



TOWN OF BLUE RIVER, COLORADO

LAND USE CODE

PART OF THE BLUE RIVER MUNICIPAL CODE

Chapter 16	General Provisions
Chapter 16A	Zoning
Chapter 16B	Design, Development & Operational Standards
Chapter 16C	Development and Improvement Processes
Chapter 17	Subdivision Regulations

Adopted July 2023

TOWN OF BLUE RIVER, COLORADO

LAND USE CODE

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CHAPTER 16 Land Use Code General Provisions

Article 1 General Provisions

Sec. 16-1-10. Titles.

Chapters 16, 16A, 16B, 16C, and 17 of the Blue River Municipal Code shall be collectively referred to as the "*Town of Blue River Land Use Code*," or "*Land Use Code*," or "LUC." These Chapters may be referenced individually as:

Chapter 16 -	Land Use Code General Provisions
Chapter 16A	Zoning
Chapter 16B	Development & Design Standards
Chapter 16C	Development and Improvement Applications
Chapter 17	Subdivision Regulations

Sec. 16-1-20. Authority.

The Town of Blue River Land Use Code is enacted in accordance with the authority conferred by state law, including Articles 16 and 23 of Title 31, Article 20 of Title 29, and Article 67 of Title 24 of the Colorado Revised Statutes, as amended.

Sec. 16-1-30. Purpose of Chapter 16.

The purpose of the General Provisions of the Land Use Code is to apply to all activities and actions undertaken pursuant to Chapters 16A, 16B, 16C, and 17.

Sec. 16-1-40. Background, Purpose, and Intent of the Land Use Code.

- (a) Background. The Town of Blue River values and places great importance on the natural character of the area as defined by the existing forest and vegetation, natural water features, wildlife, geology, geography, view corridors, and ridgelines. The Town seeks to recognize and protect these unique characteristics of the Town.

The natural character of the Town of Blue River can be significantly affected by the zoning, subdivision, use, development, and design of property. Lots should be designed to provide desirable settings for the buildings that are to be constructed, make use of natural contours, minimize the need to reshape and excavate the land, and afford privacy for the residents and protection from noise and vehicular traffic. Natural features and vegetation of the area must be preserved, if possible. Building styles, colors, and materials should be selected with consideration of how the building and its form will be consistent with mountain character and to not stand out in a manner that denigrates or conflicts with the natural environment and setting. Environmental conditions and quality shall be protected.

Improvements commonly associated with land uses should be appropriately located and designed to blend into the lot and the setting. Every resident must have basic services reasonably available to their property, including supply of water, a means of wastewater discharge that is safe to the public and the environment, electricity, and other common public services.

The Land Use Code was prepared with reasonable consideration, among other things, of the largely residential and environmentally sensitive characteristics of the Town and with a regard for the preservation of these characteristics when authorizing and permitting the development and use of property. The Land Use Code establishes zoning, specific development regulations and standards, and processes designed to preserve and the Town's valued character, trees, vegetation, views, waterways, wildlife, and to minimize to the extent lawfully permitted and reasonable the visual impact of development.

- (b) Purpose. The purpose of the Land Use Code is to provide a set of comprehensive regulations to best enable the use and development of property to be undertaken in a manner that will preserve the health, safety, and welfare of the Town and its residents. The Land Use Code establishes the minimum requirements that must be followed. These provisions address the physical relationships between uses, between lots and properties, between development and adjacent properties, and the interrelationship and connection with public streets, neighborhoods, and the natural environment in order to implement the Blue River Comprehensive Plan's vision and goals for a more attractive, efficient and livable community.

All property within the Town of Blue River is assigned a zone district and prior to development must be subdivided into lawfully recognized lots or parcels. Zoning (Chapter 16A) identifies the various zone districts and the allowed uses for property and imposes certain required and general design standards such as minimum lot size, setbacks, and maximum building height. Development Standards (Chapter 16B) provides for land use regulations to apply to uses and development of property. Improvement and Site Planning Application processes (Chapter 16C) provides procedures to apply for and process applications for improvements to lots and for site plan and development plan approval. Subdivision (Chapter 17) establishes a means to physically describe the property by setting lawfully recognized boundaries in order that the property may be later sold, transferred, and developed.

- (c) Intent. The Land Use Code is intended to serve the following goals:
- (1) To inform each property owner of the standards and criteria by which uses are permitted, development will be evaluated, and to provide information as to the type and extent of improvements permitted by the Town.
 - (2) To reduce conflict and increase compatibility with development on adjacent land.
 - (3) To protect and conserve the value of land throughout the municipality and the value of buildings and improvements on the land.

- (4) To ensure that the development of property is in compliance with the Town's zoning ordinances and to achieve a harmonious, convenient, workable relationship among land uses, consistent with Town development objectives.
- (5) Preserve the beauty of the community, quiet enjoyment of property, and the value of the land.

Sec. 16-1-50. Applicability, Exemptions, and Limitations.

- (a) Applicability. The Land Use Code is applicable to the following described property:
 - (1) Property located within the legal boundaries of the Town of Blue River;
 - (2) Property proposed for annexation to the Town of Blue River except to the extent specifically provided by any annexation agreement enacted by ordinance; and
 - (3) Property located outside of the legal boundaries of the Town of Blue River and described in a Town-adopted intergovernmental agreement that requires application of this Zoning Code to the subdivision of property.
- (b) Exemption for Town Property Authorized. The Land Use Code or a particular provision of the Land Use Code shall not apply to a specific use or specific proposal for use of Town-owned or Town-leased property if a majority of the entire Board of Trustees¹ grants an exemption *by resolution* based upon a finding that the public interest is best served, the efficient expenditure of taxpayer funds is advanced, or an emergency condition exists for which the application of this Chapter will impede the Town's ability to serve the Town's residents. The Board's consideration and approval of an exemption shall be an administrative decision and shall not require notice or public hearing prior to approval of the resolution granting an exemption.
- (c) Limitations. The Land Use Code is not intended to modify, abrogate, amend or annul a vested property right lawfully established in accordance with federal or state law prior to the effective date of this Zoning Code subject to the terms and conditions of any agreement or approval pertaining to such vested right and subject to obligations to compensate owners as may be required by federal or state law.

Sec. 16-1-60. Conformance with Other Laws.

Applicants for Town approvals pursuant to this Land Use Code shall demonstrate complete conformance with all applicable standards and procedures required by federal and state law, including but not limited to issuance of final or conditional permits or approvals from federal and state agencies such as the Environmental Protection Agency (EPA), state air quality control and

¹ Required vote is a majority of all Board members in office at the time of the vote. For example, for a seven (7) member Board of Trustees, the required vote shall be four (4) votes. The required vote is not a majority of a quorum present as commonly applied to most actions of the Town Board.

state water quality control agencies, the United States Army Corps of Engineers, Federal Emergency Management Agency (FEMA), the Colorado Department of Transportation (CDOT), and the Colorado Public Utilities Commission. Applicants are strongly encouraged to obtain any necessary approvals or permits, or to secure written findings establishing exemptions from state and federal regulation, prior to submission of applications. Failure to secure necessary approvals or permits will delay processing of an application or result in denial of an application or a permit.

Sec. 16-1-70. Private Covenants.

The applicability and application of the Land Use Code shall not be affected or altered in any way by privately imposed covenants or private contracts to which the Town is not a party that seek to govern or control the use of property. Rights afforded to private parties by such private covenants and contracts shall remain private rights subject to enforcement by the parties to the covenants or contracts according to their terms. No private covenant or contract to which the Town is not a party may alter, amend, reduce, waive, or negate the application, applicability, and requirement of the Land Use Code and approvals of the Town except to the extent permitted by law.

Nevertheless, the Town may legislatively determine that a purpose, element, or an aspect of a private covenant will, if recognized by the Land Use Code, advance the interests of the Town. For example, private river easements were created by covenant within Blue River to protect the floodplain and floodway, and this protection also advances the Town's goals of preserving the natural environment and the desired character of the Town. For that reason, the Town may, through provisions of the Land Use Code, recognize or incorporate the extent of the river easement when establishing or limiting the buildable area of a lot where development may lawfully occur.

Sec. 16-1-80. General Interpretation.

In the interpretation and application of the provisions of the Land Use Code, the following rules shall govern in addition to any common rules of statutory construction recognized by Colorado courts:

- (a) The interpretation and application of the provisions of this Land Use Code shall be regarded as minimum requirements for the protection of the health, safety and welfare of the public.
- (b) Whenever the requirements of the Land Use Code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or other legislative actions by the Board of Trustees, the more restrictive or that imposing the higher standard shall govern.
- (c) Whenever restrictions imposed by the Land Use Code are either more or less restrictive than regulations adopted by any state or federal agency, the rules or regulations which are more restrictive, or which impose higher standards or requirements, shall govern.

- (d) When a provision includes a list of specific items, that list is intended to be exclusive; the provision applies only to the listed items and not to others. But if the list starts with a phrase like "at a minimum," "including," or "such as," the list illustrates the types of things the provision applies to and is not intended to be an exclusive list.
- (e) The use of "may" or "should" means permissive, recommended, or advised but is not mandatory; the use of "shall," "must," or "will" means compliance is mandatory and not voluntary or permissive.
- (f) If a term or phrase is subject to more than one reasonable interpretation, the more stringent or restrictive interpretation is intended.
- (g) If two or more provisions of this Zoning Code or other applicable law conflict, the more stringent or restrictive provision shall govern or control.
- (h) Words in the present tense include the future unless the context clearly indicates the future tense.
- (i) Words used in the singular number include the plural and words using the plural number include the singular unless the context clearly indicates the contrary.
- (j) Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules regulations or ordinances, the more restrictive, or that imposing the higher standard, shall govern.
- (k) The use of italics within the text of the Land Use Code is intended as a courtesy to the reader to assist in identifying words and phrases that have a meaning defined by the Land Use Code. The absence of italics for a word or phrase that is defined by the Land Use Code shall not be interpreted as the word or phrase having a meaning apart from the definition and the absence of italics is an oversight.
- (l) If any section, subsection, paragraph, clause, phrase, or provision of this Chapter shall be adjudged invalid or held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected in whole or in part, other than the provision adjudged to be invalid or unconstitutional.

Sec. 16-1-90. Promulgation of Forms.

The Town Manager is authorized to promulgate and adopt such additional forms, requirements, guidelines, summaries, and directions as may be reasonable or necessary to administer and implement the purposes and intent of the Land Use Code.

Sec. 16-1-100. Administrative Interpretation.

- (a) In consultation with the Planning Commission and Town Attorney, the Town Manager is authorized to issue written administrative interpretations applicable to all properties similarly situated concerning the requirements and application of the Land Use Code. An administrative interpretation shall not grant any form of approval or amendment to zoning, use, land development, site plan, or subdivision to a specific property and shall not modify, waive, or amend a non-ambiguous provision of the Land Use Code. An interpretation shall be limited to clarifying, restating, or assisting in identifying the proper application of the Land Use Code to enable applicants to conform to the requirements of the Land Use Code. All general administrative interpretations shall be collected and retained by the Town Manager and made available for public inspection. Following issuance of an administrative interpretation, the Town Manager shall provide a copy of the interpretation to both the Planning Commission and the Town Board of Trustees.
- (b) An appeal of an administrative interpretation is authorized if made in accordance with Section 16-2-50. Persons seeking an appeal are encouraged to discuss the administrative interpretation with the Town Manager before submitting an appeal.

Sec. 16-1-110. Application and Review Fees.

- (a) Application Fees. The Town Manager shall prepare, and update from time to time, a proposed schedule of application fees and charges for the processes described in the Land Use Code. The Manager's proposed fee schedule shall be presented to the Board of Trustees for consideration and approval by resolution. Prior to approval of such resolution, the Board of Trustees may refer the fee schedule for review and recommendation to the Planning & Zoning Commission. Fees and charges shall be reasonably related to the total costs generally incurred in application review, application processing, and ensuring compliance with the Land Use Code following application approval including, but not limited to, administrative staff salaries and expenses, cost and expenses in preparing and publishing notices, document copying, recording of documents, meeting and hearing costs and expenses, property and project inspection, and both general enforcement of the Land Use Code as well as enforcement of the Code requirements during the development described in the application.
- (b) Consultant Review Fees. In addition to an application fee, an Applicant shall pay one hundred (100) percent of the costs of review incurred by the Town's consultants that are directly related to the review, inspection, drafting of documents, and consideration of the application. Consultants retained by the Town may include planning, engineering, legal, water, environmental, and other land use professionals.
- (c) Procedure for Payment of Consultant Review Fees. At the time an application is first submitted to the Town, and prior to any review by the Town staff, the Applicant shall pay to the Town both the application fee required by subsection (a) of this section and an initial deposit ("Initial Deposit") to be applied to the Town's consultant review fees in an amount set by the Town Manager based on the Manager's estimate of the consultant resources likely required for review of the application. As consultant review fees are incurred and

billed to the Town, the Town shall draw upon the Initial Deposit for payments to the appropriate consultants. At such time that the fees charged against the Initial Deposit exceed seventy-five (75) percent or more of the Initial Deposit, and within ten (10) days of the Applicant's receipt of notice by the Town, the Applicant shall supplement the Initial Deposit by making an additional deposit with the Town of an amount equal to at least fifty (50) percent of the amount of the Initial Deposit.

- (d) Authority to Modify Payment of Fees. The Town Manager may alter the method or timing of fee payment or the deposit of fees, reduce the amount of fees or deposit, or may waive fees and the Applicant's deposit(s) when either: (i) instructed by the Mayor or Town Board in order to advance policies and objective of the Town; or (ii) upon a determination by the Town Manager that the estimated or anticipated additional costs of review can be reasonably paid prior to final consideration of the application or that the fees will not likely exceed the remaining balance held in the Initial Deposit as such deposit may have been previously supplemented.
- (e) Full Payment a Condition for Approval. Notwithstanding the absence of any express condition of approval of an application for approval, the payment in full of all fees and charges associated with an application shall be a standard condition for the effectiveness of any application. The Town is authorized to withhold actions necessary to finalize or implement approval of an application (such as recording, notices, and permitting) until such time that outstanding fees and charges are paid in full.
- (f) Application Termination. The Town shall terminate review and processing of an application when any required fees are unpaid or when the Initial Deposit falls below the required minimum deposit amount determined by the Town Manager. The Town will recommence processing and review only upon receipt of the required additional fee amounts.
- (g) Final Accounting and Refund. Upon the Town's final determination of the application or upon termination of application processing, the Town shall refund any unused amounts on deposit with the Town following the Town's final accounting. Final account shall ensure all fees and charges associated with an application have been paid in full.
- (h) Unpaid Fees and Charges. In the event an Applicant fails to pay in full all outstanding fees and charges, the Town may reject acceptance of future applications from the Applicant, or businesses or persons affiliated with the Applicant, that seek land use or building permit approval from the Town. In addition, the Town may pursue collection of delinquent fees and charges through any available means including use of a collection agency.

Sec. 16-1-120. Violations and Enforcement.

- (a) General Violation. It is unlawful for any person to use land in violation of the Land Use Code.
- (b) False Information. It is unlawful for any person to intentionally or knowingly submit a false statement as part of any application authorized by the Land Use Code.
- (d) Prohibited Construction. No structure shall be constructed, and no building permit issued for a structure, on any parcel of land except where such structure is to be constructed upon a parcel which meets the requirements of the Land Use Code.
- (e) Violation of Express Condition of Approval. It shall be unlawful and a violation of the Land Use Code for any person to fail to substantially satisfy or to breach a condition or requirement expressly imposed upon any approval of any application pursuant to the Land Use Code.
- (f) Violation of Agreement. It shall be unlawful and a violation of the Land Use Code for any person to fail to substantially satisfy or to breach a condition or requirement expressly imposed upon any approval by any written contract or agreement between the Town and the person associated with an application approved pursuant to the Land Use Code.
- (g) Continuing Offense. A violation of the Land Use Code shall be deemed a violation for each and every day or portion thereof during which any violation of the provisions of the Land Use Code is committed, continued, or permitted.
- (h) Enforcement. The provisions of the Land Use Code may be enforced at the direction of the Town Manager or Board of Trustees by use of any of the following methods either individually or in combination:
 - (1) Judicial proceeding including but not limited to actions for declaratory judgment, abatement, damages;
 - (2) Withholding of construction or building permit(s) for all or any improvement upon property that is the subject of the violation;
 - (3) Refuse to accept, continue to process, or to approve, any application pertaining to the property subject to an enforcement action;
 - (4) Withholding or revoking certificate(s) of occupancy for any structure upon property that is the subject of the violation;
 - (5) To the greatest extent permitted by law, revocation or suspension of any license, permit, or certificate issued to any property or applicant;
 - (6) Inspection and ordering the removal or abatement of violations;

- (7) Issuance of a stop work order mandating the temporary suspension of any development activity within or associated with property that is the subject of the violation;
 - (8) Assessment of costs and expenses (including but not limited to costs and expenses for administrative actions, publication, attorneys' fees, and court costs) incurred by the Town in the enforcement of the Land Use Code and the imposition of a lien for such costs and expenses against all or any portion of the property that is the subject of the violation; and
 - (9) Demand for payment and the receipt and use of funds held by any person or financial institution which were deposited to secure the performance of the obligation or duty imposed by the Land Use Code or a written contract or an agreement between the Town and the person owning or controlling the property that is the subject of the violation.
- (i) Entry Upon Property for Enforcement Authorized. Whenever necessary to perform an inspection to enforce any provision contained within the Land Use Code or any condition or requirement of a permit or other land use approval issued pursuant to the Land Use Code, or whenever there is reasonable cause to believe that a violation of the Land Use Code or any permit or any other land use approval issued pursuant to the Land Use Code exists in any building or upon any real property within the jurisdiction of the Town, the Town Manager or designee, or a police officer may, upon presentation of proper credentials, enter such building or real property at all reasonable times to inspect the same or to perform any duty imposed upon him or her by the Blue River Municipal Code; provided, that if such building or real property is unoccupied, the authorized official shall first make a reasonable effort to locate the owner or other persons who have charge or control of the building or of the real property and request entry. If the entry is refused, or the owner cannot be located, the Town Manager, the Manager's designee, or any police officer, is authorized to obtain a search warrant pursuant to the Colorado Municipal Court Rules of Procedure in order to conduct and complete the inspection.
- (j) Costs and Fees. The Town is authorized to collect its costs or fees and enforcement of the Land Use Code against any person violating any provision of the Land Use Code. In addition to any other means permitted by law, assessment of costs or fees shall be made by notice and demand letter signed by the Town Manager which letter shall identify the reasons for the assessment, the amount of such costs and fees, and a demand to pay the costs and fees by a date certain not less than ten (10) days following the person's receipt of the letter. In the event the costs or fees are not timely paid, the Town may certify such costs and fees to the County Treasurer for collection against the property subject to the Land Use Code in the same manner as taxes under C.R.S. §§ 31-20-105 and 31-2-106.
- (k) Remedies Not Exclusive. The remedies provided by the Land Use Code shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Sec. 16-1-130. Severability and Savings Clause.

- (a) Severability. If any language, provision, section, or Article of the Land Use Code is found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, only such unconstitutional, illegal or invalid language, provision, section, or Article will cease to be effective, and any such finding shall have no bearing on the effectiveness of the remaining portions of the Land Use Code.
- (b) Savings Clause. The amendment or repeal of any ordinance or part of an ordinance by the Land Use Code shall not release, extinguish, or modify in whole or in part, any penalty or liability or any right of the Town, incurred or obtained under the amended or repealed ordinance or part of the ordinance. The Land Use Code, so amended or repealed, shall be treated and held as remaining in force or effect for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of any penalty, liability or any right of the Town, for the purpose of sustaining any judgment, decree or order which may be rendered in such proceedings, actions, acts, decisions, hearings and appeals pending before the Town, its Town Board, Planning Commission, any other decision-making body or officer, and any court.

Sec. 16-1-140. Major Activity Notice.

Pursuant to C.R.S. § 31-23-225, as amended, when a subdivision or commercial or industrial activity is proposed which will cover five (5) or more acres of land, the Town shall send notice to the Colorado Land Use Commission, the state geologist and the Summit County Board of County Commissioners of the proposal prior to approval of any zoning change, subdivision, or building permit application associated with such proposed activity.

Article 2 Appeals

Sec. 16-2-10. Generally.

Many final land use decisions of the Town, whether the decisions are made by the Board of Trustees, the Planning Commission, the Board of Adjustment, or the Town Manager, are subject to subsequent appeal. Importantly, only decisions that are final – generally meaning that there is no required further review and decision to be made – may be appealed. Filing and processing an appeal requires compliance with this Article and the request for appeal must be made in a timely manner.

Sec. 16-2-20. Effective Date of Decisions.

(a) Board of Trustees.

- (1) Regular Ordinance. A decision of the Board of Trustees made by adoption of a non-emergency regular ordinance is final upon the expiration of 30 days following the date of publication of the ordinance unless a later date of effectiveness is expressly provided by the ordinance.
- (2) Emergency Ordinance. A decision of the Board of Trustees made by adoption of an emergency ordinance shall be final upon the date of adoption.
- (3) Resolution. A decision of the Board of Trustees made by resolution shall be final upon the later of the date of approval of the resolution or the effective date stated in the resolution.
- (4) Motion. A decision of the Board of Trustees made by adoption of an oral or written motion is final upon the date or approval of the motion.

(b) Planning Commission.

- (1) Recommendations and Advisory Decisions. Recommendations or advisory decisions of the Planning Commission that are subject to later consideration or review and a final decision by the Board of Trustees or Board of Adjustment in accordance with the Land Use Code shall be effective at the time of the recommendation or decision.
- (2) Final Decisions. Final decisions of the Planning Commission concerning an application for development or improvement of property, and which are subject to appeal to the Board of Trustees or Board of Adjustment pursuant to section 16-2-30 or 16-2-50 shall be deemed effective ten (10) calendar days, excluding Town recognized holidays, following the date of the decision. During such 10-day period, no building or other permit or authorization concerning the development or improvements that are the subject of the Commission's decision shall be issued by the Town and, if issued in error, shall not be effective and may be revoked.

- (c) Town Manager Administrative Decision. Administrative decisions of the Town Manager authorized by the Land Use Code shall be final upon the date of the Manager's decision or the date identified in any written decision.

Sec. 16-2-30. Appeal of Board of Trustees Final Decisions.

- (a) Final decisions of the Board of Trustees may be appealed in accordance with law to state or federal courts of competent jurisdiction. Appeals are not available in the Blue River Municipal Court.

- (b) Unless otherwise expressly provided, a request or application for reconsideration shall not be available for final decisions of the Board. Where authorized and timely submitted, the submission of a request or application shall stay the date of final decision until the conclusion of such reconsideration.

Sec. 16-2-40. Appeal of Planning Commission Final Decision.

- (a) This section shall apply only to final decisions of the Planning Commission. This section shall not apply to recommendations or advisory decisions or opinions.
- (b) An appeal of a final decision issued by the Planning and Zoning Commission must be brought to the Board of Adjustment in accordance with this section by any person that sufficiently alleges in accordance with Colorado law: (1) a legally recognized injury-in-fact from the decision to be reviewed; and (2) such alleged injury is to a legally protected interest.
- (c) A complete and timely filing of a notice of appeal and the processing to conclusion of such appeal evidenced by the issuance of a decision by the Board of Adjustment pursuant to this Section is a jurisdictional prerequisite to the further right of appeal under Rule 106(a)(4) of the Colorado Rules of Civil Procedure or any other applicable law or rule.
- (d) An appeal requires strict conformance with the following process:
 - (1) Within five (5) business days of the date of the Planning Commission's final decision, the party seeking appeal (the "appellant") shall submit to the Town a timely and complete notice of appeal. Submission of the notice of appeal shall be made by physical delivery to the Town Manager or, as an alternative to physical delivery, the notice of appeal may be transmitted by electronic mail if addressed to both the Town Manager and the Mayor at electronic mail addresses available on the Town's official website. To be deemed timely and complete, a notice of appeal shall include:
 - a. The name, telephone number, and electronic mail contact information for the appellant, an explicit demand for appeal, the name or title associated with the application, the date of the Planning and Zoning Commission's decision, and a description of the general errors, grounds, or reasons supporting the appeal;
 - b. A statement setting forth the specific basis for an injury-in-fact and a legally protected interest which basis would confer upon the appellant the standing or legal right of appeal as required by section 16-2-40(b) and the law of the State of Colorado; and
 - c. Full payment of any Town required appeal fee established by the Town Manager as reasonably related to the cost of providing notice and conducting a hearing. Such fee is non-refundable.

- (2) The Town Manager, in consultation with the Town Attorney, shall determine whether a submitted notice of appeal is timely and complete. The appellant shall be promptly notified by the Town Manager of such determination.
- (3) Failure to timely submit a complete notice of appeal shall be deemed a failure to submit an appeal and a failure to meet the jurisdictional prerequisite for further right of appeal under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- (4) Upon receipt of a timely and complete notice of appeal:
 - a. No building permits or other Town authorizations or approvals shall be issued for the development or the improvements that are the subject of the appeal of the Planning and Zoning Commission decision until the conclusion of the appeal.
 - b. The Town Manager shall schedule the appeal to be considered by the Board of Adjustment at the Board's earliest available opportunity and with sufficient time to meet applicable notice requirements. Such date of appeal shall not exceed sixty (60) days following the Planning and Zoning Commission's final decision.
 - c. The Town Manager shall cause to be prepared a public notice of the appeal and the scheduled appeal hearing. The content of the notice and the manner of the issuance of the notice (e.g., publication), shall comply with the same notice requirements applicable to the original hearing of the matter before the Planning Commission, if any.
 - d. The Town Manager shall cause the record of the Planning Commission proceeding to be prepared and distributed to the Board of Adjustment together with the notice of appeal and any materials or documents submitted by the applicant, the appellant, or other interested parties.
- (5) At the scheduled date and time of the Board of Adjustment's consideration of the appeal:
 - a. The Town Manager and/or the Town Attorney shall present general information concerning the original application, the appeal, and the development or the improvements that comprise the subject of the appeal.
 - b. The Board of Adjustment shall conduct a quasi-judicial, *de novo*,² hearing on the appeal. The applicant, appellant (if not the applicant), and all interested parties shall be provided a reasonable opportunity to address the Board of Adjustment in accordance with any adopted rules of procedure or practices of the Town.

² *De novo* means that the proceeding will be treated as a completely new matter as if it had not been previously heard or decided.

- c. The Board of Adjustment shall render a final decision on the application subject to appeal. Such decision may, at the Board's option, be evidenced by a resolution or other form of written decision. The Board of Adjustment's decision shall not be subject to further appeal pursuant to this section and further appeal shall be available pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure or other available judicial process or procedure.
- (6) During the pendency of an appeal, the Town shall suspend the effective date of the Planning Commission's decision pending the final decision of the Board of Adjustment.
- (7) The date of the final decision for purposes of judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure or other available judicial process or procedure shall be the date of the Board of Adjustment's final decision on appeal.
- (8) In the event of a withdrawal of the appeal by the appellant prior to the issuance of a final decision on appeal by the Board of Adjustment, the Planning Commission's original decision shall be deemed the final decision on the matter effective as of the date of the Planning Commission's original decision.

Sec. 16-2-50. Appeal of Final Administrative Decisions.

- (a) When Authorized. A final administrative decision of the Town Manager or administrative staff made pursuant to this Land Use Code is only appealable in accordance with this section if:
 - (1) The final administrative decision approves or denies a use, building, structure, or *accessory improvement* for a specific property is an administrative interpretation of a provision of the Land Use Code made pursuant to Section 16-1-100; and
 - (2) The person appealing the final administrative decision (the "appellant") is an owner of property within the Town of Blue River and the owner's property is either (i) directly affected by the decision; or (ii) *measured*³ to be within three hundred (300) feet of the property subject to the final administrative decision; and
 - (3) The Town has not issued a license or permit which authorizes the use, building, structure, or *accessory improvement* for a specific property that is the subject of the appeal; and
 - (4) The appellant timely submits a notice of appeal pursuant to this Section.
- (b) Notice of Appeal. Within five (5) business days of the date of the final administrative decision, the appellant shall submit to the Town a timely and complete notice of appeal.

³ See Section 16-3-20 for definition of *measured* for determining distance between properties for purpose of this Land Use Code.

Submission of the notice of appeal shall be made by physical delivery to the Town Manager or, as an alternative to physical delivery, the notice of appeal may be transmitted by electronic mail if addressed to both the Town Manager and the Mayor at electronic mail addresses available on the Town's official website. To be deemed timely and complete, a notice of appeal shall include: (1) the name, telephone number, and electronic mail contact information for the appellant; (2) an explicit demand for appeal; (3) the address of the subject property and the approval provided to the property; (4) a description of the general errors, grounds, or reasons supporting the appeal; and (5) full payment of any Town required appeal fee established by the Town Manager as reasonably related to the cost of providing notice and conducting a hearing. Such fee is non-refundable.

- (c) Notice Review. The Town Attorney shall administratively determine whether a submitted notice of appeal is timely and complete. The appellant shall be promptly notified by the Town Manager of such determination. If deemed untimely or incomplete, the appeal shall be rejected without a right of further appeal.
- (d) Processing. Upon receipt of a timely and complete notice of appeal: (1) no building permits or other Town authorizations or approvals shall be issued for the use, building, structure, or accessory improvement which is the subject of the appeal until the Town determined that the appeal is concluded; and (2) the Town Manager shall schedule the appeal to be considered by the Board of Adjustment at the Board's earliest available opportunity.
- (e) No Notice Required. Other than informally advising the appellant of the date and time of the scheduled appeal, no notice is required.
- (f) Review and Decision. At the scheduled date and time of the appeal, the Board of Adjustment shall conduct an administrative review of the appeal. The appellant and the Town Manager shall be provided a reasonable opportunity to address the Board. The Board shall render a final decision on the appeal and either support or reverse the Town Manager's decision. In the event of a withdrawal of the appeal by the appellant prior to the issuance of a final decision on appeal by the Board of Adjustment, the Town Manager's original decision shall be deemed the final decision on the matter effective as of the date of the Town Manager's original decision.

Sec. 16-2-50. Appeal of Board of Adjustment Final Decisions.

- (a) Final decisions of the Board of Adjustment may be appealed in accordance with law to state or federal courts of competent jurisdiction. Appeals are not available in the Blue River Municipal Court.
- (b) Unless otherwise expressly provided, a request or application for reconsideration shall not be available for final decisions of the Board. Where authorized and timely submitted, the submission of a request or application shall stay the date of final decision until the conclusion of such reconsideration.

Article 3 Definitions

Sec. 16-3-10. Applicability.

The definitions of this Article shall apply to the administration and interpretation of the Land Use Code unless: (a) a different definition is provided by a specific section or provision found in Chapter 16A, 16B, 16C, or 17; or (b) the context of a provision clearly indicates a different meaning or intent.

Sec. 16-3-20. Definitions.

Accepted means, when used in regard to roads and streets, written acceptance of the road or street by the Town or other form of acceptance permitted or authorized by law.

Accessory apartment means a *dwelling unit* approved by the Town pursuant to the Land Use Code which unit is subordinate to and included as an integral part of another principally permitted *dwelling unit* in the R-1 Zone District used for rental housing. An accessory apartment requires express approval of the Board of Trustees as set forth in the Land Use Code.

Accessory improvement means a building, structure, or other permanent physical improvement or amenity to real property that is:

- (a) Located on the same lot with a building or structure with an existing lawful principal permitted use;
- (b) Customarily associated with residential use of property;
- (c) Located outside of the exterior walls of a building or structure housing a lawful principal permitted use;
- (d) Incidental, subordinate, and secondary to the building or structure housing the principal permitted use;
- (e) Expressly referenced and authorized by the Land Use Code for lots within a zone district.

Accessory use means a use authorized by the applicable zone district which is determined by the Town to be customarily associated with but subordinate to the *principal permitted use* on the same lot. An *accessory use* shall not exist without an established, existing, and operational *principal permitted use*.

Address sign means a permanent placard made of wood, metal, or plastic (or combination of such materials) that is limited to announcing only the street address of a lot by number and/or words and which is located on the lot identified by the address.

Adjacent means, when used with respect to a lot or a property under single ownership, (a) all properties sharing a common point or a common property line with the subject property; and (b) any property which would share a common point or common property line with the subject property if a public or private vehicular right-of-way separating the properties did not exist.

Alley means a private passageway between buildings or behind buildings.

Apartment means a room or set of rooms which includes facilities allowing for some level of food preparation and bathing intended to serve as, or leased or rented as, a *dwelling unit*.

Applicant means a person or legally recognized entity (a partnership, joint venture, association, corporation, person in a representative or agent capacity) lawfully authorized in writing by an *Owner* to apply for, process, and seek approval of an application or request submitted to the Town in accordance with the Land Use Code. In the context of subdivision (Chapter 17), an "Applicant" is synonymous with "subdivider." The Town may require any person or entity purporting to act or represent an *Owner* to provide a power of attorney or other documentation deemed acceptable to the Town Attorney to lawfully act and bind the owner during the site planning process.

Area variance means a waiver, change, reduction, or increase of a dimensional or area standard or requirement imposed by a zone district for a *lot*. An *area variance* would include, for example, the elimination or the modification of a required setback for a *lot* or a reduction in the maximum height of structures imposed by the provisions of a zone district for a *lot*. See also, *use variance*.

As built plan means a revised set of drawings submitted to the Town upon completion of a project, subdivision, building, structure or improvement illustrating or describing in detail the exact dimensions, geometry and location of all elements of the work completed.

Bedroom means a room within a residential dwelling unit that was lawfully created and is currently lawfully recognized by the Town as a bedroom within the meaning of applicable building and safety codes and intended for overnight sleeping accommodations. Rooms deemed permitted for overnight sleeping accommodation are limited to rooms designed and intended for the primary purpose of overnight sleeping and which include an interior door, one or more closets, and one or more windows which provide egress in the event of emergency and which room and windows meet standards established by the applicable building and safety codes for a bedroom. Garages, kitchens, bathrooms, living rooms, dining rooms, lofts, hallways, family or media rooms, storage rooms, and rooms not heated by the structure's central heating system are deemed not to be bedrooms for purposes of this definition.

Below grade means, when referring to any improvement, that the entire improvement or a substantial part of the improvement is located below the surface of the immediately adjacent earth. Related: see *finished grade*.

Berm means a non-naturally occurring mound of earth greater than two (2) feet in height (as measured from original ground level), or larger than four hundred (400) square feet of surface area.

Bike path means a corridor for use by bicycles and pedestrians, prohibited for use by motorized vehicles other than vehicles required by state or federal law concerning accessibility or disability.

Block means an area of land within a subdivision which is entirely bounded by streets, highways, natural boundaries or the exterior boundary or boundaries of the subdivision.

Board means the Board of Trustees of the Town of Blue River, Colorado.

Buffer (or *buffer area*) means vacant and undeveloped property established as landscaped open space for the purposes of: (a) screening and separating properties with incompatible or potentially incompatible land uses; (b) preserving wildlife areas or corridors; (c) protecting ponds, wetlands, floodway or floodplain, steep slope areas, or scenic or desirable views. A buffer may consist of trees, shrubs, and other natural vegetation and may, where necessary, include below grade utilities.

Building means a structure having a roof supported by columns or walls, typically fully enclosed, and for which the purpose is to provide shelter or to contain a use such as a residential dwelling unit, garage, shed, or commercial business.

Building, multi-family (or *Multi-family Building*) means a building containing three or more townhouses, row houses, condominiums, or *apartments* designed for or used by three (3) or more *families*, each family living in a separate *dwelling unit* as an independent housekeeping unit, the total number of families in residence not exceeding the total number of dwelling units.

Building, single-family (or *Single-family Building*) means a building detached from other buildings that is designed for use as a *dwelling unit* exclusively by one (1) *family* as an independent housekeeping unit and located on an individual lot.

Building, two-family (or *Two-family Building*) means a building containing two townhouses, row houses, condominiums, or *apartments* designed for or used by two (2) *families*, each family living in a separate *dwelling unit* within the building as an independent housekeeping unit with each unit having a separate entrance. Such building is oftentimes referred to as a "duplex."

Buildable Area means the area of a *lot* within which lawful development and an accessory improvement may be constructed and maintained following the applications of setbacks, easements, and other *encumbrances and limitations* in accordance with the Land Use Code.

Building height means the vertical distance at any point of a building, structure, or improvement measured in accordance with the Land Use Code.

Bylaws means the bylaws or other governing document(s) of a unit owners' association or corporation.

Carport means an open-sided structure principally intended for the parking and protection of automotive vehicle(s), usually formed by a roof projecting from the side of a building or structure but shall also include a freestanding building or structure without walls on three or more sides.

Compatible means capable of existing together in harmony and without substantial or significant conflict; compatible does not mean the same or similar.

Construction activity means any site disturbance, construction, addition or alteration of any building, landscaping, or any other improvement on any lot.

Construction site means a site upon which *construction activity* takes place.

Construction vehicle means any car, truck, tractor, trailer, or other vehicle used to perform any part of a *construction Activity* or to transport equipment, supplies or workers to a Construction Site.

Community Center means a use that is conducted in a permanent building or structure providing a meeting and activity space for congregations of groups of Town residents and others for social, recreational, or neighborhood activities. A *Community Center* is not a commercial business establishment providing services or opportunities to the general public.

Contractor means an individual, partnership, corporation, joint venture, or other legal entity performing the work. In the case of work being performed under permit issued by the Town, the permittee shall be construed to be the contractor.

Culvert means a ditch, drain or conduit, not incorporated in a closed system that carries drainage water under a driveway, roadway, railroad, pedestrian walk or public way, or other type of overhead structure.

Days means consecutive calendar days, unless otherwise specified.

Deck means an exterior floored structure that is typically elevated from the ground; often but not always adjoining a house, not enclosed by walls, may be with or without a railing or stairs, and with or without a full or partial covering.

Dedication means a grant, donation, or conveyance of land by the owner of a fee interest, easement, right-of-way, or other right to the ownership or use of the land, involving a legally recorded or acknowledged transfer of property rights, and acceptance of the dedicated property if required by law.

Development (or to develop) means any and all processes undertaken in the grading, excavating, filling, constructing, demolishing, reconstructing, renovating, remodeling, or other physical alteration or change to real property such as, but not limited to the creation or removal of buildings of any kind or type, structures, streets, roads, driveways, walkways, parking

areas, drainage structures, retaining walls, fences, stairs, patios, decks, courtyards, signs, the installation, removal, or relocation of utilities; the de-vegetation or revegetation of the land; or change of use, regardless of whether such alteration or change is intended to add value to the real property. *Development* is generally synonymous with *improvement* although the term *improvement* oftentimes denotes a lesser degree or lesser extent of property modification.

Documentation of ownership, liens, and encumbrances means documentary evidence acceptable to the Town reasonably establishing: (1) that the applicant(s) is/are either the fee owner(s) of the entire property proposed for subdivision or that the applicant possesses the legal authority to subdivide the property on behalf of the fee owner(s); and (2) the full names and mailing addresses of all other interest holders in the property. Documentation of ownership, liens and encumbrances shall include all of the following:

- (a) A written ownership and encumbrances report or title commitment prepared by a title company and dated not more than sixty (60) days from the date of the application submission to the Town;
- (b) Written authorization by the owner, acceptable to the Town Attorney, that establishes the applicant's full authority to perform all actions required by these subdivision regulations and to subdivide the property on behalf of an owner;
- (c) A listing of the owners of any surface, subsurface, or above surface rights, easements or other interests in the land including the names and addresses of such owners, together with the book or film, page and reception number of each owner as recorded in the office of the county clerk and recorder; and
- (d) A listing of all liens and encumbrances against the subject property with the book or film, page and reception number of each lien or encumbrance as recorded in the office of the Summit County clerk and recorder including the names and addresses of all such lienholders.

Drainage means surface water runoff or the removal of surface water or ground water from land by drains, grading or other means, which include runoff controls to minimize erosion and sedimentation during and after construction or development.

Driveway means a privately owned and maintained surface designed, intended, or used to connect a residence, garage, or other building with a public or private street.

Dwelling (or dwelling unit) means a residential structure or part of a residential structure with one or more rooms, including kitchen and bathing facilities, designed for the purpose of living, sleeping, and cooking.

Easement means a reservation, grant, dedication, or conveyance by the owner of real property of a non-possessory right or interest in the owner's real property for a specified use or purpose which reservation, grant, dedication, or conveyance is both lawfully existing and recorded in the real estate records of the Summit County Clerk and Recorder's Office.

Encumbrances (also encumbrances and limitations) means and includes forms of easements, deed restrictions, contracts, covenants, federal, state and local laws, and other legally recognized restrictions or impediments affecting a lot that effectively reduce or restrict the area of a lot that may be developed or improved.

Elevation drawing means a drawing is drawn on a vertical plane showing a vertical depiction.

Event Center means a commercial business establishment that provides space rental for congregations of larger groups of people for social activities, conferences, festivals, or functions, including but not limited to, weddings, birthdays, anniversaries, parties, retirements, and funerals.

Excavation means any disturbance of the surface of the land (except to the extent reasonably necessary for planting of approved vegetation or soil and septic testing), including any trenching which results in the removal of earth, rock, or other substance or any grading of the surface.

Existing means having an actual and present physical existence which includes having previously existed but was removed prior to proposed re-installation or re-construction.

Exterior view means the extent or range of vision directed toward the development from any location beyond the boundaries of the development.

Family means:

- (a) One or more persons living together as a single household unit who are related by blood, marriage, lawfully recognized domestic partnership or civil union, legal adoption, or foster care; or
- (b) A group of not more than five (5) persons not related by blood, marriage, or adoption, living together as a single household unit, provided that the total occupancy does not exceed either: (i) one person for each four hundred (400) square feet of habitable floor area as defined by the Municipal Code excluding any garage; or (ii) two persons for each bedroom. For purposes of this subsection (b), a dwelling not having a separate room designated for sleeping shall be considered as having one bedroom; or
- (c) A family foster home, licensed by the State of Colorado having no more than four (4) foster children; or
- (d) A group of persons which qualify in both character and number as a “group home” pursuant to federal or state law.

Family Child Care Home means a state-licensed facility which is:

- (a) A “family child care home” as defined by C.R.S. §26-6-102(13) which is not also defined or classified as a “large family child care home” by rule or regulation of the state of Colorado; or
- (b) A “large family child care home” which is not *adjacent* to another large family child care home; or
- (c) A “large family child care home” which is *adjacent* to another existing state-licensed large family child care home and for which the Town has expressly granted approval for the large family child care home to be located adjacent to the existing large family child care home.⁴

Fence means a permanent or temporary structure serving as an enclosure, a barrier, or a boundary, usually made of posts or stakes joined together by boards, wire, or rails.

Fill means any addition of earth, rock, or other materials to the surface of the land, which increases the natural elevation of such surface.

Finished grade means the final elevation of the ground surface after man -made alterations, such as grading, grubbing, filling, or excavating, have been completed.

Fire Protection District means the Red, White, and Blue Fire Protection District.

First floor shall mean the floor of the building that is at or nearest to the level of the ground around the building. First floor is synonymous with ground floor or ground level (noun).

Flagpole means a metal or wood pole attached or affixed to either the ground (freestanding) or to a structure (mounted) which is designed for the sole purpose of attaching one or more flags.

Garage means any enclosed or partially enclosed non-habitable space designed, suitable, or intended for the storage, whether permanent or temporary, of one or more motorized vehicles or personal recreational motorized vehicles together with materials, goods, or equipment any other sort or type. A garage may also be used by the owner or tenant of the principal permitted structure for any lawful ancillary activity commonly associated with residential use, such as but not limited to hobbies, art studio, or greenhouse.

Gazebo means a freestanding, roofed structure that is not enclosed except for screening, glass, or plexiglass and utilized for the purpose of relaxation, shade, or protection from the elements.

Grade means the topmost elevation of the ground surface. Related, see *below grade* and *finished grade*.

⁴ See C.R.S. §16-6-104.5(b).

Greenbelt means a buffer area of high-quality vegetation left substantially intact or supplemented by additional plant materials.

Greenhouse, see *Shed*.

Gross density means the average number of dwelling units per acre.

Gross floor area means the sum of all of the roofed-over floor area of a building, measured from its exterior walls and including all accessory buildings on the same lot.

Group Home means a residential facility offering housing (living, sleeping, and eating accommodations) and on-site personal care to residents and which facility is either:

- (a) A state-licensed group home of not greater than eight (8) residents and appropriate staff providing for persons meeting one of the following state statutory definitions as recognized by C.R.S. § 31-23-303:
 - (i) intellectual and developmental disabilities; or
 - (ii) behavior or mental health disorders; or
 - (iii) aged (greater than 60 years of age).
- (b) A group home providing residential housing exclusively for persons protected from discrimination in housing by the federal Fair Housing Amendments Act and appropriate support staff necessary to serve the needs of the residents.

Habitable space or habitable size means the portion of a residential structure measured in square feet that is lawfully authorized by Town-adopted building and safety codes for human occupancy and habitation (*i.e.*, living and sleeping).

Home occupation means any business, profession, occupation, trade, or activity conducted for financial gain from within a residential structure or dwelling where such use is incidental and accessory to the use of the structure or dwelling as a residence by the person engaged in the home occupation.

