

TITLE 16 - HAYDEN LAND USE CODE

ARTICLE 3 – ZONING

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This Article adopted in this form on December 20, 2012.

16.03.010. General provisions

In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, comfort, prosperity and general welfare.

- A. Uniformity of regulations.** The regulations established by this Article within each zone shall apply uniformly to each class or kind of structure or land. Unless exceptions are specified in this Article, the following interpretations shall apply:
 - 1.** No buildings, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, changed, constructed, moved, demolished or structurally altered unless in conformance with all of the regulations herein specified for the zone in which it is located. Where a lot is divided by a zoning district boundary line by the current official zoning map or by subsequent amendments to the zoning map, the zoning requirements may be extended within the lot for a distance of not more than twenty-five (25) feet.
 - 2.** No part of a yard, other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Code shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building unless specific exception therefore is stated in this Article.
 - 3.** No yard or lot existing or approved at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.
 - 4.** Any use not permitted in a zone either specifically or by interpretation by the Council as provided in this Code is hereby specifically prohibited from that zone.

- B. Conflict with other provisions of law.** Whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.

- C. Conflict with private covenants or deeds.** In case of a conflict between this Code and any private restrictions, the provisions of this Code shall control for purposes of enforcement by the Town. The Town shall have no responsibility to enforce private covenants or deed provisions.

D. Zoning of annexed territory.

1. Zoning of land during annexation may be done in accordance with the procedure and notice requirements of this Article. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.
2. Any area annexed shall be brought under the provisions of this Article and the map thereunder within ninety (90) days from the effective date of the annexation ordinance, despite any legal review that may be made challenging the annexation. During such ninety-day period, or such portion thereof as is required to zone the territory, the Town shall not issue a building permit for any portion, or all of, the newly annexed area.
3. Unless zoned otherwise by action of the Council in compliance with this Code or provided otherwise on the Hayden Zoning Map in effect on October 6, 2005, all annexed property shall be considered zoned O-Open.

16.03.020. Purpose

The purpose of this Article is to create a vital, cohesive, well-designed community in order to enhance the Town's small-town character and further the citizens' goals as identified in the Comprehensive Plan. These zoning regulations are designed to:

- A. Encourage the most appropriate use of land through the Town and ensure a logical growth of the various physical elements of the Town.
- B. Regulate and restrict the location and use of buildings, structures and land for residence, business, trade, industry or other purposes.
- C. Regulate and determine the size of building lots, yards and other open spaces.
- D. Promote good design and arrangement of buildings or clusters of buildings and land uses in residential, business and industrial development.
- E. Encourage innovative, quality site planning, architecture and landscaping.
- F. Prevent the overcrowding of land, poor quality development, waste and inefficiency in land use, danger and congestion in travel and transportation and any other use or development that might be detrimental to the stability and livability of the Town.
- G. Ensure that new land development is designed to be integrated into the community.

- H. Promote the health, safety, morals and general welfare of Town residents.

16.03.030. Zoning districts and boundaries

- A. **Zoning Districts.** In order to carry out the provisions of this Code, the Town is divided into the following zoning districts:

- 1. **O**– Open District
- 2. **AO** – Airport Overlay District
- 3. **RLD** – Residential Low Density District
- 4. **RHD** – Residential High Density District
- 5. **MHR** – Mobile Home Residential District
- 6. **CBD** – Central Business District
- 7. **C**–Commercial District
- 8. **I-1** – Light Industrial District
- 9. **I-2** – Industrial District
- 10. **PUD** – Planned Unit Development Overlay District

- B. **Official zoning map.** The boundaries and classifications of districts established are as depicted on a map entitled Town of Hayden Official Zoning Map as may from time to time be revised, updated or redrafted. The official zoning map adopted and to be used for reference shall be that map bearing the most recent date of publication, which has been signed by the Chair of the Planning and Zoning Commission and the Mayor.

- 1. Interpretation of boundary lines.
 - a. Zoning District boundaries. In the event uncertainty exists on the zoning map, district boundaries shall be on section lines, lot lines, the center lines of highways, streets, alleys, railroad rights-of-way or such lines extended; municipal corporation lines; natural boundary lines such as streams; or other lines to be determined by the use of scales shown on the map.

2. Amendment upon zoning or modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing Official Zoning Map to include the annexed area with the proper zoning classification or show the amended classification. Such updated official map shall contain, in table form, the date and number of the ordinance amending it, the title of the change, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

3. Cost for amending zoning. Any person who proposes zoning for property being annexed or proposes modifying existing zoning shall bear the entire cost of amending the Official Zoning Map, including all notification costs. The Town shall provide applicants with a copy of the current fee schedule and a fee agreement form.

4. Public inspection; storage of original. A copy of the Official Zoning Map shall be available and on display at the Town Hall during normal business hours. In addition, one (1) copy of the current Official Zoning Map, and all prior Official Zoning Maps that have been adopted, shall be held in a secure place by the Town Clerk, who shall act as custodian thereof, and the map shall not be amended, changed, updated or otherwise modified or let out of direct control of the Town Clerk for any reason whatsoever. The secured map is to be released for inspection only upon authorization of the Town Clerk.

16.03.040. Principal and conditional uses permitted by zoning district

- A. General application of uses.** Uses designated as “permitted uses” are allowed in a zone district as a matter of right. Uses classified as “conditional uses” are permitted upon the Council’s approval of a conditional use permit. Unless a use is designated as a “permitted use” or “conditional use” or is classified as a legal “non-conforming” structure or use, it is not permitted.

Land uses not otherwise identified in this Code may be proposed for development. In order to provide for such uses, the classification of any new or unlisted land use shall be made by the Town to determine if the use can be reasonably interpreted to fit into a similar use category described in this Code. Unless such determination is made, the use is not permitted.

B. O Open District.

1. Intent. The intent of this district is to define and preserve the Town’s agricultural heritage; and

to provide for larger public uses such as parks, open spaces, schools and the Routt County Fairgrounds. This district is not intended for residential development.

