent to or abutting existing structures, riparian habitats, and wetlands. The investigation must be of sufficient detail to:

a. Estimate the construction period drawdown adjacent to the site and provide an opinion of the impacts to the affected area.

b. Provide a mitigation plan to provide water to wetlands during construction whenever the construction period drawdown or dewatering is shown to remove a water source, either surface or ground water, that may affect the viability of the wetlands. Wetlands and riparian vegetation at the waters edge or along the river bank must remain intact, or shall be restored to a more natural or expanded state than that existing prior to undertaking the proposed dewatering activity.

c. Identify adverse impacts to adjacent structures during the construction period drawdown or dewatering and provide for mitigation measures to offset any adverse impacts.

3. The applicant must submit a written report addressing the above, along with three (3) sets of any revised sub-surface construction plans.

8-704.C. **Town Review of Groundwater Studies.**

The Town shall review submitted groundwater investigations for completeness and accuracy. Excepting single family and duplex home development in Zone 3, the Town reserves the discretion to employ an expert in the field, at the applicant's expense, to review the adequacy of the investigations and findings. The reports and data shall be incorporated into the Town's groundwater data base.

1. Preliminary Groundwater Investigations.

a. Determine if extent of the investigation is sufficient to characterize the entire site that may be excavated during construction activities.

b. Determine conclusively if the proposed construction activity and permanent structure will, or will not, penetrate the seasonal high water table.

2. Detailed Groundwater Investigations.

a. Determine if all required elements of the investigation have been completed.

b. Evaluate the adequacy of the investigation, anticipated impacts, and proposed mitigative actions. If in the opinion of the Town, or a consultant retained by the Town, additional investigation is required,

it shall be conducted by the applicant.

3. Additional analyses may be required by the Town if, in the opinion of the Town Engineer, proposed construction creates a concentration or series of subsurface construction over an approximately one block diameter that has the potential to significantly disrupt groundwater flows in the Town. This analysis shall determine if the concentration of subsurface construction resulting from the proposed construction will cause a significant incremental increase in disruption of groundwater flows, and if the proposed construction that creates the disruption must be altered or avoided. Options for altering construction deemed to be potentially disruptive to groundwater flows include limiting subsurface construction at critical points, requesting a parking payment-in-lieu approval for a portion of required spaces, or seeking height variances.

Section 8-705 Dewatering Regulations

8-705.A. **State of Colorado Water Quality Control Commission (WQCC) Discharge Permit Required.** Dewatering shall not be allowed to start unless a WQCC discharge permit is in place. Temporary construction dewatering activities fall into this category and any construction activity that discharges groundwater to State waters must obtain a permit. The WQCC general permit is not automatically in effect and the WQCC must be notified through a formal application process before the general permit will apply to a specific activity. Any discharges without first making application and receiving the permit are unauthorized. Compliance with the water quality discharge standards established in the permit is required as long as dewatering activities occur.

8-705.B. **Town Authority**. The Town retains the authority to inspect the dewatering facilities prior to, and periodically during dewatering activities. If the facilities are found to be non-functional, or if dewatering activities are occurring contrary to Town direction and the requirements of this division, the Town may require cessation of dewatering until the facility is repaired or improved and is functioning properly.

Section 8-706 Data Collection and Analysis, and Future Amendments

The Town of Telluride Public Works Department shall conduct ongoing data collection necessary to determine the efficacy of this division. At a minimum, this shall consist of the regular monitoring and documentation of piezometer readings available in the Town, as well as monitoring of surface water flows within springs located in the Ice House Pond and the Hobgood-Drew wetlands. The Town shall obtain monitoring rights for all piezometers installed through the completion of groundwater analyses, and shall establish an organizational structure to enable clear interpretation of the analyses and resulting data collection. Every three (3) years from the date of adoption of this division, the Planning Department shall assess all available data, make a determination as to the necessity and adequacy of this division, and recommend appropriate amendments.