Homeowners' association (or HOA) means organization of owners of property within a particular subdivision or condominium formed for the purpose of providing, preserving, maintaining, and enhancing their property, property value, property amenities and/or services, most often through covenants, programs, regulations, and enforcement. A homeowner's association may be titled by various names including but not limited to "civic association," "property owners association," or "subdivision association."

Hotel means a commercial business establishment that provides overnight lodging and may include meals, entertainment, or various personal services for the general public.

Illegal use means any use commenced or undertaken without compliance with applicable law, or which was not an authorized or permitted use within the zone district in which the use is located.

Illegal building or Illegal structure means any building or structure which was initially constructed, created, or established, or was later modified, changed, renovated, or remodeled, without compliance with applicable law, including but not limited to this Land Use Code and the Town-adopted building and safety codes. An *illegal building or illegal structure* shall also include an otherwise lawfully established building or structure which was altered or modified to accommodate an illegal additional dwelling unit, accessory apartment, *lock-off unit*, or unlicensed short-term rental.

Illegal land division means any division of land whether by map, plat, agreement, deed, or other form of documentation undertaken without the approval of a county or municipality with jurisdiction and authority over the *subdivision* of the land.

Improvement is generally synonymous with *Development* when used to describe the general modification of a building site. See *Development*. In the context of describing, referencing, or regulating a specific building, structure, or physical amenity on a site, *improvement* means the building, structure, or amenity. *E.g., see "Building height."*

Independent housekeeping unit means one (1) family having available to them their own cooking (whether stove, oven or microwave oven) and sanitary facilities.

Inspector means an authorized representative of the Town, appointed or assigned by the Town Manager, to make any or all necessary inspections of materials and work performed by a person.

Intensity of use means the qualitative and quantitative levels of activity anticipated for any use.

Interior view means the extent or range of vision originating from within the development and directed to another portion of the development or any surrounding area.

Landscaping means the modification or enhancement of real property for the principal purpose of enhancing its visual quality, adding value, or screen or mitigating objectionable views or aspects through the use of any or all of the following elements: trees, shrubs, flowers, grass or other horticultural elements, retaining walls, berm, decorative rock or stonework, pond or water features, flood or drainage management, paving or trail creation, lighting, permanent fixtures or furniture, or other architectural elements.

Landscape wall means a wall exterior to a building or structure which is intended to hold the vertical weight of architectural elements such as pillars, gazebos, pergolas, or other similar structures or intended to aesthetically divide areas of a lot such as garden beds, transitions between natural and landscape areas, or to designate walkways or other purposes of the lot. A *landscape wall* is not a *wall*, a *screening wall*, or a *retaining wall* (as defined by this Section).

Lean to means a structure with a single roof pitch either: (a) attached to a building or another structure along one wall; or (b) freestanding, and which is exposed or open and without walls on three or more sides.

Local agency shall include, in the context of the subject matter, topic, application, or property at issue:

- (a) Fire District;
- (b) Town Police Department;
- (c) Town Engineer;
- (d) Town Attorney;
- (e) Any water and sanitation district deemed by the Town Manager as specially affected or interested; and
- (f) Electricity provider;
- (g) School district;
- (h) Telephone service provider; and
- (i) When deemed by the Town Manager as specially affected or interested, the following:
 - (j) Any county, regional, state or federal agencies that may be deemed by the Town Manager as specially affected or interested; and
 - (k) Summit County land use department;
 - (l) Colorado State Department of Transportation; and
 - (m) Any other county, regional, state or federal agency including but not limited to the Colorado State Engineer, Soil Conservation Service, Colorado Geological Service, Denver Regional Council of Governments, Colorado State Forest Service, and the Colorado Water Conservation Board.

Lock-off unit (sometimes called a “lock-off” or a “lock-out unit”) means a portion or part of a *dwelling unit* which is physically separated or divided, or is capable of being physically separated or divided, into an additional space suitable as an independent or additional dwelling unit by the addition of one or more doors capable of being locked, by wall(s), or by other similar dividing elements. The presence of one or more facilities, conveniences, equipment, or amenities customarily associated with a residential kitchen (e.g., stove, range, cook-top, refrigerator, sink, 220v electrical circuitry, or utilities separately metered from the principal permitted residential use) and bathroom/bathing facilities within the space capable of being locked off shall create a presumption that the space is intended for use as a separate and independent dwelling unit.

Lot means land held in *single ownership* or by *undivided interest* which is lawfully created and is depicted on a recorded subdivision plat which was approved by a governmental authority having jurisdiction over the subdivision of the land. For purposes of Chapters 16, 16A, and 16B, the term *lot* includes a *parcel*, unless the provision or the context clearly indicates otherwise. See *Parcel*. A *lot* does not include an *outlot* or *tract*.

Lot line means the exterior boundaries which defines a *lot*.

Lot area (net square feet) means the number of square feet included within a lot as measured within the boundaries of the lot, measured on a horizontal plane.

Marijuana means all parts of the plant of the genus *cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including

marijuana concentrate. *Marijuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

Marijuana enterprise means any commercial operation, facility, machine, or business which does not require for lawful operation any Town application, Town approval, or Town permit or license and which sells or dispenses marijuana and/or marijuana products, including but not limited to vending machines selling marijuana or marijuana products.

Marijuana establishment means a marijuana store, marijuana club, a marijuana cultivation facility, marijuana enterprise, a marijuana products manufacturer, a marijuana hospitality establishment, a marijuana hospitality and sales establishment, a marijuana testing facility, and marijuana delivery of any form.

Measure (or *measured* or *measurement*):

- (a) When determining the distance between two *lots* (i.e., for purposes of deciding the appropriate recipients of notices), means to compute the linear distance between two *lots* from the lots' nearest lot lines using a straight line on a two-dimensional map without concern for topography.
- (b) When determining area (i.e., for purpose of determining the size of a small fence enclosure or size of a deck), means to compute the area based on a two-dimensional map illustrating two perpendicular axes such length and width or latitude and longitude.
- (c) When determining height, means the perpendicular distance from grade level to the highest point of a building, structure, or improvement, unless a different means of measurement is provided by a specific provision.

Motor vehicle shall have the same meaning as defined by the Colorado Model Traffic Code (2020 edition and as may be amended) adopted by Section 8-1-10 of the Town Code.

Neighborhood means the area surrounding a *property* which area shares distinctive characteristics in terms that may include housing type and size, property size, access by common street network, and zone district.

Nonconforming, with regard to a use, building, structure, lot, or accessory improvement, means lawfully existed at the time of the Land Use Code's adoption, or a later amendment, but which now do not conform with one or more of the regulations contained in this Code.

Non-habitable, in reference to a building, structure, or accessory improvement, means not lawfully authorized by Town-adopted building and safety codes for human occupancy and habitation (i.e., living and sleeping) and that such occupancy and habitation is unlawful or illegal.

Open space means an area with few or no structures, relatively light tree cover and capable of sustaining circulation systems and suitable recreational activities.

Outlot means a lawfully described and identifiable unit of land illustrated or depicted on a subdivision plat approved by a governmental authority having jurisdiction over such subdivision plat and land not intended for development by use of terms such as, but not limited to, "outlot," "buffer," "buffer area," or "reserved." Except to the extent expressly and specifically stated on the subdivision plat, an outlot (by whatever identifying name) shall not be deemed a lot or a building site and shall not be approved for any use. Any future use and development of an outlot requires Town approval of a minor subdivision plat, final plat, plat amendment, and/or site plan.

Overlay district means a subarea super-imposed over one or more existing zone district for the purpose of allowing specialized regulations to apply within such subarea to address a specific concern for the protection of the public health, safety, or welfare.

Owner means a *person* or persons holding or vested with single ownership in real property and, by virtue of such ownership, possesses the legal right to convey, grant or dedicate such property, or to otherwise bind future owners of such property through execution of a subdivision plat or other instrument affecting the property. Such term shall include an *Applicant*, as defined by this Section.

Ownership. See *single ownership*.

Parcel means a unit of land that was lawfully created, is lawfully described by deed or recorded plat, is unsubdivided, and is an *undivided ownership*.

Parking, off-street means any parking area located wholly within the limits of one (1) or more lots.

Parking space means that part of a parking area, exclusive of drives, turning areas or loading spaces, devoted to parking for one (1) *motor vehicle*.

Park (or parkland) means property reserved for active or passive recreational purposes.

Pergola means an arbor or a passageway of columns supporting a roof of supports or trelliswork on which climbing plants can be trained to grow or which defines an entry, exit, or a division of space within a lot.

Person means any individual, partnership, corporation, joint stock association, trustee, receiver, assignee, any other legally recognized entity, or personal representative thereof. Person also includes any municipality, or state, special district, or any political subdivision thereof to the extent that the Town of Blue River has jurisdiction over their activities that are within the scope of the Land Use Code.

Personal recreational motorized vehicle means a motorized vehicle designed and intended for, and primarily limited to use in, the personal pursuit and enjoyment of outdoor recreational activities, including motorcycles, trailbikes, snowmobiles, all-terrain vehicles, low power scooters, golf carts, motorized bicycles, and boats, but not including a common passenger

vehicle or a recreational vehicle as defined by the Colorado Model Traffic Code (2020 edition).

Plan drawing means a drawing on a horizontal plane showing a view from above.

Plans means the drawings, profiles, cross sections, working drawings, and supplemental drawings, or reproductions thereof, approved by the Town or building official, which show the location, character, dimensions, or details of the work.

Planning Commission means the officially appointed Planning and Zoning Commission for the Town of Blue River as a body and when acting in the body's official capacity at the request of the Board of Trustees or attending a properly noticed public meeting. *Planning Commission* does not include or refer to any individual of the Commission or group of individuals when not engaged in a properly noticed public meeting.

Professional engineer means a person licensed as an engineer in the State of Colorado.

Plat, final (or *final plat*) means a map, drawing or chart upon which the subdivider presents proposals for the physical development of a subdivision, and which a person submits for Town approval and intends to record in final form following Town approval.

Playground equipment means items commonly associated with outdoor recreational activities for children, such as seesaw, merry-go-round, swing set, slide, jungle gym, chin-up bars, sandbox, trapeze rings, playhouses, or mazes.

Pole barn means a structure for which 70 percent or more of the perimeter is permanently open.

Preliminary plan means the preliminary drawings described in these regulations indicating the proposed manner or layout of the subdivision to be submitted to the Board for approval.

Principal permitted - in reference to a *use, building, structure, or dwelling unit* on a - means the *use, building, structure, or dwelling unit* is lawfully authorized for a lot by the applicable zone district and which does not require specific approval of the Town.

Project application means a document or set of documents, prepared in the form promulgated by the Town Manager, which provide(s) at a minimum the information necessary to identify and contact the *Owner* and, if applicable, the *Applicant*, describes at a general level a proposed development or improvement(s), and which is submitted to the Town for the purpose of seeking Town consideration and approval on the development or improvement pursuant to the Land Use Code.

Property is synonymous with *Lot* or *Parcel*.

Public building or public use means any building open to the general use, participation or enjoyment of the public and owned or leased by the Town, county, state or federal government or by a public utility corporation.

Public utility means, for the purpose of this Chapter only, an electric substation, a gas regulator station, a telephone exchange, a water or sewer pumping station or a water reservoir.

Redevelopment means the process of demolishing, dismantling, replacing, converting, rebuilding, replacing, or reconstructing improvements located on real estate.

Reconstruction means to assemble or build again or recreate.

Recreation court means a concrete or other form of permanent firm surface greater than two-hundred (200) square feet in size designed and intended for use for recreational purposes such as tennis, pickleball, badminton, basketball, or other activities of a recreational nature.

Religious Institution means any church, synagogue, mosque, temple or building which is used primarily for worship and related activities for a legally recognized and established religion.

Restaurant means a commercial business establishment where meals are prepared and served for purchase by the general public or, if associated with an onsite *Event Center*, for consumption by persons hosted at the *Event Center*.

Retaining wall means a structure of any kind or type intended for the purpose of restraining or preventing the advance of a vertical faced mass of soil or earth. A *retaining wall* is not a wall, a screening wall, or a landscape wall (as defined by this Section).

Right-of-way means the: (a) width or area between property lines; or (b) an area preserved or dedicated; for the purpose of providing for the right of passage over the land and which may include a right of passage for above grade and below grade utilities, conduit, culverts or other water conveyance structures, together with a right of lateral support.

Road is synonymous with *Street*. See *street*.

Road easement means property lawfully reserved for the principal purpose of vehicular traffic. Such reservation customarily results from a recorded easement or government approved subdivision plat.

Section drawing mean a drawing illustrating a vertical (elevation) depiction that shows a view of a structure as though it had been sliced in half or cut along another imaginary plane.

Service connection means all or any portion of the conduit, cable, or duct, including meter, between a utility distribution line and an individual consumer.

Setback means the distance required by the lot's zone district (see Chapter 16A) between the drip edge of a building or proposed building and the closer of the lot line or the edge of any right-of-way or road, access and pedestrian easements, except for the Timber Creek Estates Development, where the setback will be measured from the property line.

Interpretive Note: The phrase “*within a setback*,” “*within the setback*” or “*within the setbacks*” shall be interpreted to refer to the area defined as a setback and shall not mean

within the area enclosed by or that results from the application of two or more setbacks. The area enclosed by or results from the application of setbacks to a lot, which area is outside of the setbacks, is known as the *buildable area* (see definition above).

Sewer system means a central or individual system providing a treatment of raw sewage in a manner approved by public authority.

Screening wall is intended to prevent or mitigate the view of items located on a lot such as service yards, utility tanks, trash containers, storage of patio furniture, and maintenance and recreational equipment. A *screening wall* is not a *wall*, a *retaining wall*, or a *landscape wall* (as defined by this Section).

Shed means any enclosed or partially enclosed non-habitable space designed, suitable, or intended for (i) the storage, whether permanent or temporary, of materials, goods, or equipment of any sort or type; (ii) the storage, whether permanent or temporary, of personal recreational motorized vehicles; and/or (iii) the use by the owner or tenant of the principal permitted structure for any lawful ancillary activity commonly associated with residential use, such as but not limited to hobbies, art studio, or greenhouse.

Shrub means a woody plant of relatively low height, customarily having several stems arising from the base and lacking a single trunk; a bush.

Sign means any structure, statue, figure, poster, banner, painting, mural, insignia, billboard, trademark or other object or device used as a means of communication, situated outdoors or indoors, of which the effect produced is to advertise, announce, communicate, identify, declare, demonstrate, direct, display, amuse, capture attention, and/or instruct.

Sign face means the total surface of sign measured in a two-dimensional plane (length and width) from the most exterior or outside edge of the sign.

Single ownership means land owned in its entirety as a single *lot or parcel* and the owner or owners of the land possess equal right to the use and occupancy of the land regardless of owning unequal or dissimilar shares or percentages in such land. Common undivided ownership types are sole ownership, tenancy in common, joint tenancy, and tenancy by the entirety. Owners may include an individual, partnership, corporation, political subdivision, limited liability company, trust, holding company or other business entity, or in any combination of such owners.

Site Plan means a document or set of documents required by this Land Use Code that describes in detail the proposed development in terms of building locations, building architectural design, street and driveway layout, parking area, easement and utility locations, garage size, exterior lighting, and other requirements and standards imposed ensure that the development of the lot will not adversely impact or impair the health, safety, and welfare of the community.

Site specific development plan means a plan meeting the requirements of Article 6 of Chapter 16 of the Land Use Code that describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of property and which has been approved at a separate

hearing conducted by the Board of Trustees pursuant to Article 6 of Chapter 16 of the Code.

Street means an open, public or private way designed, intended, or used for the passage of vehicles. *Street* is synonymous with *road*. A *street* is not a *driveway*.

Street, arterial (or arterial street) means, for the Town of Blue River, Colorado State Highway 9.

Street, collector (or collector street) means a street designed, intended, or used to collect traffic from one or more local streets and to direct or divert such traffic onto Colorado State Highway 9 in Blue River.

Street, local (or local street) means a street designed, intended or used for the purpose of connecting a lot to an arterial street or a collector street. Customarily, a local street experiences relatively few vehicular trips when compared to arterial and collector streets.

Street, public (or public street) means any street, regardless of its initial or original creation as a private street, road, or road easement, that is maintained by the Town for purposes of vehicular or pedestrian use.

Street, public means the entire width between the boundary lines of every right-of-way publicly maintained when any part is open to the use of the public for purposes of vehicular travel.

Street identification sign means a sign, whether publicly or privately owned, customarily erected at an intersection, within or adjacent to a right-of-way or road easement, at a point of change of direction of a road, or at the commencement of a road, for the evident intent and purpose of identifying the name of the road for purposes of wayfinding.

Storm sewer means any conduit and appurtenances intended for the reception and transfer of stormwater.

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

Structure means anything constructed or erected upon the ground, except utility poles. *Structure* includes any solar device or solar panel.

Subdivide (or Subdivision) means the act of dividing land into one or more discrete *lots*, *tracts*, or *outlots*, by obtaining formal approval of a *subdivision plat* by a governmental agency with jurisdiction over the division of land, for the purpose of holding the *lot*, *tract*, or *outlot* in *undivided ownership* for immediate or future sale, development, investment, or other lawful purpose.

Subdivider means an *Applicant* seeking any form of *subdivision* approval in accordance with Chapter 17 of the Land Use Code. See *Applicant*.

Subdivision entry sign means a form of *sign* that is located at the entry of a lawfully recognized subdivision with the evident intent of announcing or establishing the identity of the subdivision.

Subdivision plat means:

- (a) An illustrative document approved by a governmental agency with jurisdiction over the division of land into one or more *lots*, *tracts*, or *outlots*, which document is recorded with the Summit County Clerk and Recorder's Office as a public record; or
- (b) An illustrative document used to create condominiums in accordance with the Colorado Common Interest Ownership Act (or a predecessor condominium authorizing statute) and which is recorded with the Summit County Clerk and Recorder's Office as a public record.

Surety means any individual, firm, or corporation, that guarantees the performance of work or obligations of another party another and who is legally bound to performance or payment for the estimated value of such work or obligation, plus other administrative costs and expenses when authorized, in the event of default. The Town reserves the right to determine whether a proffered surety is sufficiently qualified to guarantee the performance of work or the obligations at issue and the form of the acceptable surety (i.e., performance or other bond, letter of credit, cash deposit, or other means).

Swimming pool means a structure greater than 200 feet in area (measured by width and length) designed to hold water to enable swimming, paddling, or other water leisure activities whether built above or below ground and regardless of material of construction. *Swimming pool* is synonymous with wading pool or paddling pool. A swimming pool does not include a *hot tub*.

Temporary sign means a *sign* that is either: (a) constructed of materials which are not intended to be permanent in nature; or (b) is readily movable and not affixed in a permanent manner to the ground although the sign may be attached or otherwise tethered to the ground for the duration of display. Common forms of temporary signs include a real estate sale or rental sign, yard sale sign, or political issue or candidate sign.

Town means the municipality of the Town of Blue River, Colorado.

Manager (or *Town Manager*) means the Town Manager of the Town of Blue River or the Manager's designee as identified in writing.

Tree means a perennial woody plant having a main trunk and usually a distinct crown.

Undivided interest means land that is owned in its entirety as a single *lot* or *parcel* and the owner or owners of the land possess equal right to the use and occupancy of the land regardless of owning unequal or dissimilar shares or percentages in such land. Common undivided ownership types are sole ownership, tenancy in common, joint tenancy, and tenancy by the entirety.

Use means the purpose for which any land, structure or building is designed, maintained, or occupied. Use of property allowed under these regulations in a particular district includes construction, establishment, maintenance, alteration, moving onto, enlargement and occupation.

Use by right means any use listed as a principal permitted use in this Chapter in any given zoning district.

Use variance means an addition, elimination, or modification of a *principal permitted use* or *accessory use* permitted or prohibited within a zone district. For example, a *use variance* would include the addition of a kennel (a prohibited commercial use within the R-1 zone district) to the listed *principal permitted uses* for a *lot* or a modification of the definition of a *hotel* to increase the maximum number of rooms permitted for a *lot* by the definition of *hotel*. See also, *area variance*.

Utility (or *utilities*) means such improvements, equipment, and systems most commonly under the ownership, control, or management of a business, whether public or private, for the purpose of providing necessities or services to property such as water, electricity, natural gas, telephone, wastewater, stormwater, or cable or internet. Utilities may be above or below grade.

Vegetation zones means areas to which certain genera or associations are restricted due to the effects of either altitude or latitude.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a Town-approved *site-specific development plan* or a site-specific development plan approved by another government having land use jurisdiction for such plan prior to annexation of the property by the Town.

Wall means an upright structure serving to enclose, divide, or protect an area, especially a vertical construction forming an inner partition or exterior siding of a building. A *wall* is not a *retaining wall*, a *screening wall*, or a *landscape wall* as defined by this Section.

Written (or *in writing*) means the use of letter or other hardcopy correspondence or electronic mail (email). Text messaging, instant messaging, telephonic message, voicemail, visual forms of communication, or other forms of communication that do not produce easily and permanently retainable, storable, archivable, and retrievable messages equivalent to letter or electronic mail shall not be deemed writing or in writing.

Yard means the area between a lot or parcel line and a building.

Yard, Front (Front yard) means the area extending from the front lot line into a lot over the full width of the lot to the foundation or the nearest point of projection of the primary structure

Yard, Rear (Rear yard) means the area extending from the rear lot line into a lot over the full width of the lot, to the foundation or the nearest point of projection of the primary structure.

Yard, Side (Side yard) means the area extending from the side lot line into a lot over the full lot depth to the foundation or the nearest point of projection of the primary structure and excluding front yard and back yard areas.

Yard statue means a form of sign created in a three-dimensional form or likeness sculpted, modeled, carved, or cast from a solid material such as stone, clay, wood, plastic, or metal (or combination of solid materials) and which is visible from adjacent properties or from public rights of way. By way of examples, yard statues commonly found in Summit County include forms or likenesses of wildlife or geometric shapes.

Article 4 Non-Conforming Uses

Sec. 16-4-10. Purpose.

- (a) The purpose of this Article is to recognize the existence of uses, buildings, structures, and lots that lawfully existed at the time of the Land Use Code's adoption, or a later amendment, but which now do not conform with one or more of the regulations contained in this Code. A nonconform lot, building, structure, or use is deemed incompatible with the purposes and principal permitted uses in the zoning district in which the nonconformance exists. Therefore, nonconforming uses, buildings, structures, and lots are subject to regulations limiting their use, restoration, reconstruction, extension, and substitution in order to reduce or mitigate the nonconformity. Such nonconforming status shall be continued only in conformance with this Article.
- (b) A use, building, structure, or lot that is expressly authorized pursuant to a legally granted variance is not a nonconforming use, building, structure, or lot.

Sec. 16-4-20. Illegal Use, Building, Structure, or Lot Not Nonconforming.

- (a) Illegal Use. An *illegal use* shall not be recognized as a nonconforming use. Without limiting the foregoing, an illegally created additional *dwelling unit*, accessory apartment, *lock-off unit*, or unlicensed short-term rental use shall not be deemed a nonconforming use.
- (b) Illegal Building or Structure. Any *illegal building* or any *illegal structure* shall not be recognized as a nonconforming building or structure. Such illegal status shall include, specifically, an otherwise lawfully established building or structure which was altered or modified to accommodate an illegal additional dwelling unit, accessory apartment, *lock-off unit*, or unlicensed short-term rental).
- (c) Illegal Land Division. Any *illegal land division* shall not create or be considered a nonconforming *lot*, *parcel*, or *outlot*. Later Town-approval of a *subdivision plat* including such illegally divided land shall either establish the divided property as lawful (if

conforming to minimum lot size and other applicable standards) or a nonconforming property (if failing to meet minimum lot size).

Sec. 16-4-30. Nonconforming Use of Building or Structure.

The use of a building, structure, or land undertaken and existing lawfully on the effective date of the Land Use Code, or any later amendment of the Code, but which use does not conform to the use regulations of the district in which the use is located, shall be a nonconforming use. A nonconforming use may continue so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

- (a) Alteration or Reconstruction, of a Building or Structure Occupied by a Nonconforming Use. No building or structure occupied by a nonconforming use shall be reconstructed or structurally altered in any manner unless the use of the building or structure is changed to a use permitted in the zone district in which the building or structure is located. Customary repair and maintenance is permitted.
- (b) Change, Enlargement, or Expansion of Nonconforming Use. A nonconforming use of a building, structure, or land shall not be changed to another nonconforming use, or physically enlarged, expanded, or relocated to a part of the land that was not occupied by the use at the time it became nonconforming.
- (c) Damage or Destruction. In the event a building or structure that is occupied by a nonconforming use is destroyed by any means or event to the extent of sixty percent (60%) or more of the total market value of the building or structure, as recognized by the Summit County Assessor or as determined by the Town based on evaluation of market values, the building or structure shall not be rebuilt, restored or re-occupied for any use unless such use conforms to the use regulations of the zone district in which the building or structure.

Sec. 16-4-40. Nonconforming Building or Structure.

A building or structure existing lawfully on the effective date of this Land Use Code, or any later amendment of the Code, but which building or structure does not conform to the required minimum *setback*, maximum building height, encroaches on land outside of the applicable *buildable area*, architectural requirements, or other dimensional, size, or character regulations of the zone district in which the building or structure it is located, shall be a nonconforming building or nonconforming structure. A nonconforming building or structure may continue to be used or occupied by a use permitted in the zone district in which it is located so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

- (a) Maintenance and Repair. Ordinary repairs, or repair or replacement of non-bearing walls, fixtures, wiring, residential driveways or plumbing may be performed on a nonconforming structure or building or on any portion provided, however, no structural parts shall be replaced except when required by law to restore such building or structure to a safe condition or to make the building or structure conform to the regulations of the district in which it is located.

- (b) Enlargements or Extensions. A nonconforming building or structure shall not be enlarged or extended unless:
 - (1) The original building or structure is made to conform to the regulations of the zone district in which it is located; or
 - (2) The proposed enlargement or extension is in compliance with the regulations of the zone district in which it is located, and will not increase any existing nonconformity in any other portion of the building or structure; or
 - (3) The building extension will result in a significant reduction of a nonconforming condition as determined administratively by the Planning Commission.
- (c) Relocation. A nonconforming building or structure shall not be relocated in whole or in part to any other location on the lot or to another lot unless the building is made to conform to the regulations of the zone district in which it is to be located.
- (d) Reducing a Nonconforming Site Condition on a R-1 Zoned Lot. If an enlargement, extension or relocation of an existing residential nonconforming building or structure on an R-1 zoned lot is proposed, the Planning Commission may administratively review the proposal and approve the enlargement, extension or relocation upon an administrative finding by the Commission that: (1) the enlargement, extension or relocation will result in a substantial or significant reduction of the existing nonconformity; and (2) the enlargement, extension or relocation is reasonably expected to be completed within one calendar year from the date of the Commission's approval. The Commission may administratively revoke its approval for an enlargement, extension or relocation which has not received building permits or other needed authorization to commence above grade construction or that is not likely to be substantially completed within one calendar year of the approval. Prior to any revocation, the Commission shall provide mailed notice to the owner of record of the property affected by the approved enlargement, extension, or relocation.
- (e) Damage or Destruction. In the event a nonconforming building or structure is destroyed by any means or event to the extent of sixty percent (60%) or more of the total market value of the building or structure, as recognized by the Summit County Assessor or as determined by the Town based on evaluation of market values, the building or structure shall not be rebuilt, restored or re-occupied unless such building or structure will conform to the regulations of the zone district in which the building or structure is located.

Sec. 16-4-50. Nonconforming Lot.

A *lot*⁵ that is not in compliance on the effective date of this Land Use Code, or any amendment of the Code, with the minimum lot size or lot width regulations of the zone district in which the *lot* is located shall be a nonconforming *lot*. A nonconforming lot may be used as follows:

⁵ For purposes of Chapters 16, 16A, and 16B of the Land Use Code, the term *lot* includes a *parcel*, unless the provision or the context clearly indicates otherwise. See Section 16-3-20 definitions for *lot* and *parcel*.

- (a) Existing Dwelling on a Residential Lot. If the nonconforming lot is occupied by a lawful residential dwelling, such dwelling may be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged section(s) complies with all regulations of the Land Use Code, except the lot area and lot width regulations of the zone district in which the lot is located. The number of dwelling units shall not be increased in excess of the number permitted by the zone district for the lot.
- (b) Vacant Nonconforming Lot. A vacant non-conforming lot that is owned as an *undivided interest* with other adjacent lots shall be permitted to be developed or redeveloped as a site for a single-family dwelling provided that the dwelling complies with all regulations of the Land Use Code for the zone district in which the lot is located, except the lot size and lot width regulations. Notwithstanding the foregoing, existing landlocked lots or parcels without direct frontage on a public right-of-way or permanent access meeting the requirements of the Land Use Code may not be developed or redeveloped without obtaining frontage or permanent access required for a lot.
- (c) Nonconforming Lot to be Combined When Possible. If a vacant nonconforming lot adjoins one or more lots all of which lots are controlled or pending control by the same owner intending to redevelop the properties, such nonconforming lot shall be re-platted to combine the nonconforming lots or parcels into one or more conforming lot as a prerequisite to the issuance of any land use or development approval or any building permit.

Sec. 16-4-60. Unlawful and Nonconforming Signs.

- (a) Unlawful Signs. Many signs located throughout the Town of Blue River were unlawfully installed without a permit and in contravention of the regulations in place at the time of sign installation. Such signs were unlawful when installed and which continue to be unlawful are hereby declared a nuisance and may be removed in accordance with the Municipal Code.
- (b) Certification of Conformance. Owners seeking to establish that a sign was lawfully established may apply to the Town Manager for a determination of conformance. Owners must provide evidence of the issuance of a permit authorizing the sign and that the sign remains in conformance with the permit. The Town Manager is authorized to issue an administrative determination that the sign was installed lawfully and is not subject to subsection (a) of this section.
- (b) Nonconforming Signs. A sign lawfully established prior to the effective date of this Land Use Code and lawfully existing immediately prior to the effective date of this Land Use Code, which sign does not conform to the requirements of the Land Use Code shall be a nonconforming sign. A nonconforming sign may continue to exist subject to the following provisions:

- (1) Maintenance and Repair. Ordinary maintenance and repairs may be performed provided that such maintenance and repair does not alter the sign's size or height or add new elements such as illumination decoration.
- (2) Relocation. A nonconforming sign shall not be relocated in whole or in part to any other location on the lot or to another lot.
- (c) Reducing a Nonconforming Sign. With the prior administrative approval of the Town Manager, a nonconforming sign may be modified to reduce the sign's size or height. To approve the modification of the sign, the Manager must find that the reduction in size or height will result in a substantial or significant reduction of the existing nonconformity.
- (d) Damage or Destruction. In the event a nonconforming sign is damaged or destroyed by any cause, the sign shall not be rebuilt or restored.

Article 5 Marijuana Growing in Residential Dwelling

Sec. 16-5-10. Purpose.

This Article is intended to apply to the growing of marijuana in residential structures for personal use to the extent authorized by Article XVIII, Section 16(3)(b) of the Colorado Constitution. Words and phrases used in this Article shall have the meaning provided by the Constitution.

Sec. 16-5-20. Prohibition of Marijuana Establishments.

Marijuana Establishments (all non-residential, retail, and commercial marijuana business uses), as defined by Section 16-3-20 of the Municipal Code, are prohibited within the Town of Blue River.

Sec. 16-5-30. Marijuana in Residential Dwellings.

Any person, for purposes of this subsection and consistent with Article XVIII, Section 16(3)(b) of the Colorado Constitution, who is twenty-one (21) years of age or older who is cultivating marijuana plants for his or her own use may possess, grow, process or transport no more than six (6) marijuana plants with three (3) or fewer being mature, flowering plants, subject to the following requirements:

- (a) Such processing, growing, possessing, or transporting of marijuana plants for personal use must be in full compliance with all applicable provisions of Article XVIII, Section 16 of the Colorado Constitution.

- (b) Except as provided herein, such marijuana plants are possessed, grown, or processed within the primary residence of the person possessing, growing, or processing the marijuana plants for personal use, as defined by subsection (8) below. No more than a total of twelve (12) marijuana plants may be cultivated in a primary residence. If persons living in a primary residence desire to cultivate more than a total of twelve (12) marijuana plants, each person may cultivate no more than six (6) marijuana plants for personal use.
- (c) The possession, growing and processing of such marijuana plants must not be observable from the exterior of the primary residence, including but not limited to:
 - 1. Common visual observation, including any form of signage;
 - 2. Unusual odors, smells, fragrances, or other olfactory stimulus;
 - 3. Light pollution, glare, or brightness that disturbs others.
- (d) Marijuana plants shall not be grown or processed in the common areas of a planned community or of a multi-family or attached residential development.
- (e) Such cultivation, production, growing and processing of marijuana plants shall be limited to the following space limitations within a primary residence:
 - 1. Within a single-family dwelling (Group R-3 as defined by the International Building Code): A secured, defined contiguous area not exceeding one hundred fifty (150) square feet within the primary residence of the person possessing, growing, or processing the marijuana plants for personal use.
 - 2. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code): a secured, defined, contiguous area not exceeding one hundred (100) square feet within the primary residence of the person possessing, growing, or processing the marijuana plants for personal use.
 - 3. Such possession, growing and processing of marijuana plants shall not occur in any accessory structure.
- (f) Such possession, growing and processing of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes, and applicable fire codes, including requirements concerning electrical systems and ventilation systems, as the same may be amended from time to time. Any person cultivating marijuana for personal use shall have an initial building and safety inspection conducted by the Town and shall comply with any conditions of such inspections, and shall submit to periodic building, safety and fire code inspections thereafter.
- (g) Pursuant to Section 9-7-113, C.R.S., the use of a compressed flammable gas as a solvent in the extraction of THC or other cannabinoids is prohibited.
- (h) The possession, growing and processing of marijuana plants shall meet the requirements of all adopted water and wastewater regulations promulgated by the Town.
- (i) Cultivation of marijuana in a residential unit that is not a primary residence is not permitted.

- (j) For the purposes of this subsection "primary residence" means the place that a person, by custom and practice, makes his or her principal domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, sleep, preparation of meals, regular mail delivery, vehicle and voter registration, or credit and utility billings. A person shall have only one (1) primary residence. A primary residence shall not include accessory buildings.
- (k) For the purposes of this subsection, a "secure area" means an area within the primary residence accessible only to the person possessing, growing, or processing marijuana plants for personal use. Secure premises shall be locked or partitioned off to prevent access by children, visitors, or anyone not authorized to possess marijuana.

Article 6 Vested Property Rights

Sec. 16-6-10. Purpose.

The purpose of this Article is to provide procedures necessary to implement the provisions of Title 24, Article 68, C.R.S., which purports to establish a vested property right to undertake and complete development and use of real property under the terms and conditions of a site-specific development plan. By the passage of this Article, the Board of Trustees intends only to provide the procedures necessary to implement the provisions of that legislation.

Sec. 16-6-20. Reserved.

Sec. 16-6-30. Scope and Eligibility for Vested Property Rights.

Compliance with this Article shall be the only available method to obtain vested property rights as defined by this Article. The procedures set forth in this Article shall be available with respect to any land use development project that has reached the stage of final approval of a minor or major subdivision plan. Vested property rights shall not be available with respect to any other type of land use approval process within the Town, including without limitation initial zoning, rezoning, annexation, or variances.

Sec. 16-6-40. Submittal Requirements.

An application for approval of a site-specific development plan including all of the following information shall be submitted not less than thirty-five (35) days prior to a public meeting of the Board of Trustees at which the applicant wishes to be considered:

- (1) All of the common submittal requirements set forth in Section 8303 of the Summit County Land Use and Development Code, Chapter 8, incorporated by Chapter 17 of this Code. The application fee shall be the same as for a final plat for a major subdivision.
- (2) Three (3) copies of the approved preliminary subdivision plan and/or planned unit development preliminary development plan, together with copies of the entire final submittal packet for such plans.
- (3) Fifteen (15) paper copies of a proposed final plat for the property and, if applicable, a condominium plat, meeting all of the requirements set forth in this Code.
- (4) Three (3) copies of the following supplemental information:
 - a. A site specific development plan agreement in a form acceptable to the Town Attorney, including a legal description of the property, providing provided that no grading or construction will occur on any portion of the property until such time as a final subdivision plan has been approved for the property and a subdivision improvements agreement has been entered into between the property owner and the Town pursuant to this Code, this chapter, and a performance guarantee has been provided to the Town. Upon approval by the Board of Trustees, the site-specific development plan agreement shall be recorded in the office of the County Clerk and Recorder and shall operate as a covenant and equitable servitude upon the land. The agreement shall provide that in the event of a breach, the Town will be entitled to an injunction and damages, and the developer will forfeit its vested property rights. Said covenant and servitude shall expire upon the expiration of any vested property rights granted pursuant to this Article section or upon the recordation of an approved final plat and approved subdivision improvements agreement for the property pursuant to this Code, this chapter, whichever first occurs.
 - b. Certification by the County Treasurer that all applicable ad valorem taxes have been paid and are not in arrears.
 - c. The proposed subdivision protective covenants, if any.
 - d. Evidence, which need not include evidence of actual filings with any public utilities, that all services, including water, sewage, disposal and street access, will conform to state and local laws and shall be available to each subdivision lot and condominium unit in a manner permitted by law and the covenants of the subdivision. On double frontage or corner lots, street access shall be designated by the Town Engineer.
 - e. A copy of the Colorado State Land Survey Monument Record forms for any survey corners as required to be filed by state law.
 - f. Condominium declarations (applicable if the subdivision includes condominium units) and/or common interest community documents as required by Title 38, Article 33.3, C.R.S., and including the following:

1. A statement defining the character, duration, rights, obligations and limitations of condominium common interest community ownership, including any restrictive covenants affecting individual units;
2. A statement of the method by which the proportionate valuation of common elements shall be assessed to individual units; and
3. Provisions for creating conditions, restrictions, and limitations on time-sharing ownership, if applicable.

Sec. 16-6-50. Notice of Hearing.

No site-specific development plan shall be approved until after a public hearing is held before the Board of Trustees, at a regular or special meeting. This hearing may be combined with other hearings before the Board of Trustees relating to the project. Public notice shall be given by the applicant of the public hearing either separately or combined with other notices which are required by this Code. Any interested persons shall have an opportunity to be heard at the public hearing.

Prior to the public hearing, the Board of Trustees may refer the site-specific development plan to the Planning & Zoning Commission for a recommendation.

Sec. 16-6-60. Review Criteria and Approval.

Review and approval by the Board of Trustees shall be a legislative and discretionary action of the Board and any decision may incorporate the following considerations:

- (1) Conformance of the proposal with this Article and the Land Use Code;
- (2) The compatibility of the proposal with the character of the surrounding area, including but not limited to the architectural character of the neighborhood, the average lot and building sizes in the neighborhood and the relative value of the proposed structure to the value of other structures in the neighborhood;
- (3) The desirability for the proposed use in the specific area of the Town;
- (4) The potential for adverse environmental effects that might result from the proposed use; and
- (5) The potential impact of the proposed use upon the value of property and buildings within the surrounding area.

In addition to the matters set forth therein, the Board of Trustees may consider whether the proposed site-specific development plan conforms with all conditions of approval of any preliminary subdivision plan. No site-specific development plan shall be approved by the Planning Commission. No site-specific development plan shall be approved except by ordinance. Denial of a site-specific development plan and the decision not to grant vested property rights to a

proposed development or property may be made by motion, resolution, or ordinance of the Board of Trustees.

Sec. 16-6-70. Duration of Approval.

Approval by the Board of Trustees of a site-specific development plan pursuant to this Article shall operate to grant vested property rights for a period of three (3) years from the date of the Board of Trustees' final approval action, unless a longer or shorter period is requested by the Applicant and is expressly approved by the Board of Trustees. The approval of a site-specific development plan and the granting of vested property rights pursuant to this Article and the Colorado Vested Property Rights Act is a legislative decision which reserves to the Board absolute discretion for approval. In the event amendments to the site-specific development plan are proposed and approved, the effective date of such amendments, for the purpose of the duration of the vested property right, shall be the date of the approval of the original site-specific development plan, unless the Board of Trustees specifically finds to the contrary and incorporates such findings in its approval of the amendment.

Sec. 16-6-80. Notice of Approval.

Each site-specific development plan shall contain the following language:

APPROVAL OF THIS PLAN MAY CREATE A VESTED PROPERTY RIGHT
PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S., AS AMENDED.

The failure to include this statement in the plan shall preclude the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected, and stating that a vested property right has been created shall be published once, not more than fourteen (14) days after approval of the site-specific development plan, in a newspaper of general circulation within the Town. The applicant shall have the sole responsibility to publish said notice. Failure to publish the notice within the prescribed time period shall preclude the creation of the vested property right unless a new hearing is conducted by the Board of Trustees at the expense of the applicant.

Sec. 16-6-90. Payment of Costs.

Fees and costs shall be imposed on an application for approval of a site-specific development plan and the grant of vested rights in accordance with Section 16-1-110 of this Land Use Code.

Sec. 16-6-100. Other Provisions Unaffected.

Except as expressly set forth in this Section, approval of a site-specific development plan does not constitute an exemption from, or waiver of, any other provision of the Land Use Code pertaining to the development and use of property.

Sec. 16-6-110. Combined Submittal.

The applicant may elect to combine an application for approval of a site-specific development plan with an application for approval of a final subdivision plan and/or planned unit development final development plan. In such event, the submittal requirements set forth in this Section may be satisfied as part of the application for approval of the final subdivision plan and/or planned unit development final development plan, and neither the separate application nor the separate fee described in Section 16-6-40 above shall be required. All other provisions of this Article shall still apply.

Sec. 16-6-120. Unconstitutionality.

Nothing contained in this Article is intended to create a vested property right, but merely to implement the provisions of Title 24, Article 68, C.R.S. (the Colorado Vested property rights Statute). In the event that the Colorado Vested Property Rights Statute is repealed, or judicially determined to be invalid or unconstitutional to the Town, this Article shall be deemed to be repealed and its provisions no longer effective.

Article 7 Variances

Sec. 16-7-10. Variances Authorized.

(a) Chapter 16A – Zoning Variance.

(1) **Area Variance Authorized.** An *owner of property* may request an *area variance* for any standard or requirement imposed upon the *property* by Chapter 16A (e.g., to modify a setback or the maximum allowable height of a structure). This Article applies to any application for an area variance.

(2) **Use Variance Prohibited.** The application for and granting of a *use variance* is prohibited (i.e., to add, waive, modify, or remove a principal permitted use or an accessory use for a lot). Changes to uses within a zone district shall only be authorized by a text amendment. See Article 28 of this Chapter 16A.

(b) Chapter 16B – Development or Design Variance.

Variance Authorized. An *owner of property* may request a *variance* for any development or design standard or requirement imposed upon the *property* by Chapter 16B (e.g., to

allow a berm to exceed the maximum berm height or to allow an otherwise prohibited structure to be located outside of the *buildable area*). This Article applies to any application for an area variance.

Sec. 16-7-20. Variance Application.

- (a) Application. Owners seeking a variance from a provision of either Chapter 16A or Chapter 16B shall submit a completed variance application to the Town Manager together with the following:
- (1) Payment of all fees and charges for a variance application.
 - (2) Specific identification of the provision, standard, or requirement for which the variance is requested;
 - (3) A description of the reasons supporting the variance application. Owners are encouraged to address all of the criteria for approval set forth in Section 16-7-50;
 - (4) A description of the extent, degree, size, or length of the requested variation to the standard or requirement. For example, that the Owner “seeks to reduce the side setback on the northern property line from the required 25-foot standard to 16 feet.”; and
 - (5) Any other information requested by the Town Manager or the Board of Adjustment deemed necessary to ensure a complete review of the variance request.
- (b) Number of Copies. Except where the Town Manager approves the submission of electronic copies, the Owner shall submit to the Town () copies of the application and supporting materials. The Town Manager may request additional copies of documents larger than eight and one-half by eleven (8 1/2 x 11) inches.

Sec. 16-7-30. Process for Variance Application.

- (a) Completeness Review. The Town Manager shall review the submitted application and supporting materials. If determined to be complete, the Manager shall schedule the application for processing and notify the owner. The Manager shall notify the owner of any elements of an incomplete application.
- (b) Manager Initial Review. The Town Manager shall review the completed variance application and supporting materials and provide a written opinion to the *owner* that the request will, or will not, be supported by the Town Manager and the reasons for the Manager’s opinion. The owner may amend or supplement the application and supporting materials within ten (10) days of the Town Manager’s opinion. Following completion of the Manager’s initial review and opinion, the Manager shall forward the variance application to the Planning Commission for administrative review.