- a. The owner of any property in the O - Open District may at any time petition to rezone the property consistent with the rezoning procedures of this Article.

2. Principal uses. Permitted principal uses in the O District shall be as follows:

- a. Accessory buildings and accessory uses.
- b. Accessory dwelling when associated with a permitted use.
- c. Ranching, farming and general agriculture, except feed lots and animal sale barns;
- d. Parks and outdoor recreation facilities;
- e. Public and semipublic uses except as enumerated in Conditional Uses below;
- f. Operation of the Routt County Fair and all uses generally and historically consistent therewith, including but not limited to, livestock showing; judging and sale; rodeos; food; beverage; farm products and clothing display and judging; and the sale of food and beverages.
- g. Accessory buildings and uses customarily incident to the uses permitted by right in this district.
- h. Cultivation, storage and sale of crops, vegetables, plants, flowers, and nursery stock produced on the premises.
- i. Farming, including but not limited to, gardening, horticulture, fruit growing, growing of vegetables, trees, shrubs, plants, turf and sod.
- j. Golf courses.
- k. Home occupations.
- l. Open air farmers' markets.
- m. Plant nurseries and greenhouses.
- n. Single-family detached dwellings.
- o. Structures for storage of agricultural products produced on the premises.

3. Conditional uses - General. Permitted conditional uses in the O District shall be as follows:

- a. Cemeteries and mausoleums.
- b. Electric substations and gas regulator stations;

- c. Fire stations and police stations;
- d. Water reservoirs, water storage tanks, water pumping stations, and sewer lift stations;
- e. Commercial outdoor recreation facilities;
- f. Commercial and public parking lots;
- g. Hospitals and sanitariums, penal or mental institutions, nursing homes and senior care facilities;
- h. Childcare center.
- i. Gas, oil and other hydrocarbon well drilling and production (as permitted by the state and this Code).
- j. Public and private schools for elementary, intermediate and high school education.
- k. Public facilities provided that business offices and repair and storage facilities are not included.
- l. Resource extraction, processes and sales establishments.
- m. Small animal boarding (kennels).
- n. Large animal boarding (riding stables).

4. Table of Permitted, Special Event and Administrative Review Uses for Routt County Fairgrounds

EVENT	USE-BY-RIGHT	ROUTT COUNTY FAIR, USE-BY-RIGHT ¹	SPECIAL EVENT PERMIT FROM TOWN COUNCIL	ADMINISTRATIVE APPROVAL by Town Manager and WITH APPROPRIATE LICENSE	LIMITATION ON HOURS ²
4-H/FFAAwards Banquet	X				
CARNIVAL		X	X		X
CIRCUS		X	X		X
OUTDOOR CONCERTS		X	X		X

EVENT	USE-BY-RIGHT	ROUTT COUNTY FAIR, USE-BY-RIGHT ¹	SPECIAL EVENT PERMIT FROM TOWN COUNCIL	ADMINISTRATIVE APPROVAL by Town Manager and WITH APPROPRIATE LICENSE	LIMITATION ON HOURS ²
EQUESTRIAN EVENTS	X ³		X ³		X
SNOWMOBILE RACES			X		X
DEMOLITION DERBIES			X		X
MOTOCROSS EVENTS			X		X
MOTORIZED SHOWS		X	X		X
TRADE SHOWS		X	X		
HORSE RACING		X	X		
TRACTOR PULLS		X	X		X
CAMPING ⁴	X		X ⁴	X ⁶	
LIVESTOCK HOUSING	X				
ARCHERY & SHOOTING SPORTS		X ⁵	X	X ⁶	X
DANCES	X				
DANCES WITH ALCOHOL SALES				X ⁶	
WEDDING RECEPTIONS	X				X ²
WEDDING				X ⁶	

EVENT	USE-BY-RIGHT	ROUTT COUNTY FAIR, USE-BY-RIGHT ¹	SPECIAL EVENT PERMIT FROM TOWN COUNCIL	ADMINISTRATIVE APPROVAL by Town Manager and WITH APPROPRIATE LICENSE	LIMITATION ON HOURS ²
RECEPTIONS WITH ALCOHOL SALES					
FUNERAL DINNERS	X				
PRIVATE PARTIES	X				X ²
PRIVATE PARTIES WITH ALCOHOL SALES				X ⁶	
LIVESTOCK SALES	X ³				
TOOL SALES				X ⁶	
AUTOMOBILE SALES				X ⁶	
AUCTIONS, EXCLUDING LIVESTOCK (INDOOR & OUTDOOR)				X ⁶	
SEMINARS	X ³				
PUBLIC MEETINGS	X ³				
WORKSHOPS	X ³				
LIVESTOCK COMPETITIONS	X ³	X			

¹These are a use by right for the Routt County Fair only. If the item is not Fair related, please refer to the other designated use.

²Hours are limited to 9:00 p.m. on weeknights and 11:00 p.m. on weekends. Any event not ending by the specified time

would have to obtain a special event permit from the Town Council.

³Use-by-right for events with fewer than 250 participants (combination of people and livestock). Events not qualifying would require a special event permit from the Town Council.

⁴Limited to 20 sites other than during the County Fair and 14 consecutive days, unless a special event permit is issued.

⁵Use-by-right for 4-H/FFA events with fewer than 250 participants (combination of people and livestock). Events not qualifying would require a special event permit from the Town Council.

⁶Town Manager reserves the right to refer special event requests to Hayden Trustees for approval; denial of special events requests may be appealed by applicant to Hayden Trustees.

4. Conditional uses - Rock Crushers.

Rock crushers, concrete and asphalt mixing plants, sand and gravel pits or any other such excavation or surface mining shall be allowed, provided they meet the following requirements:

A. When the application is filed, the applicant shall provide a plan showing the land proposed for excavation. This plan shall show the contours of the land on at least two-foot contour intervals, any improvements thereon and to a distance of three hundred feet in all directions from the subject. The Commission may set out additional conditions under which these operations may be permitted and those conditions may vary by location.