Section 8-707 Establishment of Monitoring Fee

The Town may establish a fee, sufficient to cover costs of conducting the monitoring system, to be

imposed on new development significantly impacting groundwater through construction dewatering activities. The monitoring fee shall be applicable to any development that has completed a groundwater investigation that identifies a need to discharge groundwater, and which is seeking a building permit after the effective date of the Groundwater Protection Ordinance. Single family and duplex home development shall be exempt from the monitoring fee.

For the purposes of this section, foundation and excavation permits shall not be considered a building permit. If groundwater is unexpectedly encountered within the execution of an excavation or foundation permit, a detailed groundwater investigation shall be conducted per Section 8-703.D.2. If deemed appropriate, the monitoring fee shall then be collected at the building permitting stage. When groundwater is unexpectedly encountered during excavation the monitoring fee shall be due prior to issuance of a Certificate of Occupancy.

Only development projects involving subsurface construction that requires construction dewatering shall be required to pay the monitoring fee. Exemptions to this standard shall be granted if dewatering activities are demonstrated to be de minimus. Development demonstrating that total pumping of groundwater from the development site is under fifty thousand (50,000) gallons per day for a maximum of ten (10) days shall be considered de minimus and the monitoring fee shall be waived.

(Ord. 1095, 1997)

ARTICLE 9 APPOINTED BOARDS AND COMMISSIONS

DIVISION 1 PLANNING AND ZONING COMMISSION

Section 9-101 Establishment

There is created a Planning and Zoning Commission for the Town, which shall be known as the Telluride Planning and Zoning Commission, or P&Z.

Section 9-102 Membership

9-102.A. **Composition.** P&Z shall consist of five (5) regular members and a first (1st) and second (2nd) alternate appointed by the Town Council.

1. Alternates shall be called upon to serve when members are not able to attend a regularly scheduled meeting or when a P&Z member has been disqualified to serve on a particular matter due to a conflict of interest.

2. Temporary alternate positions may be appointed by Town Council when requested by the Chairperson to fill in for members granted a temporary leave of absence. Temporary alternates will serve in third (3rd) and fourth (4th) alternate positions.

9-102.B. **Terms.** All appointments, including vacancies, shall be made by the Town Council. Members shall be appointed for two (2) year terms, staggered so that approximately one half of the terms expire each year.

Upon resignation of a member, the Council shall appoint a new member after advertising notice of the vacancy in accordance with Section 9.5 of the Town Charter and Telluride Municipal Code Chapter 2 Article 5.

Section 9-103 Member Qualifications

9-103.A. **Qualifications.** Members of P&Z shall be qualified electors of the Town for at least one (1) year prior to the time of appointment. Members shall be selected without respect to party affiliations.

9-103.B. **Compensation**. Members shall serve without compensation, except reasonable out-of-pocket expenses.

Section 9-104 Organization of the Planning and Zoning Commission

9-104.A. **Officers.** P&Z shall, at the first (1st) regular meeting in September, elect from its membership a chairperson and a vice-chairperson, whose term of office in such capacity shall be for one (1) year, with eligibility for re-election.

9-104.B. **Rules.** P&Z has, on June 7, 1988, adopted a "Rules and Procedures Manual" for its own organization and for the transaction of its business. The Manual shall be consistent with this Title, but may also contain rules and procedures not expressly

found within this Division, provided these rules are not in conflict with Town ordinances or Colorado statutes.

9-104.C. **Subcommittees.** P&Z is authorized to appoint one (1) or more subcommittees to review planning or land use application agenda items and to make recommendations to the full Commission.

Section 9-105 Meetings

9-105.A. **Schedule.** Meetings shall be held monthly, on the dates established in the schedule published annually by the Town.

1. P&Z may hold special meetings in addition to regularly scheduled meetings, as circumstances require. The date, time and agenda of special meetings will be advertised to the public by publication of the agenda.

2. Work sessions or site inspections may be held from time to time. The time and location of work sessions and site inspections shall be set by agreement of a majority of the members in a regular meeting, or, in the absence of such agreement, by the chairperson, in consultation with staff, and Public Notice shall be given to the public. No official action shall be taken in work sessions or on site inspections.

9-105.B. **Quorum.** A simple majority of P&Z members (three (3) out of five (5) members) shall constitute a quorum. In the absence of any regular member, the alternates, in order of appointment, may sit in the member's place to constitute a quorum or a full commission.