- (c) Planning Commission Administrative Review. The Planning Commission shall administratively review the variance application and consider the criteria for approval provided by Section 16-7-50. The Commission shall promptly render a written recommendation to the Town Board to approve, approve with conditions, or reject the application. The Commission's recommendation shall be forwarded to the Board of Trustees for the Board's review and final determination. Failure to forward a recommendation to the Board within forty-five (45) days of the date of the completion of administrative review shall be deemed by the Board of Adjustment as a recommendation that the Board deny the application.
- (d) Board of Adjustment Public Hearing. All applications for a variance shall require a public hearing before the Board of Adjustment. The following process shall apply:
- (1) The Town Manager shall set the date and time of a public hearing to be held by the Board of Adjustment.
 - (2) Public notices of the public hearing required by this Article shall be made in conformance with Section 16-7-50.
 - (3) At the public hearing, the Board of Adjustment shall review the application for conformance with this Article, the Municipal Code, state law, and the applicable review standards for the application.
 - (4) Any public hearing or other action of the Board of Adjustment may be continued or postponed at any time indefinitely or to a specified date and time in order to permit preparation of additional information for further review by the Board.
 - (5) The Board of Adjustment shall conduct a public hearing and shall, at the conclusion of the hearing, approve, approve with conditions, deny the application, or continue the matter to a date certain.
 - (6) Notwithstanding the imposition by the Board of Adjustment of other express of specific condition of approval, all approvals shall be conditioned upon the payment in full of all fees and charges for the review and processing of the application. Execution and recordation of any final approved resolution or ordinance shall not be completed by the Town unless and until all fees and charges are paid in full.
 - (7) The Owner for any zoning variance shall bear the burden of presenting sufficient competent evidence at the public hearing to support the standards for approval set forth by this Article. Any decision by the Board to approve, conditionally approve, or deny an application shall be based upon consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the Board shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision. A finding by the Board of Adjustment that the application or evidence fails to meet one or more of the criteria for review shall require denial of the application.

(8) The Board of Adjustment may impose reasonable conditions upon any approval of a variance necessary to ensure continued conformance with the Land Use Code, the Municipal Code, or that may be necessary to protect the health, safety and welfare of the Town and its residents.

(9) Variances shall be approved by resolution of the Board of Adjustment in a form approved by the Town attorney.

Sec. 16-7-40. Notice of Hearing.

(a) Notice Publication Requirement.

The Town shall cause a notice to public hearing to be published once in the Summit County Daily Newspaper (or other official newspaper designated for publication of the Town of Blue River) **at least fifteen (15) days** before the date of the hearing. The content of published notice shall include:

- A description of the variance proposal;
- The street address of the property subject to the variance proposal;
- The location of the land which is the subject of the hearing or meeting (e.g., lot number or parcel designation within a subdivision of record with the Summit County Clerk and Recorder's Office or location in relation to known streets and intersections);
- The date, time and location of the hearing or meeting;
- A recital that public comment will be accepted at the public hearing; and
- A recital that written comment will be accepted if sent to a Town-designated electronic mail address.

(b) Notice by Mailing Requirement.

1. The Town Manager shall direct by written letter or electronic mail to the owner or the owner's representative that notice be provided by mailing. Notice by mailing shall be deemed a requirement for a variance proposal.
2. The mailed notice shall comply with the content requirements for notice by publication in subsection (a) above.
2. Notice by mailing shall be sent by the *owner* or the *applicant* addressed to owners of property *measured*⁶ to be within three-hundred (300) feet of the property described in the application as their names appear in the real property records of the Summit County Assessor. For purposes of determining addressees for mailed notice, the *owner* may rely upon the ownership information provided by the Summit County clerk and recorder's office.

⁶ See Section 16-3-20 for definition of *measured* for determining distance between properties for purpose of this Land Use Code.

3. A mailed notice shall be deposited in the United States Mail first class postage prepaid or shall be delivered by another comparable service, including hand-delivery to the address. The deposit in the U.S. Mail or delivery by another comparable service shall be made at least seven (7) days before the date of the hearing. Failure of the addressee to receive a properly mailed notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice, or invalidation of the hearing.

(c) Courtesy Notices.

1. The Town Manager may, but shall not be required to, direct by written letter or electronic mail to the owner or the owner's representative that the notice be provided by posting of a notice on the property subject to the variance proposal. The posting of notice shall be a courtesy to the public and a supplementary means of advising the public of the pendency of an application but shall not be deemed a legal requirement for the processing of an application or the conduct of a hearing if notice by publication was properly completed.
2. Where notice by posting is directed, the Town may post such notice or may require the *owner* to post a Town prepared sign withing public view on or within the vicinity of the affected property that states that a rezoning is under review and providing for contact information for the Town Manager not less than ten (10) calendar days prior to the date set for the public hearing.
3. The Town may provide other forms of courtesy notice of a variance application or hearing (such as additional publications, mailings, or postings). Such notices shall be offered as a courtesy to the public and a supplementary means of advising the public of the pendency of an application but shall not be deemed a legal requirement for the processing of an application or the conduct of a hearing if notice by publication was properly completed.

(d) Notice Certification by Owner.

Where mailed and/or posted notice is directed by the Town Manager, not less than five (5) calendar days prior to the public hearing, the owner shall cause to be delivered to the Town Manager a written certification that the owner has complied with the mailing and/or requirements of this Article. Failure to submit such certification may, at the Town's option, require the continuation of the public hearing.

Sec. 16-7-50. Criteria for Approval.

- (a) The Town Board may grant a variance where the *owner* establishes all of the following:
 - (1) The existence of extraordinary physical conditions or circumstances, such as the *property's* size, shape, location, topography, floodplain, or steep slope imposes an unreasonable hardship in the development of the property; and

- (2) The hardship deprives the owner of privileges associated with development enjoyed by most other *properties* within the *neighborhood*; and
- (3) Compliance with the standard or requirement would impose an extraordinary and wholly unreasonable cost or expense upon the owner which cost or expense essentially makes the property undevelopable and unmarketable given economic conditions; and
- (4) The need for a variance is not the result of the owner's or the owner's predecessor's decisions, actions, or inactions⁷; and
- (5) The granting of the variance will not be materially detrimental to the public welfare or injurious to other *properties* in the *neighborhood* which are located within the Town; and
- (6) The variance granted will be the least modification possible to permit the owner's reasonable use of the owner's *property*.

Sec. 16-7-60. Zoning Variance Effectiveness; Termination.

A zoning variance approved by the Board of Adjustment shall remain effective indefinitely until repealed by the Board. The Board may, in accordance with the same general procedures for the approval of a zoning variance and after five (5) or more years following the effective date of the approving ordinance, repeal the ordinance and terminate the variance upon a finding that: (1) the property no longer meets one or more of the criteria for approval of the zoning variance; and (2) no development or improvements were constructed in reliance on the zoning variance.

Sec. 16-7-70. Development or Design Variance Effectiveness; Termination.

A Development or Design Variance approved by the Board of Adjustment shall remain effective indefinitely until repealed by the Board. The Board may, in accordance with the same general procedures for the approval of a Development or Design Variance and after five (5) or more years following the effective date of the approving resolution, repeal the variance and terminate the development or design variance upon a finding that: (1) the property no longer meets one or more of the criteria for approval of a development or design variance; and (2) no development or improvements were constructed in reliance on the development or design variance.

⁷ For example, a setback or height variance to allow for a larger residence is not authorized where the owner installed other improvements within the building envelope which decision significantly limited the footprint and ultimate square footage of a principal residence.

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CHAPTER 16A Zoning

Article 1 General

Sec. 16A-1-10. Title.

Chapter 16A of the Blue River Municipal Code shall be referred to as the "Town of Blue River Zoning Ordinance" or "Zoning Ordinance."

Sec. 16A-1-20. Intent and Purpose.

- (a) Intent. The Zoning Ordinance is generally intended to divide the Town of Blue River into different districts or zones, that are intended, for the most part, to be separate from one another. Uses permitted within each district or zone are intended to be restricted or limited by characteristics or elements such as setback, height, size, and operation.
- (b) Purpose. The purpose of this Zoning Ordinance is to: (1) encourage and provide for uses that are deemed appropriate, necessary, and desirable for the Town of Blue River; (2) provide a degree of uniformity of uses within zone districts; (3) coordinate uses between zone districts to advance land use compatibility; (4) reasonably protect property values; (5) create a community that best preserves the natural environment and character that defines the Town of Blue River; (6) secure safety from fire, panic and other dangers; (7) provide adequate light and air and prevent the overcrowding of land and undue concentration of population; and (8) facilitate the adequate provision of transportation, water, sanitary sewer and storm water systems, parks and other public requirements.

Sec. 16A-1-30. Reference to Chapter 16 General Provisions.

The provisions of Chapter 16 (General Provisions) shall be applicable to this Chapter 16A.

Sec. 16A-1-40. Definitions.

The definitions of words and phrases used in Chapter 16A (Zoning) are found at Article 3 of Chapter 16 of the Land Use Code.

Article 2 Zoning Districts and Zoning Maps

Sec. 16A-2-10. Zoning Districts Established.

In order to carry out the purposes and provisions of this Chapter, the Town of Blue River is divided into the following zoning districts:

CATEGORY	DISTRICT
Residential Districts	Transitional (TD) Single-Family Residential (R-1) Single-Family Residential Preservation (RP-1) Planned Residential (PRD)
Mixed Residential/ Commercial District	Mixed Use (MUD)
Resource Protection Districts	Undisturbed Open Space (UOP) Recreation and Floodplain (RFD) Public Right-of-Way (PROW)

Sec. 16A-2-20. Official Zoning District Map.

- (a) The Town of Blue River Zoning District Map shall be properly attested and kept on file in the Town Hall for any party interested in examining the Map.
- (b) The boundaries of the zoning districts hereby established are shown on a map entitled “*Blue River Zoning District Map*.” The Zoning District Map and all notations, references and other information shown thereon shall have the same force and effect as if fully set forth or described in this Chapter, and such map is hereby made part of this Chapter.

Sec. 16A-2-30. Changes in Official Zoning District Map.

- (a) Changes made to a zone district in accordance with procedures authorized by this Chapter shall be made promptly by the amendment of the Official Zoning District Map noting the date of the change and a brief description of the nature of the change. Such entry may be signed by the Mayor and attested by the Town Clerk. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning District Map. No amendment to this Chapter which involves matter shown on the Official Zoning District map shall become effective until after such change and entry have been made on said map.
- (b) No changes of any nature shall be made on the Official Zoning District Map or matters shown thereon except in conformity with the procedures set forth in this Chapter.

Sec. 16A-2-40. Interpretation of Zone District Boundaries

Where uncertainty exists as to the boundary of a zone district as shown on the Official Zoning District Map, the following interpretive rules shall apply:

- (a) Boundaries approximately following the center lines of streets or highways shall be construed as following such center lines.
- (b) Boundaries approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries approximately following Town limits shall be construed as following Town limits.
- (d) Boundaries approximately following shorelines or water bodies shall be construed to follow such shorelines or water bodies, and in the event of change in the shoreline or water body, shall be construed as moving with the actual shoreline or actual water body.
- (e) Boundaries approximately following the center line of streams, rivers or canals shall be construed to follow such center lines.
- (f) Distances not specifically indicated on the Official Zoning District Map shall be determined by the general scale of the map, where possible.

Sec. 16A-2-50. Overlay Districts

Overlay Districts may be created by the Board by ordinance and super-imposed upon property within any zone district or a portion of a zone district for the purpose of applying specialized regulations to protect the health, safety, and welfare of the Town's inhabitants. For example, an Overlay District together with specific regulations and requirements may be appropriate for lands which include, or which are adjacent to, the following:

- Major thoroughfares and intersections.
- Places of relatively steep slope or grade.
- Wildlife corridors or sensitive wildlife areas.
- Floodplains, drainage corridors, and aquifer recharge areas.
- Ridgelines and locations of aesthetic concern.
- Areas of potential conflicts created by adjacent and dissimilar land uses.

Article 3 Transition District (TD)

Sec. 16A-3-10. Purpose.

The Transition District (TD) is intended to provide for reasonable use of land that is typically larger in size, potentially suitable for later subdivision, and held in single ownership or as an undivided interest. Property within the Transition District may present opportunities for later subdivision and development if compatible with surrounding uses.

Sec. 16A-3-20. Principal Permitted Uses.

The following uses are permitted in the Transition District:

- One (1) *Single-Family Dwelling Unit* for each legally recognized *lot*.
- *Religious Institution*
- *Public Building*
- *Community Center*
- *Group Home*
- Any use of property expressly required by federal or state law to be recognized as a residential use.

The addition of any use not expressly permitted by this section will require a text amendment of this Section. See Article 29 of Chapter 16A.

Sec. 16A-3-30. Accessory Uses.

- *Home occupation*
- *Family Child Care Home*

Sec. 16A-3-40. Prohibited Uses.

The following uses are prohibited in the Transition District:

- Any use not otherwise authorized by Section 16A-3-20.
- Any *Accessory Use* not otherwise authorized by Section 16A-3-30.

Sec. 16A-3-50. Accessory Improvements.

- (a) Permitted Accessory Improvements. The following *accessory improvements* are lawful and permitted provided that such accessory improvements meet all requirements imposed for such improvement. See referenced Sections:

Accessory Improvement	Reference Section
Berm	See Section 16B-7-20
Garage	See Section 16B-7-30__
Shed (including greenhouse)	See Section 16B-7-40__
Driveway	See Section 16B-7-50
Parking Areas	See Section 16B-7-60
Walkway	See Section 16B-7-70
Deck	See Section 16B-7-100__
Gazebo, Pergola, and Similar Structures	See Section 16B-7-110
Hot Tub or Sauna (Exterior)	See Section 16B-7-120__
Recreational Improvement: Fire Pit, Outdoor Fireplace, Chimenea, <i>Playground Equipment</i>	See Section 16B-7-130
Fences	See Section 16B-7-140__
Walls	See Section 16B-7-150
Flagpoles	See Section 16B-7-160
Signs	See Section 16B-8-10
Lighting	See Section 16B-9-10
Utilities	See Section 16B-3-10
Any building, structure, or improvement not listed in this Section 16A-3-50 and which is administratively determined by the Town Manager as: (a) meeting the definition of Accessory Improvement; and (b) presenting no greater impact upon the neighborhood than other approved Accessory Improvements.	See Section 16-1-100

- (b) Prohibited Accessory Improvements. The following Accessory Improvements are prohibited in the Transitional District:

Any accessory amenity not listed in Section 16-3-50(a) and specifically including without limitation:

- Tennis, Pickleball, and other outdoor recreational courts.
- Swimming pools (above ground, in ground, and whether or not enclosed within a building or structure).
- Permanent skate or rollerblade park or rink.
- Firearm or archery range.

Sec. 16A-3-60. District Standards.

Minimum Lot Size	None
Minimum Lot Width	None
Front Yard Setback	Minimum 25 Feet
Rear Yard Setback	Minimum 25 Feet
Side Yard Setback	Minimum 15 Feet
Building Height	Maximum 35 Feet

Sec. 16A-3-70. Reserved.

Sec. 16A-3-80. Zoning Variance.

An application for a zoning variance is authorized pursuant to Article 7 of Chapter 16..

Article 4 Single Family Residential District (R-1)

Sec. 16A-4-10. Purpose.

The purpose of the Single-Family Residential District (R-1) is to encourage low density in the development of land, to preserve the natural and scenic features of open and wooded areas and thereby to preserve the essential character and value of the Town, to facilitate harmonious growth and to understand and respect the physiographic limitations of the environment.

Sec. 16A-4-20. Principal Permitted Uses.

The following uses are permitted in the Single-Family Residential District:

- One (1) *Single-Family Building* for each legally recognized *lot*.
- Local government owned or leased buildings, such as Town or fire department buildings.
- *Group Home*
- Any use of property expressly required to be recognized by federal or state law as a residential use.

Any use not expressly permitted will require a text amendment of this Section. See Article 29 of Chapter 16A.

Sec. 16A-4-30. Accessory Uses.

The following accessory uses are permitted:

- *Home occupation*
- *Accessory Apartment*. See Article [REDACTED] of Chapter 16A.
- *Family Child Care Home*.

Sec. 16A-4-40. Prohibited Uses.

The following uses are prohibited in the Transition District:

- Any use not otherwise authorized by Section 16A-4-20.
- Any accessory use not otherwise authorized by Section 16A-4-30.

Sec. 16A-4-50. Accessory Improvements.

- (a) Permitted Accessory Improvements. The following *accessory improvements* are lawful and permitted and, where indicated, regulates such *accessory improvements*:

Accessory Improvement	Reference Section
Berm	See Section 16B-7-20
Garage	See Section 16B-7-30__
Shed (including greenhouse)	See Section 16B-7-40__
Driveway	See Section 16B-7-50
Parking Areas	See Section 16B-7-60
Walkway	See Section 16B-7-70
Deck	See Section 16B-7-100__
Gazebo, Pergola, and Similar Structures	See Section 16B-7-110

Hot Tub or Sauna (Exterior)	See Section 16B-7-120__
Recreational Improvement: Fire Pit, Outdoor Fireplace, Chimenea, Playground Equipment	See Section 16B-7-130
Fences	See Section 16B-7-140__
Walls	See Section 16B-7-150
Flagpoles	See Section 16B-7-160
Signs	See Section 16B-8-10
Lighting	See Section 16B-9-10
Utilities	See Section 16B-3-10
Any building, structure, or improvement not listed in this Section 16A-3-50 and which is administratively determined by the Town Manager as: (a) meeting the definition of Accessory Improvement; and (b) presenting no greater impact upon the neighborhood than other approved Accessory Improvements.	See Section 16-1-100

- (b) Prohibited Accessory Improvements. The following Accessory Improvements are prohibited in the R-1 zone district:

Any accessory improvement not listed in Section 16-4-50(a) and specifically including without limitation:

- Tennis, Pickleball, and other outdoor recreational courts.
- Swimming pools (above ground, in ground, and whether or not enclosed within a building or structure).
- Permanent skate or rollerblade park or rink.
- Shooting or archery range.

Sec. 16A-4-60. Zone District Standards.

Minimum Lot Size	80,000 square feet. For lots not meeting the minimum lot size, see <i>Non-Conforming Uses</i> , Section 16-4-10.
Minimum Lot Width	100 feet
Front Yard Setback	Minimum 25 Feet Rivershore Subdivision: Minimum 15 Feet
Rear Yard Setback	Minimum 25 Feet Rivershore Subdivision: Minimum 15 Feet
Side Yard Setback	Minimum 15 Feet
Building Height	Maximum 35 feet.

Sec. 16A-4-70. Reserved.

Sec. 16A-4-80. Zoning Variance.

An application for a zoning variance is authorized pursuant to Article 7 of Chapter 16.

Article 5 Single Family Residential Preservation District (RP-1)

Sec. 16A-5-10. Purpose and Applicability.

- (a) **Purpose.** The purpose of the Residential Preservation District (RP-1) is to recognize as lawful and confirming certain residential lots or dwelling units within property previously zoned within the R-1 District where the lot or dwelling unit fails to conform to certain R-1 District standards. It is not the purpose of this Article to authorize a rezoning to the RP-1 District any unlawfully subdivided property or any unlawfully constricted dwelling unit or improvement.
- (b) **Applicability.** Property within the R-1 District is eligible for zoning within the RP-1 District where:

- (1) The lot was lawfully platted prior to January 1, 2020, and is nonconforming due to noncompliance with minimum lot size and/or minimum lot width.
- (2) The lot is used for one existing single family dwelling unit for which a certificate of occupancy was issued prior to January 1, 2020, and the dwelling unit is nonconforming due to noncompliance with setback(s) and/or building height.:

Sec. 16A-5-20. R-1 Uses, Improvements, and Standards to Apply.

All uses, accessory uses, prohibited uses accessory improvements within the R-1 District (Article 4) shall apply within the RP-1 District except as provided by Section 16A-5-30.

Sec. 16A-5-30. Zone District Standards.

Minimum Lot Size	The smaller of: <ul style="list-style-type: none">• 80,000 square feet; or• The lot size existing as of the date of the initial rezoning of a lot to the RP-1 District,
Minimum Lot Width	The smaller of: <ul style="list-style-type: none">• Minimum 100 feet; or• The lot width existing as of the date of the initial rezoning of a lot to the RP-1 District,
Front Yard Setback	The smaller of: <ul style="list-style-type: none">• Minimum 25 feet; or• The front yard setback existing as of the date of the initial rezoning of a lot to the RP-1 District,
Rear Yard Setback	The smaller of: <ul style="list-style-type: none">• Minimum 25 feet; or• The rear yard setback existing as of the date of the initial rezoning of a lot to the RP-1 District,

Side Yard Setback	The smaller of: <ul style="list-style-type: none">• Minimum 15 feet; or• The side yard setback existing as of the date of the initial rezoning of a lot to the RP-1 District,
Building Height	The lesser of: <ul style="list-style-type: none">• Maximum 35 feet; or• The building height existing as of the date of the initial rezoning of a lot to the RP-1 District,

Sec. 16A-5-40. Zoning Variance.

An application for a zoning variance is authorized pursuant to Article 7 of Chapter 16.

Article 6 Planned Residential District (PRD)

Sec. 16A-6-10. Purpose.

The purposes of the Planned Residential District are to:

- (1) Encourage flexibility and creativity in the residential development of land;
- (2) Enhance the design, character and quality of new development;
- (3) Maximize the efficient use of land;
- (4) Facilitate the harmonious growth of the Town;
- (5) Preserve the natural and scenic features of open and wooded areas; and
- (6) Understand and respect the physiographic limitations of the environment.

Sec. 16A-6-20. Principal Permitted Uses.

The following uses are permitted in the Planned Residential District:

- *Single-Family Building*
- *Two-Family Building*
- *Multi-Family Building*

- *Religious Institution*
- *Public Building*
- *Community Center*
- *Group Home*
- Any use of property expressly required to be recognized by federal or state law as a residential use.

Any use not expressly permitted will require a text amendment of this Section. See Article 29 of Chapter 16.

Sec. 16A-6-30. Accessory Uses.

The following accessory uses are permitted:

- *Home Occupation.*
- *Family Child Care Home.*

Sec. 16A-6-40. Prohibited Uses.

The following uses are prohibited in the Planned Residential District:

- Any use not otherwise authorized by Section 16A-5-20.
- Any accessory use not otherwise authorized by Section 16A-5-30.

Sec. 16A-6-50. Accessory Improvements.

- (a) Permitted Accessory Improvements. The following accessory improvements are lawful and permitted and, where indicated, regulates such accessory improvements:

Accessory Improvement	Reference Section
Berm	See Section 16B-7-20
Garage	See Section 16B-7-30__
Shed (including greenhouse)	See Section 16B-7-40__
Driveway	See Section 16B-7-50
Parking Areas	See Section 16B-7-60
Walkway	See Section 16B-7-70
Deck	See Section 16B-7-100__
Gazebo, Pergola, and Similar Structures	See Section 16B-7-110
Hot Tub or Sauna (Exterior)	See Section 16B-7-120__

Recreational Improvement: Fire Pit, Outdoor Fireplace, Chimenea, Playground Equipment	See Section 16B-7-130
Fences	See Section 16B-7-140
Walls	See Section 16B-7-150
Flagpoles	See Section 16B-7-160
Signs	See Section 16B-8-10
Lighting	See Section 16B-9-10
Utilities	See Section 16B-3-10
Any building, structure, or improvement not listed in this Section 16A-3-50 and which is administratively determined by the Town Manager as: (a) meeting the definition of Accessory Improvement; and (b) presenting no greater impact upon the neighborhood than other approved Accessory Improvements.	See Section 16-1-100

- (c) Prohibited Accessory Improvements. The following *Accessory Improvements* are prohibited in the R-1 zone district:

Any *accessory improvement* not listed in Section 16A-5-50 and specifically including without limitation:

- Tennis, Pickleball, and other outdoor recreational courts.
- Swimming pools (above ground, in ground, and whether or not enclosed within a building or structure).
- Permanent skate or rollerblade park or rink.
- Shooting or archery range.
- Fences or other similar forms of enclosures.
- Walls (see Definition at Section 16-3-20)
- Private *streets* not located within a lawfully existing easement and which do not terminate within the PRD unless approved by the Town with the approval of the PRD.
- Private *driveways* which do not terminate on the lot that is served by the driveway unless approved by the Town with the approval of the PRD.

Sec. 16A-6-60. Zone District Standards.

Minimum Lot Size	To be determined by approval of submitted PRD Plan.
Minimum Lot Width	To be determined by approval of submitted PRD Plan
Front Yard Setback	To be determined by approval of submitted PRD Plan
Rear Yard Setback	To be determined by approval of submitted PRD Plan
Side Yard Setback	To be determined by approval of submitted PRD Plan
Building Height	Maximum 35 feet unless otherwise authorized by approval of submitted PRD Plan.*

- * The maximum height of buildings and structures within a PRD must be approved by the Town upon review of each planned residential development in relation to the following factors: (1) Geographical position; (2) The probable impact on surrounding slopes and hills; (3) Adverse visual impacts upon adjoining property owners, other areas of the development, public lands or public rights-of-way; (4) Potential impacts upon adjacent sites, both within and outside of the Planned Residential District, caused by shade, shadows, or loss of air circulation; (5) Surrounding traffic conditions and lines of sight; (6) Uses within each building; and (7) Fire prevention measures.

Sec. 16A-6-70. Other zoning criteria for Planned Residential District.

Together with compliance with any applicable requirements of Chapter 16B, the following shall be specifically addressed by the Planned Residential District:

- (a) Density. The Applicant shall be responsible for justifying the proposed density in terms of land planning and physiographic data, but in no case shall the gross density exceed six (6) dwelling units per acre of land.
- (b) Off-street parking shall be provided according to the off-street parking provisions of this Chapter and any approved PRD Plan.
- (c) Snow storage and snow management shall be provided and depicted on the plan.
- (d) Circulation shall be determined by review of each planned residential development in order to ensure an adequate internal street system, connectivity, and adequate access for

emergency services. Public streets must serve all developments; however, some private streets may be incorporated if: (1) they meet minimum standards established for public streets by the Town; (2) the Planned Development Plan guarantees by written agreement or other mechanism deemed acceptable to the Town that permanent, irrevocable, and ongoing maintenance and snow removal will be provided, and emergency vehicles will have continuous access to all development served by private roads.

Sec. 16A-6-80. Planned Residential District Procedures.

The process to establish a Planned Residential District shall require the submission of a Major or Minor Subdivision, as applicable, pursuant to Chapter 17 of the Municipal Code which application and subdivision plat shall evidence compliance with the standards and requirement of this Article. Final subdivision plats shall include the title of “[*Name of Development*] Planned Residential District.”

Sec. 16A-6-90. Zoning Variance Not Authorized.

Because the Planned Residential District is comprehensively planned to accommodate the limitations and unique features of the property within the District, zoning variances shall not be authorized within the Planned Residential District. Modifications of an established Planned Residential District shall require a text amendment of the Planned Residential District pursuant to Article 29 of Chapter 16.

Article 7 Mixed Use District (MUD)

Sec. 16A-7-10. Purpose.

The purpose of the Mixed-Use Zone District (MUD) is to allow for the comprehensively planned and coordinated development of land greater than thirty-five (35) acres in total size which is annexed into the Town after January 1, 2021. All details of development, uses, and improvements in a Mixed-Use District must be described and set forth on a MUD Plan which may incorporate provisions of the Land Use Code. Every MUD Plan shall reserve not less than one-third (1/3) of the parcel size as public or private open space, active or passive parks, riparian or resource protection area, floodplain and floodway, and/or undeveloped buffer areas.

Sec. 16A-7-20. Minimum Application Requirements.

A parcel of land may be proposed for zoning as a Mixed-Use District only where the land and proposed development will meet or exceed the following minimum requirements:

- (1) The property is annexed into the Town of Blue River on or after January 1, 2021, and is authorized by an annexation agreement to seek application for a Mixed-Use Zone District;
- (2) A minimum parcel size of thirty-five (35) acres; and
- (3) The planned development of the property will reserve not less than one-third (1/3) of the parcel size as public or private open space, active or passive parks, riparian or resource protection area, floodplain and floodway, and/or undeveloped buffer areas.

Sec. 16A-7-30. Permitted Uses.

An application for a Mixed-Use District may include any two or more of the following uses subject to the designation of the areas associated with each use within the MUD Plan and the consideration and discretionary approval of the Board of Trustees as best serving the health, safety, and welfare of the community:

- *Dwelling, Single-family.*
- *Dwelling, Two-family* provided that ownership, lease, or rental of all units is deed or covenant restricted to: (i) business owners and/or employees of the commercial businesses within the Mixed-Use District; or (ii) employees of a public law enforcement agency, fire or fire/rescue agency or district, or public emergency medical services, providing services within Summit County.
- *Dwelling, Multi-family* provided that ownership, lease, or rental of all units is deed or covenant restricted to: (i) business owners and/or employees of the commercial businesses within the Mixed-Use District; or (ii) employees of a public law enforcement agency, fire or fire/rescue agency or district, or public emergency medical services, providing services within Summit County.
- *Hotel* as defined by Section 16-3-20 not exceeding [REDACTED] total square feet or a total of [REDACTED] rentable rooms for overnight accommodations.
- *Restaurant* as defined by Section 16-3-20 not exceeding [REDACTED] square feet in total size for each Restaurant.
- *Event Center* as defined by Section 16-3-20.
- *Public Building.*
- *Community Center.*
- *Group Home.*
- Any use permitted as a permitted use in the Undisturbed Open Space District (UOP) (see Section 16A-8-20)
- Any use authorized as a permitted use in the Recreation and Floodplain District (see Section 16A-9-20).

Sec. 16A-7-40. Accessory Uses.

- *Family Child Care Home* within a residential *dwelling unit*.

No other accessory uses shall be permitted in a Mixed-Use District including, specifically, a Home Occupation, unless otherwise expressly approved by the Board of Trustees and evidenced in the ordinance approving the Mixed-Use District.

Sec. 16A-7-50. Accessory Improvements.

- (a) Permitted Accessory Improvements. Each Mixed-Use District shall identify the *accessory improvements* permitted within the District and the scope, extent, and other regulations to govern the *accessory improvements*. See, e.g., Accessory Uses and regulations of Section 16A-4-30.
- (b) Prohibited Accessory Improvements. The following Accessory Improvements are prohibited in the Mixed-Use Zone District:
- Tennis, Pickleball, and other outdoor recreational courts.
 - Swimming pools (above ground, in ground, and whether or not enclosed within a building or structure).
 - Permanent skate or rollerblade park or rink.
 - Shooting or archery range.
 - Fences or other similar forms of enclosures.
 - Private streets not located within a lawfully existing easement and which do not terminate within the MUD unless approved by the Town with the approval of the MUD.

Private driveways which do not terminate on the lot that is served by the driveway unless approved by the Town with the approval of the MUD.

Sec. 16A-7-60. Zone District Standards.

Minimum Lot Size	To be determined by approval of submitted MUD Plan.
Minimum Lot Width	To be determined by approval of submitted MUD Plan
Front Yard Setback	To be determined by approval of submitted MUD Plan
Rear Yard Setback	To be determined by approval of submitted MUD Plan
Side Yard Setback	To be determined by approval of submitted MUD Plan
Building Height	Maximum 35 feet unless otherwise authorized by approval of submitted MUD Plan.*

- * The maximum height of buildings and structures within a MUD must be approved by the Town upon review of each MUD in relation to the following factors:
- (1) Geographical position; (2) The probable impact on surrounding slopes and hills; (3) Adverse visual impact upon adjoining property owners, other areas of the development, public lands or public rights-of-way; (4) Potential impacts upon adjacent sites, both within and outside of the MUD, caused by shade, shadows, or loss of air circulation; (5) Surrounding traffic conditions and lines of sight; (6) Uses within each building; and (7) Fire prevention measures.

Sec. 16A-7-70. Other Zoning Criteria for Mixed-Use District.

- (a) Density. The applicant shall be responsible for justifying the proposed density level in terms of land planning and physiographic data, but in no case shall the gross density exceed six (6) dwelling units per acre of land.
- (b) Off-street parking shall be provided according to the parking provisions of Chapter 16B.
- (c) All signs shall conform to the sign provisions of Chapter 16B.
- (d) Vehicular circulation shall be determined by review of each planned residential development in order to ensure an adequate internal street system, connectivity, and adequate access for emergency services. Public streets must serve all developments; however, some private streets may be incorporated if: (1) they meet minimum standards established for public streets by the Town; (2) the Mixed-Use Plan guarantees by written

agreement or other mechanism deemed acceptable to the Town that permanent, irrevocable, and ongoing maintenance and snow removal will be provided and emergency vehicles will have continuous access to all development served by private roads.

Sec. 16A-7-80. MUD Zoning Application.

An owner seeking approval of a Mixed-Use Zone District shall submit an application in a form promulgated by the Town Manager containing ownership and contact information. All Mixed-Use Zone District applications shall include a MUD Zoning Plan that shall provide, at a minimum, the following detail:

- (1) A description of all allowed uses for the property including designation of the areas or zones within the property where such uses may be located. All uses must be described with specificity including, where appropriate, residential densities, and total number and type of residential units. The specific amount of square feet for areas or zones set aside for the proposed uses may be identified generally and shall customarily be defined by the topography and/or natural features of the property.
- (2) A description of lot sizes, minimum lot frontages, setbacks, and maximum building heights for all uses. If the property is intended for future subdivision, the plan shall identify the potential lot arrangement together with setbacks from anticipated subdivided lot boundaries. For areas generally designated for types of residential use, minimum lot areas, lot widths, and front, side, and rear yard setbacks shall be identified. The Mixed-Use District shall not constitute subdivision; later subdivision of the property will be required in accordance with Chapter 17.
- (3) Accesses, streets, drive aisles, and parking areas sufficient to accommodate all uses of the property.
- (4) Designation of areas to be preserved as public or private open space, active or passive park or recreation, public or private trails, riparian or resource protection, and/or undeveloped buffers that will best integrate the mixed uses into the residential character of the Town and preserve and protect existing residential uses from impacts reasonably associated with the proposed uses. Such areas are assumed to remain undeveloped unless a description of the types and forms of development (e.g., gazebos, warming huts), together with maximum structure sizes, setbacks, and heights are included in the MUD Zoning Plan.
- (5) Sample illustrations of the intended design aesthetic for all structures, materials, and colors to be incorporated into future development.

Sec. 16A-7-90. Findings and Approval.

All new MUD applications require an administrative review and recommendation by the Planning Commission and review and consideration of approval by the Town Board of Trustees following

a public hearing. Final approval of a MUD application shall require findings by the Board of Trustees that the application and Zoning Plan meets or exceeds the following criteria:

- The property meets the minimum requirements for a Mixed-Use District provided by Section 16A-6-20.
- The planned development of the property demonstrates that adjacent uses located within the Town will be adequately protected from adverse impacts of the mixed use due to logically located undeveloped buffer areas;
- The planned development of the property provides efficiency in the layout of uses, parking areas, and the provision of roads, utilities and other infrastructure necessary to serve the proposed mixed uses;
- The planned development will reasonably implement applicable provisions of the Blue River Comprehensive Plan.
- The development of the property in accordance with the Mixed-Use Zone District will preserve the residential and open character of the Town;
- For any commercial development proposals, the proposed development of the property in accordance with the Mixed-Use Zone District will directly serve the commercial needs of the Town; and
- The development of the property in accordance with the Mixed-Use Zone District will be adequately served with utilities, sufficient parking, and access.

Sec. 16A-7-100. Form of MUD Ordinance.

Approval of a Mixed-Use Zone District shall require the approval of an ordinance which includes an illustration of the property with the designation of areas to be devoted to varying uses together with a narrative of the uses, structures, setbacks, building heights, and limitations and conditions authorized within each designated area. The illustration and narrative shall be subject to review and recommendation of the Town Attorney as to the sufficiency of the plan to meet the need for specificity for the zoning of property. Applicants are encouraged to work closely with the Town Manager and Town Attorney in preparing the MUD Zoning Plan and supporting documents to ensure adequacy of the Plan to meet the Town's requirements.

Sec. 16A-7-110. Amendment of MUD.

Any change to an approved Mixed-Use Zone District shall be subject to the same process of review and approval as the initial approval of the District.

Sec. 16A-7-120. Zoning Variance Not Authorized.

Because the Mixed-Use District is comprehensively planned to accommodate the limitations and unique features of the property within the District, zoning variances shall not be authorized within the Mixed-Use District. Modifications of an established Mixed-Use District shall require amendment of the Mixed-Use District pursuant to Section 16A-6-110.

Article 8 Undisturbed Open Space District (UOP)

Sec. 16A-8-10. Purpose.

The Undisturbed Open Space District (UOP) is intended to designate property that was restricted from development and is to be preserved in an undisturbed, natural, and undeveloped state pursuant to a reservation or grant included in an instrument of conveyance, covenant, or other agreement. Occasional pruning or planting of vegetation to preserve and enhance the existing flora, fauna and wildlife may be allowed by approval of the Board of Trustees if consistent with the reservation or grant.

Sec. 16A-8-20. Principal Permitted Uses.

The following uses are permitted in the Undisturbed Open Space District:

- Uses expressly permitted by the document or instrument preserving the property in an undisturbed, natural, and undeveloped state.

Sec. 16A-8-30. Accessory Uses.

- No accessory uses are permitted.

Sec. 16A-8-40. Improvements.

Although no use or improvement of the property within an UOP District is generally permitted, the following *improvements* are permitted in the Undisturbed Open Space District unless inconsistent with a reservation or grant associated with the property within the UOP District:

- Underground utilities provided that: (i) any land disturbed by installation of utilities be restored to its natural state that existed prior to installation of utilities; and (ii) prior to installation of utilities, the owner enters into an agreement with the Town to guarantee the restoration of the property which agreement may, at the Town's discretion, require the posting of bond or other surety to ensure the completion of restoration.
- Fire hydrants shall be allowed only along or within twenty (20) feet of the outer property boundary of any area zoned UOP.
- Roadways in existence and located on any parcel of land which is zoned UOP may continue in existence and may be maintained, repaired, and paved. Such roadways may not be widened or relocated.

Any other *accessory improvements* of the property within an UOP District are prohibited unless approved by the Board of Trustees.

Sec. 16A-8-50. Zone District Standards.

Minimum Lot Size	None
Minimum Lot Width	None
All Setbacks	Minimum 40 Feet.
Building Height	Maximum 25 feet.

Sec. 16A-8-60. Zoning Variance Not Authorized.

Zoning variances shall not be authorized within the Undisturbed Open Space District.

Article 9 Recreation and Floodplain District (RF)

Sec. 16A-9-10. Purpose.

The Recreation and Floodplain District (RFD) is intended to zone property that will be preserved from intensive development to either: (i) protect property from impacts due to natural water flows and floods; or (2) provide for passive or lower-intensive recreational uses such as trails, fishing, boating, kayaking, ice skating, or other common recreational activities.

The Recreation and Floodplain District may be applied to a lot in a manner that would result in a portion of the lot being within one zone district (e.g., the R-1 District) and a portion within the RFD. Such division of the lot by two zone districts is intended to allow for a building site while also recognizing that the lot is limited in development potential due to the existence of floodplain or other restriction.

Sec. 16A-9-20. Principal Permitted Uses.

The following principal permitted uses are authorized in the Recreation and Floodplain District:

- Uses expressly authorized by Army Corp of Engineers, or any other federal or state agency with jurisdiction over waterways and floodplains.
- Uses deemed by the Board of Trustees after review and consideration to be not inconsistent with lower-intensive recreation or floodplain management.

Sec. 16A-9-30. Prohibited Uses.

The following uses are specifically prohibited in the Recreation and Floodplain District:

- Any use not otherwise expressly authorized by Section 16A-9-20.

Sec. 16A-9-40. Accessory Uses.

- No accessory uses are permitted.

Sec. 16A-9-50. Improvements.

Although some minimal use and improvement of the property within a Recreation and Floodplain District is permitted, the following improvements are permitted in the Recreation and Floodplain

District unless inconsistent with a reservation or grant associated with the property within the District:

- Underground utilities provided that: (i) any land disturbed by installation of utilities be restored to its natural state that existed prior to installation of utilities; and (ii) prior to installation of utilities, the owner enters into an agreement with the Town to guarantee the restoration of the property which agreement may, at the Town's discretion, require the posting of bond or other surety to ensure the completion of restoration.
- Fire hydrants shall be allowed only along or within twenty (20) feet of the outer property boundary of any area zoned RFD.
- Roadways in existence and located on any parcel of land which is zoned RFD may continue in existence and may be maintained, repaired and paved. Such roadways may not be widened or relocated.
- Permanent or temporary improvements commonly associated with flood water management such as, but not limited to, drop structures, swales, embankments, retaining walls, conduits, and channels.
- Permanent or temporary improvements commonly associated with lower-intensity recreational uses such as, but not limited to, gazebo, picnic table, benches, warming hut, boardwalks, retaining wall not greater than five (5) feet in height for trail or area protection; and restrooms which do not exceed two-hundred (200) square feet without approval of the Town. No structure may exceed 15 feet in height measured from the immediate average grade level of the structure.

Any other improvements of the property within a Recreation and Floodplain District are prohibited unless approved by the Board of Trustees. Without limiting the foregoing, the following improvements are specifically prohibited as wholly inconsistent with the purposes of the Recreation and Floodplain District:

- Garages, sheds, or other similar structures used for storage of vehicles or equipment.
- Fences and enclosures except to protect from entry of persons into protected or environmentally sensitive areas as approved by the Town.
- Any use or structure prohibited by the Army Corp of Engineers, or any other federal or state agency with jurisdiction over waterways and floodplains.
- Any private use or structure that requires a conditional or final letter of map revision the Army Corp of Engineers or other federal or state agency for the use or structure.

Sec. 16A-9-60. Zone District Standards.

Minimum Lot Size	None
Minimum Lot Width	None
All Setbacks	Minimum 20 Feet.
Building Height	Maximum 12 feet.

Sec. 16A-9-70. Zoning Variance Not Authorized.

Variances shall not be authorized within the Recreation and Floodplain District.

Article 10 Public Right-of-Way District (PROW)

Sec. 16A-10-10. Background and Purpose.

The Town of Blue River was incorporated to include numerous residential subdivisions, many of which were platted immediately prior to incorporation. Each subdivision included streets necessary to provide access to and from the residential lots to State Highway 9. For many subdivisions, the local streets were dedicated by the original subdivider to the owners of the lots within the subdivision. Upon incorporation, the Town assumed ownership, maintenance, and control of all the streets and has, since 1965, openly, continuously, and consistently maintained the streets and street network for the benefit and safety of the general public. Ownership, control, and maintenance included, but was not limited to, the grading, patching, surface restoration, drainage management, snow removal and snow storage along the sides of the traveled portion of the streets and authorizing and permitting above and below grade improvements customarily associated with streets such as public and private utilities. The Town has managed and maintained the streets through the use of public tax funding, including funds allocated by the State Highway User Tax Fund (HUTF) based on a report of the Town's ownership of line miles for the Town streets. Other streets within the Town we specifically dedicated to the County or to the Town as public streets.

The Public Right of Way District (PROW) is intended to designate property under the ownership, control, management, or maintenance of the Town of Blue River either through public *dedication*

or as the result of the Town's continuous and uninterrupted management and maintenance of the property for use by the public for transportation, vehicular access, and other uses customarily recognized as associated with public rights-of-way, thoroughfares, streets, and roads such as pedestrian access and utility use.

Sec. 16A-10-20. Principal Permitted Uses.

The following principal permitted uses are authorized in the Public Right-of-Way District:

- Transportation of persons, goods, and equipment by vehicles lawfully authorized for operation on public streets.
- Pedestrian access and use.
- A corridor for the occupation and extension of public utilities recognized by the Town or by federal or state law as lawfully authorized and entitled to be located within public rights-of-way.
- Subject to Town approval, a corridor for other forms of utilities and improvements necessary or desirable for service to residential or commercial properties.
- Improvements for surface water management and drainage approved by the Town.
- Storage of snow removed from the right-of-way by the Town or by Town authorized service providers.
- Any other use by the Town which is customarily undertaken by local government in the operation and maintenance of a street for the benefit of the public,
- Any other use expressly authorized by the Town pursuant to a permit, contract, or other written form of approval.

Sec. 16A-10-30. Prohibited Uses.

The following uses are specifically prohibited in the Public Right of Way District (PROW):

- Private use of property without Town approval.
- Any use not otherwise expressly authorized by Section 16A-10-20.

Sec. 16A-10-40. Accessory Uses.

No accessory uses are permitted unless expressly authorized by the Town. Examples of authorized accessory uses may include special events or public property uses for which a permit is issued by the Town in accordance with the Municipal Code.

Sec. 16A-10-50. Improvements.

Improvements within the PROW are limited to those deemed necessary or desired by the Town to advance the District's permitted or authorized uses.

Sec. 16A-10-60. Zone District Standards.

Minimum Lot Size	None
Minimum Lot Width	None
All Setbacks	None
Building Height	None

Articles 11-16 Reserved

Article 17 Residential Dwelling Units

Sec. 16A-17-10. Use Restrictions.

- (a) Authorized Use. Each *dwelling unit*, whether a single or separate unit, or a unit within a two-family or multi-family structure, shall be used principally and primarily as a place for residential accommodations by one (1) *family* living, sleeping, and cooking as an independent housekeeping unit.
- (b) Legal Occupancy. Each dwelling unit may be lawfully occupied by ownership or by lease or rental. A lawful occupancy by lease or rental shall be for a period greater than thirty (30) consecutive days. Lease or rental for thirty (30) consecutive days or less (a “*short-term rental*”) shall be unlawful unless such short-term rental is undertaken pursuant to the Town’s issuance of a short-term rental license in accordance with Article 1 of Chapter 6 of the Municipal Code. Because the short-term rental of property is not a right of use and is a privilege subject to annual licensing, the short-term rental of property may not constitute or create a nonconforming use of a dwelling unit.
- (c) Unlawful Division. It shall be unlawful and a violation of the Municipal Code to convert, separate, add to, or otherwise divide a dwelling unit to accommodate or serve more than one (1) *family* unless otherwise approved by the Town pursuant to the Land Use Code. An unlawful conversion, separation, addition to, or division includes, but is not limited to, the creation of an unapproved *apartment* or a *lock-off unit*.