B. Concurrent with the above, the applicant shall also provide a plan showing the contemplated changed condition of the land due to the excavation. This plan must include the contemplated re-use of the land, what restoration or curing of the land is planned and the contours on at least two-foot intervals.

C. No excavation or processing of excavated materials shall be permitted nearer than thirty feet to the boundary of adjacent property nor nearer than one hundred twenty-five feet to any existing residence unless, by written agreement, the owner or owners of such adjacent property consent to a lesser distance and the Council approves such lesser distance. The Council may set a greater distance than mentioned above when, in their opinion, its justified.

D. The Commission shall specify the degree of slopes of banks for all excavations, the

depth of and the distance from any public structures when excavations are made in or near streambeds. When excavations are near or adjacent to irrigation canals and ditches, the applicant shall secure a written agreement from the ditch company or from officials responsible for the canals and ditches indicating their determination as to setbacks from public rights-of-way when excavation is contemplated near such rights-of-way.

E. Sand and gravel shall be excavated in such a manner so as to assure the convenient restoration of the land and to hold to a minimum any adverse effects to adjacent land as a result of piling or storing the overburden material.

F. The sand and gravel shall be excavated in such a manner so as to leave an average of two feet of undisturbed sand or gravel as evenly as possible, over the entire excavation tract, to provide a water-bearing strata for any existing groundwater, and more if the Commission deems necessary.

G. After an excavation has been completed, the operator shall spread evenly over the bottom of the excavation the excess waste materials. He then shall spread evenly the topsoil to a minimum depth of eighteen inches. The topsoil shall be spread last so as to produce a new surface for the purpose of growing crops, trees, shrubs, etc. Operations shall be conducted in such a manner that excavated areas will not collect or permit stagnant water to remain therein.

H. An excavation operation shall maintain haulage roads within the premises covered by the permit and such roads shall be kept in a reasonable dust free condition when such dust would be injurious to bordering premises. The Commission shall specify the conditions in each instance to insure this requirement. The hours of operation, unless otherwise specified by the Commission shall be from six (6) a.m. to ten (10) p.m. or unless a national emergency arises or special permission is granted by the Commission.

I. Rock crushers, concrete and asphalt mixing plants may be permitted providing the Council finds that the use is accessory to the sand and gravel operation.

J. The applicant shall furnish evidence of a bank commitment of credit in favor of the Town or bond or certified check in an amount calculated by the Planning Commission to secure the site restorations as required in subsections A through I of this section. Guidelines for

calculating the amount of such bank commitment of credit, bond or certified check could be a sum equal to the number of acres covered by the permit, multiplied by five hundred dollars. The minimum amount of such should be one thousand dollars and the maximum amount twenty-five thousand dollars. The Commission shall have the power and authority to provide for an alternative method of indemnifying the Town in lieu of the above mentioned methods.

K. Prior to granting of a permit, the property shall be posted for a period of thirty days. This posting shall consist of a sign or signs, the number of which shall be determined by the building inspector. Such signs shall be placed in conspicuous locations visible from the public rights-of-way.

L. At least thirty days prior to the public hearing, the building inspector shall advertise, by legal publication, in the official newspaper the time and place of the public hearing.

M. Upon the granting of a permit by the Commission the fee schedule shall apply as set forth in the Hayden Municipal Code.

N. All permits shall be in full force for a period of five years from the date of issuance, thereof, unless a shorter time is set by the Commission. Such temporary permits may be renewable by the Commission for the same period of time or less, without further notice, hearing or posting of the property involved; provided, however, that the operator has complied with all the terms and conditions of the original permit. A renewal of a permit shall be considered as a new permit with respect to fees.

O. The Commission shall have the power to cancel permits upon proof of violation of any of the regulations.

P. Rock crushers, concrete and asphalt mixing plants, sand and gravel operations or any other such excavations which are temporary operations (six months or less) shall not be subject to any of the regulations of this chapter, except, they shall be required to obtain a permit from the Commission.

5. Building height limit. The height regulations are as follows:

A. No structure shall exceed two and one-half stories or twenty-five (25) feet in height.

6. Area regulations. The area regulations are as follows:

A. Minimum lot area shall be:

1. One acre per dwelling unit;
2. One-half acre for all other uses permitted by right;
3. For all conditional uses, one acre unless otherwise specified by the Planning Commission.

B. Minimum lot frontage shall be:

1. One hundred twenty-five feet for each dwelling unit;
2. One hundred feet for other principal structures.

C. Minimum front yard or set back. Measured from the front property line, there shall be a front yard or setback of not less than fifty feet for all principal structures.

D. Minimum rear yard or set back. Measured from the rear property line, every principal structure shall have a rear yard of not less than twenty feet.

E. Minimum side yard or set back. Measured from the side property lines, there shall be side yards or set backs of not less than ten feet.

C. AO Airport Overlay Zone District

Intent. The intent of this overlay district is to define permitted and conditional uses on property related to the Yampa Valley Regional Airport. This District must have a base zoning category of O – Open.

Further, the intent is to allow land uses in the immediate vicinity of Yampa Valley Regional Airport such as light industrial, commercial or business uses related to airport operations that are located, designed, constructed, and maintained in a manner that does not impair the safe operation of the Yampa Valley Regional Airport.

1. Principal uses. Permitted principal uses in the AO District shall be as follows:

- a.** Terminals.
- b.** Runways and taxiways.
- c.** Fixed base operations (FBO).
- d.** Hangers.
- e.** Fueling operations.
- f.** Airport security operations.
- g.** Airport parking lots and support operations.
- h.** Airport related industrial, commercial and business uses.
- i.** Accessory buildings and uses customarily incident to the uses permitted by right in this district.