9-105.C. **Record.** P&Z shall keep a public record of its proceedings.

Section 9-106 Staff and Contract Professionals

P&Z may advise the Town Manager on the appointment of employees and professional staff members.

P&Z may contract with professional planners and other consultants upon approval of the Town Council; provided, that its expenditures, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Council.

Section 9-107 Powers and Duties, Generally

P&Z shall have full power and authority to act on matters granted to it by statutes of the State, and as they may be amended from time to time, and, to the extent not inconsistent therewith, this Title and ordinances of the Town. In general, P&Z shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning.

Section 9-108 Powers and duties, Land Development Activities

P&Z shall have the following powers and duties with respect to review of land development activities:

A. To grant approval to uses or activities permitted on review, pursuant to Article 6, Division 1.

B. To grant approval of zoning variances, pursuant to Article 6, Division 2.

C. To grant approval of conceptual, preliminary and final PUD, pursuant to Article 6, Division 3.

D. To grant approval of preliminary and final subdivision, pursuant to Article 6, Division 4.

E. To initiate amendments to the text of this Title or to the Official Zone District Map, pursuant to Article 6, Division 5.

F. To make recommendations to Town Council of approval or denial of amendments to the text of this Title or to the Official Zone District Map, pursuant to Article 6, Division 5.

G. To make recommendations to Town Council of approval or denial of preliminary and final annexations to Town, pursuant to Article 6, Division 6.

H. To make recommendations to Town Council of approval or denial of granting a license for a mobile home park, pursuant to Article 6, Division 7.

Section 9-109 Powers and Duties, Master Plan

9-109.A. **Purpose.** It is the function and duty of P&Z to make, adopt and then recommend to the Town Council a master plan for the physical development of the Town, including other areas outside of its boundaries which, in P&Z's judgment, bear relation to the planning of the Town. Where the plan involves territory outside of the boundaries of the Town, action will be taken with the concurrence of the County or other legislative body concerned.

9-109.B. **Content.** The master plan shall show P&Z's recommendations and may include, among other things, the general location, character and extent of streets, parks, parkways, playgrounds, airports and other public spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned; the acceptance, widening, removal, extension, relocations, narrowing, vacation, abandonment or change of use of any of the foregoing; the general location, character, layout and extent of community centers and neighborhood units; and the extent and layout of the replanning of blighted areas.

9-109.C. **Zoning Plan.** P&Z shall also make, adopt and recommend to the Town Council a zoning plan which shall include zoning maps and all other matter pertaining to zoning, including but not limited to the control of height, area, bulk, location and use of buildings and premises.

9-109.D. **Plan Amendments.** P&Z may from time to time amend, extend or add to its recommended master plan, or carry any part of subject matter into greater detail. In

preparation of the master plan, P&Z shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the Town and its environs. The plan shall be made with the general purpose of guiding and accomplishing the coordinated, adjusted and harmonious development of the Town in accordance with existing and future needs.

9-109.E. **Reports.** P&Z may make its reports and recommendations relating to the plan and development of the Town to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens.

9-109.F. **Plan Adoption.** P&Z may adopt the plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, the parts corresponding with major geographical sections or divisions of the municipality, or with functional divisions of the subject matter of the plan, and may adopt any amendment, extension thereof or addition thereto.

9-109.G. **Public Hearing.** Before the adoption of the plan or any such part, amendment, extension or addition, P&Z shall hold at least one (1) public hearing, notice of the time and place of which shall be given by one (1) publication in a newspaper of general circulation in the Town and in the official newspaper of San Miguel County.

9-109.H. **Adoption By Resolution.** The adoption of the plan or any part, amendment or extension or addition shall be by resolution of P&Z approved by the affirmative votes of the majority of its entire membership. The resolution shall refer expressly to the maps and other descriptive matter intended by P&Z to form the whole or part of the plan, and the actions taken shall be recorded on the map, plan and descriptive matter by the signature of the P&Z chairperson or secretary.