Sec. 16A-17-20. Notice of Use Restriction as Condition of Building Permit.

- (a) Application. This section applies to the application for issuance of a building permit for the following:
- (1) The creation, construction, or expansion of any accessory building or structure, including a garage, that is greater than 144 square feet in *gross floor area* and which building, structure, or garage is served by, or can reasonably be served by, water, sanitary sewer, and electrical services; or
 - (2) Any expansion, remodeling, reconfiguration, or modification of any part of portion of an *existing dwelling unit* that could, in the Town's opinion, reasonably permit, accommodate, create, or be used for an apartment, *lock-off unit*, or an additional dwelling unit; or
 - (3) Any new construction of a dwelling unit that the design of which, in the Town's opinion, could reasonably permit, accommodate, create, or be used for an apartment, *lock-off unit*, or an additional dwelling unit.
- (b) Condition for Building Permit. Prior to issuance of a building permit for the improvement of any *lot* as provided in (a) above, the owner of such *lot* shall execute a notice to be recorded by the Town in the real property records for the lot, which gives notice that the issuance of the building permit does not authorize or permit the occupancy of the building or structure as an accessory apartment, *lock-off unit*, or additional dwelling unit and such occupancy is specifically prohibited by the Town of Blue River Municipal Code. The form of such required notice shall be promulgated by the Town.

Article 18 Group Homes

Sec. 16A-18-10. Authorization.

A *group home* as defined by Section 16-3-20 is a *principally permitted use* of a residential *dwelling unit* in accordance with state and federal law. No permit or Town approval is required, although the owner of a *group home* is strongly encouraged to contact the Town Manager to ensure understanding and compliance with the Town rules and regulations applicable to the operation of a group home.

Sec. 16A-18-20. Compliance with Applicable Town Laws

A *group home* shall comply with all Town laws applicable to the residential use of property including, but not limited to, requirements imposed by Chapter 16B.

Sec. 16A-18-30. Reasonable Accommodation Requests.

An *owner* of a *group home* seeking a reasonable accommodation from compliance with Town laws as may be permitted by federal law for group homes subject to the Fair Housing Amendments Act ("FHAA") is encouraged to consult with the Town Manager regarding such request. The Town Manager is authorized to administratively grant written requests detailing the scope and purpose for the accommodation following consultation with the Town Attorney and confirmation that the request is both reasonable and supported by the FHAA. A denial of a request for accommodation is a final administrative decision appealable to the Board of Adjustment in accordance with Section 16-2-50.

Article 19 Home Occupations

Sec. 16A-19-10. Purpose.

- (a) The purpose of this Article is to provide regulations for home occupations within the Town to ensure that a home occupation is secondary or incidental in relation to the residential use of the main structure or dwelling and to ensure compatibility with the residential character of the neighborhood. The standards set forth herein for the physical features, building character, and operations of home occupations ensure that the uses are compatible with the surrounding neighborhood and do not negatively affect the character or quality of life in the Town.
- (b) A home occupation is an activity conducted on property or within a dwelling unit as a privilege subject to issuance of a business license. A home occupation shall not be deemed a use of property and shall not constitute **a nonconforming use**.

Sec. 16A-19-20. Home Occupation Standards.

A home occupation shall be unlawful unless the home occupation complies with all of the following standards:

- (a) The home occupation shall obtain and maintain at all times a valid business license with the Town.
- (b) The home occupation shall be secondary and subordinate to the main use of the dwelling as a residence and shall occupy no more than twenty-five percent (25%) of the floor area of the main floor of a dwelling.

- (c) If located within a lawfully permitted accessory structure, attached or detached garage, or shed, the home occupation shall not occupy more than two hundred (200) square feet of total floor area.
- (d) The existence of a home occupation at the residence shall not be recognizable from the exterior of the residential structure. All aspects of the home occupation shall be contained and conducted within a completely enclosed building. No exterior advertising, signs or outdoor displays associated with the home occupation shall be permitted. There shall be no outside storage on the premises of materials, goods, or equipment used in connection with the home occupation.
- (e) The home occupation shall not create any noise, vibration, smoke, dust, heat, or glare inconsistent with or in excess of the impacts associated with common residential use of property or that is detrimental to the residential use of nearby properties.
- (f) The home occupation shall not create any odors that are perceptible from the outside of the building in which the home occupation is conducted.
- (g) No structural alteration of the exterior of the principal residence, including the construction of an additional entrance, shall be permitted to accommodate the home occupation.
- (h) The home occupation shall be conducted only by the residents of the property exclusively and there shall be no non-resident employees permitted on or at the property in association with the home occupation at any time.
- (i) All parking needs created by the residential property and the home occupation shall be accommodated by off-street parking. Parking associated with the residential property and the home occupation shall comply with all applicable parking standards imposed by the Town for residential property within the applicable zone district.
- (j) No more than two (2) visitor, customer, or vendor vehicles associated with the home occupation shall be present at the residential property at any one time.
- (k) If the home occupation is subject to any local, state, or federal regulation, the home occupation shall comply with all applicable regulations at all times.
- (l) No storage of motor fuels in amounts that are greater than typically stored for residential home use shall be permitted for a home occupation. Storage of more than five (5) gallons of gasoline or diesel fuel on site, or storage of more than fifteen (15) gallons of biodiesel on site, shall be presumed to be in violation of this standard. No storage of hazardous materials in amounts that are greater than typically stored for residential home use shall be permitted by a home occupation.
- (m) No pick-up or delivery by commercial vehicles or heavy trucks other than mail and parcel pick-up and delivery services commonly engaged in providing service to

residential properties shall be permitted for a home occupation. Pick-up and delivery shall be limited to no more than two (2) visits each day.

Sec. 16A-19-30. Prohibited Home Occupations.

The following home occupations are prohibited in the Town. Exclusion of an occupation from the following list shall not be interpreted as expressly permitting an unlisted use.

- (a) Motor vehicle service, repair, maintenance, salvage, reconstruction, restoration, cleaning, wash, detailing, sale, or storage.
- (b) Butcher, meat processing, or taxidermy.
- (c) Funeral home or mortuary.
- (d) Veterinary clinic or kennel that provides commercial or for-profit care or boarding for animals. This limitation shall not preclude volunteer fostering of animals for domestic animal rescues or other similar organizations provided that the maximum number of animals permitted by the Municipal Code for the property is not exceeded.
- (e) Large appliance repair.
- (f) Medical or dental office (except psychiatric, mental health, or other counseling services).
- (g) Overnight accommodations including commercial bed and breakfast (not to include lawfully permitted short term rentals authorized by the Municipal Code).
- (h) Personal services providing non-medical service on a recurring basis including, but not limited to, barbershop, hair salon, nail salon, beauty parlor, massage therapy or tailoring if such occupation is designed to serve more than one (1) customer at a time or serves more than one (1) customer at a time.
- (i) Any occupation using spray painting equipment.
- (j) Any occupation using flammable liquids or gases in quantities not customarily found associated with single family residential dwelling units.

Article 20 Accessory Apartments

Sec. 16A-20-10. Purpose and Applicability.

- (a) The purpose of this Article is to permit the construction of accessory apartments in single-family dwellings within R-1 zone districts in the Town subject to the criteria and conditions set forth below.
- (b) The provisions of this Article shall apply only to R-1 building sites which exist on lots created by the elimination of a lot line formerly existing between two (2) lots, thus combining two (2) former lots into one (1).

Sec. 16A-20-20. Reserved.

Sec. 16A-20-30. Location and Design.

An accessory apartment shall be incorporated into the primary residence on the property or a garage serving the primary residence. Residences which contain accessory apartments shall be designed so as to retain a single-family character. An accessory apartment may have a separate kitchen and may have a separate entrance from that of the residence with which it is associated.

Sec. 16A-20-40. Number of Units Allowed.

- (a) Where accessory apartments are permitted, no more than one (1) accessory apartment shall be permitted on each parcel. In order to maintain the single-family character of neighborhoods where accessory apartments are permitted, a maximum of ten percent (10%) of the single-family dwellings in each subdivision filing at build-out shall be approved for accessory apartments.
- (b) No accessory apartments may be constructed without the express approval of the Board of Trustees indicated on the plat by the signature of the Mayor and Town Clerk, nor may any accessory apartment be constructed within five hundred (500) feet of an existing or approved unit. The Board of Trustees may decrease this requirement or the ten-percent limitation set forth above when it is determined that sufficient buffering exists to limit the impact of units in close proximity. Buffering may consist of topographic, landscape or other physical features such as roads or vacant properties.

Sec. 16A-20-50. Size of Units Allowed.

Where accessory apartments are allowed, the square footage in the accessory apartment shall not exceed forty-five percent (45%) of the square footage contained in the primary residence,

excluding garage space, or not more than six hundred (600) square feet, whichever is less. In calculating the number of square feet in an accessory apartment to determine compliance with this Chapter, any garage or storage space associated with the accessory apartment shall be excluded.

Sec. 16A-20-60. Water and Sewer.

Prior to approval of an accessory apartment, the property owner shall provide proof of adequate water and sewer service to both the primary residence and the accessory apartment. If the unit is served by well and septic, approval of the County Environmental Health Department must be obtained.

Sec. 16A-20-70. Parking.

Each accessory apartment shall be provided with parking only in a designated paved or graveled area with no more than two (2) spaces. Parking may be in tandem or in a garage.

Sec. 16A-20-80. Compliance with Building and Fire Codes.

Where approval of an accessory apartment is sought by an owner for a unit existing before adoption of this Article, the unit shall be inspected and shall comply with applicable requirements of the Building and Fire Codes.

Article 21 Family Child Care Homes

Sec. 16A-21-10. Generally.

A *Family Child Care Home* is authorized by state law as an accessory use to an existing residential dwelling unit subject to state licensing. A local license is not required.

Sec. 16A-21-20. Town Laws Applicable.

A *Family Child Care Home* shall comply with all rules and regulations of the Town applicable to other residential uses including, but not limited to, regulations governing parking, lighting, signs, trash management, and noise.

Sec. 16A-21-30. Large Family Child Care Home.⁸

A *Family Child Care Home* classified or defined as a large *Family Child Care Home* by the State of Colorado shall not be located *adjacent* to another existing large family childcare home unless the proposed large family child care home first seeks administrative authorization from the Town Manager as meeting the following standards or requirements:

- (a) The operation of the proposed large *Family Child Care Home*, considered in combination with the existing large *Family Child Care Home*, will not result in a significant increase in traffic volume above that commonly experienced in neighborhoods of comparable residential density in the Town; and
- (b) The operation of the proposed large *Family Child Care Home*, considered in combination with the existing large family childcare home, will not result in the parking of vehicles in excess of the parking permitted for a residential dwelling unit in the Town.

Article 22-26 Reserved

Article 27 General – Zoning Processes

Sec. 16A-27-10. Types of Zoning Processes.

Once established, a zone district may be modified through three different processes:

- Rezoning (Map Revision)

A rezoning (also known as a map revision) is a change from one existing zone district to another zone district. The process will result in oftentimes significant differences in available land uses and create potential impacts upon the surrounding properties. For these reasons, a proposal to rezone property requires public notice and hearing and must be approved by the Board of Trustees in accordance with this Part 3.

- Text Amendment

A text amendment is a modification of the language of a zone district which will modify the zone district for all properties within the zone district. For example, a text amendment can add or delete uses available in the zone district and, as a result, all the properties within that zone district will be afforded the added use or be denied to deleted use. A text amendment is a legislative decision of the Town Board of Trustees and property owners

⁸ See C.R.S. §26-6-104.5(b).

have no legal right to a text amendment. Text amendments are subject to the discretion of the Board of Trustees.

- **Zoning Variance**

In extraordinary or unusual circumstances, the minimum or maximum requirements of a zone district may impose significant hardship upon a property or unreasonably restricts the potential development when compared to other properties within the immediate neighborhood in the same zone district. A zoning variance can modify the restrictions of the zone district to mitigate the hardship or unreasonable limitation on development. A zoning variance is limited to modification to the area or dimensional standards of the zone district (e.g., setback or height) and cannot modify or change the uses which are available in the zone district. Zoning variances are authorized by Article 7 of Chapter 16.

Article 28 Rezoning and Map Revision

Sec. 16A-28-10. Rezoning and Map Revision Explained; Applicability.

- (a) Zoning is the method for classifying property for the purpose of assigning permitted land uses and protecting the health, safety, and welfare by ensuring compatibility between various uses. Zoning classifications are illustrated on the Official Zoning Map for the Town of Blue River or, for unincorporated property located outside of the Town, on the official zoning map for Summit County. As a result, amending the official zoning map to illustrate a change in the zoning classification for property is known as a “rezoning” or a “map revision.”
- (b) There are two types of rezoning or map revision:
 - Initial Zoning. Upon incorporation of property following annexation, a municipality must assign a zoning classification to the annexed property within ninety (90) days. This zoning is a change from the zoning designation of Summit County to the first assignment of a zoning classification of the Town of Blue River which is often referred to as the “initial zoning.” Upon approval of the initial zoning, the official map of the Town is revised to show the property and its zoning classification.
 - Rezoning of Town-zoned Property. After property is initially zoned, any future change in the zone district boundaries or the zoning classification is commonly referred to as a “rezoning.” Upon approval of the zoning change, the official map of the Town is revised to illustrate the change.
- (c) This Article shall apply to all requests for a zoning change that would result in a map revision. For purposes of Chapter 16A, a “rezoning” shall mean a change in zone district boundaries or zone district designation whether such change is an initial zoning or a rezoning of Town-zoned property.

Sec. 16A-28-20. Authority to Apply for Rezoning.

Applications seeking to rezone property shall only be submitted to the Town by: (a) the owner of the property subject to the change in zoning; or (b) the Board of Trustees. Applications for rezoning submitted by any other party shall not be accepted.

- (a) Owner Application. An *owner* seeking a rezoning shall submit an application in accordance with section 16A-27-40.
- (b) Town Initiated Rezoning Application. The Board of Trustees may seek the rezoning of any property by the submission to the Town Manager of a request and documentation deemed relevant to the Board. At a minimum, such application and documentation shall include a general description of the property subject to rezoning together with the proposed zoning designation and any proposed conditions upon such rezoning.

Sec. 16A-28-30. Authority to Approve Rezoning.

- (a) Board of Trustee Authority for Final Decision. The Board of Trustees may change the zone district boundaries or zone district classification of any property after public notice and public hearing as provided in Sections 16A-27-60 and 16A-27-70 of this Chapter.⁹
- (b) Planning Commission Administrative Review¹⁰ and Recommendation. Prior to holding a public hearing, the Board shall submit the rezoning proposal and application to the Planning Commission. The Commission shall conduct an administrative review of such proposal and application and render promptly a recommendation regarding the proposed zoning designation or boundaries for the subject property. The Planning Commission shall submit its recommendation to the Town Board within forty-five (45) days after receipt of such submittal. Upon failure of the Planning Commission to submit a recommendation within forty-five (45) days, the Town Board shall consider such failure as a neutral recommendation by the Commission and the Board may proceed to change the zoning designation or boundaries as set forth in this Chapter, after public notice and public hearing as provided in Sections 16A-27-60 and 16A-27-70.

⁹ See C.R.S. §31-23-304 and 31-23-306. The authority for changes in zone district boundaries or designation is vested in the governing body.

¹⁰ The Planning Commission review shall not require a public hearing. The public hearing requirements of C.R.S. § 31-23-306 reference the need for a public hearing for the setting of the *original* zoning districts of the community and the preparation of a report. State law does not require a public hearing for applications for rezoning of individual properties following the establishment of original zoning districts and the obligation for public hearing is a hearing before the governing body. See C.R.S. § 31-23-304.

Sec. 16A-28-40. Application.

(a) Contents of Application. Except where the Town Manager approves the submission of electronic copies, the applicant shall submit to the Town [REDACTED] () copies of all application materials. The Town Manager may request additional copies of documents where necessary to provide sufficient documentation for unanticipated referrals. The following submittals, materials and information shall comprise a complete application for initial zoning or rezoning:

1. A completed application in the form approved by the Town;
2. Payment of all required application fees and any review fee deposit;
3. Current title commitment or other documentation showing current ownership of the property vested in the owner listed on the application. At the Town's discretion, such documentation may include a current ownership and encumbrance report or informational title commitment;
5. An illustration showing the vicinity of the property subject to proposed zoning sufficient for the Town to evaluate the appropriateness of the proposed zoning with surrounding zoning and land uses;
4. A legal description of the property proposed to be zoned (submission of a copy of the currently valid subdivision map showing lot or parcel is acceptable);
5. The names of all adjoining subdivisions with lines of abutting lots and departing property lines of adjoining properties;
6. The total acreage or square footage contained within the property proposed for zoning;
7. Zoning and existing land uses on all lands adjacent to the area proposed for zoning;
8. The location and dimensions for all existing public rights-of-way, including streets, and watercourses within and adjacent to the area proposed for rezoning; and
10. A list of the names and mailing addresses, as this information appears of record with the Summit County assessor's office, of all owners of property *measured*¹¹ to be within three hundred (300) feet of the property proposed for rezoning.

(b) Written Statement. A written statement shall accompany the application for zoning addressing the following:

¹¹ See Section 16-3-20 for definition of *measured* for determining distance between properties for purpose of this Land Use Code.

1. The owner's reason or purpose for the proposed change to the current zone district;
2. If the owner anticipates the eventual development or improvement of the property, a description of the overall development or improvement concept. If the property is or will be residentially zoned, the description shall include representations concerning the proposed quality and styles of residential structures and amenities;
3. Environmental considerations, including but not limited to, unstable slopes/rockfall zones, related geologic factors, wildlife corridors, floodways, flood plains, wetlands, and high groundwater areas;
4. Structures and improvements on the property proposed for rezoning;
5. Statements explaining the nature and location of all easements and reservations, if any;
6. A general description of the purpose and nature of covenants, homeowners' association, or other contemplated private or contractual restrictions on the use, character and maintenance of the property;
7. If the property will permit non-residential commercial or business use, a description of the nature of the use, the trade area, and anticipated employment base in sufficient detail to demonstrate the economic viability of the anticipated uses authorized by the proposed zoning; and
8. The applicant shall provide other information requested by the Planning Commission or Town Board that may be necessary to adequately review the proposal for conformance with the applicable requirements.

Sec. 16A-28-50. Sufficiency of Applications

All plans, reports, maps, and other information required for any application for zoning must be complete, legible, and submitted by the deadlines established by this Chapter or deadlines established during the review process. A failure of the application to meet the requirements of this Chapter or any applicable deadline shall delay the processing of the application until the application is deemed sufficient and complete by the Town. The Town shall not process or schedule the processing of any application which is found to be incomplete.

Sec. 16A-28-60. Public Hearing.

All applications for rezoning shall require a public hearing before the Board of Trustees. The following process shall apply:

- (a) The Town Manager shall set the date and time of a public hearing to be held by the Board. Notice of the public hearing shall be issued in accordance with Section 16A-27-70.
- (b) At the public hearing, the Board shall review the application for conformance with this Chapter, the Municipal Code, state law, and the applicable review standards for the application.
- (c) Any public hearing or other action of the Board may be continued or postponed at any time indefinitely or to a specified date and time in order to permit preparation of additional information for further review by the Board.
- (d) The applicant for any rezoning approval shall bear the burden of presenting sufficient competent evidence at the public hearing to support the standards for approval set forth by this Chapter. Any decision by the Board to approve or conditionally approve an application shall be based upon consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the Board shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision.

Sec. 16A-28-70. Notice of Hearing.

All public notices of hearings shall include the date, time, place, and purpose of the hearing, a general description of the property affected, and any other information deemed appropriate by the Town to apprise the public of the general nature of the action proposed. Errors or inaccuracies in the notice shall not be deemed sufficient cause to postpone or invalidate a hearing except where such errors are substantive and material and are found to have reasonably mislead or misinformed the public as to only the date, time, place, or general purpose of the hearing. Noting in this section shall prevent or preclude the Town from providing any other form of notice deemed desirable by the Town including the posting of notice on the Town's website.

(a) Notice Publication Requirement.

The Town shall cause a notice to public hearing to be published once in the Summit County Daily Newspaper (or other official newspaper designated for publication of the Town of Blue River) **at least fifteen (15) days** before the date of the hearing. Published notice shall include:

- A description of the land use proposal in question;
- The location of the land which is the subject of the hearing or meeting (e.g., lot number or parcel designation within a subdivision of record with the Summit County Clerk and Recorder's Office or location in relation to known streets and intersections);
- The date, time and location of the hearing or meeting; and
- A recital that public comment will be accepted at the public hearing and written comment will be accepted if sent to a designated electronic mail address.

(b) Courtesy Notice by Mailing.

1. The Town Manager may direct by written letter or electronic mail to the *applicant* or the applicant's representative that the applicant provide notice by mailing for initial zoning or rezoning. Notice by mailing shall be deemed a courtesy to owners and a supplementary means of advising the public of the pendency of an application but shall not be deemed a legal requirement for the processing of an application or the conduct of a hearing if notice by publication was properly completed.
2. Where courtesy notice by mailing is planned, notice shall be sent by the *owner* addressed to owners of property *measured*¹² to be within three-hundred (300) feet of the property described in the application as their names appear in the real property records of the Summit County Assessor. For purposes of determining addressees for mailed notice, the *owner* may rely upon the ownership information provided by the Summit County clerk and recorder's office.
3. A mailed notice shall be deposited in the United States Mail first class postage prepaid or shall be delivered by another comparable service, including hand-delivery to the address. The deposit in the U.S. Mail or delivery by another comparable service shall be made at least seven (7) days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice, or invalidation of the hearing.

(c) Courtesy Posting of Notice.

- 1.. The Town Manager may direct by written letter or electronic mail to the owner or the owner's representative that the notice be provided by posting of the property. The posting of notice shall be a courtesy to the public and a supplementary means of advising the public of the pendency of an application but shall not be deemed a legal requirement for the processing of an application or the conduct of a hearing if notice by publication was properly completed.
2. Where notice by posting is directed, the Town may post such notice or may require the *owner* to post a Town prepared sign on or within the vicinity of the affected property that states that a rezoning is under review and providing for contact information for the Town Manager not less than ten (10) calendar days prior to the date set for the public hearing.

(d) Notice Certification by Applicant.

Where mailed and/or posted notice is directed by the Town Manager, not less than five (5) calendar days prior to the public hearing, the applicant shall cause to be delivered to the Town Manager a written certification that the applicant has complied with the mailing

¹² See Section 16-3-20 for definition of *measured* for determining distance between properties for purpose of this Land Use Code.

and/or requirements of Section 16A-28-70. Failure to submit such certification may, at the Town's option, require the continuation of the public hearing.

Sec. 16A-28-80. Surface Development Notification.

Nothing in this Section shall affect the owner's statutory obligation and notification requirements set forth in Section 24-65.5-101, et seq., C.R.S. The Town may request, and the applicant shall provide prior to or at the public hearing, certification that notice was provided in accordance with Section 24-65.5-101, et seq., C.R.S. Failure to submit such certification may, at the Town's option, require the continuation of the public hearing.

Sec. 16A-28-90. Criteria for Review of Rezoning.

- (a) In the administrative review by the Planning Commission and in the review of an application and evidence provided during the public hearing for a rezoning by the Board, the Commission and Board shall consider all of the following in rendering a recommendation or final decision:
1. Whether the proposed rezoning is justified by changed or changing conditions in the character of the area proposed to be rezoned.
 2. Whether the proposed rezoning is consistent with any applicable comprehensive plan adopted by the Board of Trustees.
 3. Whether the uses authorized by the proposed zone district will be *compatible* with the surrounding area or uses.
 4. Whether adequate facilities are available to serve the uses authorized by the proposed¹³ zone district.

A finding by the Commission or Board that the application fails to meet one or more of the criteria for review shall justify the recommendation or the decision to deny the application.

- (b) The Commission and Board shall consider that the approval of the application will authorize any and all uses permitted by the proposed zone district notwithstanding that the applicant proposes a particular land use or land use design. If one or more uses within the proposed zone district is found to not meet the criteria for review provided by this section, the Commission or Board shall either recommend denial or deny the application or, subject to the applicant's voluntary consent to conditions on a proposed zoning and the documentation of such consent as an express condition of approval, may conditionally approve the proposed zone district.

¹³ See definition of "compatible" found at Section 16-3-20.

Sec. 16A-28-100. Decision on Zoning Application; Ordinance.

- (a) A decision of the Board of Trustees to deny an application for rezoning may be made by motion, resolution, or ordinance at the Board's discretion.
- (b) A decision of the Board of Trustees to approve an application for rezoning shall be made by ordinance. Following the effective date of such ordinance and upon satisfaction of all conditions of approval including payment of application and review fees, the ordinance shall be recorded with the Summit County Clerk and Recorder's Office.

Article 29 Text Amendment

Sec. 16A-29-10. Text Amendment Explained; Applicability.

All zone districts set forth in Chapter 16A include regulations and restrictions applicable to the uses allowed in each zone district. An amendment, supplement, change or repeal of the regulations or restrictions is known as a "Text Amendment." A Text Amendment would change the regulations or restrictions applied to all property within the zone district and not to any individual property. This Article shall apply to all requests for a Text Amendment to Chapter 16A.

Sec. 16A-29-20. Authority to Propose a Text Amendment.

The authority to propose a Text Amendment is reserved to the legislative discretion of the Board of Trustees. Persons seeking a Text Amendment should contact Board of Trustee members to enlist Board support to advance a proposed amendment.

Sec. 16A-29-30. Process for a Text Amendment.

- (a) Ordinance Required. The Board of Trustees may consider a Text Amendment by the same process used to adopt a legislative ordinance of the Town. In addition, state law requires notice and a public hearing before the Board prior to any ordinance amending, supplementing, changing, or repealing provisions of Chapter 16A.

- (b) Planning Commission Referral and Administrative Review.¹⁴ Prior to holding a public hearing, the Board shall submit the proposed Text Amendment to the Planning Commission. The Commission shall conduct an administrative review of such proposal and render promptly a recommendation regarding the proposed amendment. The Planning Commission shall submit its recommendation to the Town Board within forty-five (45) days after receipt of such submittal. Upon failure of the Planning Commission to submit a recommendation within forty-five (45) days, the Town Board shall consider such failure as a neutral recommendation by the Commission and the Board may proceed to consider, further modify or amend, and adopt the proposed text amendment after public notice and public hearing as provided in Section 16A-29-40.

Sec. 16A-29-40. Public Hearing and Notice.

- (a) All Text Amendment proposals shall require a public hearing before the Board of Trustees. All public notices of hearings shall include the date, time, place, and purpose of the hearing in accordance with this section. Errors or inaccuracies in the notice shall not be deemed sufficient cause to postpone or invalidate a hearing except where such errors are substantive and material and are found to have reasonably mislead or misinformed the public as to only the date, time, place, or general purpose of the hearing. Nothing in this section shall prevent or preclude the Town from providing any other form of notice deemed desirable by the Town including the posting of notice on the Town's website.
- (b) Notice Publication Requirement. The Town shall cause a notice to public hearing to be published once in the Summit County Daily Newspaper (or other official newspaper designated for publication of the Town of Blue River) **at least fifteen (15) days**¹⁵ before the date of the hearing. Published notice shall include:
- A general description of the proposed Text Amendment deemed sufficient by the Town to describe the amendment's purpose, scope, and effect. As an alternative, the Town may publish all or a portion of the form of ordinance to be considered that will effectuate the text amendment.
 - The date, time and location of the hearing or meeting; and
 - A recital that public comment will be accepted at the public hearing and written comment will be accepted if sent to a designated electronic mail address.

¹⁴ The Planning Commission review shall not require a public hearing. State law does not require a public hearing for text amendments except before the governing body. The governing body is authorized to provide for the manner in which the zoning regulations and restrictions are determined and later amended or changed. See C.R.S. § 31-23-304.

¹⁵ Required by C.R.S. 31-23-304.

CHAPTER 16B Development & Design Standards

Article 1 General

Sec. 16B-1-10. Title.

Chapter 16B of the Blue River Municipal Code shall be referred to as the "Town of Blue River Development & Design Standards" or more generally "Design Standards."

Sec. 16B-1-20. Intent and Purpose.

- (a) Intent. The Development and Design Standards are generally intended to implement and build upon Chapter 16A – Zoning. The Development Standards seek to recognize a reasonable balance between owners' private property rights and the protection of the natural mountain character and attractiveness of the Town. It is the natural mountain character of the Town and its surroundings that creates Blue River as a desirable place for development.
- (b) Purpose. Protection of the natural mountain character of the area includes creating appropriate settings for the buildings that are to be constructed within the Town, to make use of natural contours, to minimize the need to reshape and excavate the land, and to afford privacy for the residents and protection from noise and vehicular traffic. Buildings should be integrated into the landscape and building materials should be limited in color and type to best ensure that the built environment does not overwhelm or dominate the natural character. Moreover, every resident must have basic services reasonably available to their property, including supply of water, a means of wastewater discharge that is safe to the public and the environment, electricity, and other common public services.

The purpose of the Development and Design Standards is to address the physical relationships between uses, between lots and properties, between development and adjacent properties, and the interrelationship and connection with public streets, neighborhoods, and the natural environment in order to implement the Blue River Comprehensive Plan's vision and goals for a more attractive, efficient, and livable community.

Sec. 16B-1-30. Reference to Chapter 16 General Provisions.

The provisions of Chapter 16 (General Provisions) shall be applicable to this Chapter 16B.

Sec. 16B-1-40. Applicability.

(a) General Applicability. This Chapter 16B shall apply to all property within the Town of Blue River. Provisions of this Chapter may apply at different stages of land use or land development such as:

1. Subdivision (e.g., lot layout, street design).
2. Design of Improvements.
3. Development or Redevelopment of Property.
4. Use of Property.

Sec. 16B-1-50. Definitions.

The definitions of words and phrases used in Chapter 16B (Development Standards) are found at Article 3 of Chapter 16 of the Land Use Code.

Article 2 Subdivision, Site, and Lot Design

Sec. 16B-2-10. Generally.

The creation of *lots* and, in turn, the creation of potential building sites, through the process of subdivision, re-subdivision, lot consolidation greatly impacts the character of the Town. Lot creation should remain sensitive to the environment and topography while also ensuring that the lot meets the requirements and limitations of the zone district in which the lot is located and the lot can be adequately served with access and utilities.

To this end, the lengths, widths, and shapes of lots shall be designed to:

1. Comply with the minimum lot size and minimum lot frontage required by the property's zone district;
2. Comply with this Article and any other applicable provisions of the Land Use Code;
3. Provide for adequate building sites that can accommodate the uses permitted within the zone district;
4. Accommodate necessary public utilities, easements, and parking;
5. Provide for safe and efficient access, including emergency access vehicles, based on the types of use(s) permitted within the zone district; and
6. Integrate with the limitations and opportunities presented by the topography of the site.

Sec. 16B-2-20. Lot Design Standards.

- (a) Design for Minimum Alterations to Lot. Subdivision design shall minimize the need for alteration of topographic and natural features of the site except where alteration is necessary to control surface drainage (e.g., creation of detention areas) and to ensure avoidance of hazardous traffic conditions (e.g., to align intersections at right angles).
- (b) Double Frontage Lots. Double frontage lots (lots bounded on two opposite sides by streets) are prohibited except where the lot has a depth of not less than one hundred and thirty (130) feet and one of the following circumstances exist:
1. Where a double frontage lot design is necessary to separate residential development from an adjacent highway or *arterial street* and no direct access is permitted from a lot to the adjacent highway or *arterial street*;
 2. Where access to an adjacent highway or *arterial street* which created the need for the double frontage lot is legally prohibited from the lot(s); or
 3. Where the subdivision design incorporates a landscaping or other improvement plan that is determined by the Town as reasonably ensuring a uniform and consistent design along the highway, arterial street, or collector street.
- (c) Design of Useable Building Site. All lots shall be designed to provide for an adequate and usable *building site* (see Article 4 of this Chapter 16B) following the application of the requirements of these Land Use Regulations and consideration of *setbacks* and *encumbrances and limitations* that reduce the potentially buildable area of the lot. Where *setbacks* and *encumbrances and limitations* effectively reduce the buildable lot area and undermine reasonable development opportunities, owners are encouraged to create lots larger than the applicable minimum lot area of the zone district to permit adequate space for a building site. The creation of a lot with a limited buildable area due to setbacks and known limitations or impediments shall be deemed a self-imposed or self-created hardship which may restrict the potential developable size of any building on the lot and which may potentially preclude the granting of a variance pursuant to Article 7 of Chapter 16.
- (d) Outlots. The creation of an *outlot* shall be prohibited except where such outlot will be owned by the Town, a *homeowners' association*, or a special district and the *outlot* will be permanently and perpetually managed and maintained through an agreement approved by the Town at the time of subdivision review and approval and the outlot is expressly limited by the subdivision plat or other land use documentation to use as a location for:
1. A *subdivision entry sign*; or
 2. Facilities for drainage detention or retention, or for surface water flow easement; or
 3. *Open space, greenbelt*, or park; or
 4. *Buffer area*; or
 4. Undeveloped property (no development, improvement, buildings or structures) for the purpose of advancing traffic safety and/or road maintenance such as, but not

limited to, land devoted to intersection visibility triangles, noise mitigation space, and snow storage areas.

- (e) Required Road Radii. Property lines of lots located at the corners of two intersecting local or collector roads shall be rounded by an arc having a radius of not less than fifteen (15) feet. Property lines of lots located at a corner of Colorado Highway 9 or a local arterial road shall be rounded by a radius of at least twenty-five (25) feet.

Sec. 16B-2-30. Dedications Required for Utility and Other Services.

- (a) All Major Subdivisions and Minor Subdivisions, and the creation of a new lot by subdivision, approved after **August 1, 2021**, shall dedicate public use easements within each lot in accordance with Article 3 of this Chapter 16B. Unless otherwise authorized or accepted by the Town, easements shall be depicted on and dedicated by the subdivision plat.
- (b) For the *redevelopment* of any *lot*, no building permit shall be issued unless the lot is determined by the Town to be in compliance with the requirements of Article 3 of this Chapter 16B in order that such lot is afforded necessary utility services. The dedication of new easements shall be required for existing utilities which are located outside of an easement and which provide services to the lot or to adjoining lots.

Sec. 16B-2-40. Access to Adequate Public Thoroughfare Required.

Public Access Required. All lots shall be laid out and designed in order to be served by lawfully recognized, direct, uninterrupted, and permanent access to an existing public thoroughfare capable of safely and efficiently handling both the existing demand upon such thoroughfare and the estimated vehicular traffic volume generated by the proposed lot development or subdivision.

Sec. 16B-2-50. Secondary Access.

- (a) Secondary Access Required. The road layout within a Major Subdivision¹⁶ shall be designed to provide at least two (2) permanently available means of public access to lots within the subdivision. This secondary access requirement shall not apply to lots within a subdivision that obtain access from a cul-de-sac street that is less than five hundred (500) feet in length measured from the cul-de-sac entrance to the furthest point of the cul-de-sac. Both primary and secondary access shall be provided by roads meeting all design and construction standards applicable to such roads; provided, however, that the Town may permit secondary access not meeting such standards where it is demonstrated that:

¹⁶ See Article 4 of Chapter 17, *Major Subdivision*.

- (1) Due to the size of the subdivision, location of the lots, and sufficiency of the primary access and street layout, there is no reasonable necessity for providing two means of permanent public access to the lots within the subdivision; and
 - (2) The secondary access is sufficient to permit access by emergency vehicles; and
 - (3) The secondary access will be regularly maintained, and will remain permanently available for emergency vehicle use; and
 - (4) The secondary access will not be detrimental to the public health, safety, and welfare.
- (b) Waiver Authorized. The Town Board may waive the requirement or postpone the completion of the requirement for secondary access to any Major Subdivision only upon a finding by the Board that one or more physical conditions associated with the subdivision, such as topography, property ownership patterns, or existing development on adjacent property, will prevent or preclude an opportunity for constructing secondary access and the absence of secondary access will not be detrimental to the public health, safety, and welfare.

Sec. 16B-2-60. Street Design.

Streets to Meet Standards. All lots shall be accessible by a street system that meets all standards provided by the Land Use Code and Town adopted street construction standards. Where the existing street system providing access to the lot fails to meet the applicable standards, subdivision approval shall be denied until such time that the Town legislatively allocates adequate funding to bring the street system into conformance with the Land Use Code and Town adopted street construction standards. Alternatively, the *Applicant* for approval shall upgrade the street system at the *Applicant's* expense as part of the public improvements necessary to serve the lot or subdivision, as applicable.

Article 3 Utilities and Easements

Sec. 16B-3-10. General Public Utility Easements.

Public easements sufficient to provide reasonable service facilities for public utilities (water, sewer, electricity, gas, telephone, communication, fiber optic, cable, etc.) shall be designated and dedicated to the Town for public use on each subdivision plat and shall meet the following minimum standards:

1. At least fifteen (15) feet in width when located on one side of a rear lot line; or
2. At least a total of twenty (20) feet (10 feet on each side) when centered on a rear lot line; and

3. At least and fifteen (15) feet (7.5 feet on each side) alongside lot lines.

The use or uses for each public easement shall be identified on the plat or development plan. Where not identified, the easement shall be available for all public uses. Whenever possible, easements should permit co-location of uses to minimize the need for multiple easements. The *Applicant* is encouraged, in lieu of providing easements on each and every lot line, to propose a public easement layout plan for providing the necessary utilities in order to reduce the number and complexity of easements. The layout plan is subject to approval by the utility providers and by the Town.

Sec. 16B-3-20. Sanitary Sewer Easements.

Sanitary sewer lines shall not be located along side lot lines or extend between lots except where such location is determined by the Town as the only reasonable alternative due to topographic or physical features of the property and a twenty (20) foot wide easement for both the line location and future maintenance is provided on the plat.

Sec. 16B-3-30. Drainage Easements.

Drainage easements shall be established for all drainage ways, channels, streams, or irrigation ditches traversing multiple lots of a subdivision. The location of such easements shall conform substantially to the natural and historic lines of surface drainage and shall include additional reasonable width for maintenance purposes. Where a third party holds an ownership interest in a drainage way, channel, stream, or irrigation ditch, the applicant shall obtain the owner's written consent to any modification or re-location of the drainage system.

Sec. 16B-3-40. Off-Site Easements.

If a proposed utility or drainage system or plan will require use of private land located outside of the development or subdivision, the applicant shall secure the legal and permanent right in a form acceptable to the Town Attorney for such use of land outside of the development or subdivision.

Sec. 16B-3-50. Emergency Access Easements.

Emergency access easements (publicly dedicated easements reserved for use by fire protection equipment access and other emergency service access such as ambulances and law enforcement) shall be required where determined by the Town as reasonably necessary to gain access to and protect the development and immediate area. *Subdivisions* and *developments* of greater than four (4) lots served by a single access road may be required by the Town to establish secondary emergency access. When required, all emergency access easements shall be at least

sixteen (16) feet in width, have an all-weather surface¹⁷ acceptable to the Town and shall permanently remain free of obstructions and available for access at all times.

Sec. 16B-3-60. Pedestrian Easements.

Within the Town of Blue River, pedestrian easements were created and shown on many of the recorded subdivision plats and were created by deeds and other documents recorded with the Summit County Clerk and Recorder. The Town recognizes that these easements confer a legal right upon the easement holder to reserve the easement area for pedestrian access and pedestrian passage. The Town further recognizes that the construction of structures, buildings, fences, or other above grade improvements and the parking of vehicles substantially interferes or precludes with the right of pedestrian access and passage. Therefore, pedestrian easements shown on subdivision plats or recorded with the Summit County Clerk and Recorder's Office shall be recognized as unavailable for most development and no above grade improvements shall be permitted within pedestrian easements absent the express consent of all easement holder(s) and the termination of the easement.

Sec. 16B-3-70. Snow Storage Easements

All Major Subdivisions and Minor Subdivisions, and the creation of a new lot by subdivision, approved after August 1, 2021, shall dedicate public use easements along all public streets for the storage of snow removed from adjacent rights-of-way. Snow storage may be required for other forms of subdivision or land use approvals where determined by the Town that public access will likely be impaired to the property due to an inability to effectively clear the public right-of-way of snow and ice.

Article 4 Buildable Area

Sec. 16B-4-10. Generally.

The extent of potential development or the improvement of a lot shall be governed, in significant part, by the lot's *setbacks* together with the limitations imposed by *easements, encumbrances and limitations* that may restrict development. This Article defines the permitted extent of development of a lot and the means of determining the permitted buildable area for the lot and the location of any building, structure, or accessory improvement.

¹⁷ All Weather Surface means a surface capable of allowing motor vehicle access during any weather condition, which surface may include packed gravel, seal-coated asphalt, asphalt, concrete or another material approved by the Town.

Sec. 16B-4-20. Setbacks.

Setbacks (front, rear, and sides) are established by the Zone District that is assigned to a *lot*. See Chapter 16A - Zoning. Setbacks are a specified distance measured from the front, rear, and sides of the property line that defines the boundaries of the lot. *Setbacks* effectively define the initial location within the lot in which the principal permitted building or structure may be lawfully constructed, erected, or maintained *except* as expressly permitted by the Land Use Code. Such initial location is subject to limitations imposed by easements and other encumbrances.

Sec. 16B-4-30. Easements.

- (a) Easements Generally. Along with *setbacks*, most lots include or contain easements and other forms of legal encumbrances that can restrict the ability to locate and construct some types of development or improvements. For example, many lots include utility easements that allow for the service lines necessary to serve the building. Buildings and other types of improvements cannot be lawfully constructed within a utility easement because the building will impair the ability to use the easement for the purpose of installation, maintenance, relocation, and removal of utilities. Likewise, a pedestrian easement is reserved for the use of pedestrians to traverse the easement area, therefore, a building or other structure constructed within a pedestrian easement will defeat the purpose of the easement and building within the easement is not permitted.
- (b) Recognized Easements and Limitations on Development or Improvement of a *Lot*. The following easements and encumbrances will be found throughout the Town of Blue River which may restrict or limit the development potential for a lot.

- (1) Utility easements and existing utilities;

Generally, no *permanent* improvements may be constructed within a utility easement or upon property where utilities exist. Some limited use of the easement area that is not adverse to the purpose of the easement may be permitted. For example, the surface of the easement area may be used for recreational activities or gardens and other forms of landscape planting that do not create conflicts with underground utilities due to deep invasive roots or conflicts with above-grade utilities due to growth of trees reaching utility lines. The language of the easement and the easement holder (the party that holds the easement and has the right to the use of the easement) should be consulted for the permitted use of easement areas.

- (2) Drainage Easements for Retention, Detention, and Surface Flows.

Easements are often created for the purpose of reserving land to manage surface waters and stormwaters. Such easements prohibit the use of the surface for nearly all permanent buildings and structures due to the conflict with the purpose of the easement.

(3) Road Easements (Public and Private) and Access Easements.

Easements are often created to reserve property for vehicular traffic and to provide for permanent access to property. Such easements are not available for any development or improvement other than overhead and subsurface utilities that will not interfere with the existing or future use of the road within the road easement or the access secured by the easement.

(4) River Easements (shown on subdivision plats).

River easements were privately established within the Town of Blue River and today encumber all or a portion of some *lots* within the Town. The particular document creating each river easement requires review in order to determine the specific restrictions imposed on use of the easement area. Such document will oftentimes prohibit surface uses in order to reserve the property for river and surface water flows unless otherwise approved by the easement holder(s). As a general matter, the Town will deem the areas within river easements as unavailable for development or improvement without the express approval of the easement holder(s).

(5) Pedestrian and Trail Easements (shown on subdivision plats).

Some *lots* are encumbered with pedestrian or trail easements which are illustrated on subdivision plats recorded with the Summit County Clerk & Recorder's Office. The purpose of the easement is recognized by the Town as reserving the easement area for use by pedestrians or trail users. As a result, such easements are considered by the Town as unavailable for use for improvement absent approval of the easement holder(s).

(6) Conservation Easements (or other similar forms of easements intended to limit or prevent development).

Conservation easements or other forms of easements are created by deed, contract, subdivision plat, or other legally recognized document for the purpose of preventing or limiting development or improvement of all or any portion of the easement area. The particular document creating each easement requires review in order to determine the specific restrictions imposed on use of the easement area. The Town will not typically permit development or improvement within legally established conservation easements without the express consent of the easement holder(s).

(7) Other Legally Recognized Easements (public or private).

A variety of different forms of easements may be created by private contract or dedicated or created to serve a public purpose. Where such easements exist, they are typically recorded against the lot and are on file with the Summit County Clerk and Recorders Office. The terms and conditions of the easement contract or the document creating the easement will dictate the permitted scope and use of an

easement. The Town may, in some situations, prohibit development that will conflict with the easement or, on most situations, require the applicant to notify the easement holder of the proposed development to enable the easement holder the opportunity to decide whether to enforce the terms and conditions of the easement.