2. Conditional uses. Permitted conditional uses in the AO District shall be as follows:

- a.** Electric substations and gas regulator stations;
- b.** Fire stations and police stations;
- c.** Water reservoirs, water storage tanks, water pumping stations, and sewer lift stations;
- d.** Public facilities

3. Building height limit. The height regulations are as follows:

- a.** No structure, except for airport buildings and associated structures, shall exceed two and one-half stories or twenty-five feet in height.

- b.** Maximum height regulations lesser than those provided herein may be set by special airport zoning regulations for buildings in an airport approach zone.

D. RLD Residential Low Density District

Intent. The intent of this district is to build a traditional residential area of single-family units on single lots with a mixture of lot sizes and building types. The district will incorporate tree-lined local streets and a network of alleys tied to the existing street grid when possible. The RLD District encourages the creation of viable neighborhoods that connect with each other and integrate into the existing Hayden community with new streets, bikeways, sidewalks, paths and trails.

RLD District residents shall have convenient access to parks, schools, open space, trails and services. The optimum size of a neighborhood in this district is one-quarter mile from center to edge.

1. Principal uses. Permitted principal uses in the RLD District shall be as follows:

- a. Single-family detached dwellings.
- b. Accessory buildings and accessory uses.
- c. Accessory dwelling when associated with a permitted use.
- d. Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.
- e. Home occupations.
- f. Group homes for up to eight (8) developmentally disabled persons, handicapped individuals, children or senior citizens.
- g. Parks and open space.
- h. Domestic animals provided such animals are household pets. Kennels are not allowed.
- i. Safe house for battered or abused adults or children of up to eight (8) persons.

2. Conditional uses. Permitted conditional uses in the RLD District shall be as follows:

- a. Public facilities provided that business offices and repair and storage facilities are not included.
- b. Cemeteries.
- c. Family child care homes.
- d. Church or place of worship and assembly.

- e. Community facilities.
- f. Limited outdoor recreation facilities.
- g. Public and private schools for elementary, intermediate and high school education.

3. Building height limit.

The building height regulations are as follows: No dwelling or other structure shall exceed three stories or thirty feet in building height. Building height shall be measured from existing grade or finished grade whichever is more restrictive.

4. Area regulations.

The area regulations are as follows:

- a. Minimum floor area shall be eight hundred square feet per dwelling unit. Maximum floor area of any accessory dwelling unit shall be less than eight hundred square feet.
- b. Minimum lot area shall be:
 - 1. Six thousand square feet per dwelling unit (up to 6 units per gross acre);
 - 2. For all conditional uses, six thousand square feet unless otherwise specified by the Planning Commission.
- c. Gross density per acre is 1 to 6 units.
- d. Minimum lot frontage shall be fifty feet.
- e. Minimum front yard or setback. Measured from the front property line, there shall be a front yard or setback of not less than twenty-five feet for all principal structures.

f. Minimum rear yard or setback. Measured from the rear property line, every principal structure shall have a rear yard or setback of not less than 20 feet.

g. Minimum side yard or setback. Measured from the side property lines, there shall be side yards or setbacks of not less than ten feet. Accessory uses may have a side yard setback of five feet for a distance not to exceed thirty feet.

E. RHD Residential High Density District.

Intent. This is a single-family residential district of greater than 6 units per acre provided:

- a. Up to thirty (30) percent of the total number of lots within the project may utilize the RLD District if the dwelling units are distributed throughout the overall development.
- b. The site must integrate a minimum of twenty (20) percent of the gross acreage into a combination of public and private open space and/or parks, common areas and common elements within the RLD District as an integral part of the site design.

Cluster homes, zero lot line homes, and attached single-family homes may be designed as an alternative to individual lots provided the intent and development standards as specified in this district are adhered to.

This is a higher-density residential zone that is also intended for multi-family dwellings on individual lots. Multi-family buildings are generally encouraged near neighborhood commercial centers. Street and open space designs in these areas shall be used to encourage pedestrian interaction and discourage high automobile speeds. Multi-family residential developments shall also be designed around, or adjacent to, open space.

1. Principal uses. Permitted principal uses in the RHD District shall be as follows:

- a. All permitted principal uses in the RLD zone.
- b. Multiple-family dwellings with no more than twenty-four (24) units per building,

provided that the density and dimensional standards for the RHD Zone District are met and the lot upon which any such dwelling is located is of sufficient size so that twenty (20) percent thereof shall be devoted to functional open space.

- c. Senior housing provided that the density and dimensional standards for the RHD District are met and the lot upon which any such dwelling is located is of sufficient size so that twenty (20) percent thereof shall be devoted to functional open space. Senior housing is exempted from the maximum number of twenty-four (24) units per building requirement for multi-family dwellings.
- d. Two (2) family dwellings.
- e. Cluster, zero lot line and attached single-family dwellings.

2. Conditional uses. Permitted conditional uses in the RHD District shall be as follows:

- a. All permitted conditional uses in the RLD District.
- b. Boarding and rooming houses.
- c. Child care centers.
- d. Long term care facilities.

3. Development standards.

a. *Detached dwelling unit.*

Minimum open space on each lot: At least one-third of each lot shall be devoted to outdoor living areas, including, but not limited to, landscaped areas, patios, walkways, fences, gardens and similar features, but excluding driveways and parking spaces.

b. *Attached cluster home.*

- i. Minimum lot area: none.
- ii. Minimum lot width and depth: none.

Minimum common areas and elements: a minimum of twenty (20) percent of the total project area shall be devoted to common areas and elements, including but not limited to, landscaped areas, walkways, swimming pools, tennis courts, play areas, fountains, and patio areas, but excluding driveways, and all off-street parking facilities.

4. Building height limit.

The height regulations are as follows: No dwelling or other structure shall exceed three and one-half stories or thirty-five feet in height.