9-109.I. **Town Council Adoption.** An attested copy of the plan or part thereof shall be certified to the Town Council for adoption by the Council, which adoption shall be accomplished by a resolution of the Council to that effect.

9-109.J. **Conformance.** Whenever the Town Council has adopted the Telluride Master Plan or of one or more major sections or districts thereof, no street, square, park or other public way, ground or open space, or public building or structure, or publicly or privately owned utility shall be constructed or authorized in the Town or in such planned section and district until the location, character and extent thereof has been approved by the Town Council, upon a recommendation approved by the affirmative vote of the majority of the entire membership of P&Z. In case of disapproval, P&Z shall communicate its reasons to the Town Council, which has the power to overrule such disapproval by a recorded vote of a majority of the Council.

Section 9-110 P&Z and Historic and Architectural Review Commission Communication

9-110.A. **Joint Historic and Architectural Review Commission and P&Z Meetings or Hearings.** For small scale or large scale projects or for legislative actions as

provided for by this Title, the P&Z may have a joint meeting or public hearing with the Historic and Architectural Review Commission ("HARC") for the purposes of conducting discussions, worksessions or collaborative action on quasi-judicial proceedings that also require a HARC action (review and recommendation or actual action).

1. The development review process and requirements for the type of application as provided for in this Title shall be followed for the conduct of joint meetings or joint hearings.

2. In the conduct of a joint meeting, each body will be called to order, and an overall discussion, worksession or public hearing may be conducted concurrently with the HARC and the P&Z. Action on items will be done separately for each body.

3. Joint meetings as limited above may be initiated by the Chair or Vice-Chair of the HARC and P&Z or Staff.

9-110.B. **Staff Communication Between HARC and P&Z.** The Planning Division Staff shall provide a summary to the P&Z on any HARC review and recommendations either within a memo, report or in the verbal presentation.

9-110.C. **HARC and P&Z Communication.** After an action has been taken on a project, the Chair or Vice-Chair of the HARC and P&Z may state their respective commission's action on a project, and the foundation to such action to the other body.

9-110.D. **HARC and P&Z Annual Meeting.** The HARC and the P&Z shall meeting at least once a year outside of the normal meeting schedule to discuss matters of shared concern. Additional meetings are encouraged if the commissions' workload allows for such meetings.

(Ord. 1418, 2014; Ord. 1284, 2008; Ord. 1071, 1997; Ord. 970, 1992; Ord. 932, 1991; Ord. 906, 1991; Ord. 817, 1988; Ord. 779, 1987; Ord. 457, 1980; Ord. 346, 1977; Ord. 320, 1976)

DIVISION 2 HISTORIC AND ARCHITECTURAL REVIEW COMMISSION

Section 9-201. Establishment

There is created for the Town an Historic and Architectural Review Commission, also referred to as "H.A.R.C."

Section 9-201 Membership

9-201.A. **Composition.** H.A.R.C. shall consist of five (5) regular members and a first (1st) and second (2nd) alternate appointed by the Town Council.

1. Alternates shall be called upon to serve when members are not able to attend a regularly scheduled meeting or when a H.A.R.C. member has been disqualified to serve on a particular matter due to a conflict of interest.

2. Temporary alternate positions may be appointed by Town Council when requested by the H.A.R.C. Chairperson to fill in for members granted a temporary leave of absence. Temporary alternates will serve in third (3rd) and fourth (4th) alternate positions.

9-201.B. **Terms.** All appointments, including vacancies, shall be made by the Town Council. The term of each H.A.R.C. member shall be for two (2) years staggered so that approximately one half of the terms expire each year.

Section 9-202 Member Qualifications

9-202.A. **Qualifications.** Insofar as practical, all members of H.A.R.C. shall be competent in, have special knowledge of, or interest in historic preservation, building, or design. Each H.A.R.C. member shall be a qualified elector of the Town, and at the time of his or her appointment shall have been a resident of the Town for at least six (6) months.

9-202.B. **Compensation.** All H.A.R.C. members shall serve without compensation, except if hired to write the annual report.

Section 9-203 Organization of H.A.R.C.