Sec. 16B-4-40. Other Encumbrances and Limitations.

- (a) Together with setbacks and easements, the ability to develop or improve a lot may also be limited by requirements or federal, state, or local laws. Locally, such laws recognized by the Town of Blue River include:
- (1) Federally Designated Floodways or Floodplains (see Article 16B-16-30).
 - (2) Federally Designated Wetlands (see Article 16B-13-20).
 - (3) Policies established by the Town of Blue River (including the Land Use Code) designed to reduce the impact of development in order to advance goals and objectives to preserve the natural environment that defines the character of Blue River.
 - (4) *Reserved.* (Subsection reserved for later reference to any local regulations *such* as ridgeline development regulations, wildfire mitigation zones, wildlife corridors, or steep slope restrictions).

Sec. 16B-4-40. Buildable Area.

- (a) Determining Building, Structure, and Accessory Improvement Location. When seeking Town approval of the location within a lot of any building, structure, accessory improvement, or other improvement regulated by the Land Use Code, the owner or applicant shall demonstrate a consideration of the following when deciding the appropriate location of the building, structure, accessory improvement, or other improvement:
1. The lot's applicable setbacks imposed by the zone district (see Chapter 16A – Zoning);
 2. Easements that may prohibit, restrict, or limit the location of development or improvements;
 3. Other *encumbrances or limitations* that lawfully prohibit, restrict, or limit development or improvements within the lot;
 4. Integration of the building, structure, and site improvements into the natural topography and natural features of the lot to reduce the impact of the mass of the building, structure, or improvement;
 5. Minimizing the need for grading or surface disruption and revegetation;

6. Avoiding areas of natural or historic drainage and minimizing the need for extensive redirection or natural drainage courses;
7. Minimizing the need for lengthy or steeply sloped driveways or access roads;
8. Reasonable buffering of views of the proposed building, structure, or site improvement from existing adjacent residences and a recognition of the advantages of sun exposure for vegetation and snow management; and
9. To the extent practicable, minimizing or buffering impacts on adjacent property caused by vehicle headlights, parking, and the use of areas intended for social or recreational activities such as decks, outdoor dining areas, and hot tubs.

Sec. 16B-4-60. General Restriction Regarding Buildable Area.

The Town shall not authorize or permit a building, structure, accessory improvement, or other improvement which will unlawfully encroach into any setback or Town-recognized easement, or conflict with any encumbrance or limitation recognized in accordance with this Article.

Article 5 Building Design Standards

Sec. 16B-5-10. Generally.

Buildings can positively or negatively impact the mountain character that the Town of Blue River seeks to preserve and encourage. The thoughtful incorporation of certain forms of building architecture, design elements, height, materials, and colors can enable a building to naturally blend into the environment and to enhance the visual qualities of a mountain community. Conversely, other forms of building design and construction may cause the building to appear wholly inconsistent and out of place when located with a mountain community. This Article is intended to reasonably regulate architecture, design, mass, scale, height, material, and colors to best enable buildings within the Town to enhance, and not detract, from the mountain character and qualities this Land Use Code seeks to advance and preserve.

Sec. 16B-5-20. Building Height.

- (a) Building Height Limit Generally. Maximum building height for each lot is established by the applicable zoning district. See Chapter 16A.
- (b) Building Height Measurement. Heights of buildings and structures are calculated as follows:

- (1) Building height shall be measured using a certified topographic map that also illustrates the entire proposed building footprint. The building height shall be the distance measured vertically from any point at the lower in elevation of the natural or finished grade of the building to the highest point of the building at such point (not including any exceptions for physical improvements to the height limitation provided by this Section).
 - (2) The methodology for measuring height can best be visualized as an irregular surface located above the building site at the height limit permitted by the underlying zoning district, having the same shape as the natural or finished grade of the building site (whichever is more restrictive).
 - (3) Where minor or nominal irregularities in the grade exist (as determined by the Town), such irregularities shall not be used in determining compliance with the height limitation and the surrounding typical slope of natural grade shall be used.
 - (4) Window wells, walk out doorways, cellar or basement entry points, and similar building appurtenances installed below the general grade of the site shall not be included as an element of the finished grade for the purposes of calculating building height.
- (c) Improper Modifications of Existing Grade. A modification of the natural grade of a lot performed without Town approval and prior to a determination of the allowable building height, when determined by the Town to be an effort to increase the building height contrary to this Section or the applicable limitation of building height, shall be disregarded in calculating allowable building height for a lot. In such instance of unauthorized or improper modification, the Town shall approximate the natural grade of the lot based on information available to the Town and the Town shall determine the allowable building height for the lot.
- (d) Exceptions to Height Limits: The following exceptions to height limits are allowed:
- (1) Chimneys, vents, and other forms of common roof appendages for utilities, heating, cooling, or ventilation of common household equipment may exceed the maximum height allowance by a maximum of ten percent (10%). Where a greater extension is mandated by a Town-adopted and applicable building or safety code, the greater extension shall be permitted as an exception to the height limitation.
 - (2) The Planning Commission is authorized to approve a limited exception to building height in the following circumstances:
 - (i) *Varying Roof Height Exception.* The Commission may approve an exception where the Commission finds that:
 - a. The building or structure incorporates varying roof forms and varying roof heights and such variations result in the building or structure being lower than the maximum allowed building height for

approximately twenty-five percent (25%) of the total building or structure; and

- b. The building or structure meets all other applicable provisions concerning height, mass, scale, and setback for the applicable zone district; and
- c. The exception is deemed nominal or minor by the Commission and in no event exceeds three (3) feet.

(ii) *Nominal and Inconsequential Exception.* The Commission may approve an exception where the Commission finds that:

- a. The building or structure is found to exceed the maximum building height at a given point but such deviation is determined by the Commission to be nominal or inconsequential when considering the building's or structure's overall conformance with the maximum height limitation in all other instances; and
- b. the deviation is less than three (3) feet; and
- c. the deviation will not be readily noticeable to the general public given the surrounding topography, vegetation, and location of the structure; and
- d. The deviation is not the evident result of the Owner's or Applicant's intentional effort to violate the applicable maximum building height requirement.

Sec. 16B-5-30. *Reserved.*
Sec. 16B-5-40. *Reserved.*
Sec. 16B-5-50. *Reserved.*

Sec. 16B-5-60. *Foundation.*

- (a) Generally. The foundation comprises the lowest part of a building or structure that is in direct contact with the soil and which transfers loads from the structure to the soil safely. Although the construction standards for a given foundation are governed by the Town-adopted building and safety codes, exposed portions of a foundation visible from the exterior of the building or structure can diminish or enhance the character of a building or structure depending on the treatment of the exposed foundation.
- (b) Design Requirements. The surface the portion of a foundation visible from the exterior of a building or structure shall be physically treated to integrate the foundation's appearance with the building or structure and with the surrounding environment. Stone, rock, stone veneer, and metal are acceptable treatment materials provided that the materials match or are consistent with similar materials used in the construction of the predominant portions of the building or structure. Exposed concrete or cinderblock foundation walls are prohibited unless such exposed walls are both approved by the Town (See Chapter

16C and Type C Application) and painted to match the predominant Town-approved color of the principal building or structure. For foundations with nominal visual exposure (i.e., no greater than 18 inches in height at any point above finished grade), the use of landscaping materials which will significantly reduce or mask the visibility of the foundation are acceptable if such treatment is included within a landscape plan approved by the Town.

Sec. 16B-5-70. Roofs.

- (a) Generally. The design of roofs and roof slope on all buildings or structures can enhance the compatibility of the building or structure with the surrounding environment. For this reason, the design of roofs for all buildings and structures shall comply with this Section.
- (b) Roof Form Requirements.
- (1) *Prohibited.* The use of a flat, shed, butterfly, or mansard roof forms¹⁸ as the predominant or primary roof for a building or structure is prohibited. The use of a roof with a pitch of 2:12 or lesser slope shall be limited to roof sections that serve as secondary elements of architectural interest, such as integrating small segments of flat or shed roof over entryways or where necessary to accommodate a second-floor deck. Where secondary flat or shed roof segments are proposed, the Town may require engineering certification of the roof's capacity to accommodate anticipated snow loads and/or the integration of mechanisms or methods to ensure the mitigation of snow and ice from roof sections.
 - (2) *Acceptable.* Gable, hip, hip and valley, and shed roof forms with roof pitches between 4:12 and 12:12 are acceptable.
 - (3) *Subject to Discretionary Review.* The use of other forms of roof (i.e., saltbox, gambrel, or combination of different roof forms) shall be subject to Town review and discretionary approval based on factors such as: (i) consistency with other roof forms found within the immediate neighborhood on existing buildings or structures; (ii) the roof's integration into the immediate surrounding environment in a manner that reduces the appearance of the building or structure, (iii) the integration of architectural elements such as dormers, cutouts, and roof variations to lessen the appearance of the roof and the mass of the building or structure; and (iv) the degree to which the proposed roof form will allow the building or structure to significantly reduce the need to build to the maximum allowed building height for the lot.

¹⁸ See <https://www.britannica.com/technology/roof> for illustrations of basic roof forms.

(c) Design Requirements.

- (1) Roof design shall accommodate snow loading reasonably anticipated for Blue River.
- (2) Roof overhangs shall be used to add visual interest, enable the safe shedding of snow and ice, and protect the building or structure from weather.
- (3) The use of metal fascia is prohibited.
- (4) Roofing material shall be metal (allowable muted, non-reflective earth tones or dark natural colors) or asphalt shingles (earth tones or dark natural colors). All other roofing material shall be subject to Town review and approval based on the ability of the proposed material to be equal or better than metal or asphalt shingles in the protection of the building or structure and in the aesthetic appearance and impact on the natural environment.

(d) Design Guidelines.

- (1) Roof design should avoid long uninterrupted expanses of roof surface without the addition of architectural treatment to add visual interest.
- (2) Roof design should follow existing contours of the surrounding topography to enable the roof to integrate into the natural environment and reduce visual impact on the community.
- (4) The use of flashing, gutters and downspouts are to be minimized and used only where needed to protect walkways, sidewalks, entrances, and other areas with anticipated pedestrian use. Where proposed for use, they are to be constructed of durable metals and in colors that blend with the roof and exterior walls.

Sec. 16B-5-80. Garages.

- (a) Garages as Subordinate Feature. Garages shall not dominate the structure and shall be subordinate to the residence. Garage walls shall be set back behind the front primary walls of the home. Where possible, garages shall be side loaded.
- (b) Materials and Color. Garage doors shall be wooden or of a material and color to match adjacent surfaces. Simple designs are encouraged. Clad materials such as anodized metal, baked enamel or plastics are subject to the review and approval of the Town. White garage doors are prohibited.

Sec. 16B-5-90. Window and Door Design.

(a) Window Design Standards.

- (1) Window openings shall be designed in proportion to the structure and form of the residence. Openings of unusual shapes, sizes, and colors that distract from the overall design of a building or structure are not permitted. Window openings in mass walls should be relatively small in scale and be used in an informal pattern on the wall with deep-set reveals and varied proportions.
- (2) Large panes of windows should be detailed with window mullions. Large banks of windows should be designed with intermediate framing or deep recesses to reduce the scale of the glass area.
- (3) Clad wood windows are recommended. Clad materials such as anodized metal, baked enamel or plastics are subject to the review and approval of the Town. White windows are not permitted.
- (4) Insulated glass windows are required by state and local energy codes. Clear, solar gray and solar bronze glass may be used. Other colored, reflective, or mirrored glass is not permitted.

(b) Doors.

- (1) Front or entry doors shall be a prominent feature of each building or structure.
- (2) Door openings shall be designed in proportion to the structure and form of the residence. Openings of unusual shapes, sizes, and colors that distract from the overall design of a building or structure are not permitted.
- (3) Clad materials such as anodized metal, baked enamel or plastics are subject to the review and approval of the Town. White doors are prohibited.
- (4) Simple decorative doors such as carved wood, plank, and glazed are encouraged for exterior doors. Ornate, gaudy or period designs are not permitted.

Sec. 16B-5-100. Balconies and Railings.

(a) Balconies.

- (1) Balconies should be sized to individual rooms or functions within the building and should be proportional to the overall exterior elevation of the building.
- (2) Long horizontal expanses of continuous or repetitive balconies shall be avoided.
- (3) Balconies enclosed with wood or solid walls on more than two sides are prohibited.

(b) Railings.

- (1) Railings on balconies, decks, stairs and porches, are to be made up of structures and materials that appear as natural extensions of the buildings that adjoin them.
- (2) Balcony railings should be light in appearance with a significant portion of the area left open by using narrow pickets or railing patterns.
- (3) The use of framing material for balcony railings is not permitted. Wood or wrought iron railings may be used.

Sec. 16B-5-110. Chimney and Roof Penetrations.

- (a) Chimneys. A chimney shall be designed with form, shape, mass consistent with and in proportion to the structure to which the chimney is attached or related. The principal materials used for the exterior chimney surround shall be identical to or consistent with other materials used for exterior surfaces of the structure.
- (b) Roof Penetrations. Items that penetrate the roof surface (including, but not limited to attic vents, sewer and utility system vents, HVAC vents, dryer vents, flues, and pipes) should be consolidated to the extent practicable and enclosed within common channels. All exposed penetrations, pipes and flues shall be painted to match the roof color.

Article 6 Building Materials and Colors

Sec. 16B-6-10. Generally.

Materials and colors of buildings and site improvements can enable the building or improvement to blend into the surrounding environment and enhance the mountain character of the Town. Conversely, some materials and colors can result in a building or structure that detracts from and conflicts with the natural environment. This Article seeks to reasonably limit the types of materials and colors used for all buildings, structures, and improvements within the Town to achieve the purposes and goals of the Land Use Code.

Sec. 16B-6-20. Materials.

(a) Exterior Walls.

- (1) Acceptable Materials:
 - (i) Log;
 - (ii) Timbers;
 - (iii) Plank siding;

- (iv) Board and Batten;
 - (v) Bevel Siding;
 - (vi) Wood Shake; and
 - (vii) Cementitious (fiber cement) only siding when resembling wood siding.
- (2) Conditional Materials (only with Town approval upon finding that the proposed material and its application will resemble acceptable materials in texture, color, and ease of maintenance):
 - (i) Metal siding; and
 - (ii) Vinyl or plastic siding.
- (3) Prohibited Materials.
 - (i) Plywood siding;
 - (ii) Synthetic siding;
 - (iii) Ferro cement siding;
 - (iv) Stucco;
 - (v) Adobe;
 - (vi) Concrete block and concrete masonry units (CMU);
 - (vii) Brick; and
 - (viii) Contrasting light or dark grout or mortar.
- (b) Exterior Trim Materials. All wood trim boards shall be a minimum of two-inch by two-inch (2x2) material. Cementitious and other non-wood trim materials shall mimic wood materials with a minimum proportion of two-inch by two-inch (2x2) and shall be subject to review and approval of the Town upon a finding that the proposed material and its application will resemble acceptable materials in texture, color, and ease of maintenance as wood trim materials.

Sec. 16B-6-30. Colors.

- (a) Intent. The overriding principle for the exterior color of buildings within the Town is to blend buildings into the terrain and vegetation of the natural landscape. Therefore, naturally weathering materials such as cedar shakes and shingles; redwood and western red cedar boards, rusting metal, and native stone are central to the design theme.
- (b) General Prohibition on Colors: The following colors are prohibited for all surfaces of all *buildings, structures, and accessory improvements*:
 - (1) White (including colors muted or tinted that approximate white);
 - (2) Yellow; and
 - (3) Fluorescent colors of any kind or type.
- (c) Exterior Stain. Where exterior stain is used on wood siding and exterior walls the color shall resemble natural wood tones. Paint is not to be used on exterior siding.

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Article 7 Accessory Improvements

Sec. 16B-7-10. Generally.

- (a) Accessory Improvements Generally. Together with lawful permitted buildings on a lot, other improvements accessory to the buildings will significantly impact the character of a subdivision as well as the character of the Town. For this reason, certain types of improvements must be constructed or installed, and then managed and maintained, in accordance with standards designed to balance the impact of the improvement upon the community with the reasonable needs of the property owner to enjoy the property.
- (b) Improvement Requirements Not Inclusive of all Applicable Regulations. The requirements of this Article are imposed in addition to any design and construction standards imposed by applicable building and safety codes of the Town of Blue River.
- (c) Other Improvements Governed by Building Codes. Improvements within a lot not specifically addressed by this Article shall not imply that the improvements are unregulated. Most improvements of a lot shall require conformance with applicable Town-adopted building and safety codes and owners should always contact the Town for information on processes to obtain approval of all forms of improvements.
- (d) Lawful Dwelling Unit Required. All *accessory improvements* are authorized only with the presence of a lawfully existing *dwelling unit* on the same *lot*. *Accessory improvements* that must be installed contemporaneously with but prior to the completion of the *dwelling unit*, such as a *retaining wall* or *driveway* necessary to create or access a building site, shall be authorized only where a building permit is issued for the *dwelling unit* and the owner commences construction of the *dwelling unit*.

Sec. 16B-7-20. Berms.

- (a) Policy Statement and Applicability.

It is the purpose and intent of the Town to ensure that all berms are designed and constructed to appear natural using plants, trees and other landscaping materials that match the existing natural areas within the Town. For the purposes of this Chapter, a "berm" shall mean a non-naturally occurring mound of earth greater than two (2) feet in height (as measured from original ground level), or larger than four hundred (400) square feet of surface area. All berms within the Town shall comply with the provisions in this Article.

- (b) Declaration of Nuisance.

Any *berm* constructed, installed, or otherwise placed on any lot within the Town of Blue River without required permit(s) or which berm fails to meet the minimum requirements of this Section is hereby declared illegal and a nuisance. In addition to enforcement of the Land Use Code for

an illegal accessory improvement, the Town is authorized to seek abatement of the nuisance in accordance with the Municipal Code.

(c) Location Requirement.

- (1) Berms may be located within a setback.
- (2) The slope of a berm may terminate on a lot line.
- (3) Berms may not be located within a plated road easement.
- (4) Berms may not be located within the sight distance triangle. See subsection (h) below.
- (5) Berms may not be located within any area of an existing street used by the public.
- (6) Berms may not be located in an area where snow storage is necessary to enable the Town to maintain the street for the adjacent property.
- (7) Berms shall not be located where the berm will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.

(d) Design and Construction Standards.

- (1) Every berm within the Town shall be designed and constructed in accordance with the following:
 - (i) Maximum height shall not exceed eight (8) feet, as measured from existing grade to the top of the crown of the berm.
 - (ii) Maximum slope shall not be greater than two to one (2:1) as a horizontal run to vertical rise.
 - (iii) The entire length of the perimeter shall be tied into the existing grade.
 - (iv) The area of the berm shall be contained within a single lot.
 - (v) Berms may not enter into any pedestrian, trail, utility or other easements or road, public right-of-way or public property.
 - (vi) The entire berm shall be landscaped as follows:
 - a. Grass, shrubs, perennials, groundcovers, annuals or trees shall cover eighty percent (80%) of the surface area. All grass seed mixes, perennials, groundcovers, annuals, and trees are limited to those identified in the Summit County Required Plant Materials List in Appendix 16-A of this Chapter.

- b. Natural landscaping materials, including logs, stumps, decorative dead trees and boulders of varying sizes, must be incorporated into the site.
- (vii) Landscaping of all berms shall take into account and be designed to be protected from snow storage areas and from snow sliding off of roofs. Hardy landscaping plants that will not be damaged by snow storage shall be located in those areas so affected by snow piled upon or against the berm.
- (viii) Located within a site distance triangle described in this Article.
- (ix) The applicant shall take into consideration if there are proper water rights for use on the landscaped areas in case additional water is necessary for supplementing natural precipitation. Appendix 16-A lists the types of vegetation to use for three (3) different ranges of precipitation.
- (2) The following additional construction standards apply to all berms:
 - (i) A berm shall be compacted prior to planting, landscaping or revegetation.
 - (ii) Berms shall contain soil in sufficient quantity to ensure the survival of the grass, shrubs, perennials, groundcovers, annuals or trees. At a minimum, a berm must have at least two (2) inches of topsoil. If topsoil is not used, the applicant may use two (2) inches of mulch (straw, hay, wood cellulose, etc.) prior to seeding. The topsoil or mulch must be tilled at least four (4) inches deep into the soil prior to seeding. Straw and hay shall be certified as free of noxious weeds and shall not be in a state of decomposition so as to smother or retard the growth of natural grasses or groundcovers used by the applicant.
 - (iii) Any groundcovers shall be free from weeds identified as invasive, noxious or otherwise nuisance weed species in the Summit County Weed Management Guide in effect on the date construction of an approved berm commences.
 - (iv) Plantings of grass, groundcovers or flower seeds shall occur within ten (10) days following the surface soil preparation.
 - (v) Construction materials, concrete, bricks and garbage cannot be used as fill material to construct a berm.
 - (vi) Existing trees shall not be buried or incorporated into the berm.

(e) Construction Permit Required; Financial Guarantee.

- (1) A permit for the construction of a berm is required. Such permit may be issued upon approval of the Building Official as described in this Article. Such permit will expire eighteen (18) months after issuance.
- (2) A financial guarantee in the form of a cash bond, in an amount of 150% of the cost estimates, shall be paid to the Town, prior to the issuance of a permit to construct a berm. Such bond will be refunded upon approval by the Town of the full completion of the construction of the berm, including required landscaping. The Town shall hold these funds in a non-interest-bearing account. The funds may be commingled with other Town funds. If the construction of the berm, including landscaping, is not completed within eighteen (18) months from the date of issuance of the permit, the Town may contract for the completion, including landscaping, and deduct any incurred expenses from the bond. Any unused funds shall be returned to the applicant upon final completion of the berm, including landscaping.

(f) Contents, Timing and Review of Application.

- (1) The applicant shall submit an application to the Town that includes the following items:
 - (i) Town berm permit application form with the property address and name and address of the owner of the property, a narrative describing the project and an estimated time of completion;
 - (ii) A depiction of the property showing the property lines, easements, structures, driveways, snow storage areas, utilities, septic system, site distance triangle described in this Article, location of the proposed berm(s) and location and identification of type of existing trees that will be affected by the proposed berm;
 - (iii) A list of the revegetation and other landscape materials to be used on the proposed berm;
 - (iv) A sketch of the proposed berm meeting the design standards of this Article, with items shown as close to scale as possible (including the placement of the listed materials, along with any natural materials used, such as trees, stumps, large rocks, etc.);
 - (v) Other permits that may be required by the Town to complete the work; and
 - (vi) A fee for the review of the application in an amount set by motion or other form of the Town Board of Trustees.

- (2) The Building Official shall review the application to determine that it is complete and meets the requirements of this Article. The Building Official may:
 - (i) Find that the application is complete and review the proposed berm project. If the proposed berm meets the design standards and other requirements of this Article, the Building Official shall approve the construction of the proposed berm. If the proposed berm does not meet the design standards or other requirements of this Article, the Building Official may ask the applicant to revise the application or deny the application.
 - (ii) Ask the applicant to complete the application.
 - (iii) Ask the applicant to supplement the application by submitting additional plans and details, including, for example, an Improvement Location Certificate (ILC) or other survey documentation. The applicant shall comply with requests of the Building Official to complete or supplement the application.
- (3) The Building Official is authorized to deny an application for a berm construction permit if:
 - (i) The application is incomplete.
 - (ii) The applicant fails to supplement the application as requested by the Building Official.
 - (iii) The application fails to meet the design standards or other requirements of this Article.
- (4) The denial of an application shall be in writing, identifying the reasons for the denial, and sent to the applicant at the mailing address shown in the application by first class mail, postage prepaid.
- (5) The applicant may seek review of that decision by submitting an appeal to the Board of Adjustment. Any appeal of the denial of an application must be submitted in writing within fourteen (14) days of the date of mailing of the denial letter. If the applicant fails to meet that deadline, the Board of Adjustment shall not hear the appeal. An appeal must identify in detail the reasons for the appeal.
- (g) Inspection of Berm, Approval of Construction.

Upon completion of construction of the berm, the applicant shall provide notice to the Town. The berm shall be inspected by the Building Official to determine compliance with the approved berm permit application and this Article. If the Building Official determines that construction of the berm is not in accordance with the requirements of this Article, the applicant shall make the changes necessary to bring it into compliance. Any determination of the Building Official concerning the inspection of the berm may be appealed to the Board of Adjustment, provided that notice of such

appeal is presented in writing to the Town Manager within fourteen (14) days of the action to be appealed.

(h) Sight Distance Triangle.

For safety and visibility purposes, a sight distance triangle shall be maintained at all street intersections and where driveways intersect Town streets (See Figure 1) or Colorado State Highway 9 (See Figure 2). No landscape materials, berm or other visual obstructions between three (3) feet and eight (8) feet shall be allowed within this sight distance triangle. The Town may request the Colorado Department of Transportation determine whether proposed or existing berms near driveways or road intersections with Colorado State Highway 9 conform to its requirements. Property owners may be required to reconstruct a berm if it fails to meet those standards. This regulation is a highway safety measure and is not intended to prohibit the planting of trees or retention of existing trees in the sight distance triangle, if they are pruned so that all branches are higher than seven (7) feet as measured from the ground surface.

Figure 1- Typical "Sight Distance Triangle"

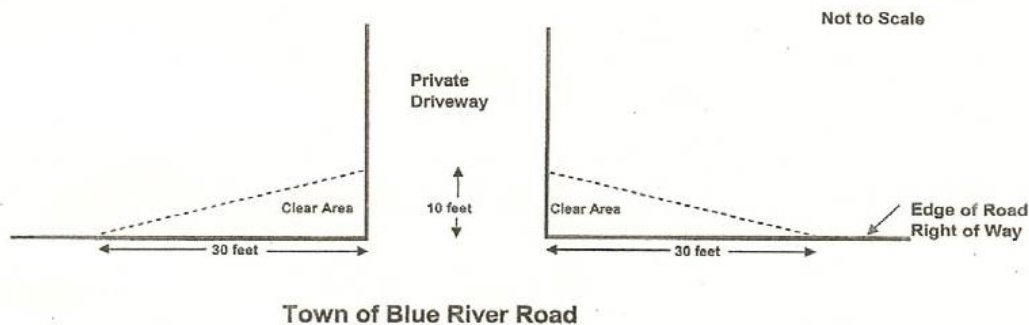


Figure 2 Example of "Sight Distance Triangle"
Based upon AASHTO State Guidelines used by CDOT for Driveway Access



(i) Completed Berms.

- (1) Property owners are responsible for the establishment and maintenance of vegetation and landscaping on any berm in Town.
- (2) Berms constructed prior to the adoption of the ordinance codified herein must be brought into compliance with the provisions in this Article upon any change to the berm, replat of the property causing property lines to run through the berm, or other changes to the property requiring physical modifications to berm.
- (3) Berms located within any Town or CDOT right-of-way, site triangle or public easements may be removed by the Town.

(h) Variances.

Variances from the provisions in this Article may be granted by the Board of Adjustment for any existing or new berm in accordance with Article 7 of Chapter 16.

Sec. 16B-7-30. Garages.

(a) Generally.

- (1) A *garage* is limited to an enclosed or partially enclosed *non-habitable* space designed, suitable, or intended for the storage, whether permanent or temporary, of one or more motorized vehicles or personal recreational motorized vehicles together with materials, goods, or equipment any other sort or type. A garage may also be used by the owner or tenant of the principal permitted structure for any lawful ancillary activity commonly associated with residential use, such as but not limited to hobbies, art studio, or greenhouse.
- (2) A *garage* is an *accessory improvement* to a principally permitted residential dwelling unit. A garage shall not be located on a lot absent an existing residential *dwelling unit*.

(b) Location Requirement.

- (1) Garages shall not be located within a setback.
- (2) Garages shall not be located where the garage will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.

(c) Maximum Garage Size.

The maximum total size in square feet of the first floor of any garage or garages on a lot whether detached from or incorporated into a principal permitted structure shall be:

- (1) for principal permitted residential structures of 5,000 square feet or less in habitable size, the greater of: (i) 800 square feet; or (ii) forty five percent (45%) of the total habitable size of the existing principal permitted structure on the same lot; provided that in no event shall the maximum size of garage(s) on a lot exceed 1,200 square feet; or

- (2) for principal permitted residential structures of greater than 5,000 square feet in habitable size, twenty-five percent (25%) of the total principal permitted structure's habitable size.

(d) **Maximum Garage Height.**

The maximum height of any garage shall not exceed the lesser of: (1) the height of the existing principal permitted structure on the lot; or (2) the maximum building height for the lot established by Chapter 16 of the Town Code. It is the intent of this subsection that garages shall be subordinate in size and height to both the principal permitted structure and use of a property.

(e) **Design Standard.**

A garage, whether attached or detached, shall be consistent with the principal permitted building on the same lot in terms of architectural style, building materials, and color.

(f) **Prohibitions.**

- (1) *Carports* are permitted if attached to a lawfully existing dwelling unit.
- (2) Mobile, portable, or temporary non-permanent shells (e.g., tents, fabric or plastic canopies, fabric and hybrid fabric/metal buildings or structures, hoop barns, pony wall buildings, and fabric covered steel tubing supports) are prohibited.¹⁹

Sec. 16B-7-40. Sheds.

(a) **Generally.**

- (1) A shed is an enclosed or substantially enclosed *building* or *structure* limited to *non-habitable* space designed, suitable, or intended for (i) the storage, whether permanent or temporary, of materials, goods, or equipment of any sort or type; (ii) the storage, whether permanent or temporary, of personal recreational motorized vehicles; and/or (iii) the use by the owner or tenant of the principal permitted structure for any lawful ancillary activity commonly associated with residential use, such as but not limited to hobbies, art studio, or greenhouse.
- (2) A *shed* is an *accessory improvement* to a lawfully existing *dwelling unit*. A *shed* shall not be located on a lot absent an existing lawful *dwelling unit*.

(b) **Location Requirement.**

- (1) Sheds shall not be located within a setback.

¹⁹ E.g.: garage, greenhouse and other structures at <https://www.farmtek.com>; and <https://www.clearspan.com>.

- (2) Sheds shall not be located where the shed will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.

(c) Number of Sheds Allowed.

No more than two (2) *sheds* are permitted on any one *lot*.

(d) Maximum Shed Size.

The maximum total size of the first floor any shed on a *lot* whether detached from or incorporated into a principal permitted structure shall not exceed a total of two hundred (200) square feet. Where more than one shed is present on a lot, the maximum total size of the first floor of all sheds shall not exceed a total of two hundred (200) square feet.

(e) Maximum Shed Height.

The maximum height of any shed shall be fifteen (15) feet. It is the intent of this subsection that sheds shall be subordinate in size and height to both the principal permitted structure and use of a property.

(f) Design Standards.

A shed, whether attached or detached to a building or structure, is encouraged to be consistent with the principal permitted building on the same lot in terms of architectural style, building materials, and color.

(g) Prohibitions. The following structures or designs are prohibited:

- (1) Structures greater than one-hundred (100) square feet in total surface area without walls on three or more sides (e.g., a *pole barn* or a *lean to*).
- (2) Mobile, portable, or temporary non-permanent shelters or improvements designed or intended to provide protection from the elements, storage, workspace, or other similar purpose (e.g., tents, fabric or plastic canopies, fabric and hybrid fabric/metal buildings or structures, hoop barns, pony wall buildings, and fabric covered steel tubing structure or frame).²⁰
- (3) ClearSpan™ buildings, structures, garages, mini garage, sheds, mini sheds, mini, barns.²¹

²⁰ See, as an illustrative example only: <https://www.farmtek.com/farm/supplies/home>

²¹ See, e.g., <https://www.farmtek.com/farm/supplies/home>.

Sec. 16B-7-50. Driveways.

(a) Generally.

- (1) Where required parking areas for a lot are not immediately adjacent and accessible to a public access road without the need for a *driveway*, a *driveway* shall be required.
- (2) *Driveways* are mandatory where any portion of an exterior wall of the first story of a residential *dwelling unit* is located more than one hundred fifty (150) feet from a public road from which emergency vehicles will access the lot.
- (3) *Driveways* in excess of three hundred (300) feet in length shall be provided with turnarounds and driveways in excess of five hundred (500) feet in length and less than twenty (20) feet in width shall be provided with turnouts and turnarounds. The specific requirements for a turnout or turnaround as required in this subsection shall be established in consultation with the emergency service providers and districts in order to address differences in lot topography, vegetative and geologic conditions, and drainage.

(b) Location Requirement.

- (1) A *driveway* may be located within a *setback* to the extent necessary to connect a public or private road to the buildings and structures within the *lot*.
- (2) A driveway shall not be located where the driveway will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.
- (3) No part or portion of any driveway shall be located within a designated or recognized wetland, floodway, or floodplain without Town approval and any required approvals of state and federal regulatory jurisdictions.
- (4) No part or portion of any driveway, culvert, or other private improvement shall extend into public right of way without Town approval and a license agreement or other legally established right of use of the right-of-way for driveway access.

(c) Driveways Servicing Multiple Lots.

- (1) A *driveway* shall serve no more than four (4) *lots* unless otherwise approved by the Town upon a finding that a driveway presents a Town-preferred alternative to the construction of a public street in terms of: (i) unwarranted public expense for installation and maintenance; or (ii) avoidance of adverse impacts to environmentally sensitive areas such as wetland, steep slope, or wildlife corridors; or (iii) the need or lack of need for the extension of access to other lots for future development.

- (2) Driveways serving or located on more than one lot shall be permitted only where the owners of the lots enter into an enforceable and recorded easement, covenant, plat, deed, or other legally accepted documentation agreement approved by the Town Attorney that will ensure permanent and perpetual maintenance and access of the driveway for the lots.

(d) Design Standards.

- (1) Driveways shall be designed to follow naturally existing site contours as much as possible and to minimize impacts upon trees and other significant plants and planted areas, rock outcroppings, and drainage patterns.
- (2) Grading and modifications to existing site contours should be minimized to the greatest extent possible.
- (3) For driveways constructed after the effective date of the Land Use Code (_____, 2023), acceptable driveway surfaces shall be concrete, asphalt, gravel, recycled or milled asphalt on aggregate base, stamped concrete or asphalt, cobbles, brick pavers, exposed concrete and colored concrete.
- (4) Driveways shall meet the following requirements:

Maximum Driveway Width <u>Within</u> First 10 Feet from Public Access Road	12 feet
Maximum Driveway Width <u>Beginning</u> 10 feet from Public Street	24 feet
Minimum Centerline Curve Radius	30 feet
Cross Slope Required for Drainage	2%
Maximum % of Grade <u>Within</u> First 20 Feet from Public Road	6%
Maximum % of Grade <u>After</u> the First 20 Feet From Public Road	10%

(e) Driveway Drainage Standards.

- (1) Driveways in conflict with natural or manmade surface flow drainage courses shall be designed and engineered at the owner's cost and expense to prevent retention or detention of surface flow and overtopping of driveway or public roads.

- (2) In most circumstances, and specifically where a barrow pit or side street swells evidence a need to manage surface flows adjacent to driveways, culverts shall be installed under the driveway. When culverts are required, culvert ends shall be cut to match the adjacent slope. The culvert must extend a minimum of 2 feet on both sides of the drive. If end walls are used, end walls shall be constructed of stone or colored concrete to match building materials. Flared metal or high-density polyethylene (HDPE) ends are acceptable.

(f) Existing Nonconforming Driveways.

Driveways failing to conform with the requirements of this Article as of the effective date of the Land Use Code (_____, 2023), shall be brought into conformance upon relocation, reconstruction, or replacement (excluding routine overlay or routine surface repair). Conformance shall include, but not be limited to surfacing, grades, culverts or drainage management measures, and design standards.

(g) Driveway Snow Removal.

- (1) Property owners and residents are responsible for maintaining their driveways in an open and accessible condition. Failure to maintain driveways may impair access to the property by emergency vehicles.
- (2) Directing Snow Removal to Public Right of Way. Consistent with Colorado Revised Statutes § 43-5-301, it is unlawful and a violation of both state law and this Section for any person to direct, pile, dump, load, or push snow from private driveways or private property onto public streets or rights-of-way.
- (3) Snow Storage Easements Required. All Major Subdivisions and Minor Subdivisions, and the creation of a new lot by subdivision, approved after the effective date of the Land Use Code (_____, 2023), shall dedicate public use easements along all public streets for the storage of snow removed from adjacent rights-of-way. Snow storage may be required for other forms of subdivision or land use approvals where determined by the Town that public access will likely be impaired to the lot or property due to an inability to efficiently and effectively clear the public right-of-way of snow and ice.

Sec. 16B-7-60. Parking Areas.

- (a) Purpose. The purpose of this Section is to ensure that adequate on-site and off-street parking is provided to meet the parking needs of the uses located in the Town of Blue River, to promote efficient design of parking areas, and to protect the Town's character. Given the limited availability of public rights-of-way to accommodate parking and to enable parking of vehicles within the limited rights-of-way, it shall be the responsibility of the owner to provide and to continuously maintain the on-site and off-street parking required by this Section.

- (b) Parking Required. All lots shall provide for a designated area available for the minimum number of parking spaces as required by this Section.

- (c) Parking Space Location.

All parking spaces designated to serve a lot shall be located within the same lot. Designated parking may not include on-street parking spaces, parking spaces located on another lot, outlot, or other area.

- (d) Parking Space to be Delineated. Each lot shall provide and maintain a recognizable and readily identifiable area to serve as the required parking of motor vehicles. Such standard shall be met by the formal creation of an area that is visually distinguishable from other areas of the lot by leveling, grading, and surface improvement (paving, gravel, or other non-native surface condition). Areas designated for required parking shall not be unimproved natural areas indistinguishable from the general character of the lot.

- (1) Parking areas and spaces shall not be located within a setback.
- (2) Parking areas shall not be located where the parking area will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.
- (3) All designated parking spaces must be designed to ensure that parked vehicles do not, when parked, occupy areas within setbacks and occupy areas outside of the *Buildable Area*, (see Article 4 of Chapter 16) or extend into or onto adjacent properties, or extend into streets and the public rights-of-way.
- (4) No parking space may be located on property reserved for, designated as, or recognized as wetland, floodway, floodplain, riparian area, open space, greenbelt, wildlife habitat or corridor, forage area, or aquifer recharge area. Where, due to variance, court order, or other legal authority, a parking space or parking area is permitted to be located within property owned or controlled by a state or federal agency, express written approval of such state or federal agency shall be mandatory.
- (5) No part or portion of any parking space shall extend into public right of way without Town approval and a license agreement or other legally established right of use of the right-of-way for such parking and use.

- (e) Parking Requirements.

- (1) Minimum Parking Space Requirement. Each lot shall provide for a *minimum* of three (3) parking spaces reserved the parking of motor vehicles.
- (2) Maximum Outdoor Parking. No more than five (5) motor vehicles may be parked outside of a closed garage on any lot.

- (3) Garage and Parking Spaces to be Reserved. Garages are strongly encouraged to be used for parking spaces. In the event that parking spaces necessary to meet this standard are designated as located within a garage, such garage shall remain available at all times to accommodate the required parking. In the event that parking spaces necessary to meet this standard are designated as outside of a garage, such area shall remain available at all times to accommodate the required parking. Garages spaces or outdoor spaces designated to meet the required parking for a lot shall not be used for storage, parking of trailers or recreational vehicles, or otherwise rendered unavailable for the parking of motor vehicles. Garages or spaces designated or necessary for use to meet the required number of parking spaces for a lot shall not be converted or approved for use for any other purpose (e.g., converted from a garage to living space or spaces used for expansion of structure).
- (f) Parking Space Size. A space designated as a parking space available to meet the Town's required parking space allocations shall meet a minimum size of:
- (1) for indoor parking spaces (within a garage) – Ten (10) feet by twenty (20) feet; and
 - (2) for outdoor parking spaces – Nine (9) feet by eighteen (18) feet.

Sec. 16B-7-70. Walkways.

- (a) Specific Definitions for Section.

In addition to definitions provided by Article 3 of Chapter 16 of the Land Use Code, the following definitions shall apply to the application and administration of this Article:

Primary internal walkway means the intended path for pedestrians of direct connection between the driveway and any main access point(s) to the principal structure(s) within the lot. A lot which maintains more than one principal structure, or a detached garage may have more than one primary internal walkway extending from the driveway.

- (b) Primary Internal Walkways.

Primary internal walkways shall be provided within a lot in accordance with the following standards:

- (1) Primary internal walkways may be located within a setback if the lot configuration and topography prevent the reasonable location of the walkway within the applicable *buildable area* or the construction of the walkway outside of the *buildable area* will ensure a more secure, safe, level, or reasonable means of primary pedestrian access within the lot.

- (2) Primary walkways connecting driveways and any public access point to the principal structure within the lot shall be designed and maintained for a minimum width of six (6) feet.
- (3) For walkways constructed after the effective date of the Land Use Code (_____, 2023), primary walkways shall be covered in flagstone, sandstone, gravel, concrete pavers, wood or wood substitute decking, asphalt, or exposed or colored concrete.
- (4) It is the owner's obligation that primary internal walkways meet the requirements of any applicable federal or state accessibility standards.
- (5) Primary walkways shall be maintained reasonably clear of snow and ice during all periods the primary structure is occupied.
- (6) Lighting of primary internal walkways shall conform to Article 9 of this Chapter 16B.

Sec. 16B-7-80. Reserved.

Sec. 16B-7-90. Reserved.

Sec. 16B-7-100. Decks.

(a) Purpose. Decks are recognized as a common and desired *accessory improvement* for a residential *lot*. This Section applies to decks within all zone districts except the Mixed-Use District and the Planned Residential District if the approved plan for such district provides for comprehensive regulation of deck size and location.

(b) Location.

- (1) Decks exceeding 18 inches in height above *finished grade* at any point shall not be located within a setback.
- (2) Decks not exceeding 18 inches in height above *finished grade* any point may be located within a setback but not within an easement that prohibits or conflicts with the deck and in no event closer than five (5) feet from any *property line*.
- (3) Decks regardless of height shall not be located where the deck will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.

(c) Design. Decks exceeding 18 inches in height above finished grade shall be designed to:

- (1) Be supported from the ground by support columns which appear structurally substantial for the deck height and size. The use of stone bases at the point of connection with the grade and use of larger log, posts, or dimensional lumber as vertical supporting elements are strongly encouraged.

- (2) Meet all requirement of the applicable building and safety codes. When required by the Town, the certification of a structural engineer shall be provided demonstrating that the deck meets minimum design and safety standards prior to construction.
- (3) When elevated greater than 15 feet from the finished grade and visible from rights-of-way or adjacent property, design elements shall be incorporated where feasible to mitigate the view of the underside of the deck.

Sec. 16B-7-110. Gazebos, Pergolas, and Similar Structures.

- (a) Generally. A gazebo, pergola, or any similar structure (including archways or other above grade structures permanently affixed to the ground and intended for use or enjoyment of occupants of a principal permitted building) shall be an *accessory improvement* when located on a lot with an existing lawful *dwelling unit* and when meeting the requirements of this Section. A gazebo, pergola, or any similar structure shall not be located on a lot absent an *existing lawful dwelling unit*.
- (b) Size. A gazebo, pergola, or similar structure shall not exceed two-hundred twenty-five (225) square feet in total size or exceed 15 feet in height measured from the grade level.
- (c) Location Requirements.
 - (1) A gazebo, pergola, or similar structure shall not be located within a setback.
 - (2) A gazebo, pergola, or similar structure shall not be located where the gazebo or similar structure will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.
- (d) Design. A gazebo, pergola, or similar structure is encouraged to incorporate design, color, and material that is similar to or aesthetically compliments the principal permitted residential dwelling unit on the same lot.

Sec. 16B-7-120. Hot Tubs and Saunas.

- (a) Purpose. Hot tubs and saunas exterior to the *principal permitted* building are recognized as a common *accessory improvement* for a residential *lot*. This Section applies to hot tubs and saunas exterior to the principal permitted building within all zone districts except the Mixed-Use District (MUD) and the Planned Residential District (PRD) if the approved plan for the MUD or PRD provides for comprehensive regulation of hot tub and/or sauna size and location. Hot tubs and saunas located within a *principal permitted* building, while not subject to this Section, shall meet all applicable provisions of building and safety codes.
- (b) Location Requirements.

- (1) Hot tubs and saunas shall not be located within a setback notwithstanding the location of the hot tub or sauna on a lawfully existing or lawfully located deck. The intent being that a hot tub or sauna is restricted by location to the *buildable area*.
- (2) Hot tubs and saunas shall not be located where the hot tub or sauna will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.
- (c) Design. Hot tubs and saunas may be covered by a trellis, pergola, or other structure if such structure is otherwise lawfully permitted and meets all applicable provisions of building and safety codes. Walls, fences or landscaping may be required by the Town to screen or reduce visual impact and noise resulting from use when the hot tub or sauna is located within 15 feet from a principal permitted building on an adjacent lot.

Sec. 16B-7-130. Recreational Accessory Improvements.