5. Area regulations.

The area regulations are as follows:

- a. Minimum floor area shall be four hundred square feet per dwelling unit, except for single-family detached dwellings the minimum floor area shall be eight hundred square feet.
- b. Gross density is greater than six units per acre.
- c. Minimum lot frontage shall be fifty feet.
- d. Minimum front yard or setback. Measured from the front property line, there shall be a front yard or setback of not less than twenty feet for all principal structures.
- e. Minimum rear yard or setback, Measured from the rear property line, every principal or accessory structure shall have a rear yard or setback of not less than ten feet.
- f. Minimum side yard or setback. Measured from the side property lines, there shall be side yards or setbacks of not less than ten feet. Multi-family, cluster, zero lot line or attached single-family dwelling setbacks will be per an approved Site Plan as outlined in Article 4 of this Code.

F. MHR Mobile Home Residential District.

Intent. It is the intent of this district to be composed of two subdistricts: Mobile Home Parks and Mobile Home Subdivisions. Mobile homes are to be restricted to this district. This district is designed to provide orderly development of single-family residential mobile home parks having rented lots and/or mobile home subdivisions having home-owner lots.

New development shall provide neighborhood park facilities or impact fees-in-lieu. Parks should be centrally located and pedestrian accessible on land that is improved as part of the development process. Additionally, pedestrian trails that connect major destinations (shopping, schools) with parks and open space corridors shall be incorporated and designed and located to coordinate with the town's master trails plan.

1. General requirements. Requirements applicable to MHR Districts include the following:
 - a. Uses in this District must comply with the standards and provisions set forth in Article 12 of this Code, Mobile Home Parks.

G. CBD Central Business District.

Intent. It is the intent of this district to encourage the redevelopment and expansion of the existing downtown commercial district; provide a concentration and mixture of civic, office, retail, restaurant, housing and cultural land uses; maintain and enhance the historic character of the original downtown; create a pedestrian oriented district; develop and promote small scale businesses; and promote shared or cooperative parking within or adjacent to the district. It is the intent of this district to allow retail uses on the first floor and businesses and residences or services on upper floors of buildings where appropriate.

The district will allow continued use of property that is within the District until a change in land use category occurs. For example a residential use changing to a service, commercial or retail use would constitute a change. At that time the new use must be in compliance with the provisions of this District.

1. Principal uses. Permitted principal uses in the CBD District shall be as follows:
 - a. All permitted principal uses in the residential districts.
 - b. Artisan and photography studios and galleries.
 - c. Bed and breakfasts.
 - d. Boarding and rooming houses.
 - e. Childcare centers.
 - f. Community facilities.
 - g. Convenience shopping and retail establishments.
 - h. Health and membership clubs.
 - i. Limited indoor recreation establishments.

- j. Lodging establishments.
 - k. Medical and dental offices and clinics.
 - l. Mixed use dwelling units.
 - m. Open air farmers' market.
 - n. Personal and business service shops.
 - o. Professional offices, financial services.
 - p. Public and private schools, including colleges, vocational training, and technical training.
 - q. Public facilities with business offices, no repair or storage facilities.
 - r. Restaurants – standard and fast food without drive-through facilities.
 - s. Small grocery stores.
 - t. Tourist facilities.
 - u. Transit facilities without repair or storage.
 - v. Funeral homes.
 - w. Catering.
 - x. Print shops.
2. Conditional uses. Permitted conditional uses in the CBD District shall be as follows:
- a. Licensed bars and taverns.
 - b. Church or place of worship and assembly.
 - c. Clubs and lodges.
 - d. Entertainment facilities and theaters.
 - e. Long-term care facilities.
 - f. Limited outdoor recreation facilities.
 - g. Motor vehicle service and repair (minor).
 - h. Parking lots and parking garages as a principal use.
 - i. Public facilities with business offices without repair and storage facilities.
 - n. Workshops and custom small industry uses.
3. Building height limit.

The building height regulations are as follows: No dwelling or other structure shall exceed three

and one half stories or thirty-five feet in building height. Building height shall be measured from existing grade or finished grade whichever is more restrictive.

4. Area regulations.

The area regulations are as follows:

- a. Minimum floor area: no minimum requirements.
- b. Minimum lot area: no minimum requirements.
- c. Minimum lot frontage: no minimum requirements.
- d. Minimum front setback: no minimum requirements.
- e. Minimum rear setback: no minimum requirements except for a 10 foot setback if the property has contiguity to a residential zone district property line or property used solely for residential uses. Alleys and roadways prevent contiguity in this case.
- f. Minimum side setback: no minimum requirements except for a 10 foot setback if the property has contiguity to a residential zone district property line or property used solely for residential uses. Alleys and roadways prevent contiguity in this case.

H. C Commercial District.

Intent. The C: Commercial District is intended to support current residential land uses, redevelopment of existing commercial properties, and the development of new mixed use, retail, service and related development projects. This district supports auto-oriented and auto-dependent uses as well as uses which provide a wide range of general retail goods and services for residents of the community. This C: Commercial zone includes lands within Hayden that are both open undeveloped lands, and small parcels nestled within thriving residential areas. Proposals for development in this zone district must meet all design standards in the Hayden Land Use Code in order to mitigate impact on these residential areas. While commercial and mixed uses are encouraged across this zone district, those uses cannot negatively impact the nearby properties that wish to remain in residential use.

1. Principal uses. Permitted principal uses in the C: Commercial District shall be as follows:

Residential:

- a. All permitted principal uses in the residential districts.
- b. Bed and breakfast establishments.
- c. Boarding and rooming houses.

- d. Group homes.
- e. Mixed use dwelling units
- f. Motels, hotels and lodging establishments.

Commercial or public:

- a. Artisan and photography studios & galleries.
- b. Auto, recreational vehicle, boat, and truck sales.
- c. Childcare centers.
- d. Church or place of worship and assembly.
- e. Clubs and lodges.
- f. Community facilities.
- g. Entertainment facilities and theaters.
- h. Equipment rental without outdoor storage.
- i. Funeral homes.
- j. Family day care facilities or home day care businesses.
- k. Grocery stores.
- l. Health and membership clubs.
- m. Home occupations.
- n. Hospitals.
- o. Limited indoor recreation establishments.
- p. Long-term care facilities.
- q. Medical and dental offices and clinics.
- r. Motor vehicle service and repair (minor).
- s. Motor vehicle fueling stations.
- t. Motor vehicle washes.
- u. Open air farmers' market.
- v. Personal and business service shops.
- w. Professional offices, financial services.
- x. Public and private schools, including colleges, vocational training, and technical training.
- y. Public facilities with business offices, no repair or storage facilities.