9-203.A. **Officers.** H.A.R.C. shall, at the first (1st) regular meeting in September, elect from its membership a chairperson and a vice-chairperson, whose term of office in such capacity shall be for one (1) year, with eligibility for reelection. H.A.R.C. members shall not succeed themselves as officers for more than three (3) consecutive terms.

9-203.B. **Rules.** H.A.R.C. has adopted its Handbook, containing rules and procedures for its own organization and for the transaction of its business. The Handbook shall be consistent with this Title, but may also contain rules and procedures not expressly found within this Division, provided these rules are not in conflict with Town ordinances or Colorado statutes.

9-203.C. **Subcommittees.**

1. H.A.R.C. is authorized to appoint one (1) or more subcommittees to review land use application or planning agenda items and to make recommendations to the full Commission.

2. The Significant Landmark Interiors Subcommittee is hereby created. The Subcommittee shall consist of three (3) members of H.A.R.C., who shall be elected by a majority of H.A.R.C. members for a term of one (1) year.

Section 9-204 Meetings

9-204.A. **Schedule.** Meetings shall be held monthly, on the dates established in the schedule published annually by the Town.

1. H.A.R.C. may hold special meetings in addition to regularly scheduled meetings, as business circumstances require. The date, time and agenda of special meetings will be advertised to the public by publication of the agenda.

2. Work sessions or site inspections may be held from time to time. The time and location of work sessions and site inspections shall be set by agreement of a majority of the members in a regular meeting, or, in the absence of such agreement, by the chairperson, in consultation with staff and Public Notice shall be given to the public. No official action shall be taken in work sessions or on site inspections.

3. The Chairperson shall conduct the meetings of H.A.R.C.

9-204.B. **Quorum.**

1. A simple majority of H.A.R.C. members (three (3) out of five (5) members) shall constitute a quorum, except in cases involving application for demolition, which requires either four (4) or five (5) voting members, depending upon the structure's historic identification as rated or non-rated, respectively.

2. In the absence of any regular member, the alternates, in order of appointment, may sit in the member's place to constitute a quorum or a full commission.

9-204.C. **Record.** The recording secretary shall keep the minutes and a permanent record of all resolutions, motions, transactions and determinations. These records, including all documents submitted by the applicant, shall be available on request for public inspection at reasonable times.

9-204.D. **Voting.**

1. When voting on any question, except a vote to disqualify a member due to conflict of interest, each member's vote shall be separately recorded.

2. No proxy shall be allowed at any time.

3. A majority of H.A.R.C. members voting thereon shall be sufficient to approve any application, except that when a Certificate of Appropriateness for the moving or demolition of a structure is requested, voting shall be conducted pursuant to Section 7-303 B.

Section 9-205 Staff and Contract Professionals

H.A.R.C. may advise the Town Manager on the appointment of employees and professional staff members.

H.A.R.C. may contract with professional planners and other consultants upon approval of the Town Council; provided, that its expenditures, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Council.

Section 9-206 Powers and Duties

H.A.R.C. shall have the following duties and powers.

9-206.A. **Issue Certificates of Appropriateness.** To issue Certificates of Appropriateness prior to the issuance of any permit pertaining to the erection, demolition, moving, renovation, restoration, addition to or alteration of any structure or sign in the Historic Preservation Overlay District.

9-206.B. **Advise Other Bodies.** To advise the Planning and Zoning Commission, the Town Council, the Board of Adjustment, the Building Official, and other public agencies and officers in matters involving structures and areas of historical and/or architectural significance.

9-206.C. **Provide Application Recommendations.** H.A.R.C. shall provide recommendations to P&Z concerning applications for amendments to the Official Zoning Map and Land Use Code text amendments pertaining to districts within the Telluride Historic Landmark District or the Transitional Hillside Treatment Area, as well as applications for preliminary large scale or small scale subdivisions or PUD's. P&Z shall not take final action on any such application prior to receipt of a recommendation from H.A.R.C. H.A.R.C. shall review and provide such recommendations pursuant to H.A.R.C.'s small scale activity review procedures. The H.A.R.C. Chairperson shall also provide recommendations to the P&Z Chairperson relevant to certain minor subdivisions.