- (a) Generally. Permanent and immobile physical improvements affixed to the ground that support or are necessary for the conduct of *recreational activities* is an *accessory improvement* of any lot. It is necessary to reasonably regulate some recreational improvements in order to protect the mountain character of the Town of Blue River and to protect all lot owners from unreasonable noise from certain recreational uses.
- (b) Permitted Recreational Accessory Improvements.
 - (1) Permanent. Where permanent, immobile, and attached or affixed to a foundation or to a concrete or other permanent surface, the following recreational improvements are permitted within the lot's *buildable area*:
 - (i) Fire pit.
 - (ii) Outdoor fireplace.
 - (iii) Outdoor cooking facilities.
 - (iv) Chimenea.
 - (v) *Playground equipment*.

Such accessory improvements shall not be located if in conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot. The presence of flame or fire shall be subject to regulatory restrictions imposed by Red White and Blue Fire Protection District, the Town of Blue River, Summit County, and/or the State of Colorado.

- (2) Mobile, Temporary, or Impermanent. Where mobile, impermanent, or temporary and not affixed to a foundation or to a concrete or other permanent surface, the following recreational improvements are permitted within the lot including within setbacks:
 - (i) Fire pit.

- (ii) Outdoor fireplace.
- (iii) Outdoor cooking facilities.
- (iv) Chimenea.
- (v) *Playground equipment.*

Such accessory improvements shall not be located if in conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot. The presence of flame or fire shall be subject to regulatory restrictions imposed by Red White and Blue Fire Protection District, the Town of Blue River, Summit County, and/or the State of Colorado.

Sec. 16B-7-140. Fences.

- (a) Generally. Fences are generally considered as conflicting with the open mountain character of the Town and can conflict with the movement of wildlife and surface water flows. Fences are, however, recognized as serving certain common residential needs such as containment of pet animals and demarcation of areas for recreational or other activities. For these purposes, fences are generally prohibited within the Town unless the fence meets the requirements of this Section and is installed in accordance with this Section and, in such case, a fence is an *accessory improvement* to an existing lawful *dwelling unit*. A fence shall not be authorized absent an existing lawful *dwelling unit* on the same lot.
- (b) Permit Required. All fences require issuance of a permit issued by the Town pursuant to Chapter 16C of the Land Use Code. Moreover, fences have historically required the issuance of a permit prior to the adoption of the Land Use Code. Fences constructed without issuance of a permit are declared a nuisance and shall be subject to penalty and/or removal in accordance with the Municipal Code.
- (c) Permitted Fences.
 - (1) Small Enclosure Fence. Where fences are used as an enclosure (such as a dog run or enclosure for animal control), the fence shall:
 - (i) Be located wholly within the lot's *buildable area*;
 - (ii) Enclose no greater than four-hundred (400) square feet of total area;
 - (ii) Not exceed 6 feet in height as measured from the grade at any point along the fence;
 - (iv) Comply with the fencing material requirements of subsection (e) below; and
 - (v) Not be located where the fence will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot. For example, a fence located within a pedestrian or trail easement which blocks

pedestrian access and movement will necessarily conflict with the purpose of the pedestrian or trail easement.

- (2) Limited Perimeter Fence. The Planning Commission is authorized upon review of a Type A Application to administratively approve a limited perimeter fence upon a finding that the fence will:
- (i) Be constructed of split rail, buck and rail, or other similar form of open character wood fencing the appearance of which will enhance or be consistent with the desired mountain character of the Town of Blue River;
 - (ii) Not exceed four (4) feet in height as measured from the grade at any point along the fence;
 - (iii) Be located along a lot line and entirely on the owner's property;
 - (iv) Not be located within the front setback or within 20 feet of the edge of a public right of way;
 - (vi) Not be located where the fence will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot. For example, a fence located within a pedestrian or trail easement which blocks pedestrian access and movement will necessarily conflict with the purpose of the pedestrian or trail easement.
 - (vii) Will be reasonably maintained in perpetuity by the owner or until removal by the owner of the lot on which the fence is located. The Town may require a written agreement approved by the Town Attorney to ensure ongoing maintenance and repair of the fence.
- (d) Prohibited Fences. Any fence not permitted by this Section shall be prohibited and, specifically, perimeter fences (installed along or near the boundaries of a lot) are prohibited.
- (e) Materials. Where a small enclosure fence is permitted or authorized, the fence shall conform to the following standards for materials:
- (1) Prohibited.
 - (i) Galvanized or other uncoated metal
 - (ii) Solid vinyl, PCV, plastic, rubber (e.g., tires)
 - (iii) Barbed wire
 - (iv) Corrugated metal
 - (v) Brick
 - (2) Permitted.
 - (i) Wood and wood split rail
 - (ii) Natural stone and rock

- (iii) Commercially available recycled fencing resembling wood containing more than 90% recycled material (such as Trex)
- (iv) Coated metals such as vinyl coated wire, powder coated, or paint provided that the fencing is accompanied by wood, natural stone, or rock accents
- (v) Ornamental iron or ornamental metal

(f) Design Standard.

Fencing, whether attached or detached to a building or structure, is encouraged to be consistent with the principal permitted building on the same lot in terms of architectural style and color (consistent with Section 16B-6-10).

Sec. 16B-7-150 Retaining, Screening, and Landscape Walls.

(a) Generally.

A *retaining wall*, *screening wall*, or a *landscape wall* in conformance with this Section shall be an *accessory improvement* to a lot where an existing lawful *dwelling unit* exists on the same *lot*.

(b) Purposes. A *retaining wall* or a *landscape wall* may serve different purposes and are regulated differently in this Section:

- (1) A *retaining wall* is intended to hold back a mass of soil, to restrain a vertical faced mass of earth, or to resist lateral pressure and prevent the advance of a mass of earth.
- (2) A screening wall is intended to prevent or mitigate the view of items located on a lot such as service yards, utility tanks, trash containers, storage of patio furniture, and maintenance and recreational equipment.
- (3) A *landscape wall* is intended to hold the vertical weight of architectural elements such as pillars, gazebos, pergolas, or other similar structures or intended to aesthetically divide areas of a lot such as garden beds, transitions between natural and landscape areas, or to designate walkways or other purposes of the lot.

(c) Location. The location and alignment of a *retaining wall*, *screening wall*, or a *landscape wall* should be determined based on site contours *and changes in topography*, natural features or man-made improvements. In no case shall a *retaining wall* or a *landscape wall* follow lot lines.

(1) *Retaining wall:*

- (i) shall not be located within a setback except where the wall is deemed necessary by the Town to provide a reasonable buildable area for a lot.

- (ii) shall not be located where the retaining wall will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.

(2) *Screening wall:*

- (i) shall not be located within a setback.
- (ii) shall not be located where the *screening wall* will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.

(3) *Landscape wall:*

- (i) shall not be located within a setback.
- (ii) shall not be located where the *landscape wall* will conflict with the purpose and intent of a lawful easement or other *encumbrance or limitation* affecting the lot.

(d) Design and Materials.

- (1) Retaining walls and landscape walls are encouraged to be designed to protect a lot, structure, or building against soil or earth movement, facilitate changes in grade, to define exterior living spaces and to transition from the native to manicured landscape areas. Randomly placed boulders, consistent with the dwelling unit's stone wall veneer which will provide a feel of informality is encouraged. Stone should be of an indigenous Colorado source and shall be laid in a pattern matching the building construction.
- (2) Materials used to construct a retaining wall or a landscape wall shall be consistent with the architectural materials, textures, and colors used on the dwelling unit. Generally, such walls should be constructed of stone or concrete with a stone veneer. The use of stucco, brick or wood as a retaining wall or a landscape wall material is prohibited.
- (3) Materials used to construct a screening wall shall be consistent with the architectural materials, textures, and colors used on the dwelling unit.
- (4) Where a retaining wall, screening wall, or a landscape wall is used adjacent to another hard surface such as a driveway, patio, or building, a generally horizontal area of two (2) feet or greater shall be provided sufficient for planting of landscape materials.

(e) Height and Size.

- (1) A *retaining wall* shall not exceed four (4) feet in height measured perpendicularly from any point of the wall at grade level. Where extreme grades necessitate a

retaining wall in excess of four (4) feet, the use of multiple terraced walls is required. Where terracing is determined by the Town to not be a feasible means for retention of soil or earth due to insufficient space, a retaining wall with a vertical face of not greater than eight (8) feet may be permitted.

- (2) A *Screening wall* shall not exceed six (6) feet.
- (3) A *landscape wall* used as a transition area of a lot or to define outdoor spaces shall not exceed seventy-two (72) inches above finished grade and should not extend for more than thirty-two (32) linear feet in length.
- (4) Any *retaining wall* or a *landscape wall* in excess of four (4) feet in height is to be designed by a professional engineer.

Sec. 16B-7-160. Flagpoles.

- (a) Generally. A *flagpole* meeting the requirements of this Section is an *accessory improvement* to an existing principally permitted residential dwelling unit. A flagpole shall not be authorized absent an existing lawful dwelling unit on any lot.
 - (b) Types: A flagpole types include: (1) mounted (affixed to a lawful building or structure); or freestanding (affixed only to the ground).
 - (c) Permitted and Prohibited Flagpoles.
 - (1) Mounted Flagpoles are permitted.
 - (2) Freestanding flagpoles are prohibited.
 - (d) Number. No more than three (3) mounted *flagpoles* are permitted for any one lot.
 - (e) Location.
 - (1) A mounted *flagpole* may be affixed to any lawfully permitted building or structure.
 - (2) A mounted *flagpole* shall not be affixed to a tree.
- Maximum Height. No mounted *flagpole* shall exceed the lesser of: (i) the height of the building or structure to which the *flagpole* is mounted; or (ii) the maximum building height for the zone district in which the *flagpole* is located.
- (f) Other. See Section 16B-7-160 for limitations of permitted flags.

Article 8 Signs

Sec. 16B-8-10. Signs Generally.

- (a) Sign Defined. A sign is broadly defined by Section 16-3-20 as:

Sign means any structure, statue, figure, poster, banner, painting, mural, insignia, billboard, trademark or other object or device used as a means of communication, situated outdoors or indoors, of which the effect produced is to advertise, announce, communicate, identify, declare, demonstrate, direct, display, amuse, capture attention, and/or instruct.

- (b) Objectives of Section. The objective of this Article is to provide a balanced and fair legal framework for the placement of signs that:

- (1) Promotes the safety of persons and property by ensuring that signs do not create a hazard by: (i) collapsing or otherwise decaying; (ii) confusing or distracting motorists; (iii) impairing drivers' ability to see pedestrians, wildlife, obstacles or other vehicles, or to read traffic signs;
- (2) Promotes the efficient communication of messages consistent with the Town's land uses and residential character and ensures that persons exposed to signs are not overwhelmed by the number of messages presented;
- (3) Protects the goals of the Town to preserve its rural mountain residential character and scenic views by avoiding sign clutter;
- (4) Ensures that signs are compatible with their surroundings, and prevents the construction of signs that are a nuisance to occupants of adjacent and contiguous property due to brightness, reflectivity, bulk, or height;
- (5) Promotes the use of signs that are aesthetically pleasing, of appropriate scale, and integrated with the built environment,
- (6) Assists in wayfinding;
- (7) Provides fair and consistent permitting and enforcement.

Sec. 16B-8-20. General Compliance and Permitting.

In all zone districts except the Mixed-Use District (MUD) and the Planned Residential District (PRD), all installation, construction, relocation, enlargement, alteration, or modification of signs within the City shall conform to the requirements of this Article, all State and Federal regulations concerning signs and advertising, and applicable building and safety codes. Generally, signs are

approved by issuance of a sign permit. However, some signs do not require a permit as specified by this Article.

Withing the Mixed-Use District and the Planned Residential District, the authorization for signs shall be specifically described in the Town-approved MUD or PRD Plan. Failure to address, authorize, or provide for signs within a MUD or PRD Plan shall constitute a prohibition of all signs within such District. A MUD or PRD Plan may provide for individualized sign requirements and regulations or may incorporate all or any portion of this Article.

Sec. 16B-8-30. Illegal Signs.

- (a) Any sign installed, constructed, relocated, enlarged, altered, or modified without compliance and/or permit required by this Article are declared illegal.
- (b) Any sign installed, constructed, relocated, enlarged, altered, or modified *prior to* the effective date of this Article without compliance and/or permit required by such ordinances or regulations of the Town existing at the time of installation, construction, relocation, enlargement, alteration, or modification, are declared illegal. Owners may seek to qualify signs as lawfully established in accordance with Section 16-4-60 of the Land Use Code (Unlawful and Nonconforming Signs).

Sec. 16B-8-40. Permanent Signs.

- (a) Permanent Signs. All forms of permanent signs are prohibited *except*

- *Address Sign*
- Subdivision Entry Sign
- Yard Statue
- Exempt Sign (see Section 16B-8-60)

- (1) *Address Sign.*

It is declared by the Town of Blue River that a compelling governmental interest exists to authorize each *lot* within the Town upon which a *principal permitted use* is located to erect and maintain up to two (2) *address signs* on the *lot*. More specifically, the efficient and timely delivery of law enforcement, emergency medical, and fire protection services is contingent upon ready property address identification and, therefore, the regulation of the content of address signs serve a compelling governmental interest. An address sign *conforming to the requirements of this section* shall not require a permit or approval of the Town.

An *address sign* is defined by Section 16-3-20 to mean a permanent placard made of wood, metal, or plastic (or combination of such materials) that is limited to

announcing only the street address of a lot by number and/or words and which is located on the lot identified by the address.

An address sign shall be limited to the following standards:

- (i) A one-sided sign face if attached to a building or structure on the lot;
- (ii) A one-sided or two-sided sign face if established as a stand-alone sign not affixed or attached to a building;
- (iii) A sign face shall not be larger than six (6) square feet in size.
- (iv) A sign face shall only include numbers or letters that identify the street address with or without street name of the lot on which the sign is located. No other words, numbers, or information is permitted including but not limited to a name of a business, name of short-term rental property, owner name, or property name. Images which are clearly secondary and subordinate to the display of property address such as images of wildlife, trees, or mountains are permitted although not desired or recommended.
- (v) An address sign may be located outside of the *buildable area of the lot* but not closer than five (5) feet from the edge of any street, road, or platted right of way.
- (vi) An address sign may not be located on any part of portion of a berm contracted without a permit or at any point higher than three (3) feet from the berm base for berms constructed with a permit. (See Section 16B-7-20)

An address sign meeting the address sign requirements of the Red, White, and Blue Fire Protection District ("District") and receiving approval of the District shall be exempt from the size, content, and location standards of this subsection provided that no more than two (2) such permanent address signs are affixed to the lot.

(2) Subdivision Entry Sign.

A subdivision entry sign shall be limited to the following standards or requirements:

- (i) One permanent subdivision entry sign is permitted for each entrance to a platted subdivision consisting of five (5) or more lots upon approval of a permit by the Town. Chapter 16C for permitting process.
- (ii) Each entry sign shall be located within an *outlot*.
- (iii) Each entry sign shall be subject to a permanent and enforceable covenant, agreement, or other means deemed acceptable to the Town Attorney that will ensure the sign's ongoing upkeep, maintenance, and repair.
- (iv) An entry sign shall be erected on the ground (monument sign) or supported by one (1) or more columns or poles extended from the ground or from an object on the ground.

- (v) An entry sign shall not exceed a total of twenty-four (24) square feet of visible sign area regardless of the number of sign faces or exceed nineteen (19) feet in height.
 - (vi) The content or message of a subdivision entry sign is not regulated by it is intended that such signs announce the name of the subdivision to which the sign relates.
 - (vii) An entry sign shall not be illuminated by any source of artificial light.
- (3) **Yard Statue.** A yard statue is a form of sign created in a three-dimensional form or likeness sculpted, modeled, carved, or cast from a solid material such as stone, clay, wood, plastic, or metal (or combination of solid materials) and which is visible from adjacent properties or from public rights of way. By way of examples, yard statues commonly found in Summit County include forms or likenesses of wildlife or geometric shapes. A yard statue shall be limited to the following standards:
- (i) One (1) yard statue is permitted for each lot only upon issuance of a permit. See Chapter 16C.
 - (ii) A yard statute may be no greater in height than fifteen (15) feet measured by a straight line extending from the highest point of the yard statue to the point of contact of the ground to the statue. A yard statue may be no wider than ten (10) feet at any point of the statue measured by a straight line extending through the center of the statue to the edges of the statue. A yard statue less than 3 feet in height and less than two (2) in width shall be exempt from this subsection and is authorized without a permit provided that such statue is wholly within the *buildable area* of the lot.
 - (iii) The entirety of a yard statue shall consist of a solid bronze, dark brown, or dark green color. No letters, numbers, or illustrations shall be affixed to a yard statute other than a commemorative plaque attached or integrated into the base of the yard statue.
 - (iv) A yard statue must be located within the *buildable area* of the lot; provided, however, that a yard statue may be located within an *outlot* where such yard statue is intended to serve as a *subdivision entry sign* and meets all requirements of Section 16B-7-40 of this Section.
 - (v) A yard statue shall not be illuminated by any source of artificial light.

Sec. 16B-8-50. Temporary Signs.

- (a) Temporary Signs. A *temporary sign* is either: (a) constructed of materials which are not intended to be permanent in nature; or (b) is readily movable and not affixed in a permanent manner to the ground although the sign may be attached or otherwise tethered to the ground for the duration of display.

Common forms of temporary signs include a real estate sale or rental sign, yard sale sign, or political issue or candidate sign. All forms of *temporary signs* are prohibited *except temporary sign that meets all of the following requirements*:

- (1) A temporary sign shall not require a Town-issued permit provided that the lot is in full compliance with this Section.
- (2) No more than three (3) temporary signs may be erected and maintained on any lot at any time.
- (3) A temporary sign is limited to four (4) square feet maximum per sign side and limited to two (2) sides per sign.
- (4) A temporary sign may be located outside of the *buildable area* of the lot on which the sign is displayed by no closer than seven (7) feet from any *lot line* or *right-of-way*.
- (5) Temporary signs shall not be affixed to trees.
- (6) Temporary signs shall not be illuminated by any source of artificial light.
- (7) The content or message of a temporary sign is not regulated.
- (8) Any temporary sign that fails to serve the purpose of conveying the message displayed due to being torn, faded, or otherwise worn or damaged, is declared a nuisance and may be summarily and immediately removed and disposed of by the Town. The Town may, at its discretion, attempt to contact the occupant of the lot in which the sign is located regarding the nuisance and need for immediate removal.

Sec. 16B-8-60. Flags.

A *flag* is a form of *temporary sign*. For regulations pertaining to flagpoles, see Section 16B-7-160. Flags are permitted on any lot provided that the following standards are met:

- (a) The total size of any individual *flag* is limited to no greater than four (4) feet by six (6) feet (or twenty-four (24) square feet in total size).
- (b) Flags are limited in number:
 - (1) No more than three (3) flags may be located on a lot if attached to a lawful building or structure located within the buildable area of the lot, structure.
 - (2) (3) The content or message of a flag is not regulated.
- (c) Prohibited flags:

- (1) Any flag not meeting the requirements of subsection (b) is prohibited.
- (2) A flag may not be attached to any building, structure, or *accessory improvement* that is located outside of the *buildable area* of the lot.
- (3) A flag, or any bracket, rope, or other means of attachment for a flag, may not be attached to a tree or suspended between trees.

Sec. 16B-8-70. Exempt Signs.

Exempt Signs. The following signs are not regulated by this Article and do not require a Town-issued sign permit, but the sign may require a building permit or other related permit (if subject to building or safety codes):

- (1) Signs erected by the Town of Blue River including but not limited to permanent and temporary traffic control signs and devices.
- (2) Temporary traffic and safety management signs erected by the Colorado Department of Transportation, the Red White and Blue Fire Protection District, or other governmental agency.
- (3) Permanent signs approved pursuant to Chapter 22 of the Municipal Code (Areas and Activities of State Interest).
- (4) Temporary official and legal notice signs required to be posted by any court, public body, person, or officer in performance of a public duty or in giving any legal notice. The duration of authorized posting shall not exceed 60 days.
- (5) Signs required to be posted to provide notice of pending actions pursuant to the Land Use Code.
- (6) Signs that are affixed to a lawfully existing *building, structure, or accessory improvement* which sign does not exceed one (1) square foot in total sign area, provided that such sign is not directly visible from public rights-of-way or neighboring property.
- (7) Signs that are less than three-fourths of a square foot in area that are affixed to machines, equipment, fences, gates, walls, gasoline pumps, public telephones, or utility cabinets.
- (8) Decorative displays, objects, and lighting clearly incidental, customary, and commonly associated with a legally recognized holiday, provided that such signs shall be displayed on a lot for a period of not more than 60 consecutive days or more than 60 total days in any one year.
- (9) Bumper stickers affixed to vehicles.

- (10) Signs interior to a *building, structure, or accessory improvement* that are not visible from an *adjacent lot or right of way*.
- (11) Signs permanently affixed to a motor vehicle engaged in active travel on a street or construction equipment performing work on a lot, outlot, open space, park, or street.
- (12) Signs permanently affixed to a parked motor vehicle when the location of such vehicle is upon or adjacent to a lot at which services are actively being provided by the operator of such vehicle or the vehicle is parked on residential property that is owned, leased, or permanently or temporarily occupied for residential purposes by the vehicle operator.

Article 9 Lighting

Sec. 16B-9-10. Purpose.

The purpose of this Article is to provide regulations for outdoor lighting that will: (i) minimize adverse impacts of human-made light sources that cause light trespass and obtrusive light onto neighboring development and vacant land; (ii) curtail light pollution, reduce skyglow and improve the nighttime environment; and (iii) help protect the well-being of humans, wildlife, vegetation, the overall ecosystem and natural environment from the adverse effects of human-made artificial night lighting.

Sec. 16B-9-20. Definitions.

This Section supplements for this Article the definitions of words and phrases found at Article 3 of Chapter 16 of the Land Use Code.

Bistro lights means a string of lamps (bulbs) that are placed outside of a structure on decks, patios, porches, gazebos, pergolas, and within backyards.

Fully shielded means that the lighting fixture is constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane of the fixture.

Lamp means a bulb, element, or device used to convert electricity into light, consisting of a source of illumination (e.g., an electric filament or one or more LEDs) enclosed within a transparent or translucent shell, typically but not always having a rounded shape and designed to be fitted into a luminaire.

Light pollution means the adverse effect of man-made light, including but not limited to glare, or light trespass due to excessive or unnecessary lighting, or artificial light that unnecessarily diminishes the ability to view the night sky or its disruptive to flora and fauna.

Light trespass means light projected across property lines or into the public right-of-way when it is not required or permitted to do so.

Luminaire means a fixture designed to direct, control, distribute or emit light whether powered by an external electric energy source, photovoltaic source, or battery.

Outdoor means at any location outside of the interior walls of a structure or away from any structure.

Unshielded fixture means a lighting fixture which, as designed or installed, emits all or part of the light above the lowest part of the light source.

Up-lighting or *up-light* means the placement and use of a luminaire to direct light in an upward fashion.

Sec. 16B-9-30. Applicability, Nonconformities, and Exemptions.

(a) Applicability and Nonconformities. Except as described below, all luminaires and lamps installed or replaced after August 1, 2020, shall comply with these requirements. This includes, but is not limited to, new luminaires, replacement luminaires, or lamps whether attached to structures, poles, the earth, or any other location. Luminaires and lamps installed prior to August 1, 2020, shall be deemed nonconforming and lawfully permitted until such time that the luminaire or lamp is repaired or replaced. It shall be a presumption in any enforcement of this section that the luminaire or lamp was installed after August 1, 2020, which presumption shall be the obligation of the owner of property to provide sufficient evidence that a luminaire or lamp is exempt from the requirements of this Section VII(D).

(b) Exemptions. The following are not regulated by this section:

- (1) Lighting installed by local or state government within the public right-of-way or easement for the principal purpose of illuminating roads and highways or providing for traffic safety and direction.
- (2) One luminaire for each residential property using light of less than sixty (60) watts designed to illuminate a property address sign.
- (3) Temporary lighting for construction sites for the purpose of safety.
- (4) Temporary seasonal or holiday lighting provided that individual lamps are less than 25 lumens (by way of example, a C7 medium sized colored (not clear) holiday light produces less than 25 lumens).

- (5) Lighting that is only used under emergency conditions.
- (6) Lighting expressly required by law or regulation or authorized by special permit or site plan approval issued by the Town.

Sec. 16B-9-40. General Requirements.

- (a) Shielding Required. All outdoor luminaires shall be fully shielded so that the light produced by the luminaire does not trespass beyond the property lines of the light source. A practical way to determine if a luminaire will conform to this provision is to not allow light to escape above a horizontal plane running through the lowest point of the luminaire and that the lamp element of the luminaire is not visible when viewed from above or from the side of the luminaire.
- (b) Filtering Required. All metal halide and fluorescent fixtures shall be fully filtered and enclosed with glass, acrylic, or translucent enclosures so that the lamp of the luminaire is not directly visible from any location.
- (c) Prohibitions.
 - (1) Luminaires using mercury vapor lamps or lighting source are prohibited.
 - (2) Uplighting of building facades, landscaping features, trees, vegetation or to draw visual attention is prohibited.
 - (3) Blinking, flashing, rotating or moving lights are prohibited.
 - (4) Luminaires or lamps attached to trees or strung between trees are prohibited.
 - (5) Unshielded *bistro lights* shall not be illuminated (on) between the hours of 9:00 p.m. and 7:00 a.m. See subsection (a) above for shielding requirement and standard. The shielding of a bistro light fails to comply with this section where a lamp can be viewed at any point along the property line.
- (d) Spotlights and Security Lighting. Spotlights and other types of security lighting (floodlights) shall be designed and located to prevent view of the floodlight's lamp or lighting source except where the view is made directly from the area intended to be illuminated. Floodlights shall not cast light outside of the property boundaries of the floodlight source. All floodlights shall be controlled through a motion detection mechanism calibrated to not illuminate due to the motion of branches caused by wind or weather and not to illuminate longer than five (5) minutes when activated.

Article 10 Landscaping

[To be added and to include Plat List Currently in Municipal Code]

Article 11 Public Improvements

Sec. 16B-11-10. Street Design Standards.

- (a) Design Standards. All streets, roads, and alleys shall meet the following design requirements:
- (1) Except for roads subject to ownership and control of the Colorado Department of Transportation, the layout and design of all public and private roads, alleys, and public access drives shall conform to the requirements of the Town of Blue River Standard Specifications for Road and Bridge Construction. **[Under production for adoption in September 2023]**
 - (2) Alleys shall be open at both ends or shall provide adequate means and space for vehicles to turn-around and exit the alley without backing out.
 - (3) Road layout shall be designed to connect and relate in a logical and efficient manner to existing and planned roads. Road layout and design shall address and be designed to accommodate topographic conditions, soil conditions (particularly considering drainage and erosion factors), and public convenience, safety, and aesthetics.
 - (4) Intersections of roads shall be made at approximately right angles unless topography of physical features prevents such an alignment.
 - (5) Intersection visibility shall be unobstructed for a minimum of one hundred (100) feet (measured center line to center line).
 - (6) The centerline of a new intersection along one side of an existing road shall reasonably align with the centerline of any existing intersection on the opposite side of such road.
 - (7) The center of two roads forming a three-way intersection shall be spaced not less than one hundred fifty (150) feet from the centerline of any other three-way or four-way intersection.
 - (8) Access to a state highway shall occur only at intersections approved by the Colorado Department of Transportation in consultation with the Town.
 - (9) Dead-end roads, with the exception of cul-de-sacs, shall be prohibited unless approved by the Town and are designed to connect with a future road in an adjacent unplatted parcel. If a dead-end road is approved, a temporary turnaround may be required by the Town where it is determined that the temporary turnaround

is desirable to facilitate the movement of emergency services and to promote the safe and efficient management of vehicular traffic. A temporary turn-around shall be established by the dedication of a public easement which shall burden the lots upon which the turnaround is located and which shall be conditioned to terminate upon the Town's acceptance of the through street as a public improvement.

- (10) The dedication of less than the full width of a road within a subdivision plat shall not be accepted.

Sec. 16B-11-20. Street Naming Procedure.

Street names may be proposed by the *applicant* at the time of subdivision application or upon creation or construction of a street. Final approval of road names and changes in road names shall be subject to the discretion of the Board of Trustees.

Article 12 Grading and Excavation

Sec. 16B-13-10. Generally.

The grading and excavation of land within the Town of Blue River is, by its nature, contrary to the goals and objective of the Town in preserving the natural environment. The Town recognizes that there is a reasonable need for grading and excavation associated with the development of land. However, the Town desires to balance and limit to the greatest degree practicable the extent of such grading and excavation to best preserve and protect the Town's environmental quality and character.

Sec. 16B-13-20. Permit Required.

A grading and excavation permit must be obtained prior to any person undertaking any earth-disturbing activity, including but not limited to grading, excavating, clearing of timber, vegetation, revegetation, or landscaping activity, if the area of the activity is:

- (a) More than four hundred (400) square feet of surface area;
- (b) An excavation or placement of earth greater than three (3) feet in height or depth from original ground levels, including test holes for percolation tests for the design of septic systems or soils tests for foundation/ structure designs; or
- (c) Final vegetation or revegetation of the entire surface of a septic or leach field system approved by the Summit County Department of Environmental Health, whether or not four hundred (400) square feet in area.

No permit shall be required for emergency work, as shall be defined by the regulations, or for activity covered by a valid building permit. Work not requiring a permit shall nevertheless conform to the requirements of the regulations.

Sec. 16B-13-30. Financial Guarantee.

- (a) No permit application shall be approved unless the applicant shall have provided a financial guarantee of completion of grading and revegetation acceptable to the Building Official. The amount of the guarantee shall be calculated on the basis of one dollar and fifty cents (\$1.50) per square foot of disturbed area. *Disturbed area* means all adjacent and/or other associated areas of disturbance or uprooting of trees or vegetation resulting from the construction activity, including but not limited to new roads or parking areas; graded or run-over areas disturbed to provide materials, equipment or other storage needs; or any other, similar area determined by the Building Official to be disturbed.
- (b) In calculating the disturbed area, the Building Official shall exclude areas of completed construction, including but not limited to residences, garages, paved roads, sheds, patios, gazebos and decks. In the case of septic or leach field systems, the entire area of disturbance, including areas containing the installed system, shall be included.

Sec. 16B-13-40. Applicability, Nonconformities, and Exemptions.

Any permit issued under this Article shall expire twelve (12) months from the date of issue.

Sec. 16B-13-50. Nonconforming Property.

Any property having exposed, unvegetated slope areas from side hill cuts, filled pad slopes or other cuts and fills that are exposed and not vegetated shall be stabilized and revegetated within nine (9) months of the approval of any regulations requiring such stabilization and revegetation.

Article 13 Environmental Regulations

Sec. 16B-13-10. Generally.

Because a primary purpose of the Land Use Code is to preserve the natural environment of the Town of Blue River, regulation of the extent of development and improvement of lots in relation to the natural features of the lot is necessary. This Article places reasonable and limited restrictions upon the development of a lot to advance the purposes of the Land Development Code.

Sec. 16B-13-20. Wetland Protection.

- (a) The Town of Blue River incorporates into the Land Use Code the delineation of wetlands recognized and established by state and federal law. Although the mapping which delineates state or federal protected wetlands is readily available to the public, the Town shall make available to the public information to assist in identification of protected wetlands.
- (b) The area of any lot which is located within a delineated wetland shall be prohibited from development or improvement unless the proposed development or improvement is expressly authorized and permitted by the state or federal regulatory agency with jurisdiction over such wetland area. The Town shall only accept as evidence of state or federal authorization or permission a written declaration issued by the appropriate federal or state agency which identifies both the specific development or improvement proposed by the Owner or Applicant and which demonstrates a clear understanding of the extent and nature of such development or improvement.
- (c) *Owners and Applicants* seeking development approval from the Town of Blue River are encouraged to consult with the Town prior to the planning of any development or improvement in order to identify the extent of protected wetlands.

Sec. 16B-13-30. Floodway and Floodplain Protection.

- (a) The Town of Blue River incorporates into the Land Use Code the delineation of floodway and floodplain recognized and established by state and federal law. Although the mapping which delineates state or federal protected floodway and floodplain is readily available to the public, the Town shall make available to the public information to assist in identification of protected floodway and floodplain.
- (b) The area of any lot which is located within a delineated floodway or floodplain shall be prohibited from development or improvement unless the proposed development or improvement is expressly authorized and permitted by the state or federal regulatory agency with jurisdiction over such area. The Town shall only accept as evidence of state or federal authorization or permission a written declaration issued by the appropriate federal or state agency which identifies both the specific development or improvement proposed by the Owner or Applicant and which demonstrates a clear understanding of the extent and nature of such development or improvement.
- (c) *Owners and Applicants* seeking development approval from the Town of Blue River are encouraged to consult with the Town prior to the planning of any development or improvement in order to identify the extent of protected floodway or floodplain.

Sec. 16B-13-40. Wildfire Protection.

- (a) All development and improvement shall conform to the requirements of Article V, Chapter 7 of the Blue River Municipal Code.

- (b) The following requirements are imposed upon development and improvement of any lot:
- (1) Cedar Shake roofing may only be used if treated with a commercially recognized and pressure impregnated fire retardant intended for such purpose. No surface only application of fire retardants on wood shake roofing is permitted.
 - (2) Only Noncombustible Underwriter Laboratories Class "A" approved roof finish materials are authorized for use in Blue River.
 - (3) Chimneys shall include approved spark arrestors.
 - (4) Strict conformance is required for all building and safety code provisions pertaining to fire safety. No variance shall be authorized or permitted which would reduce conformance of the development or improvement with this Section or any applicable fire safety provision.
- (c) The following maintenance requirements are imposed upon the use of any lot:
- (1) Tree branches shall be maintained to prevent encroachment within fifteen (15) feet of chimneys;
 - (2) Roofs shall be kept reasonably free of leaves, needles, and other flammable debris;
 - (3) Firewood shall be stacked at least 15 feet from any building or structure;
- (d) The following guidelines and recommendations are encouraged for the use of any lot:
- (1) Owners and occupants should develop emergency wildfire hazard evacuation plans;
 - (2) All horizontal at-grade surfaces such as decks and patios are encouraged to be constructed with fire impervious materials such as stone or pavers. Decks and porches connected to the structures may be constructed of wood.
 - (3) One or more 10 pound ABC-Class fire extinguisher should be readily available within each residence and garage.

Article 14 Reserved

Article 15 Construction Management Requirements

Sec. 16B-15-10. Purpose.

Construction within the Town of Blue River can significantly impact other owners, occupants, and visitors and create noise, traffic, smoke, and trash that degrade the environment and the natural character the Town seeks to preserve. This Article balances the reasonable need to engage in construction activities while protecting the environment and the natural character the Town. Construction sites and construction operations undertaken under the authority of any Town-issued permit (including building permits) shall conform to the standard and requirement of this Article.

Sec. 16B-15-20. Responsibility for Compliance.

Owners engaged in the development or improvement of a lot, or who commission or cause others to perform the development or improvement of a lot, for which a permit is issued by the town shall be responsible for compliance with this Article. In addition, contractors and others performing services on behalf of the owner may be held responsible for compliance for specific actions and activities that failed to comply with this Article. The Town reserves the right to enforce the requirements of this Article pursuant to the Municipal Code and this Land Use Code against either the owner, those engaging in construction activity on behalf of an owner or both.

Sec. 16B-15-30. Compliance Plans Required.

Whenever the Town requires and approves a Construction Management Plan and/or an Erosion Control and Vegetation Protection Plan (see Chapter 16C), the terms, conditions, and requirements of such plans shall be an obligation of the owner and deviation, neglect, or nonperformance of the terms, conditions, or requirements of such plans shall constitute a violation of this Article.

Sec. 16B-15-40. Access and Parking.

- (a) Vehicles used in construction upon any lot shall gain access to the lot only from existing roads adjacent to the construction site.
- (b) Prior to commencement of construction, the Owner of a Construction Site shall submit as an element of the Construction Management Plan, a parking plan that indicates how

contractor and employee parking needs will be handled. Parking will not be allowed, at any time, on Town roads without prior approval from the Building Official. Special safety precautions are necessary for the road including, but not limited to, safety cones, barriers and flaggers. Each parking plan shall describe:

- (1) How and where Construction and Delivery Vehicles will be parked at the Construction Site during the Construction Activity; and
- (2) The maximum number of Construction and Delivery Vehicles that will be parked at or adjacent to the Construction Site at any one time.

Sec. 16B-15-50. Blasting.

No blasting shall be performed on any property without the Town Manager's prior consent. Notification shall be provided a minimum of 24 hours in advance of any blasting operations, and in all cases blasting shall occur only between the hours of 9:00 a.m. and 5:00 p.m.. Blasting may be subject to certain restrictions, which shall be determined by the Town Manager or Town Building Official in their sole and absolute discretion, and restrictions may vary from property to property.

Sec. 16B-15-60. Erosion Control and Vegetation Protection.

The Building Official shall not approve any proposed Construction Activity unless and until the activity has first approved an erosion control and soil stabilization plan as a part of the Construction Management Plan. The Owner of the Construction Site is responsible for preparing and submitting such plans.

Sec. 16B-15-70. Construction Equipment and Material Storage.

Each Owner or Owner's Representatives and their contractors shall ensure that all construction material is stored in a designated materials storage area. Such storage area shall be indicated on the Construction Management Plan described above and shall be located to minimize the visual impact from adjacent properties and roadways.

Sec. 16B-15-80. Debris and Trash Removal.

Owners, Owner's Representatives, and their contractors shall be responsible for assuring that:

- (1) At the end of each day, all trash and debris on the Construction Site is cleaned up and stored in proper covered containers or organized piles and not permitted to be blown about the Site or adjacent property.

- (2) At least once a week, all trash and debris are removed from the Construction Site to a proper dumpsite located off the Property.
- (3) Due to the abundant wildlife within the Town, all food trash must either be removed from the site at the end of each workday or the General Contractor must arrange for bear-proof trash containers to be available on-site.
- (4) All trash and debris shall be kept off the road right of way and adjacent property at all times.

Sec. 16B-15-90. Construction Hours and Noise.

Construction Activities shall be limited to the following hours of operation:

Monday through Friday: 7:30 AM – 6:00 PM
Saturday/Sunday: 9:00 AM – 5:00 PM

Entrance to work site for the purpose of set-up only, is permitted one half hour prior to hours of operation. (Monday through Friday 7:00 AM and SAT 8:30 AM). During the half-hour set-up, the operation of heavy equipment, compressors, impact tools, or any activity that creates noise that is audible to the occupants of an adjacent lot shall be prohibited.

At all times each Owner shall use reasonable efforts to minimize external noise resulting from Construction Activity.

Sec. 16B-15-100. Reserved.

Sec. 16B-15-110. Field Staking.

All building footprints, setback lines, and driveways, storage and lay-down areas shall be staked in the field. A licensed Colorado land surveyor shall stake the building footprint and setback lines.

Sec. 16B-15-120. Fire Protection.

At least one 10-pound ABC-rated dry chemical fire extinguisher shall be present and available in a conspicuous place on the Construction Site at all times. Fire protection is the Owner's responsibility, but the Town recommends that the Owner or Owner's Representative establish additional fire protection, the handling of combustible materials and suppression measures as part of an overall Site safety program.

Sec. 16B-15-130. Prohibited General Practices.

All Owners will be responsible for the conduct and behavior of their Owner's Representatives in the Town. The following practices are prohibited within the Town and will result in an automatic fine:

- (1) Changing oil on any vehicle or equipment on the Construction Site;
- (2) Allowing concrete suppliers and contractors to clean their equipment on any Town property, roadway, right-of-way, ditch, easement, or other property;
- (3) Removing any rocks, plant material, topsoil, or similar items from any property of others within Town;
- (4) Using disposal methods or units other than those approved by the Town;
- (5) Careless disposition of cigarettes and other flammable materials;
- (6) Careless treatment or removal of any native plant materials;
- (7) Disruptive activity including, but not limited to, public drinking, public nuisances, and disturbing the peace;
- (8) Working before or after the scheduled construction hours without prior permission;

CHAPTER 16C Development & Improvement Processes

Article 1 General Provisions

Sec. 16C-1-10. Title.

Chapter 16C of the Blue River Municipal Code shall be referred to as the "Town of Blue River Development and Improvement Processes."

Sec. 16C-1-20. Authority.

The Town of Blue River Development and Improvement Processes are enacted in accordance with the authority conferred by Articles 15 and 23 of Title 31, Article 20 of Title 29, and Article 67 of Title 24 of the Colorado Revised Statutes, as amended.

Sec. 16C-1-30. Background and Purpose.

- (a) Background. Once a lot is both zoned and subdivided, the development or improvement of the lot requires Town approval of an *Improvement Application* and/or a *Site Plan* in accordance with this Chapter.
- (1) An *Improvement Application* will provide information necessary to identify the owner or developer and to describe at a general level the proposed development or improvement.
- (2) A *Site Plan* describes in detail the proposed development in terms of building locations, building architectural design, street and driveway layout, easement and utility locations, garage size, exterior lighting, and other requirements and standards imposed ensure that the development of the lot will not adversely impact or impair the health, safety, and welfare of the community.
- (b) Purpose. The purpose of this Chapter is to establish a process for review and approval of development or improvement of residential property within the Town. The development and design standards of Chapters 16, 16A, and 16B shall apply to the physical layout and design of all development or improvement, unless exempted by this Chapter. This Chapter is further intended to serve the following specific purposes:
- (1) To inform a property owner of the information needed to allow the Town to review and consider a proposed development or improvement.
- (2) To implement the provisions of Chapters 16, 16A, and 16B and the Municipal Code generally.

- (3) To ensure that the development or improvement of property is in conformance with the Town's zoning ordinances, land development regulations, and to achieve a harmonious, convenient, workable relationship among land uses, consistent with Town development objectives.

Sec. 16C-1-40. Applicability of Processes to Type of Application.

This Chapter, and the obligation to obtain approval of an Improvement Application and/or a Site Plan from the Town, shall apply to the following proposed development or improvement unless exempt as provided by section 16C-1-50. The “application type” (or “type”) for a proposed development or improvement will determine the applicable process for approval pursuant to this Chapter.

Proposed Improvement or Development	Application Type
<p>(1) Residential <i>Dwelling Unit</i>:</p> <ul style="list-style-type: none">(a) New construction;(b) Any expansion, enlargement, or addition in height, footprint, or square footage of an existing structure.(c) Replacement or reconstruction of all or any portion of an existing structure	<p>A</p>
<p>(2) Garage structure:</p> <ul style="list-style-type: none">(a) New construction;(b) Any expansion, enlargement, or addition in height, footprint, or square footage of an existing structure.(c) Replacement or reconstruction of all or any portion of an existing structure	<p>A</p>
<p>(3) Major Landscaping:</p> <ul style="list-style-type: none">(a) Disruption, excavation, or de-vegetation/re-vegetation of approximately 50 percent or more of the existing surface area of the lot as calculated by the Town. Division of a project into two or more phases for the purpose of avoiding approval needed for Major Landscaping shall not be permitted.(b) The conversion of existing naturally vegetated or unimproved area three-hundred (300) square feet or greater in surface area to lawn, gravel, rock, pavers, brick, flagstone, asphalt, concrete, mulch,	<p>A</p>

<p>(c) irrigated areas, or other similar materials not naturally existing within a natural treed mountain environment.</p> <p>Landscaping proposal that, in the Town's opinion, will result in a significant difference between the character of existing adjacent properties or the neighborhood, e.g., the applicant proposes creation of an extensive formal garden or irrigated lawn that will be inconsistent with surrounding properties or the neighborhood's natural treed mountain environment.</p>	
<p>(4) Residential Building or Structure Improvement or Modifications:</p> <p>(a) Window(s) new, replacement of existing</p> <p>(b) Door, new or replacement of existing</p> <p>(c) Balcony or railing, new or replacement of existing</p> <p>(d) Chimney and Roof Penetrations, new only</p>	<p>C</p>
<p>(5) Roof</p> <p>(a) Installation of new</p> <p>(b) Replacement or repair of existing greater than 200 square feet in surface area.</p>	<p>C</p>
<p>(6) <i>Reserved.</i></p>	
<p>(7) Berm.</p> <p>New installation or any modification or replacement of existing.</p>	<p>B</p>
<p>(8) <u>Shed or greenhouse whether or not on a foundation</u></p> <p>(a) New construction;</p> <p>(b) Expansion, enlargement, or addition in height, footprint, or square footage of an existing structure.</p> <p>(c) Replacement or reconstruction of all or any portion of an existing structure</p>	<p>B</p>
<p>(9) Driveway.</p> <p>New installation or any modification or replacement of existing.</p>	<p>B</p>
<p>(10) Parking area.</p> <p>New installation or any modification or replacement of existing.</p>	<p>B</p>
<p>(11) Walkway.</p> <p>New installation or any modification or replacement of existing</p>	<p>B</p>

(12)	Deck. New installation or any modification or replacement of existing.	B
(13)	Retaining Wall, Screening Wall, Landscape Wall. New installation or any modification or replacement of existing.	B
(14)	Fence (other than Limited Perimeter) New installation or any modification or replacement of existing.	B
(14A)	Fence (Limited Perimeter) See Section 16B-7-140. New installation or any modification or replacement of existing.	A
(15)	Gazebo, Pergola, or other similar accessory improvement <u>whether or not on a foundation</u> (a) New construction; (b) Expansion, enlargement, or addition in height, footprint, or square footage of an existing structure. (c) Replacement or reconstruction of all or any portion of an existing structure	B
(16)	Hot Tub or Sauna <u>Exterior to Dwelling Unit.</u> Installation of new or replacement of existing.	B
(17)	Recreational Accessory Improvement that is permanent or affixed to ground, see Section 16B-7- ; includes fire pit, outdoor fireplace, outdoor cooking facilities; chimenea, <i>playground equipment</i> .	B
(18)	Sign (see Article of Chapter 16B)	B

<p>(17) Minor Landscaping:</p> <p>(a) New installation of one or more trees regardless of height.</p> <p>(b) Removal of one (1) or more trees measuring seven (7) feet in height measured from the ground level at the base of the tree in any one calendar year.</p> <p>(c) The conversion of existing naturally vegetated or unimproved area less than three-hundred (300) square feet in surface area to asphalt, concrete, pavers, brick, flagstone, rock, or any other form of surface treatment not commonly existing within a natural treed mountain environment.</p>	<p>C</p>
<p>(14) Excavation and/or Grading and Movement of Soil or Rock for any purpose. Greater than 20 cubic feet of material or greater than 400 square feet of surface area.</p>	<p>B</p>
<p>(18) <i>Reserved.</i></p>	
<p>(18) Exterior lighting fixture. See Section 16B- - Installation of new or replacement of existing.</p>	<p>C</p>
<p>(17) Utilities Installation of new or repair or extension of existing.</p>	<p>B</p>
<p>(19) Hot Water Heater Installation of new or replacement of existing.</p>	<p>C</p>
<p>(21) Electrical, Mechanical, Plumbing Improvements (a) Installation of new (b) Replacement or repair of existing.</p>	<p>C</p>
<p>(22) Siding/Staining (a) Installation of new (b) Replacement, repair, or refinishing of existing.</p>	<p>C</p>

Sec. 16C-1-50. Administrative Exemption.