- z.** Retail establishments.
- aa.** Restaurants with or without drive-through facilities.
- bb.** Tourist facilities including museums, recreational uses, etc.
- cc.** Transit facilities without repair or storage.
- dd.** Veterinary facilities, small animal clinics.
- ee.** Workshops and custom small industry uses.

2. Conditional uses. Permitted conditional uses in the C District shall be as follows:

- a.** Licensed bars, nightclubs, and taverns.
- b.** Retail and supply yard establishments with outdoor storage.
- c.** Small or large animal boarding (kennels).
- d.** Parking lots and parking garages as a principal use.
- e.** Public facilities with repair and storage facilities.

3. Building height limit.

The building height regulations are as follows: No dwelling or other structure shall exceed three and one half stories or thirty-five feet in building height. Building height shall be measured from existing grade or finished grade whichever is more restrictive.

4. Area regulations.

The area regulations are as follows:

- a.** Minimum floor area: no minimum requirements.
- b.** Minimum lot area: no minimum requirements.
- c.** Minimum lot frontage: no minimum requirements.
- d.** Minimum front setback: no minimum requirements.
- e.** Minimum rear setback: no minimum requirements except for a 10 foot setback if the property has contiguity to a residential zone district property line or property used at the time of application solely for residential uses. Alleys and roadways prevent contiguity in this situation.
- f.** Minimum side setback: no minimum requirements except for a 10 foot setback if the property

has contiguity to a residential zone district property line or property used at the time of application solely for residential uses. Alleys and roadways prevent contiguity in this situation.

g. Minimum setback for larger lots: For lots over 1.5 acres in size, setbacks on all sides of the property are a minimum of 25 feet.

I. I-1 Light Industrial District.

Intent. This district is intended to provide locations for a variety of workplaces including light industrial uses, research and development offices and institutions. This district is also intended to accommodate secondary uses that complement and support the primary workplace uses, such as hotels, restaurants, convenience shopping, and childcare. Additionally, this district is intended to encourage the development of planned office and business parks and to promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities and streetscapes.

1. Principal uses. Permitted principal uses in the I-1 District shall be as follows:

- a.** Accessory buildings and accessory uses.
- b.** Licensed bars and taverns.
- c.** Motor vehicle washes.
- d.** Clubs and lodges.
- e.** Community facilities.
- f.** Convenience shopping and retail establishments.
- g.** Enclosed mini-storage facilities.
- h.** Equipment rental establishments without outdoor storage.
- i.** Motor vehicle fueling stations.
- j.** Health and membership clubs.
- k.** Light industrial uses.
- l.** Parking lots and parking garages (as principal use).
- m.** Parks and open space.
- n.** Plant nurseries and greenhouses.
- o.** Professional offices, financial services.
- p.** Public and private schools, including colleges, vocational and technical training.

- q.** Restaurants without drive-through facilities.
 - r.** Tourist facilities.
 - s.** Veterinary facilities, small animal clinics.
 - t.** Warehouse, distribution and wholesale uses.
 - u.** Wireless telecommunications facilities.
 - v.** Workshops and custom small industry uses.
 - w.** Print shops.
- 2.** Limitations. Any use in this district shall conform to the following requirements:
- a.** All manufacturing and similar uses shall be carried on entirely within a completely enclosed structure.
 - b.** Dust, fumes, odors, smoke, vapor and noise shall be confined to the site.
 - c.** All emissions from the manufacturing or similar uses shall comply with the federal and state air pollution laws.
 - d.** Outdoor storage, equipment and refuse areas shall be concealed from view from abutting rights-of-way and from adjoining residential districts.
 - e.** Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent, maintainable surfacing with erosion control.
 - f.** Light fixtures in parking areas shall be hooded and mounted not more than twenty-five (25) feet above the ground level and oriented in such a manner as not to shine into residential areas. Lighting shall conform to the requirements of this Code.
- 3.** Conditional uses. Permitted conditional uses in the I-1 District shall be as follows:
- a.** Accessory dwelling when associated with a permitted use.
 - b.** Artisan and photography studios and galleries.
 - c.** Auto, recreational vehicle, boat and truck sales.
 - d.** Bed and breakfasts.
 - e.** Boarding and rooming houses.
 - f.** Childcare centers.

- g.** Entertainment facilities and theaters.
 - h.** Funeral homes.
 - i.** Gas, oil and other hydrocarbon well drilling and production (as permitted by state and local regulations).
 - j.** Golf courses.
 - k.** Group homes.
 - l.** Hospitals.
 - m.** Limited indoor recreation facilities.
 - n.** Limited outdoor recreation facility.
 - o.** Lodging establishments.
 - p.** Long-term care facilities.
 - q.** Manufacturing, assembly or packaging of products from previously prepared materials.
 - r.** Manufacturing of electric or electronic instruments and devices.
 - s.** Medical and dental offices and clinics.
 - t.** Motor vehicle service and repair (minor repairs).
 - u.** Open-air farmers' markets.
 - v.** Personal and business service shops.
 - w.** Research, experimental or testing laboratories.
 - x.** Restaurants with drive-throughs.
 - y.** Retail and supply yard establishments with outdoor storage.
 - z.** Small animal boarding (kennels).
 - aa.** Small grocery stores.
 - bb.** Veterinary hospitals (large animals).
- 4.** Building height limit.

The building height regulations are as follows: No dwelling or other structure shall exceed three and one half stories or thirty-five feet in building height. Building height shall be measured from existing grade or finished grade whichever is more restrictive.

- 5.** Area regulations.