9-206.D. **Propose Standards and Policies.** To propose new ordinances, new policies, amendments or changes to this Title and in the General Standards for Review and specific design guidelines for Treatment Areas pursuant to the purposes and provisions of Article 7, to propose standards, by resolution or ordinance, for the moving or demolition of structures within the Historic Preservation Overlay District and to recommend appropriate legislation for the preservation of any building, structure, site, monument, area or other local landmark which is rated or designated.

9-206.E. **Issue Annual Report.** To report annually to the Mayor and the Town Council in the month of September. The annual report shall summarize the highlights of

H.A.R.C.'s important decisions rendered during the year and outline the rationale for those decisions. The report may include a general survey addressing the appearance and condition of buildings in Town, an analysis of any design problems which have arisen and comments on community trends in design. The report shall receive the positive votes of at least four (4) H.A.R.C. members to be sent to the Town Council.

9-206.F. **Recommend Designations.** To recommend the designation of structures, significant landmark interiors and areas which are deemed by H.A.R.C. or by the community to be of outstanding historic and/or architectural significance for the purposes of preserving and enhancing these structures and areas.

9-206.G. **Maintain Inventories.** To maintain and periodically revise detailed inventories of historically and/or architecturally significant structures and areas, to classify information about them with respect to their significance to the Telluride Historic Landmark District, and to recommend to the Town Council designations of historical local landmarks pursuant to Article 7, Division 5, "Designation of Local Landmarks".

9-206.H. **Apply for Funds.** To make application for public and private funds in support of historic preservation activities within the Town when determined appropriate by the Town Council and as available.

9-206.I. **Advise Residents.** To advise owners or residents of historically and/or architecturally significant structures or areas on problems, techniques and resources for historic preservation.

9-206.J. **Provide Assistance.** To assist and encourage any organizations or persons who desire to protect, enhance or perpetuate the use of structures and areas of historical or architectural significance.

9-206.K. **Adopt Support Materials.** To adopt, upon approval by resolution of the Town Council, supporting materials, maps and documents which assist H.A.R.C. and the community in implementing the purposes and provisions of Article 7.

9-206.L. **General.** To take all action necessary to exercise the powers granted pursuant to Article 7 of this Title.

Section 9-207 HARC and P&Z Communication

9-207.A. **Joint Historic and Architectural Review Commission and P&Z Meetings or Hearings.** For small scale or large scale projects or for legislative actions as provided for by this Title, the P&Z may have a joint meeting or public hearing with the Historic and Architectural Review Commission ("HARC") for the purposes of conducting discussions, worksessions or collaborative action on quasi-judicial proceedings that also require a HARC action (review and recommendation or actual action).

1. The development review process and requirements for the type of application as provided for in this Title shall be followed for the conduct of

joint meetings or joint hearings.

2. In the conduct of a joint meeting, each body will be called to order, and an overall discussion, worksession or public hearing may be conducted concurrently with the HARC and the P&Z. Action on items will be done separately for each body.

3. Joint meetings as limited above may be initiated by the Chair or Vice-Chair of the HARC and P&Z or Staff.

9-207.B. **Staff Communication Between HARC and P&Z.** The Planning Division Staff shall provide a summary to the P&Z on any HARC review and recommendations either within a memo, report or in the verbal presentation.

9-207.C. **HARC and P&Z Communication.** After an action has been taken on a project, the Chair or Vice-Chair of the HARC and P&Z may state their respective commission's action on a project, and the foundation to such action to the other body.

9-207.D. **HARC and P&Z Annual Meeting.** The HARC and the P&Z shall meeting at least once a year outside of the normal meeting schedule to discuss matters of shared concern. Additional meetings are encouraged if the commissions' workload allows for such meetings.

(Ord. 1418, 2014; Ord. 1284, 2008; Ord. 1005, 1994; Ord. 970, 1992; Ord. 929, 1990; Ord. 906, 1990; Ord. 867, 1989; Ord. 843, 1988; Ord. 817, 1988; Ord. 779, 1987; Ord. 415, 1980; Ord. 231, 1970)