- (a) Type A Exemption. For a Type A Application, the Town Manager is authorized to administratively exempt the Applicant from submission of one or more of the application submittal requirements set forth in Section 16C-2-50. The Town Manager is not authorized to provide any other administrative exemption for a proposed Type A improvement or development, or an element of a Type A proposed improvement or development. In exempting an Application from a submittal requirement, the Town Manager shall find that the submittal requirement is unnecessary for the proposed improvement or development because it would not be reasonably necessary to enable the Planning Commission to determine compliance with Chapter 16A or 16B. For example, a Landscape Plan is not necessary where no new landscaping is proposed and no removal of landscaping is proposed.
- (b) Type B and C Exemptions. The Town Manager is authorized to administratively exempt in writing any proposed improvement or development, or an element of a proposed improvement or development, that would otherwise require a Type B or Type C Application, upon a finding that the proposal is both:
- *De minimis*²² in its scope and impact on adjacent property and/or the neighborhood as to not warrant the submission of an application and processing pursuant to Section 16C-____-____; and
 - Fully complies with all requirements of Chapter 16A and 16B of the Land Use Code.

In approving an administrative exemption, the Town Manager is authorized to impose reasonable conditions on the exemption necessary or desirable to ensure that the improvement or development meets Chapter 16A and 16B of the Code. The Manager's imposition of conditions is subject to appeal to the Board of Adjustment pursuant to Section 16-2-50.

Article 2 Development and Improvement Application Processes

Sec. 16C-2-10. Applicability.

This Article applies to any Type A, B, or C application as described in Section 16C-1-40 of this Chapter.

²² De minimis means *lacking significance or importance; so minor as to merit disregard*.

Sec. 16C-2-20. General Provisions.

- (a) It is the responsibility of the *Applicant* to become familiar with all regulations and requirements applicable to improvement or development within the Town, and to secure copies of the most up-to-date versions of all applicable regulations.
- (b) All improvement or development within Town shall conform to the Land Use Code and all other applicable local, special district, county, state, and federal laws, codes, ordinances, regulations, and restrictions.
- (c) Incomplete submittals will not be scheduled for processing or processed until deemed complete in accordance with this Chapter.
- (d) The processing of a Type A, B, or C Application shall be administrative in nature and no notice or hearing shall be required during the review process.

Sec. 16C-2-30. Optional Pre-Application Review.

- (a) Pre-Application Review Option by Applicant. An *Applicant* for a Type A, B, or C application may request a Pre-Application Review.
- (b) Review Strongly Suggested for Type A Applications. In order to allow the Town to properly address the necessary submittal requirements for a Type A Application, a pre-Application Review (and Pre-Application Meeting) is strongly encouraged.
- (c) Purpose. The purpose of the Pre-Application Review is intended to provide an opportunity for any Applicant who may be uncertain about the application's type or who are unfamiliar with the Town's processes to become acquainted with the process and to avoid delays in processing applications. The review will enable the Town to assess whether or not the proposal should be granted an administrative exemption (see Section 16C-1-50), and if an exemption is not available, to decide what application submission requirements and plans will be required to enable the Town to process the application. In addition, a Pre-Application Review will enable the Town to potentially reduce the required plans to be submitted for a proposed improvement or development.
- (b) Setting of Pre-Application Review. Prior to submission of an application pursuant to this Chapter, any person seeking a Pre-Application Review in accordance with this Chapter shall:
 - (1) Send an inquiry concerning the Improvement or development to the Town Manager at info@townofblueriver.org, or by regular U.S. Mail sent to, or hand delivery during normal business hours, to:

Town Manager
Town of Blue River
Attention: Pre-Application Inquiry

0110 Whispering Pines Circle
P.O. Box 1784
Breckenridge, CO 80424

- (2) The inquiry shall include the following information:
- (a) Name of the *Applicant* and a telephone number and email address to enable the Town to contact the Applicant.
 - (b) Address of the property proposed for improvement or development.
 - (c) A description, in as much detail as may be available, of the improvement or development proposed. Such description could include a sketch or general site drawing illustrating the approximate location of existing buildings, illustration of the location of the proposed improvement or development, and a narrative description of the proposed improvement or development.

Sec. 16C-2-40. Optional Pre-Application Meeting.

- (a) Pre-Application Meeting. The Town Manager may, at the Manager's discretion and based in the contents of the materials submitted for Pre-Application Review, suggest to an Applicant that an in-person²³ Pre-Application meeting be held. An Applicant may also request a Pre-Application meeting.
- (b) Notice of Meeting. Should a Pre-Application meeting be mutually agreed upon by the Town and the Applicant, the Town Manager shall informally contact the Applicant regarding a date and time for the meeting. The Manager may include instructions for the applicant to provide additional documentation or information at the meeting.
- (c) Meeting Expectation. At the Pre-Application Meeting, the *applicant* should be prepared to discuss the proposed application and the proposed development with the Town Manager. The applicant shall be encouraged to present such plans, diagrams, illustrations or photographs, color and material samples, or other preliminary information, and is encouraged to have supporting consultants available, to permit the review of the proposed application in as much detail as can be provided.
- (d) Meeting Outcome. Following the Pre-Application Meeting held pursuant to this Section, the Town shall without undue delay:
 - (1) Issue a written determination to the applicant confirming the application type as a Type A, Type B, or Type C Application;

²³ During periods of declared emergency, such meeting may be held at the Town Manager's discretion through telephone or internet-based communication platforms or applications such as GoToMeeting, Zoom, or Microsoft Teams.

- (2) Issue a written determination to the applicant of the required contents for a formal application pursuant to Section 16C-2-___; and
- (3) Issue a written determination that all, a part, or a portion of the proposed improvement or development qualifies for an administrative exemption pursuant to Section 16C-2-___.

Sec. 16C-2-50. Type A Application Requirements.

This Section provides for general application content and requirements for a Type A Application. Unless otherwise granted an administrative exemption for a submittal requirement (see Section 16C-___-___), all of the following submittal requirements shall be mandatory for all Type A Applications:

- (a) Application Form. Each Type A Application shall include a completed application in the form approved by the Town;
- (b) Payment. All Town-required fees, charges, and review deposit shall accompany each Application;
- (c) Record of Ownership. *Documentation of ownership, liens and encumbrances*; (See Section 16-3-20 definition); and
- (d) Site Information:

- (1) Topographic Survey

A plan drawing which locates the coordinates and height data, depth, and size for the surface features of the entire lot upon which improvements or development is proposed. Shall be prepared and stamped by a Colorado licensed surveyor indicating site contours at 2-foot intervals and significant natural features such as rock outcroppings, drainages, and mature stands of trees (Scale minimum of 1-inch equals 10 feet).

- (2) *Buildable Area Plan*

A plan drawing illustrating the property's *buildable area* as defined and described by Section 16-B-___ of the Land Use Code.

- (3) Wetlands Delineation Map

A map and narrative report or map illustrating the location and extent of wetland within the property proposed for improvement or development.

(4) Site Plan

A plan drawing indicating property boundaries, *buildable area*, proposed and existing buildings and structures, driveway and grades, stream crossing structures, transformer and vault locations, well location, above and below grade utilities, parking areas, snow storage areas, major site improvements.-(Scale: minimum of 1"=10')

(5) Grading Plan

A plan drawing indicating proposed shaping of the surface of the lot and any adjacent areas to direct surface runoff away from structures. Grading plan should permit a full understanding of the proposed modification of the lot during improvement or development when compared to the existing conditions illustrated by the Topographic Survey. (Scale: minimum of 1"=10').

(6) Floor Plan

A plan drawing indicating the general layout of all rooms, approximate size, and total square footage of enclosed space for each floor level of all structures accessible to human entry (residence, garages, sheds). (Scale: minimum of 1/8"=1'- 0")

(7) Exterior Elevations Drawings

An elevation drawing indicating in detail the architectural character of all structures on the lot, including fenestration, siding, fascia, stairs, entries, doorways, and exterior beams, posts, and other building elements that are visible from the exterior of the structures. (Scale: same as floor plan). The Exterior Elevations Drawings shall show elevations as viewed from all four compass points (North, East, South, and West) or from four vantage points each separated by approximately ninety degrees. When Exterior Finish Samples and Boards (see 6 below) are also required or provided, the Exterior Elevation Drawings shall reference and shall correspond with the samples to enable the Town to understand where on the Elevation Plan each sample color or material is applied.

(8) Exterior Finish Samples Boards

Samples indicating type, color, and texture of all exterior materials (including roofing, siding, paints, masonry, brick, rock, trim, and other visible surfaces). Although planned exterior finish is most often illustrated by sample materials and colors affixed to display boards, applicants shall provide with the application photographic documentation illustrating the proposed materials and colors and shall bring samples and boards to any hearing. The Exterior Finish Samples and Boards requirement shall include specific references to Pantone or other universal color palate and material descriptions or cut sheets by manufacturer, product name, type, or color which will enable the Town to inspect and confirm compliance with any improvement or development approval.

(9) Specifications Details & Cut Sheets

Written specifications and/or cut sheets for the following items: exterior wall materials, windows and exterior doors, exterior trim materials, wall and roof flashing, fireplace and flue caps, and exterior lighting fixtures.

(10) Roof Plan

Indicating proposed roof pitch, overhang lengths, flue locations, roofing materials and elevations of major ridge lines and all eave lines. (Scale: same as floor plans). Roof color and materials shall also be required as part of Exterior Finish Samples and Boards.

(11) Site/Building Sections

A section drawing indicating building walls, floors and roof relative to the site, including existing and proposed grades, retaining walls and proposed site improvements such as patios, decks, driveways and other landscape features (Scale: minimum of 1/8"=1'-0")

(12) Specific Site Details – Plan and Elevation

For any specific element of the proposed improvement or development not otherwise described in another required plan, elevation, or section drawing, provide descriptions and drawings in sufficient detail to demonstrate the architectural character, design, construction technique(s), mass, and view of the improvement or development. For example, where a retaining wall is proposed, a Specific Site Detail – Plan and Elevation submission would illustrate and describe the purpose, location, height, mass, length, footings, construction method (dry stack, mortared, veneered, slipform, tilt-up, etc.), materials, and colors of the proposed wall.

(13) Landscape Plan

A plan drawing and narrative description identifying all existing landscaping to remain and all existing landscaping to be removed, specifically identifying all trees greater than 3" in diameter to be removed; a planting plan with proposed plant materials identified by common and botanical names and size and with plant installation specifications and instructions; type and location of irrigation system; the location and size of all other proposed landscape materials such as retaining walls, patios and decks, walkways, walls and fences, and specifications for seeded areas including seed mix, mulch and fertilizer type, and application method and schedule. The area of land covered by spray irrigation shall be calculated and listed, by square foot, on the landscape plan. (Scale: 1"= 20' minimum). An application proposing landscape improvements designated as a Type A application (see Section 16C-1-__) shall be prepared by a professional landscape architect licensed in the state of Colorado.

(14) Erosion Control and Revegetation Plan

A plan drawing and narrative description indicating the means and time schedule by which the prevention of soil erosion will be addressed during and after construction, revegetation of cut and fill slopes, methods of controlling surface water, siltation control devices, vehicular access points, and location of soil storage areas and stabilization measures (Scale: minimum of 1"=20')

(15) Proposed Construction Schedule and Construction Management Plan

A narrative description, illustration(s), and plan drawing(s) identifying the approximate time schedule of start-up and completion dates for construction, utility connection, proposed periods of road closures or right-of-way encroachments, and completion of landscaping, and anticipated occupancy date. The construction management plan shall identify the limits of the area that will be subject to surface disruption, construction, and construction related activities and any areas where all construction activities will be prohibited. In addition, the plan shall indicate the location of access drives and parking, temporary structures/trailers, chemical toilet, dumpsters, material lay-down and staging areas, and construction signage. The Construction Management Plan shall indicate all mitigating measures for protecting natural features of the lot during construction. This plan shall be separate from the Landscape Plan and Site Plan(s).

(16) Additional Information Required:

- (i) A copy of any agreements, conveyances, restrictions, or private covenants that will govern the use and maintenance of the property.
- (ii) *Reserved.*

Sec. 16C-2-60. Application Completeness Required.

- (a) All plans, reports, maps and other information required for any application must be complete and legible. A failure of the application to meet the requirements of this Chapter or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete.
- (b) In the event that the Town Manager determines that the application complies with the applicable requirements, the Town Manager shall schedule the application for review.
- (c) In the event the Town Manager determines that the application is incomplete, the Town Manager shall inform the applicant in writing of the deficiencies in the application. No further processing of an incomplete application shall be undertaken until the Town Manager determines that the applicant has remedied the application's deficiencies.

Sec. 16C-2-70. Type A Application Review.

- (a) Administrative Review. Type A Applications shall be administratively reviewed by the Planning Commission during public meeting held in conformance with the Colorado Open Meetings Law, C.R.S. § 24-6-401 *et seq.*
- (b) Notice and Hearing Not Required. No notice of the administrative review and no formal hearing shall be required. However, the Town may at its discretion provide a courtesy notice of the administrative review meeting to the general public or to property owners within the vicinity of the proposed improvement or development. Errors in a courtesy notice shall not result in invalidation of the administrative action taken.
- (c) Although no specific process for administrative review is required by this Chapter, the Planning Commission may generally follow a process that includes in order:
 - (1) Introduction of the Application by the Town staff;
 - (2) Opportunity for comments regarding the application by the *Applicant*;
 - (3) With permission of the meeting chairperson of the Planning Commission, other persons in attendance may provide comments to the Commission;
 - (4) Questions of the Town staff or Applicant by the Commissioners; and
 - (5) Deliberation by the Commission regarding the conformance of the proposed improvement or development with the applicable provisions of the Land Use Code.
 - (6) Decision by the Commission to:
 - (i) Approve the Application upon a finding that the proposed improvement or development will be in conformance with Section 16C-__-__; or
 - (ii) Approval of the Application with the imposition of conditions to ensure conformance of the proposed improvement or development with Section 16C-__-__; or
 - (ii) Deny the Application due to the non-conformance the proposed improvement or development with Section 16C-__-__; or
 - (iv) Continue the Application to a future meeting of the Planning Commission for the purpose of obtaining additional information from the Town staff and/or Applicant that is necessary to fully evaluate the conformance of the proposed improvement or development with Section 16C-__-__.

Sec. 16C-2-80. Type B and Type C Application Explanation.

- (a) Type B Applications. Type B Applications involve the installation, modification, repair, or replacement to a lot, building, structure, or improvement for which a review of the location of the work is relevant to the Town's determination that the work complies with the Land Use Code. For this reason, Type B Applications will oftentimes require the submission of a plat, plan, or other illustration showing the specific location of the work. Type B Applications may also oftentimes require a surveyor or other land professional to certify as to the precise or specific location of the work.
- (b) Type C Applications. Type C Applications involve the installation, modification, repair, or replacement an element or improvement associated with a building, or structure for which the location on the lot is not relevant or does not require review.

Sec. 16C-2-90. Type B and Type C Application Requirements.

This Section provides for general application content and requirements for Type B and Type C Applications. Unless otherwise granted an administrative exemption for a submittal requirement (see Section 16C-2-91), all of the following submittal requirements shall be mandatory for all Type B and Type C Applications:

- (a) Application Form. Each Type B or Type C Application shall include a completed application in the form approved by the Town.
- (b) Payment. All Town-required fees, charges, and review deposit shall accompany each Application.
- (c) Submittal Plans. The Town Manager shall promulgate requirements for the submittal of plans necessary to evaluate and decide whether improvements or development complies with Chapter 16A and Chapter 16B. For example, the Manager may set forth different submittal requirement for applications based on the type of improvements or development proposed; a landscape plan may not be reasonable or necessary for an application for a hot tub.

Sec. 16C-2-100. Application Completeness Required.

Consistent with the requirements of Section 16C-2-91, no Type B or Type C Application shall be processed unless the application is deemed complete by the Town.

Sec. 16C-2-110. Type B and Type C Application Review.

Type B and Type C Applications shall be administratively reviewed as time permits by the Town's administrative staff. As administrative staff, the Colorado Open Meetings Law, C.R.S. § 24-6-401

et seq., shall not apply to such review. No notice of the administrative review and no hearing or meeting shall be required or undertaken.

Sec. 16C-2-120. Reserved.

Sec. 16C-2-130. Agency Referrals Authorized.

- (a) The Town Manager is authorized to refer any application to any *local agency* prior to final decision on the application. The purpose of all referrals is to define any conflict that the agencies or individuals may have with the proposal, and to allow for the possible resolution of conflicts through the processing of the application. The requirement of agency referral shall be considered as an optional and discretionary action by the Town.
- (b) Referral agencies shall be expected to make recommendations and comments within twenty-one (21) days from the date of receipt of notification that the preliminary plan is available for review unless a shorter time for response is set by the Town. The lack of response from a referral agency to a request for referral comment shall be interpreted as "no comment" concerning the proposal and shall not be deemed a finding of acceptance or "no conflict." The absence of a agency comment shall not preclude the Planning Commission or Town Board from later seeking agency comment on a specific issue raised during the review process or any hearing or appeal. Recommendations or comments made after the twenty-one-day period may, at the reviewing body's discretion, be considered in the review of the application.

Sec. 16C-2-140. Development Agreements Authorized.

Where determined by the Town Manager after consultation with the Town Attorney, development agreements shall be authorized as a condition of final approval of a Type A, Type B, or Type C application. The terms and conditions of a development agreements shall ensure satisfaction and ongoing compliance with the obligations, requirements, and standards of the Land Use Code and the Town's Municipal Code.

Sec. 16C-2-150. Standards for Approval and Final Decisions.

Following review by the Planning Commission or the Town Manager, as applicable, an application shall be approved only upon an administrative determination that the application meets the following standards for approval:

- (a) The application is complete.

- (b) The application and submittal documents establish that the improvement or development described in the application is found to fully meet or satisfy all applicable requirements for the improvement or development set by:
 - (1) Chapter 16B and 16A; and
 - (2) Applicable building and safety codes, to the extent that the improvement of development will not be later subject to additional Town review for compliance with such building or safety codes.

Article 3 Appeals

Sec. 16C-3-10. Appeal for Type A Application Decisions.

Final decisions of the Planning Commission shall be subject to appeal pursuant to Section 16-2-40.

Sec. 16C-3-20. Appeal for Type B and Type C Decisions.

Final decisions of the Town Manager shall be subject to appeal pursuant to Section 16-2-50.

CHAPTER 17 Subdivision Regulations

Article 1 General Provisions

Sec. 17-1-10. Title.

Title 17 of the Blue River Municipal Code shall be referred to as the "Town of Blue River Subdivision Regulations" or "Subdivision Regulations."

Sec. 17-1-20. Authority.

The Town of Blue River Subdivision Regulations are enacted in accordance with the authority conferred by Articles 16 and 23 of Title 31, Article 20 of Title 29, and Article 67 of Title 24 of the Colorado Revised Statutes, as amended.

Sec. 17-1-30. Purpose.

- (a) **Intent and Goals.** These regulations are generally intended to: (1) protect the environment; (2) to ensure efficient traffic circulation, adequate improvements, sufficient open space and to assist the orderly, efficient and integrated development of the Town; (3) provide for the proper arrangement of streets and ensure proper distribution of population; (4) coordinate the need for public services with governmental improvements and programs (5) ensure adequate and convenient utilities, emergency access, drainage, recreation and light and air; (6) safeguard the interests of the public and subdivider and provide consumer protection for the purchaser; and to (7) regulate other matters as the Town may deem necessary in order to protect the best interests of the public.
- (b) **Special Character Considered.** These Subdivision Regulations were prepared with reasonable consideration, among other things, of the largely residential and environmentally sensitive characteristics of the Town and with a regard for the preservation of these characteristics when authorizing and permitting the subdivision and use of property.
- (c) **Specific Purposes.** These regulations are further intended to serve the following specific purposes:
- (1) To inform each subdivider of the standards and criteria by which development proposals will be evaluated, and to provide information as to the type and extent of improvements required.
 - (2) To provide for the subdivision of property in the future without conflict with development on adjacent land.

- (3) To protect and conserve the value of land throughout the municipality and the value of buildings and improvements on the land.
- (4) To ensure that subdivision of property is in compliance with the Town's zoning ordinances, to achieve a harmonious, convenient, workable relationship among land uses, consistent with town development objectives.
- (5) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation, and other public requirements and facilities and generally to provide that public facilities will have sufficient capacity to serve the proposed subdivision.
- (6) To provide for accurate legal descriptions of newly subdivided land and to establish reasonable and desirable construction design standards and procedures.
- (7) To prevent the pollution of air, streams and ponds, to assure adequacy of drainage facilities, to safeguard the water table and to encourage the wise use and management of natural resources throughout the Town in order to preserve the integrity, stability and beauty of the community and the value of the land.

Sec. 17-1-30.1 Temporary suspension of subdivisions that create new lots.

- (a) Temporary Suspension of Subdivision that Create New Lot(s). Upon the effective date of these Subdivision Regulations and until the date of any future repeal of this Section 17-1-30-1, no previously subdivided tract, parcel, or lot (see definition of *Subdivision* at Section 17-1-50) that is described in any form of plat or map recorded and effective with the Summit County clerk and recorder's office may be further subdivided to create a new lot or new lots notwithstanding any provision of this Chapter 17 or any declared minimum lot size for any zone district recognized by Chapter 16. The Town Manager shall decline to accept applications for subdivision that propose to create a new lot or lots.
- (b) Limited Exemption. Applications for new subdivision deemed complete and submitted to the Town on or prior to April 15, 2020, shall be exempt from the temporary suspension of subdivisions provided by subsection (a) above. It is the intent of this limited exemption to recognize that one or more applicants who prepared subdivision plans and applications were informed prior to April 15, 2020, that their applications would be accepted and processed under both the then-existing and any new subdivision regulations and such applicants relied on such information in the preparation of their applications. Those applicants entitled to an exemption may choose to process their completed application in accordance with the subdivision regulations approved by Ordinance 15-04 or in accordance with these Subdivision Regulations. The limited exemption provided by this subsection (b) is intended to be a personal exemption and is not an exemption that is transferrable or that runs with property ownership.
- (c) Other Subdivision Applications Accepted. Lawfully recognized tracts, parcels, and lots described in a plat or map recorded and effective with the Summit County clerk and

recorder's office may be amended or consolidated (see Article V), and the subdivision vacated or corrected (see Articles VI and IX) provided that such amendment, consolidation, vacation, or correction does not increase the number of tracts, parcels, or lots within the subdivision.

Sec. 17-1-40. Applicability, exemptions, limitations, and repeal.

(a) Applicability. These regulations are applicable to the following described property:

- (1) Property located within the legal boundaries of the Town of Blue River;
- (2) Property proposed for annexation to the Town of Blue River except to the extent specifically provided by any annexation agreement enacted by ordinance; and
- (3) Property located outside of the legal boundaries of the Town of Blue River and described in a Town-adopted intergovernmental agreement that requires application of these Subdivision Regulations to the subdivision of property.

(b) Exemptions. These Subdivision Regulations shall not apply to the following:

- (1) A division of land to heirs through an estate proceeding conducted in accordance with law provided that any resulting division of the property shall be subject to minimum lot size and other limitations imposed by Chapter 16 which may render all or a portion of the divided property undevelopable;
- (2) A division of land by virtue of the foreclosure of a deed of trust in accordance with law provided that any resulting division of the property shall be subject to minimum lot size and other limitations imposed by Chapter 16 which may render all or a portion of the divided property undevelopable;
- (3) The division of land which creates an interest or interests in oil, gas or minerals which are presently or hereafter severed from the surface ownership of real property.
- (4) Any property owned by or leased to the Town of Blue River where the Town is an applicant for subdivision approval, unless the Board of Trustees voluntarily elects to subdivide the property in accordance with all or any portion of this Chapter; and
- (5) A division of land solely for purposes of enabling right-of-way dedication or the creation of a public trail to be owned or controlled by the Town.

(c) Limitations. This Chapter is not intended to modify, abrogate, amend or annul the following:

- (1) Any currently valid subdivision approvals or permits related to the use of land issued by the Town of Blue River prior to the effective date of these Subdivision Regulations;

- (2) Any currently valid subdivision approvals or permits related to the use of land issued by Summit County while the property was subject to the County's subdivision jurisdiction;
 - (3) Any lawfully created easement;
 - (4) Any rights granted to an owner or person by a privately imposed covenant, condition, or restriction on the use of property; or
 - (5) Any vested property right lawfully established in accordance with federal or state law prior to the effective date of these Subdivision Regulations subject to the terms and conditions of any agreement or approval pertaining to such vested right.
- (d) Repeal. The subdivision regulations enacted by Town of Blue River Ordinance No. 15-04 shall remain effective for the limited and sole purpose of processing pending subdivision applications submitted in accordance with Section 17-1-30.1(b). Upon the completion of processing of all exempted applications, Ordinance No. 15-04 shall be deemed repealed in its entirety.

Sec. 17-1-50. Approval required for recordation.

All plats of a subdivision of land within the Town shall be filed and recorded only after having been approved and signed by the authorized official or representative of the Town. Any plat purporting to subdivide property, including any plat lot line adjustment, lot consolidation, subdivision vacation, which is recorded without approval of the Board shall be unlawful and deemed void.

Article 2 Subdivision Processes

Sec. 17-2-10. Forms of subdivision approvals.

The Town of Blue River authorizes the following forms of subdivision approvals:

- Minor Subdivision (Article III)
- Major Subdivision (Article IV)
- Plat Amendment (Article V)
- Plat Vacation (Article VI)
- Plat Correction (Article IX)

Article 3 Minor Subdivision

Sec. 17-3-10. Definition of minor subdivision.

"Minor subdivision" means the division of land including replat, that:

- (a) Results in no more than five lots or outlots;
- (b) Does not create or result in the creation of a lot or parcel of land that would violate or fail to conform to any applicable zoning or other standard including, but not limited to, lot area, minimum frontage, building height, setback(s), street or private drive width, parking or access; and
- (c) Does not propose a major subdivision, plat amendment, or plat vacation as defined by these Subdivision Regulations.

Sec. 17-3-20. Minor subdivision review procedures.

The procedures applicable to the processing of an application of a minor subdivision are provided in the Table of Subdivision Processes set forth in Section 17-10-20 of these Subdivision Regulations.

Sec. 17-3-30. Sufficiency of application.

All plans, reports, maps, and other information required for any plan or plat must be complete, legible, and must be submitted by the deadlines established by these Subdivision Regulations or deadlines established during the review process. A failure of the application to meet the requirements of these Subdivision Regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete.

Sec. 17-3-40. Contents of minor plat application.

All minor plat applications shall meet all submittals, materials, and information requirements of a final plat contained in Section 17-4-70(b), except that the applicant shall provide or satisfy the following:

- (a) The title of the subdivision plat shall prominently identify the proposed name of the subdivision together with the phrase "Minor Plat."
- (b) Documentation of ownership, liens, and encumbrances or, in the alternative where no dedication of property to the public is proposed by the plat, all of the following:

1. A copy of a recorded deed for all of the property described in the application evidencing that the applicant is the fee owner of the property;
 2. A written, executed, and notarized statement of the applicant representing to the Town that he or she is the fee owner of the property; and
 3. A certified copy of documentation from the Summit County assessor or clerk and recorder evidencing that the applicant is the owner of record of the property.
- (c) List of all mineral owners and lessees of mineral owners for all the property described in the application; and evidence of notice to such mineral owners and lessees of the public hearing to consider such plat.

Sec. 17-3-50. Number of copies of plat application materials.

Except where the Town Manager approves the submission of electronic copies, the applicant shall submit to the Town twenty (20) copies of all application materials. The Town Manager may request additional copies of documents larger than eight and one-half by eleven (8 1/2 x 11) inches where necessary to provide sufficient documentation for unanticipated referrals.

Sec. 17-3-60. Standard for approval.

Recommendation of approval or conditional approval of any minor plat by the Planning Commission, and any approval or conditional approval by the Town Board shall require a finding that the applicant and the evidence presented to the commission or the Town established the following by competent and sufficient evidence:

- (a) The proposed subdivision meets or satisfies all applicable requirements of these Subdivision Regulations;
- (b) The proposed subdivision conforms to all applicable requirements for the zone district(s) in which the property is located, including, but not limited to, requirements for setbacks, height, floor and lot areas, and minimum lot sizes;
- (c) The proposed subdivision substantially conforms to all other applicable requirements of this code, ordinances, and resolutions of the Town of Blue River;
- (d) The proposed subdivision substantially conforms to the goals and policies of the Blue River Comprehensive Plan to the extent that such goals and policies do not conflict with provisions or requirements of the Municipal Code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning Commission or Town Board to decide that such application or subdivision meets or fails to meet such goal or policy; and

- (e) The proposed subdivision (both during and following construction and development) will not result in an unreasonable increase in the peak rate of discharge, or result in a decrease in the quality of discharge, or result in any significant change in the direction or location of the point of discharge, of storm water or surface water flows upon any adjacent or neighboring property.

Sec. 17-3-70. Conditions for approval.

The Town Board may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval, this code, or which are necessary to protect the health, safety, and welfare of the Town and its residents. Any proposed condition for approval shall be reviewed and approved by the Town Attorney.

Sec. 17-3-80. Effect of approval of minor plat.

- (a) Recording of Final Plat. As soon as practicable following approval by the Town, the applicant shall submit to the Town a fully executed original minor plat in material and form suitable for recordation with the Summit County clerk and recorder and any applicable subdivision improvements agreement. Upon confirmation that the applicant has received final approval of the minor plat and all supporting documents and paid all outstanding fees and charges, the Town shall cause to be filed and recorded such plat and documents in the office of the Summit County clerk and recorder at the applicant's expense.
- (b) No approval or conditional approval of a minor plat and any applicable subdivision improvements agreement shall be deemed effective or finally approved until the minor plat is recorded with the county clerk and recorder.

Article 4 Major Subdivision

Sec. 17-4-10. Definition of major subdivision.

A "major subdivision" is any division of land that is not defined as a "minor subdivision," a "plat amendment," a "plat vacation," or a "plat correction" as these phrases are defined by these Subdivision Regulations.

Sec. 17-4-20. Major subdivision process generally.

A major subdivision requires the processing and approval of two separate plans or plats: preliminary plan and final plat. Full processing and approval by the Town Board of all three phases in accordance with this title constitutes approval of a "major subdivision."

- (a) Preliminary Plan. The preliminary plan is the first step of the two-step major subdivision approval process. Preliminary plan approval requires public hearings held before the Planning Commission and the Town Board. The preliminary plan process will review the feasibility and design characteristics of the proposal based on the standards set forth in these Subdivision Regulations, the Zoning Ordinance, and this Municipal Code. The preliminary plan process will also evaluate preliminary engineering design. The applicant must receive preliminary plan approval or conditional approval in order to proceed with the final plat application.
- (b) Final Plat. The final plat is the last step in the two-step subdivision approval process. An applicant must have received preliminary plan approval or conditional approval and the approval must be valid at the time of submission of the final plat application in order to proceed with the final plat process. Final plat review requires public hearings before both the Planning Commission and the Town Board. No major subdivision shall be deemed finally approved until the Town Board approves or conditionally approves the final plat and the final plat is properly recorded in the office of the Summit County clerk and recorder. The final plat process will review the final engineering plans, the development agreement, homeowners' association covenants, the final plat itself, and any other documents, reports or studies as may be necessary to ensure conformance with these Subdivision Regulations, the Zoning Ordinance, and the Municipal Code.

Sec. 17-4-30. Major subdivision review procedures.

The procedures applicable to the processing of an application of a major subdivision are provided in Article 10 of these Subdivision Regulations.

Sec. 17-4-40. Sufficiency of applications.

All plans, reports, maps, and other information required for any plan or plat must be complete, legible, and submitted by the deadlines established by these Subdivision Regulations or deadlines established during the review process. A failure of the application to meet the requirements of these Subdivision Regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete.

Sec. 17-4-50. Reserved.

Sec. 17-4-60. Preliminary plan– Contents of application.

Except where the Town Manager approves the submission of electronic copies, the applicant shall submit to the Town twenty-five (25) copies of all preliminary plan application materials. The Town Manager may request additional copies of documents larger than eight and one-half by eleven (8 1/2 x 11) inches where necessary to provide sufficient documentation for unanticipated referrals. The following submittals, materials, and information shall comprise a complete application for preliminary plan review:

- (a) A completed application in the form approved by the Town;
- (b) Payment of all required application fees and any review fee deposit;
- (c) Documentation of ownership, liens and encumbrances;
- (d) A legal description of the property proposed to be subdivided prepared by a licensed registered Colorado land surveyor;
- (e) A list of the names and mailing addresses, as this information appears of record with the Summit County assessor's office, of all owners of adjacent property to the property proposed for subdivision; and
- (g) Preliminary Plan. The preliminary plan shall be prepared at a scale of one-inch equals one twenty (20) feet and shall be prepared, drawn, signed and stamped by a currently registered Colorado land surveyor. The size of the map sheet shall be twenty-four by thirty-six (24 x 36) inches. Other scales may be authorized in writing by the Town Manager for larger, lower-density developments provided that the necessary data can be clearly and accurately shown. Where the required data cannot be clearly shown on one plan sheet, additional plan sheets of the same size may be used with easily identifiable match lines. The preliminary plan shall include or illustrate:
 - 1. A general vicinity map of the subdivision illustrating the subdivision's location within the Town and showing major streets;
 - 2. A title that prominently identifies the proposed name of the subdivision together with the phrase "preliminary plan;"
 - 3. Topography at vertical intervals of five feet where the average cross-slope of the subdivision is more than ten (10) percent and at vertical intervals of two feet where the average cross-slope of the subdivision is less than ten (10) percent. Elevation data shall be based on current United States Geological Survey datum and, the benchmarks used shall be identified on the plan;
 - 4. Date of preparation, map scale, north arrow and revision box;
 - 5. Name, address and telephone number of the applicant, land owner(s), planner, engineer and surveyor;
 - 6. Subdivision names and lot owners' names for property within any adjacent subdivision(s), unsubdivided tracts with owner's names, and all public lands with

the agency name. The approximate location of lot lines within adjacent subdivision for lots adjacent to the proposed subdivision;

7. Zoning classifications of property adjacent to the property proposed for subdivision;
8. Proposed names of any new streets;
9. Location and principal dimensions of all existing streets, pedestrian ways, alleys, easements, irrigation ditches and laterals, both of record and apparent from inspection of the property within or adjacent to the proposed subdivision;
10. Location and size of existing utilities within or adjacent to the tract to be subdivided, including water, sewer, electric, gas and phone lines (utilities may be illustrated on a separate map at a matching scale as used for the preliminary plan);
11. Locations of streams, ditches, ponds, and other water features, including direction of flow, high water elevations, and the location and extent of those areas subject to inundation by the one hundred (100)-year frequency storm;
12. Location and description of significant existing and proposed vegetation and landscaping;
13. Location and dimensions of all proposed lots, blocks, and outlots. Lots and blocks shall be numbered. All outlots shall be lettered in alphabetical order;
14. Location, dimensions, and areas expressed in acres and as a percent of the total project area of all proposed streets, off-street parking areas, pedestrian ways, bike paths and equestrian ways, alleys, easements and other public ways, and building setback lines;
15. Location and dimensions in acreage and as a percent of the total of all property proposed to be set aside for park and/or open space purposes, or other private reservations;
16. Location and types of any existing structures;
17. Location, alignment, profiles, and cut and fill slope intercepts for streets and driveways for subdivisions with any slope area(s) of ten (10) percent or greater; and
18. Location of proposed or required exterior lighting (streetlights, parking lots) and signs, including subdivision monument or entry signs.

(h) Written Statement. A written statement addressing the following:

1. Any additional or supplemental information necessary to meet the content requirements of the preliminary plan in subsection (g) of this section that is not thoroughly shown on the preliminary plan;
 2. A description of the overall development concept, purpose and function of the proposed subdivision. If the property is or will be residentially zoned, the description shall include representations concerning the proposed quality and styles of residential structures, anticipated sales price ranges, and amenities;
 3. Environmental considerations, including but not limited to, unstable slopes/rockfall zones, related geologic factors, flood plains and wetlands, and alignment of structures and improvements to take into consideration climatic conditions and high groundwater areas;
 4. Unique site characteristics not common to other properties, including any natural and man-made features and/or hazards that may affect the development;
 5. A phasing plan and development schedule for the construction and/or installation of streets, utilities, buildings and landscaping;
 6. A supplement to the drainage plan describing how the applicant proposes to mitigate potential drainage, erosion and water retention or storage problems that may result from development;
 7. Statements explaining the nature of all easements and reservations, if any;
 8. A parks and open space plan documenting types of space (public, private, common areas), proposed uses, development in sequence with the phasing plan, and administrative and maintenance responsibilities;
 9. A general description of the purpose and nature of covenants, homeowners' association, or other contemplated private or contractual restrictions on the use, character and maintenance of the subdivision;
 10. If the subdivision will permit commercial, business, or industrial use, a description of the nature of the use, the trade area, and anticipated employment base shall be submitted in sufficient detail to demonstrate the economic viability of the proposed use.
- (i) Reports and Studies. The following preliminary reports and studies shall be prepared by a qualified professional at the applicant's cost and submitted with the application:
1. Preliminary Drainage Report and Grading Plan. The drainage plan shall include a contour map marked to show existing drainage basins, flow patterns, concentration points, approximate runoff quantities and velocities and all existing natural and man-made features affecting site drainage and location of on-site and off-site surface water detention facilities and any easements for conveyance of surface water;

2. Preliminary soils report;
3. Preliminary utility plan for delivery of water, sewer and electric services to and throughout the property;
4. Preliminary traffic impact analysis including an evaluation of the vehicular and pedestrian traffic patterns, together with estimated trips per day, for roads within the subdivision and for all routes leading from the subdivision and connecting to highway and arterial roads.
5. Additional Information. The applicant shall provide other information requested by the Planning Commission or Town Board that may be necessary to adequately review the proposal for conformance with the applicable requirements.

Sec. 17-4-70. Final plat– Contents of application.

- (a) Contents of Application. Except where the Town Manager approves the submission of electronic copies, the applicant shall submit to the Town twenty-five (25) copies of all final plat application materials. The Town Manager may request additional copies of documents larger than eight and one-half by eleven (8 1/2 × 11) inches where necessary to provide sufficient documentation for unanticipated referrals. A final plat application may be submitted for all or any logical portion of property described in an approved and valid preliminary plan. The following submittals, materials and information shall comprise a complete application for final plat review:
1. A completed application in the form approved by the Town;
 2. Payment of all required application fees and any review fee deposit;
 3. Documentation of ownership, liens and encumbrances;
 4. A legal description of the property proposed to be subdivided prepared by a licensed registered Colorado land surveyor;
 5. A list of the names and mailing addresses, as this information appears of record with the Summit County assessor's office, of all owners of adjacent property to the property proposed for subdivision;
 6. A list of the names and mailing addresses of all mineral owners and lessees of mineral owners as this information appears of record with the Summit County clerk and recorder and assessor's office.
- (b) Final Plat. The final plat shall be drafted at a scale of one inch to one twenty (20) feet by the use of permanent ink on a stable reproducible drafting medium with outer dimensions of twenty-four by thirty-six (24 × 36) inches. Maps of two or more sheets shall be referenced to an index map placed on the first sheet. Other scales may be authorized in

writing by the Town Manager for larger, lower-density developments provided that the necessary data can be clearly and accurately shown. Where the required data cannot be clearly shown on one plan sheet, additional plan sheets of the same size with easily identifiable match lines may be used.

1. A title that prominently identifies the proposed name of the subdivision together with the phrase "Final Plat";
2. Date of preparation, map scale and north arrow;
3. Name, address and telephone number of the applicant, land owner(s), planner, engineer and surveyor;
4. Total acreage and surveyed description of the area;
5. Primary boundary survey control points with monument descriptions; all parcel lines dimensioned with lengths; curve data including chord lengths and bearings; basis of bearings and relation to true meridian;
6. Tract boundary lines, road right-of-way lines, easements and other sites with accurate bearings and dimensions including chord lengths and bearings, central angles, arc lengths and radii of all curves;
7. Name and right-of-way width of each street. Right-of-way widths are to be shown at each leg of an intersection, at point of curvature and point of tangent, at dead-ends, and at angle points;
8. Locations, dimensions and purposes of all easements;
9. Number or letter to identify each lot, outlot and block. Lots and blocks shall be numbered. All outlots shall be lettered in alphabetical order;
10. An identification of the streets, alleys, easements, parks, open space, and any other public facilities shown on the plat to be dedicated to public use. No areas within the plat may be designated as areas of conditional, planned or future public acquisition. Dedications of public property not made on the final plat shall be made only by general warranty deed unless otherwise approved by the Town Board;
11. Names of all adjoining subdivisions with dotted lines of abutting lots. If the adjoining land is unplatted, it should be shown as such;
12. Signature and seal of the registered land surveyor;
13. A delineation of the extent of the one hundred (100)-year flood plain; and
14. All final plat approval certifications, plat language, and recording information in forms approved by the Town. See Article XIII.

- (c) The following final studies and reports, as may be required by the Town, shall be prepared by a qualified professional at the applicant's cost and submitted with the application:
1. Final drainage report and grading plan;
 2. Final soils and geology report;
 3. Final utility plan for delivery of water, sewer and electric services to and throughout the property;
 4. Final traffic impact analysis including an evaluation of the vehicular and pedestrian traffic patterns, together with estimated trips per day, for roads within the subdivision and for all routes leading from the subdivision and connecting to highway and arterial roads.
- (d) Additional Information Required:
1. One copy of any agreements, conveyances, restrictions, or private covenants that will govern the use and maintenance of the subdivision and any common private open space or private subdivision amenity; and
 2. Complete engineering plans and specifications sufficient to commence construction for all public facilities and improvements to be installed, including but not limited to:
 - a. Water and sewer improvements, including all sewer lift stations;
 - b. Streets and related improvements;
 - c. Bridges; and
 - d. Storm drainage, detention and erosion control improvements;
 3. One copy of any agreement affecting the subdivision and public or private improvements made with ditch companies, railroad companies, utility providers, and state, county, or local governmental or quasi-governmental agencies;
 4. Written description of arrangements and financial institution commitments for providing financial guarantees and sureties for the timely completion of all public improvements;
 5. A preliminary or draft subdivision improvements agreement in the form required by these Subdivision Regulations and generally acceptable to both the subdivider and the Town attorney and which is capable of finalizing upon the conclusion of the public hearing and approval or conditional approval of the final plat by the Town Board.

Sec. 17-4-80. Standards for approval of a major subdivision.

Recommendation of approval or conditional approval of any stage of a major plat by the Planning Commission, and any approval or conditional approval by the Town Board, shall require a finding that the applicant and the evidence presented to the Planning Commission or the Town Board established the following by competent and sufficient evidence:

- (a) For a final plat, a finding must be made that a preliminary plan for the subdivision was approved or conditionally approved by the Town Board not more than twelve (12) months prior to the date of submission of an application for final plat approval or that the preliminary plan is currently valid and effective as the result of the approval of an extension of the effective date of the preliminary plan.
- (b) The proposed subdivision and development conforms to all applicable requirements for the zone district(s) in which the property is located, including but not limited to, requirements for use, setbacks, height, floor and lot areas, and minimum lot sizes.
- (c) The proposed subdivision and development substantially conforms to all other applicable requirements of the Town's Municipal Code, ordinances, and resolutions.
- (d) The proposed subdivision and development substantially conforms to the goals and policies of the Blue River comprehensive plan to the extent that such goals and policies do not conflict with provisions or requirements of this code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning Commission or Town Board to decide that such application or subdivision meets or fails to meet such goal or policy.
- (e) The application:
 - 1. For preliminary plan approval, meets or satisfies all applicable requirements of the Subdivision Regulations; or
 - 2. For final plat approval, is in substantial conformance with the approved preliminary plan and the final plat meets or satisfies all applicable requirements of the Subdivision Regulations;
- (f) Adequate capacity of water and wastewater utilities are currently available for the entire subdivision and development.