The area regulations are as follows:

- a. Minimum floor area: no minimum requirements.
- b. Minimum lot area: no minimum requirements.
- c. Minimum lot frontage: no minimum requirements.
- d. Minimum front setback: a 20-foot front yard setback is required.
- e. Minimum rear setback: a 20-foot rear yard setback is required.
- f. Minimum side setback: a 15-foot side yard setback is required.

J. I-2 Industrial District.

Intent. This zoning district is intended to provide a location for a variety of employment opportunities such as manufacturing, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations. The Industrial District also accommodates complementary and supporting uses such as convenience shopping and child care centers. Locations for this zone require good access to major arterial streets and adequate water, sewer and power.

1. Principal uses. Permitted principal uses in the I-2 District shall be as follows:

- a. Accessory buildings and accessory uses.
- b. Auto, RV, boat and truck storage.
- c. Motor vehicle washes.
- d. Clubs and lodges.
- e. Community facilities.
- f. Enclosed mini-storage facilities.

- g.** Equipment rental.
 - h.** Motor vehicle fueling stations.
 - i.** Health and membership clubs.
 - j.** Heavy industrial uses.
 - k.** Light industrial uses.
 - l.** Manufacturing and preparing food products.
 - m.** Manufacturing, assembly or packaging of products from previously prepared materials.
 - n.** Manufacturing of electric or electronic instruments and devices.
 - o.** Motor vehicle service and repair establishments (minor and major repairs).
 - p.** Parking lots and parking garages (as principal use).
 - q.** Parks and open space.
 - r.** Plant nurseries and greenhouses.
 - s.** Plumbing, electrical and carpenter shops.
 - t.** Public facilities with or without business offices and repair and storage facilities.
 - u.** Research, experimental or testing laboratories.
 - v.** Restaurants/standard and fast food with drive-through facilities.
 - w.** Retail and supply yard establishments with outdoor storage.
 - x.** Veterinary facilities, with large & small animal clinics.
 - y.** Warehouse, distribution and wholesale uses.
 - z.** Wireless telecommunications facilities (as permitted in Section 16.03.120 of this Code).
 - aa.** Workshops and custom small industry uses.
- 2.** Limitations. Any use in this district shall conform to the following requirements:
- a.** All manufacturing and similar uses shall be carried on entirely within a completely enclosed structure.
 - b.** Dust, fumes, odors, smoke, vapor and noise shall be confined to the site.
 - c.** All emissions from the manufacturing or similar uses shall comply with the federal and state air pollution laws.
 - d.** Light fixtures in parking areas shall be hooded and mounted not more than twenty-five (25) feet above the ground level and oriented in such a manner as not to shine into residential areas. Lighting shall conform to the requirements in Section 16.02.200 of

this Code.

- e. Outdoor storage, equipment and refuse areas shall be concealed from view from abutting rights-of-way and from adjoining residential districts.
 - f. Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent, maintainable surfaces with appropriate erosion control.
3. Conditional uses. Permitted conditional uses in the I-2 District shall be as follows:
- a. Accessory dwelling when associated with a permitted use.
 - b. Adult uses including product sales and entertainment.
 - c. Artisan and photography studios and galleries.
 - d. Automobile, recreational vehicle, boat and truck sales.
 - e. Licensed bars and taverns.
 - f. Childcare centers.
 - g. Convenience shopping and retail establishments.
 - h. Dry cleaning plants.
 - i. Entertainment facilities and theaters.
 - j. Equipment, truck, trailer rental establishments with outdoor storage.
 - k. Gas, oil and other hydrocarbon well drilling and production (as permitted by state and local regulations).
 - l. Golf courses.
 - m. Limited outdoor recreational facilities.
 - n. Nightclubs.
 - o. Open-air farmers' markets.
 - p. Public and private schools including colleges, vocational training and technical training.
 - q. Public facilities provided that business offices and repair and storage facilities are not included.
 - r. Public facilities with business offices and repair and storage facilities.
 - s. Recycling facilities.
 - t. Research, experimental or testing laboratories.

- u.** Resource extraction, processes and sales establishment
 - v.** Restaurants with drive-throughs.
 - w.** Sales and leasing of farm implements, heavy equipment sales, mobile/manufactured homes, and heavy excavation equipment.
 - x.** Small animal boarding (kennels).
 - y.** Veterinary hospitals.
- 4.** Building height limit.

The building height regulations are as follows: No dwelling or other structure shall exceed three and one half stories or thirty-five feet in building height. Building height shall be measured from existing grade or finished grade whichever is more restrictive.

5. Area regulations.

The area regulations are as follows:

- a.** Minimum floor area: no minimum requirements.
- b.** Minimum lot area: no minimum requirements.
- c.** Minimum lot frontage: no minimum requirements.
- d.** Minimum front setback: measured from the front property line there shall be a front setback of not less than 50 feet for all principal structures.
- e.** Minimum rear setback: measured from the rear property line there shall be a 50-foot setback.
- f.** Minimum side setback: measured from the side property line there shall be a minimum 30-foot setback.

K. Planned Unit Development (PUD) Overlay District.

Intent. This Planned Unit Development (PUD) Overlay District is enacted pursuant to the Planned Unit Development Act of 1972 as amended (C.R.S. 24-67-101, *et seq.*). The PUD is intended to be used as an overlay zone district that supplements the underlying standard zone district. The intent and purpose of this district is to permit and encourage innovative design and high quality, master-planned developments on large parcels of land. This district is created to allow and encourage compatible uses to be developed in accordance with a unified development plan in harmony with the environment and surrounding neighborhood. The PUD Overlay District is intended to permit greater flexibility in the application of zoning and development standards and greater freedom in providing a mix of land uses in the development of a balanced community. PUD's are expected to preserve critical environmental resources, provide above-average open space and recreational amenities, include exceptional design, and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.

1. Permitted uses. Uses permitted in the PUD Overlay District shall be those uses permitted in the underlying standard zone district for the property. An applicant for a PUD Overlay District may request modifications to the permitted uses of the underlying zone district to remove those uses that may be deemed incompatible or inappropriate for the overall PUD development. Conditional uses may be permitted if it can be demonstrated that such uses meet the conditional use review criteria for the underlying zone district(s).