Sec. 17-4-90. Conditions for approval.

The Town Board may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval, this code, or which are necessary to protect the health, safety and welfare of the Town and its residents.

Sec. 17-4-100. Reserved.

Sec. 17-4-110. Effect of approval of preliminary plan.

Approval or conditional approval of a preliminary plan shall be valid for twelve (12) months following the date of approval or conditional approval by the Town Board. Such period may be extended by the Town Board for not more than six (6) additional months upon written request of an applicant only where the applicant establishes to the satisfaction of the Board that the applicant is reasonably pursuing completion of a final plat.

Sec. 17-4-120. Effect of approval of final plat.

- (a) Recording of Final Plat. As soon as practicable following approval by the Town, the applicant shall submit to the Town a fully executed original final plat in material and form suitable for recordation with the Summit County clerk and recorder and any applicable subdivision improvements agreement. Upon confirmation that the applicant has received final approval of the final plat and all supporting documents and paid all outstanding fees and charges, the Town shall cause to be filed and recorded such plat and documents in the office of the Summit County clerk and recorder at the applicant's expense.
- (b) No approval or conditional approval of a final plat and any applicable subdivision improvements agreement shall be deemed effective or finally approved until the final plat is recorded with the county clerk and recorder.

Article 5 Plat Amendment

Sec. 17-5-10. Definition of plat amendment.

A "plat amendment" is any form of amendment or modification of an approved and recorded minor plat or a final plat (other than a plat vacation) that:

- (a) Does not create any additional lot(s) or outlot(s);
- (b) Does not create or result in the creation of a lot or outlot that would violate or fail to conform to any applicable zoning or other standard, including but not limited to, lot area, minimum frontage, building height, setback(s), street or private drive width, parking, or access;
- (c) Does not reduce the amount of any dedicated or publicly owned land, and in the opinion of the Town Manager does not significantly alter or affect the subdivision's access, parking, or traffic circulation system;

1. Eliminates one or more lot lines within the subdivision (a lot consolidation);
 2. Relocates or reconfigures one or more lot lines within the subdivision; and/or
 3. Modifies, amends, adds, or deletes a restriction, limitation, condition, or other obligation, right, or duty stated on the minor plat or final plat; and
- (d) Is initiated by the owners of record of all lots and outlots within the area directly affected by the proposed amendment. The "area directly affected by the proposed amendment" means:
- (1) The properties that would be physically affected by an amendment to eliminate or relocate one or more lot lines within the subdivision. Where a single lot line is eliminated or relocated, the "area directly affected by the proposed amendment" would customarily include the lots on each side of the lot line subject to elimination or relocation; and
 - (2) All properties which are directly benefited by the restriction, limitation, condition, or other obligation, right, or duty stated on the minor plat or final plat. In many instances, all properties within the subdivision are affected by a restriction, limitation, condition, or other obligation, right, or duty stated on the minor plat or final plat.

Sec. 17-5-20. Plat amendment review procedures.

The procedures applicable to the processing of an application of a plat amendment are provided in the Table of Subdivision Processes set forth in Section 17-10-20 of this Chapter.

Sec. 17-5-30. Contents of plat amendment application.

The following submittal, materials, and information shall comprise a complete application for a plat amendment:

- (a) A completed application in the form approved by the Town;
- (b) Payment of all required application fees and any review fee deposit;
- (c) Documentation of ownership, liens and encumbrances;
- (d) A legal description of the property proposed for plat amendment prepared by a licensed registered Colorado land surveyor;
- (e) A list of the names and mailing addresses, as this information appears of record with the Summit County assessor's office, of all owners of adjacent property to the area directly affected by the proposed amendment.

- (f) For a plat amendment that relocates one or more lot lines within a previously approved subdivision or consolidates lots by the elimination of lot line(s), an amended plat shall be submitted with the application.
- (1) The amended plat shall be drafted at a scale of one inch to twenty (20) feet by the use of permanent ink on a stable reproducible drafting medium with outer dimensions of twenty-four by thirty-six (24 × 36) inches. Other scales may be authorized in writing by the Town Manager for larger, lower-density developments provided that the necessary data can be clearly and accurately shown. Where the required data cannot be clearly shown on one plan sheet, additional plan sheets of the same size may be used with easily identifiable match lines.
 - (2) A title that prominently identifies the name of the recorded subdivision together with the phrase "plat amendment" or "lot consolidation" as appropriate for the particular application;
 - (3) Date of preparation, map scale and north arrow;
 - (4) Name, address and telephone number of the applicant, land owner(s), planner, engineer and surveyor;
 - (5) Total acreage and surveyed description of the lots and area subject to the proposed amendment; and
 - (6) A clear illustration or description of the amendment proposed, using shading, crosshatching, highlighting, or other techniques to accurately illustrate the proposed amendment.
- (g) For a plat amendment that modifies, amends, adds or deletes a restriction, limitation, condition, or other obligation, right, or duty stated on the recorded plat, a written description clearly stating the proposed amendment in a form suitable for recordation with the office of the Summit County clerk and recorder. The written description shall be subject to approval of the Town attorney and, at a minimum, the written amendment shall include:
- (1) A title that prominently identifies the name of the recorded subdivision together with the phrase "Plat Amendment;"
 - (2) The county recording information (book and page or recordation number, as applicable) of the original subdivision plat, and the recording information and titles of any other prior amendments of the original plat; and
 - (3) Date of preparation, name, address, and telephone number of the applicant, land owner(s), and any professionals (planners, engineers, surveyors) assisting in the plat amendment.
- (h) For a consolidation of one or more lots, a written agreement in a form approved by the Town Attorney that includes the owner's contractual commitment to not apply for or

otherwise seek further subdivision of the consolidated lot(s). Such contractual commitment shall at a minimum: (1) run with the land and bind future owners of the consolidated lot(s); (2) include a provision granting the Town the authority to unilaterally release or void the contractual commitment upon a finding by the Town Board that both: (i) section 17-1-40(a) of these Subdivision Regulations is repealed thereby authorizing subdivisions within the Town; and (ii) the subdivision of the consolidated lot(s) in accordance with the then-effective Subdivision Regulations will be in the best interests of the Town and advance the Town's policies concerning new lot creation and increase in density.

Sec. 17-5-40. Number of copies of plat application materials.

Except where the Town Manager approves the submission of electronic copies, the applicant shall submit to the Town twenty (20) copies of all application materials. The Town Manager may request additional copies of documents larger than eight and one-half by eleven (8 1/2 x 11) inches where necessary to provide sufficient documentation for unanticipated referrals.

Sec. 17-5-50. Standards for approval of plat amendment.

Recommendation of approval or conditional approval of any stage of a plat amendment by the Planning Commission, and any approval or conditional approval by the Town Board, shall require a finding that the applicant and the evidence presented to the commission or the council established the following by competent and sufficient evidence:

- (a) The proposed amendment meets or satisfies all applicable requirements of this title.
- (b) The proposed amendment conforms to all applicable requirements for the zone district(s) in which the property is located, including but not limited to, requirements for setbacks, height, floor and lot areas, and minimum lot sizes.
- (c) The proposed amendment substantially conforms to all other applicable requirements of the code and all regulations promulgated by the Town.
- (d) The proposed subdivision substantially conforms to the goals and policies of the Blue River comprehensive plan, to the extent that such goals and policies do not conflict with provisions or requirements of the code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning Commission or Town Board to decide that such subdivision meets or fails to meet such goal or policy.
- (e) The proposed amendment would not cause significant hardship or inconvenience for adjacent or neighboring landowners or tenants.
- (f) The proposed amendment would not be likely to prove detrimental to the public health, safety or welfare of Town residents.

Sec. 17-5-60. Conditions for approval.

The Town Board may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval, this code, or which are necessary to protect the health, safety and welfare of the Town and its residents.

Sec. 17-5-70. Effect of approval of plat amendment.

- (a) Recording of Plat Amendment. As soon as practicable following approval by the Town, the applicant shall submit to the Town a fully executed original plat in material and form suitable for recordation with the Summit County clerk and recorder and any applicable subdivision improvements agreement. Upon confirmation that the applicant has received final approval of the plat amendment and all supporting documents and paid all outstanding fees and charges, the Town shall cause to be filed and recorded such plat and documents necessary for recording in the office of the Summit County clerk and recorder at the applicant's expense.
- (b) No approval or conditional approval of a plat amendment and any applicable subdivision improvements agreement shall be deemed effective or finally approved until the final plat is recorded with the county clerk and recorder.

Article 6 Plat Vacation

Sec. 17-6-10. Definition of plat vacation.

A "plat vacation" is any termination, elimination and vacation of a previously approved and recorded minor plat or final plat so as to return all of the previously platted property to an unplatted and unsubdivided condition. A plat vacation is not a vacation of a public street or right-of-way (For vacation of streets and rights-of-way, see C.R.S. § 43-2-301, et seq.)

Sec. 17-6-20. Authority to seek vacation of plat.

An application for plat vacation may be initiated by:

- (a) The Town Board, with or without a recommendation by the Planning Commission; or
- (b) All owners of record or duly authorized agent of any owner of record of all lots and outlots within the approved and recorded subdivision plat.

Sec. 17-6-30. Plat vacation review procedures.

The procedures applicable to the processing of an application of a plat vacation are provided in 17-10-20 of these Subdivision Regulations.

Sec. 17-6-40. Contents of plat vacation application.

All plat vacation applications shall meet the following submittal, materials, and information requirements:

- (a) Application in the form approved by the Town;
- (b) Payment of all required application fees and any review fee deposit;
- (c) Documentation of ownership, liens and encumbrances;
- (d) A legal description of the property proposed for plat vacation prepared by a licensed registered Colorado land surveyor;
- (e) A list of the names and mailing addresses, as this information appears on record with the Summit County assessor's office, of all owners of property within the original subdivision plat that is subject to the proposed vacation, including all owners or beneficiaries of easements;
- (f) Notice of Plat Vacation. A written description unconditionally stating that the recorded subdivision plat is vacated and voided. The written description shall be in a form suitable for recordation with the office of the Summit County clerk and recorder if the vacation is approved by the Town. The written description shall be subject to approval of the Town attorney and, at a minimum, the written description shall include:
 - (1) A title that prominently identifies the name of the recorded subdivision together with the phrase "Plat Vacation and Termination;"
 - (2) The county recording information (book and page or recordation number as applicable) of the original subdivision plat, and the recording information and titles of any other prior amendments of the original plat;
 - (3) Date of preparation, name, address, and telephone number of the applicant, land owner(s), and any professionals (planners, engineers, surveyors) assisting in the plat vacation application.

Sec. 17-6-50. Number of copies of plat application materials.

Except where the Town Manager approves the submission of electronic copies, the applicant shall submit to the Town twenty (20) copies of all application materials. The Town Manager may request additional copies of documents larger than eight and one-half by eleven (8 1/2 x 11) inches where necessary to provide sufficient documentation for unanticipated referrals.

Sec. 17-6-60. Standards for approval of plat vacation.

Approval or conditional approval of any plat vacation by either the Planning Commission or the Town Board shall require a finding that the applicant and the evidence presented to the commission or the Town Board established the following:

- (a) Development of the property in accordance with the recorded subdivision plat will not permit efficient use of the platted property.
- (b) Development of the property in accordance with the recorded subdivision plat will not advance the goals and objectives of this code or the Blue River comprehensive plan.
- (c) The proposed plat vacation would neither interfere with nor deny access via a public thoroughfare to existing structures within the recorded plat, adjoining properties, utility services or other improvements.
- (d) The proposed plat vacation would not cause undue hardship or inconvenience for any utility company, special district, neighboring landowner or tenant and that it would not be detrimental to the public health, safety or welfare of Town residents.
- (e) The proposed vacation substantially conforms to the goals and policies of the Blue River comprehensive plan to the extent that such goals and policies do not conflict with provisions or requirements of this code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning Commission or Town Board to decide that such subdivision meets or fails to meet such goal or policy.

Sec. 17-6-70. Conditions for approval.

The Town Board may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval, this code, or which are necessary to protect the health, safety and welfare of the Town and its residents.

Sec. 17-6-80. Effect of approval of plat vacation.

- (a) Recording of Plat Vacation. As soon as practicable following approval by the Town, the applicant shall submit to the Town a fully executed original plat vacation in material and form suitable for recordation with the Summit County clerk and recorder and any applicable subdivision improvements agreement. Upon confirmation that the applicant has received final approval of the final plat and all supporting documents and paid all outstanding fees and charges, the Town shall cause to be filed and recorded such plat and documents in the office of the Summit County clerk and recorder at the applicant's expense.

- (b) No approval or conditional approval of a final plat and any applicable subdivision improvements agreement shall be deemed effective or finally approved until the final plat is recorded with the county clerk and recorder.

Article 7 Reserved

Article 8 Reserved

Article 9 Plat Correction

Sec. 17-9-10. Purpose.

The purpose of this Article is to establish an administrative subdivision process applicable to proposals to correct an error in a previously approved subdivision plat. This Article is intended to provide for the efficient processing of corrections without the need to undertake a formal public hearing process provided that all requirements of this Article are satisfied.

Sec. 17-9-20. Definition of plat correction.

A "plat correction" is any proposal and application that is determined by the Town Manager to meet all of the following criteria:

- (a) The proposal seeks to correct an evident or obvious error in an approved and recorded plat (a plat associated with a minor subdivision, major subdivision, plat amendment, or plat vacation) and, by way of examples only, the correction would revise a typographical or grammatical error in plat language, correct an error in a property legal description, delete or add language in a note or other text of a plat to bring the plat into conformance with these Subdivision Regulations or into conformance with a condition of subdivision approval;
- (b) The proposed correction does not relocate or move an existing lot line;
- (c) The proposed correction does not create one or more additional lots, outlots, parcels, or tracts; or
- (d) The proposed correction does not alter, amend, or change any public or private easement or any right, obligation, intent, or requirement associated with the plat.

Sec. 17-9-30. Contents of plat correction application.

A plat correction application shall be in a form of one of the following:

- (a) An eight and one-half by eleven (8 1/2 × 11) inch document suitable for recordation which clearly and concisely explains or details the correction, references the recordation information of the approved and recorded plat to be corrected together with a title of "Plat Correction to [name of plat to be recorded]" and bearing the signature (and stamp, if appropriate) of the individual or business entity that prepared and signed the original plat; or
- (b) A reprint of the previously approved and recorded plat which reprinted plat contains the correction together with a new title "Plat Correction to [name of plat to be recorded]." The reprint shall be created by the same individual or business entity that prepared the original plat and all original plat certificates shall be re-signed and re-dated by the appropriate parties. Where parties are unavailable due to passage of time or sale of property within the subdivision, a Plat Amendment shall be the appropriate form of application to evidence a correction to a recorded subdivision plat.
- (c) Documentation of ownership, liens and encumbrances or, in the alternative, all of the following:
1. A copy of a recorded deed for all of the property described in the application evidencing that the applicant is the fee owner of the property;
 2. A written, executed, and notarized statement of the applicant representing to the Town of Blue River that he or she is, or they are, the fee owner of all property within the plat to be corrected; and
 3. A certified copy of documentation from the Summit County assessor or clerk and recorder evidencing that the applicant(s) is the owner of record of the property.
- (d) The following certificate of approval shall be substituted for and replace the certificate of approval of the Town Board on any plat or upon any plat correction document submitted with the application:

APPROVED by the Town of Blue River Planning and Zoning Commission
and approved for recordation with the Summit County Clerk and Recorder's
Office pursuant to the Blue River Municipal Code this _____ day of
_____, _____.

Sec. 17-9-40. Number of copies of application materials.

Except where the Town Manager approves the submission of electronic copies, the applicant shall submit to the Town Manager fifteen (15) copies of all application materials. The Town Manager may request additional copies of documents larger than eight and one-half by eleven (8 1/2 × 11) inches where necessary to provide sufficient documentation for unanticipated referrals.

Sec. 17-9-50. Sufficiency of application.

All plans, reports, maps, and other information required for any plan or plat must be complete, legible, and must be submitted by the deadlines established by these Subdivision Regulations or deadlines established during the review process. A failure of the application to meet the requirements of these Subdivision Regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete.

Sec. 17-9-60. Plat correction review procedures.

All applications for plat correction shall be administratively reviewed by the Town Manager and the Planning Commission without notice or a public hearing and may be finally approved by the Planning Commission in accordance with this Article. Following submission of a plat correction application and supporting documents, the Town Manager shall determine whether the application and plat are complete as required by these Subdivision Regulations. Following a determination that the application and supporting documents are complete, the Town Manager shall endeavor to reach a decision concerning the application's and plat's compliance with the Subdivision Regulations within thirty (30) days of the date of submission of the completed application and plat correction unless such deadline is waived by the applicant. Following review and decision by the Town Manager, the Manager shall present the Manager's decision to the Planning Commission for administrative review and final approval in accordance with this Article.

Sec. 17-9-70. Standards for approval.

An application and plat correction shall be administratively reviewed by both the Town Manager and by the Planning Commission for compliance with the following standards:

- (a) The proposed subdivision meets the definition of a "plat correction" contained in this Article;
- (b) The proposed plat correction meets all content requirements of these Subdivision Regulations, the Zoning Ordinance, and the Municipal Code; and
- (c) The plat correction does not, in the opinion of the Planning Commission, substantially and adversely affect adjacent lots or raise significant issues of policy which are not addressed by the Blue River comprehensive plan or the Blue River Municipal Code.

Sec. 17-9-80. Town Manager Decision.

The Town Manager shall approve a plat correction application upon a finding that the application meets the requirements of Section 17-8-70 of this Article. The Town Manager shall deny a plat correction application for failure to meet the requirements of Section 17-8-70 of this Article. Any

decision to deny an application shall be made in writing stating the specific reasons for denial and the decision shall be promptly mailed or hand delivered to the applicant.

Sec. 17-9-90. Appeal to Town Board.

The applicant may appeal a denial by the Planning Commission to the Town Board by requesting an appeal in writing delivered to the Town Manager not more than twenty (20) days following the date of the applicant's receipt of the written notice of denial. The Town Board shall administratively consider an applicant's timely request for an appeal at a regular or special meeting. Following consideration of the application and plat, the Town Board Commission may affirm the Planning Commission's decision or, upon a finding that the application meets all the applicable standards set forth in Section 17-8-70 of this Article, the Town Board may reverse the Planning Commission's decision and order the Planning Commission to approve the plat correction and execute the documents or plat, as applicable, in a manner suitable for recordation. In the event that the Town Board orders the Planning Commission to approve the application and plat, the Town Manager shall process and record the plat correction documents in accordance with Section 17-9-110.

Sec. 17-9-100. Conditions for approval.

The Planning Commission or Town Board, as applicable, may impose reasonable conditions upon any approval of a plat correction that are necessary to ensure continued conformance with the standards of approval or the Blue River Municipal Code or these Subdivision Regulations. Any proposed condition for approval shall be reviewed and approved by the Town Attorney.

Sec. 17-9-110. Effect of Approval of Plat Correction.

- (a) Recording of Plat Correction. As soon as practicable following approval by the Town, the applicant shall submit to the Town a fully executed original plat correction in material and form suitable for recordation with the Summit County clerk and recorder and any applicable subdivision improvements agreement. Upon confirmation that the applicant has received final approval of the plat correction and all supporting documents and paid all outstanding fees and charges, the Town shall cause to be filed and recorded such plat and documents in the office of the Summit County clerk and recorder at the applicant's expense.
- (b) No approval or conditional approval of a plat correction and any applicable subdivision improvements agreement shall be deemed effective or finally approved until the plat correction is recorded with the county clerk and recorder.

Article 10 Application Review Procedures

Sec. 17-10-10. Applicability and purpose.

This Article applies to each of the following subdivision processes described in this title and is entitled "Table of Subdivision Processes."

- Minor Subdivision (Article III)
- Major Subdivision (Article IV)
- Plat Amendment (Article V)
- Plat Vacation (Article VI)
- Plat Correction (Article IX)

Sec. 17-10-20. Table of subdivision processes.

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R = Required	O = Optional at Subdivider's Request	N/A = Not Applicable
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	Pre-App Meeting	Application Contents	Application Completeness Determination	Referral Agencies	Notice of Hearing	Planning Commission/ Town Board
						Public Hearing
	See Section 17-10-40		See Section 17-10-50	See Section 17-10-70	See Section 17-10-80	
Minor Subdivision	R	See Section 17-3-40	R	Local Agencies	R Publication Mailing	R
Major Subdivision						
Preliminary Plan	R	See Section 17-4-60	R	Local Agencies	R Publication Mailing	R
Final Plat	O	See Section 17-4-70	R	All Agencies	R Publication Mailing	R
Plat Amendment	R	See Section 17-5-30	R	Local Agencies	R Publication Mailing	R

	Pre-App Meeting	Application Contents	Application Completeness Determination	Referral Agencies	Notice of Hearing	Planning Commission/ Town Board
						Public Hearing
	See Section 17-10-40		See Section 17-10-50	See Section 17-10-70	See Section 17-10-80	
Plat Vacation	R	See Section 17-6-40	R	Local Agencies	R Publication Mailing	R
Plat Correction	R	See Section 17-9-30	R	N/A	N/A	N/A Administrative review Applicant may appeal to Town Board
Waiver	O	See Section 17-10-110	N/A	N/A	N/A	N/A Administrative review Applicant may appeal to Town Board

Sec. 17-10-30. Reserved.

Sec. 17-10-40. Pre-application meeting.

Where an application requires a pre-application meeting in accordance with Section 17-10-20, the following process shall apply:

- (a) Prior to the formal submission of the application, the subdivider shall contact the Town Manager in writing to schedule and request an informal meeting. Following receipt of a request, the pre-application meeting shall be set for a date within fifteen (15) days of the

date of the applicant's written request. The Town Manager shall advise the applicant of the date and time of the pre-application meeting.

- (b) The applicant shall attend the meeting at the designated date and time. The applicant shall be prepared to discuss the proposed application and the proposed development with the Town Manager. The applicant shall be encouraged to present such plats, plans, diagrams, or other preliminary information sufficient to permit the conceptual review of the proposed application.
- (c) The purpose of the pre-application meeting shall be to assist the subdivider in understanding the Town's subdivision processes and to permit the Town Manager to determine the applicable process and regulations for the proposed application. Upon request of the subdivider, the Town Manager shall provide to the subdivider a written determination concerning the appropriate procedure for the processing of the applicant's proposed application.
- (d) Where a pre-application meeting is required, no application shall be accepted or processed by the Town unless and until the pre-application meeting is held.

Sec. 17-10-50. Completeness determination.

Where an application requires a completeness determination in accordance with Section 17-10-20, the following process shall apply:

- (a) Within twenty (20) days following receipt of an application, the Town Manager shall administratively review the application and determine whether the application complies with the applicable application content requirements and that all required application fees, consultant review fees, and other applicable charges are paid or deposited in accordance with these Subdivision Regulations.
- (b) All plans, reports, maps, and other information required for any plan or plat must be complete and legible. A failure of the application to meet the requirements of these Subdivision Regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete.
- (c) In the event that the Town Manager determines that the application complies with the applicable requirements, the Town Manager shall schedule the application for review in accordance with Section 17-10-20 of this Article.
- (d) In the event the Town Manager determines that the application is incomplete, the Town Manager shall inform the applicant in writing of the deficiencies in the application. No further processing of an incomplete application shall be undertaken until the Town Manager determines that the applicant has remedied the application's deficiencies.

Sec. 17-10-60. Reserved.

Sec. 17-10-70. Agency referrals.

Where an application requires agency referral in accordance with Section 17-10-20, the following process shall apply:

- (a) For purposes of any required agency referral to "local agencies" as required by Section 17-10-20, the phrase "local agencies" shall include:
1. Fire District;
 2. Town Police Department;
 3. Town Engineer;
 4. Town Attorney;
 5. Any applicable water and sanitation district;
 6. Electricity provider to the area;
 7. School district;
 8. Telephone service provider;
 10. Any other county, regional, state or federal agencies that may be deemed by the Town Manager as specially affected or interested; and
 11. For any subdivision action affecting five or more acres of land, notice will also be provided to the Colorado Land Use Commission as required by C.R.S. § 31-23-225.
- (b) For purposes of any required agency referral to "all agencies" as required by Section 17-10-20, the phrase "all agencies" shall include:
- (1) All agencies identified as a "local agency" in subsection (a) of this section;
 - (2) Summit County land use department;
 - (3) Colorado State Department of Transportation; and
 - (4) Any other county, regional, state or federal agency that may be deemed by the Town Manager as specially affected or interested including but not limited to the Colorado State Engineer, Soil Conservation Service, Colorado Geological Service, Denver Regional Council of Governments, Colorado State Forest Service, and the Colorado Water Conservation Board.
- (c) A copy of each application shall be referred by Town staff to the appropriate agencies following a determination of application completeness by the Town Manager. The purpose of all referrals is to define any conflict that the agencies or individuals may have with the proposal, and to allow for the possible resolution of conflicts through the processing of the application. Such agencies shall be expected to make recommendations and comments within twenty-one (21) days from the date of receipt of notification that the preliminary plan is available for review.

- (d) The lack of response from a referral agency to a request for referral comment shall be interpreted as "no comment" concerning the proposal and shall not be deemed a finding of acceptance or "no conflict." The absence of a timely agency comment shall not preclude the Planning Commission or Town Board from later seeking agency comment on a specific issue raised during the review process or any hearing. Recommendations or comments made after the twenty-one-day period may, at the reviewing body's discretion, be considered in the review of the application.
- (e) Failure to forward a referral of an application to an agency as required by Section 17-10-20 shall not constitute a material deviation from the subdivision application review process and shall not void or invalidate any action taken by the Planning Commission or Town Board. The requirement of agency referral shall be considered as a preferred, but discretionary, action by the Town.

Sec. 17-10-80. Notice requirements.

All public notices of hearings required by these Subdivision Regulations shall include the date, time, place, and purpose of the hearing, a general description of the property affected, and any other information deemed appropriate by the Town clerk to apprise the public of the general nature of the action proposed. Notice shall be made when required in accordance with the requirements of Section 17-10-20 and may include notice by publication or mailing, or a combination of these methods. Errors or inaccuracies in the notice shall not be deemed sufficient cause to postpone or invalidate a hearing except where such errors are substantive and material and are found to have reasonably mislead or misinformed the public as to the date, time, place or purpose of the hearing. Notice by mailing shall be deemed a courtesy to owners and a supplementary means of advising the public of the pendency of an application but shall not be deemed a legal requirement for the processing of an application or the conduct of a hearing if notice by publication was properly completed.

- (a) Notice by Publication. Where notice by publication is required for any public hearing by Section 17-10-20, notice of the hearing shall be published in the Summit County Daily Newspaper (or other official newspaper designated for publication of the Town of Blue River) at least fifteen (15) days before the date of the hearing. A single notice may combine the notice of the hearing dates of the Planning Commission and the Town Board.
- (b) Notice by Mailing.
 - (1) Where notice by mailing is required for any public hearing by Section 17-10-20, notice shall be deposited in the United States Mail first class postage prepaid or shall be delivered by another comparable service, including hand-delivery to the address. The deposit in the U.S. Mail or delivery by another comparable service shall be made at least seven (7) days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice, or invalidation of the hearing.
 - (2) Where notice by mailing is required for any public hearing, mailed notice shall be sent by the applicant addressed to owners of property within three-hundred (300)

feet of the property described in the application as their names appear in the real property records of the Summit County assessor. For purposes of determining addressees for mailed notice, the applicant may rely upon the ownership information provided by the Summit County clerk and recorder's office.

- (3) The applicant shall deliver to the Town prior to each public hearing a signed, written certification addressed to the Town stating that the applicant or the applicant's representative has provided notice by mailing in accordance with this section. Failure to provide such mailing or such certification may result in a denial of the application or a continuation of the public hearing in order to ensure that proper mailed notice was completed.

Sec. 17-10-90. Public hearings.

Where an application requires a public hearing before the Planning Commission or the Town Board (the "reviewing body") in accordance with Section 17-10-20, the following process shall apply:

- (a) The Town clerk shall set the date and time of a public hearing to be held by the Planning Commission and the Town Board. Notice of the public hearing shall be issued in accordance with Sections 17-10-20 and 17-10-80.
- (b) At the public hearing, the reviewing body shall review the application for conformance with the Subdivision Regulations and the applicable review standards for the application.
- (c) Any public hearing or other action of the reviewing body may be continued or postponed at any time to a specified date and time in order to permit preparation of additional information for further review by the reviewing body.
- (d) Following the conclusion of the public hearing, the Planning Commission shall decide that the application be recommended for approval, conditionally approved or denied. For any preliminary plan or final plat, the date upon which the plat shall be deemed submitted to the Planning Commission for purposes of C.R.S. § 31-23-215(1) shall be the date at which the public hearing is concluded.
- (e) Within ten (10) days of taking its action, the Planning Commission shall forward its recommendation to Town Board. Town Board shall conduct a public hearing and shall, at the conclusion of the hearing, approve, approve with conditions, deny the application, or continue the matter to a date certain.
- (f) Notwithstanding the imposition by the reviewing body of an express of specific condition of approval, all approvals shall be conditioned upon the applicant's execution of the plat and any applicable agreement accompanying the plat, and payment in full of all fees and charges for the processing and recordation of the plat and agreement(s).
- (g) The applicant for any subdivision approval shall bear the burden of presenting sufficient competent evidence at the public hearing to support the standards for approval set forth

by these Subdivision Regulations. Any decision by the reviewing body to recommend approval, approve or conditionally approve a subdivision plan, plat or other application shall be based upon a consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the reviewing body shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision.

Sec. 17-10-100. Recording of plat and supporting documentation.

Where the final decision by the Town Board to approve or conditionally approve any subdivision application must be evidenced by the recordation of a plat or other documentation in accordance with these regulations, the following process shall apply:

- (a) Following approval or conditional approval of the application by the Town Board, the applicant shall cause the fully executed plat or other documentation intended for recordation as part of the application approval to be delivered to the Town clerk in a form acceptable for recordation by the Summit County clerk and recorder.
- (b) The Town clerk shall review the form of the plat or documentation for completeness of all required signatures and notarizations. Where the plat or other documentation is determined by the Town clerk to be complete and in the proper form for recordation, the Town clerk shall cause the plat or other documentation to be recorded in the office of the Summit County clerk and recorder.
- (c) All costs of recordation shall be paid in advance by the applicant.

Sec. 17-10-110. Subdivision Requirement Waiver

- (a) An applicant or owner of property may request a waiver of any standard or requirement imposed by these Subdivision Regulations for the owner's lot or property. The Town Board may grant a waiver where the owner establishes each of the following:
 - (1) Literal enforcement of the standard or requirement would place an unnecessary and unreasonable hardship upon the owner for the lot or property;
 - (2) The granting of the waiver will not be materially detrimental to the public welfare or injurious to other property in the neighborhood and surrounding area; and
 - (3) The proposed waiver will not be adverse to the goals and policies of the Blue River Comprehensive Plan, to the extent that such goals and policies do not conflict with provisions or requirements of the Municipal Code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning Commission or Town Board to decide that the application meets or fails to meet such goal or policy.

- (b) Owners seeking a waiver for any standard or requirement shall submit a written request to the Town Manager together with an explanation of justification to support the request. The Town Manager shall review the request and supporting materials and provide a written opinion to the owner that the request will, or will not, be supported by the Town Manager and the reasons for the Manager's opinion. The owner may amend or revise the request and supporting materials within ten (10) days of the Town Manager's opinion. The Town Manager shall forward the request to the Planning Commission for administrative review and the Commission shall render a written recommendation to the Town Board to approve, approve with conditions, or reject the request. The Commission's recommendation shall be forwarded to the Town Board for the Board's administrative review and final administrative determination.
- (c) The Town Board may impose reasonable conditions upon any approval of a waiver necessary to ensure continued conformance with these Subdivision Regulations, the Municipal Code, or necessary to protect the health, safety and welfare of the Town and its residents.
- (d) Waivers shall be approved only by written resolution of the Town Board in a form approved by the Town attorney.
- (e) Waivers approved by resolution of the Board shall remain effective for three (3) years from the date of resolution approval or such other time as the Board may specify in the approving resolution. Extensions of the expiration of a waiver may be requested by an owner and administratively approved by the Board (without Town Manager or Planning Commission review) upon a finding by the Board of just cause.

Article 11 Subdivision Improvements and Subdivision Agreements

Sec. 17-11-10. Assurance of Completion and Maintenance of Improvements.

- (a) Improvements and performance guarantees:
 - (1) Completion of Improvements. All subdividers shall be required to complete all the street and other improvements as specified in the subdivision plan or as required by this Chapter, Town adopted ordinance, resolution, policy, or standard and to dedicate all public improvements to the Town or other applicable public agencies, free and clear of all liens and encumbrances. The subdivider shall submit a certificate of title prior to conveying any land to the Town indicating all title restrictions.
 - (2) Subdivision Improvements Agreement. Subsequent to preliminary plan approval, but prior to recording a final plat, the subdivider shall either install all required improvements or enter into an agreement with the Town which shall obligate the subdivider to install and construct all public (hereafter also includes quasi-public) improvements within and adjacent to the proposed subdivision as may be required

under the provisions of this Chapter. If the subdivider chooses to enter into an agreement, it shall specify the following at a minimum:

- a. A description of all public improvements required.
- b. An estimate of the cost of installing all public improvements.
- c. The timing of public improvements in relation to the development of individual sites.
- d. A description of all private improvements required by this Chapter, conditions of approval, or other pertinent Town regulations.
- e. A performance guarantee that the improvements will be installed in accordance with the approved plans.

(b) Performance guarantees.

- (1) If the street and other improvements as specified in the subdivision plan or as required in this Chapter are not installed prior to filing of the plat, the subdivider shall post a performance guarantee consisting of either a surety bond, cash bond or an acceptable irrevocable letter of credit drawn upon a Colorado bank. The performance guarantee shall be posted with the Town prior to the time of recording the plat and shall be in an amount equal to one hundred and twenty (120) percent of the estimated costs of all remaining public improvements not already installed or paid for.
- (2) The performance guarantee described in this Section, shall be subject to review by and found satisfactory to the Town Attorney. The period within which required improvements must be completed shall be incorporated in the guarantee. Said guarantee shall remain in full force and effect until released by the Town.
- (3) The performance guarantee shall remain in effect and shall be renewed by the subdivider from time to time as necessary to assure continuous coverage until the performance guarantee is released by the Town.
- (4). Failure to complete subdivision. Where a performance guarantee has been posted and a subdivision improvements agreement signed, and all improvements required by the Town have not been installed as required by such agreement, the Town may thereupon declare the agreement to be in default and may utilize the funds available from the performance guarantee to complete the improvements required for the subdivision.

(c) Release or reduction of performance guarantees.

- (1) The Town will not accept the required improvements and will not release a performance guarantee until the Town has indicated that all required improvements have been satisfactorily completed and until the subdivider's

engineer has certified to the Town, through submission of detailed as built plans of the subdivision, that all improvements are in accordance with the approved construction plans for the subdivision and are ready for dedication to the Town.

- (2) A performance guarantee may be reduced by the Town upon actual completion of public improvements and then only in the ratio that the public improvements completed bears to the total public improvements of the plan. In no event shall a performance guarantee be reduced below twenty (20) percent of the principal amount until all improvements have been completed and accepted by the Town.
- (d) Maintenance of improvements and maintenance bonds.
 - (1) The subdivider shall be required to maintain public improvements in the subdivision and to provide for snow removal, street cleaning, drainage, and general maintenance on streets and sidewalks prior to acceptance by the Town. In the event the subdivider fails to comply, the Town is authorized to perform the necessary work, without incurring any liability, and charge such work to the subdivider. Any such charges shall become a first and prior lien on the subdivision.
 - (2) The subdivider shall be required to file a maintenance bond with the Town in a form acceptable to the Town Attorney, prior to acceptance of any public improvements, in an amount equal to twenty (20) percent of the original cost of the public improvements, in order to assure the satisfactory maintenance of the required improvements for a period of two (2) years after the date of their acceptance by the Town. Such bond shall guarantee all public improvements constructed by the subdivider shall remain free from defect for the required two-year period.
- (e) Issuance of permits.
 - (1) Prior to the issuance of a building permit for any lot within the subdivision, the extent of street improvements shall be adequate for vehicular access by the prospective occupant and by Police and Fire and any other emergency equipment. At a minimum, the street shall be improved with a base course up to that portion of the street that provides direct access onto the lot for which a building permit is requested.
 - (2) Prior to the issuance of a certificate of occupancy for any structure all public improvements required by the subdivision plan shall be completed. The Town may waive the requirements of this Section if in the opinion of the Town Manager the issuance of a certificate of occupancy will not create significant adverse impacts to the community, and the improvements remaining are satisfactorily guaranteed to be completed in a timely manner.

Sec. 17-11-20. As built plans.

Finished plans of all public improvements as installed will be required before the Town will accept the improvements.

Sec. 17-11-30. Failure to install improvements; rights relinquished.

If one or more improvements required by this Chapter as a condition of subdivision approval are not installed within three (3) years of the date of Town subdivision approval, the plat shall be deemed void without further or additional action by the Town. All right to improve or develop the property on the part of the owner or subdivider shall thereby be relinquished. The Town Manager may, at the Manager's discretion, file with the Summit County Clerk and Recorder such document(s) as may be necessary to alert the public of the invalidity of the plat.

Sec. 17-11-40. Plans and specifications.

- (a) Plans and specifications are to be prepared based on appropriate traffic studies, soils reports, planning criteria, applicable standards, and requirements. All design work is to be prepared and signed by a professional engineer registered in the State. Plans are to be completed in sufficient detail to facilitate review.
- (b) All preliminary plans and final plats, where applicable, shall be designed in accordance with Chapter 11, Streets, Sidewalks and Public Property of the Municipal Code.
- (c) Where no standard exists, the Town may require adherence to professionally accepted standards such as standards and guidance provided by the American Association of State Highway and Transportation Officials (AASHTO).

Sec. 17-11-50. Open space, trails, and other requirements.

New subdivisions may be required to provide open space areas, parks, trails, sidewalks, roadway improvements, and other improvements which are reasonably related and proportionate to the impacts of the proposed subdivision and necessary to mitigate those impacts. It is anticipated that such requirements will be included or previously negotiated during the zoning or rezoning process for the property. The Town may require and rely upon studies and reports to determine the extent of the mitigation necessary to address the impacts.

Sec. 17-11-60. Reserved.

Article 12 Reserved

Article 13 Plat Certificates

Sec. 17-13-10. Plat certificates.

The following certificates and notices, properly executed and in substantially the following form, shall be shown on the face of each final subdivision plat before it is recorded with the Summit County clerk and recorder. Any substantive variation from the text of the certificates as shown must be approved by the Town Attorney. Any other certificates or notices that are deemed necessary for the purposes of the particular plat shall also be included at the time of its submission.

Note: The following plat notes must be customized to fit the facts of the particular plat (i.e., if the owner is not an entity, but are two (2) individuals, the reference to the type of the business entity must be deleted; "has laid out" must be changed to "have laid out"; and so forth).

- (a) The title format as required on all plats is as follows:

[Name of Type of Plat]
SUBDIVISION NAME, FILING OR PHASE NUMBER LOT, BLOCK, TRACT
Town of Blue River, County of Summit, State of Colorado

- (b) Certificates shall be as follows:

CERTIFICATION OF DEDICATION AND OWNERSHIP

KNOW ALL MEN BY THESE PRESENTS that being sole owner(s) in fee simple of all that real property situated at *(insert property location)* in the Town of Blue River, Summit County, Colorado, described as follows: containing *(insert number here)* acres, more or less: have by these presents laid out, platted and subdivided the same into *(insert number here)* lots and *(insert number here)* blocks as shown on this final plat under the name and style of a subdivision in the Town of Blue River, Summit County, Colorado; and does hereby accept the responsibility for the completion of required improvements; and does hereby dedicate and set apart all of the public roads and other public improvements and places as shown on the accompanying plat to the use of the public forever; and does hereby dedicate those portions of said real property which are indicated as easement on the accompanying plat as easements for the purpose shown hereon; and does hereby grant the right to install and maintain necessary structures to the entity responsible for providing the services for which the easements are established.

Executed this day of (insert date), 20____.

Owner (if individual owner to sign): _____

Corporation name (if corporation to sign): _____

Address: _____

By (signature): _____
(type individual's name)

Title (if applicable): _____

[Insert Notary Certificate Here as Approved by Town]

CERTIFICATION OF DEDICATION FOR MORTGAGE HOLDER OR DEED OF TRUST HOLDER

KNOW ALL MEN BY THESE PRESENTS that being the holder of a mortgage or deed of trust on the real property situated at (insert property location) in the Town of Blue River, Summit County, Colorado, described as follows: containing (insert number here) acres, more or less; as shown on this final plat under the name and style of a subdivision in the Town of Blue River, Summit County, Colorado; agrees to the dedication and setting apart all of the public roads and other public improvements and places to the Town of Blue River as shown on the accompanying plat to the use of the public forever; and does hereby agree to the dedication of these portions of said real property which are indicated as easement on the accompanying plat as easements for the purpose shown hereon; and does hereby agree to the granting of the right to install and maintain necessary structures to the entity responsible for providing the services for which the easements are established.

Holder: (if individual owner to sign): _____

Corporation name (if corporation to sign): _____

Address: _____

By (signature): _____
(type individual's name)

Title (if applicable): _____

[Insert Notary Certificate Here as Approved by Town]

SURVEYOR'S CERTIFICATE

(For all plats except condominium maps)

I do hereby certify that I am a registered Land Surveyor licensed under the laws of the State of Colorado, that this plat is true, correct and complete as laid out, platted, dedicated

and shown hereon, that such plat was made from an accurate survey of said property by me and under my supervision and correctly shows the location and dimensions of the lots, easements and streets of said subdivision as the same are staked upon the ground in compliance with applicable regulations governing the subdivision of land.

In witness thereof I have set my hand and seal this day of (insert date here), 20____.

Name: _____
COLORADO LAND SURVEYOR NO. _____

Corporation name (If corporation): _____

Address: _____

By (signature): _____
(type individual's name)

Title (if applicable): _____

TITLE CERTIFICATE

(Name of title company) does hereby certify that the title to all lands shown upon this plat have been examined and is vested in and that title to such lands is free and clear of all liens and encumbrances, except as follows: *(Insert text here)*

Dated this day of *(insert date here)*, 20____.

Title Company or Attorney's Name Address: _____

By: (Signature) _____
(printed name and title of officer or attorney)

CLERK AND RECORDER CERTIFICATE

This plat was filed for record in the office of the Clerk and Recorder on this day of (insert date), 20____, at (insert number) o'clock (insert A.M or P.M). Recorded under Reception No. (insert number) in Book (insert text) at Page (insert number).

Clerk and Recorder

Summit County, Colorado

By: (Signature) _____
(printed name)

Title (if applicable): _____

BOARD OF TRUSTEES CERTIFICATE

This plat approved by the Board of Trustees of the Town of Blue River, Colorado this day of (insert date here), 20____, for filing with the Clerk and Recorder of Summit County, Colorado and for the conveyance to and acceptance by the Town of Blue River of the public dedications shown hereon; subject to the provision that approval in no way obligates the Town of Blue River for maintenance of roads dedicated to the public until construction of improvements thereon shall have been completed in accordance with Town of Blue River specifications, and the Board of Trustees of the Town of Blue River has by a subsequent resolution agreed to undertake maintenance of the same. This approval does not guarantee that soil conditions, subsurface geology, ground water conditions, or flooding conditions of any lot shown hereon are such that a building permit or any other required permit will be issued. This approval is with the understanding that all expenses involving all improvements required shall be the responsibility of the subdivider and not the Town of Blue River.

Mayor, Town of Blue River

[Print name here]

ATTEST:

Town Clerk

PLANNING AND ZONING COMMISSION CERTIFICATE

This plat was recommended for approval by the Town of Blue River Planning and Zoning Commission this day of (insert date here), 20____.

Chairperson

[Print name here]
Blue River Planning & Zoning Commission

ATTEST:

Town Clerk

CERTIFICATION OF OWNERSHIP

KNOW ALL MEN BY THESE PRESENTS that being sole owner(s) in fee simple of all that real property situated in the Town of Blue River, Summit County, Colorado, described as follows: containing (insert number) acres, more or less: have by these presents laid out, platted and subdivided the same into lots and blocks as shown on this final plat under the name and style of a subdivision in the Town of Blue River, Summit County, Colorado; and does hereby accept the responsibility for the completion of required improvements.

Executed this day of (insert date), 20____.

Owner (if individual owner to sign): _____

Corporation name (if corporation to sign): _____

Address: _____

By (signature): _____
(type individual's name)

Title (if applicable): _____

[Insert Notary Certificate Here as Approved by Town]

DRAFT