2. PUD restrictions and general requirements. Properties utilizing the PUD Overlay District shall be subject to the following:
 - a. All PUD applications shall include a gross land area of not less than thirty five (35) acres, except in MH zoning district, where the gross land area shall not be less than five (5) acres.
 - b. The area of land for the PUD may be controlled by one or more landowners and must be developed under unified control or a unified plan of development.
 - c. Areas designated as private streets and/or common open space including land, an area of water, or a combination of land and water within the site designated for a PUD shall be designed and intended primarily for the use or enjoyment of residents, occupants and owners of the PUD; and provisions shall be made for the establishment of an organization for the ownership and maintenance of such private streets and/or common open space areas unless other adequate arrangements for the ownership and maintenance thereof are provided in a manner acceptable to the Town.

- d. All requirements set forth in this Code otherwise applicable to the area of land proposed for a PUD shall govern, except to the extent that the unified plan of development for residential, commercial, educational, recreational or industrial uses or any combination thereof may propose exceptions in lot size, bulk, type of use, density, lot coverage, open space, or other standards within the existing land use regulations, except those development standards that are not open to modification.
 - e. No PUD may be approved by the Town without the written consent of the landowner whose property is included within the PUD.
3. PUD approval procedure. All PUD Overlay District applications shall be submitted and processed simultaneously with the processing of subdivision applications for the property. The processes set forth in this Code for Major Subdivisions shall be followed, including all pre-application conferences, Planning Commission visioning meetings, sketch plan, preliminary plat, and final plat applications, and all required public hearings. Scheduling requirements for PUD applications shall match those specified for sketch plans and preliminary and final plats. In addition, an application for a PUD Overlay District amendment to the official zoning map shall be processed and subject to public hearings in the same manner as for other amendments to the official zoning map, as outlined in this Code.

Rezoning to a PUD Overlay District shall occur concurrently with a preliminary plat/preliminary PUD development plan. Public hearings for the zoning of a property as a PUD Overlay District and for Preliminary PUD development plan approval may be combined or can occur separately. Development within a PUD Overlay District cannot occur unless and until a final plat for the portion of the property to be developed has been approved and recorded as provided in this Chapter.

Upon approval of a final PUD development plan, the Town, through its Council, shall adopt an ordinance establishing the PUD Overlay District for the property in accordance with that plan.

In addition to all of the information required in this Chapter as part of the sketch plan, preliminary plat and final plat application packages, applications for a PUD development plan and PUD Overlay District shall include additional information as outlined in this Article.

4. Compliance with PUD Overlay District/Final Development Plan - The Council may initiate the process to repeal the ordinance establishing the PUD Overlay District if:
 - a. The project for which the PUD overlay zone was established is not carried out pursuant to the approved final PUD development plan; provided however that the Council may approve appropriate modifications to the final PUD development plan from time to time prior to completion of the proposed development, or
 - b. Building activity for the PUD overlay district has not commenced within a period of one (1) year after the effective date of the creating ordinance, unless otherwise approved by the Council.

16.03.050. Table of permitted and conditional uses by zoning district

Deleted and Reserved for Future Use.

16.03.060. Density and dimensional standards

A. Density and dimensional standards, (* = see landscape standards in Article 2)

Density and dimensional standards									
Zones Standards	O	RLD	RHD	MHR	CBD	C		I-1	I-2
Lot area (square feet, unless otherwise noted)	1 acre per d.u., ½ acre for other permitted uses	6,000 or greater	Less than 6,000	5,000 or greater	-	-		-	-
Minimum lot width (feet)	*	50	50	40	-	-		-	-
Minimum lot frontage (feet)	125 per d.u., 100 for other principal structures	50	50	40	-	-		-	-

Density and dimensional standards									
Zones \ Standards	O	RLD	RHD	MHR	CBD	C		I-1	I-2
Minimum front yard setback (feet)									
Principal building	50	25	20	25	0	10		20*-	50*
Accessory building	60	35	30	30	25	35		-	-
Minimum side yard setback (feet)	10	10	10	10	10*	10*		15*	30
Accessory/ garage setback along alley or open space	-	-	-	-	-	-		-	-
Accessory/ garage setback (max. of 30 foot distance)	-	5	5	-	-	-		-	-
Minimum distance between buildings (feet)	20	10	10	20	20*	20*		30*	60

Density and dimensional standards									
Zones Standards	O	RLD	RHD	MHR	CBD	C		I-1	I-2
Minimum rear yard setback (feet)									
Principal building	20	15	10		10*	10*		20	50
Accessory/ garage setback along alley or open space	-	-	-	10	-	-		-	-
Accessory/ garage setback (max. of 30 foot distance)	10	5	5	-	-	5		20	35
Minimum floor area per dwelling unit	-	800	400	400	-	-		-	-
Maximum building height (feet)	25	30	35	25	35	25		35	35
Maximum stories	2 ½	3	3 ½	2 ½	3 ½	2 ½		3 ½	3 ½
Maximum floor area ratio	-	-	-	-	2:1	1:1		1:1	1:1

B. Setback requirements (all districts).

1. On double frontage lots, both streets shall be considered street frontages for purposes of calculating front yard setbacks.
2. On corner lots, one side of the lot (generally that with the shortest length) with street frontage

shall meet the applicable front yard setback.

3. For purposes of setback calculations, a two-family dwelling shall be construed as one building occupying one lot.
4. On oddly-shaped lots with a dwelling sited “square” to the roadway, side setbacks may be less than required above but with no less than a 5 foot setback per each side yard.
5. On a vacant lot bordered on two sides by previously constructed legal nonconforming buildings which do not meet the required front yard setback for the zoning district, the required front yard setback for the vacant lot shall be calculated as the average front yard setback of the two adjacent buildings. Where a vacant lot is bordered on only one side by such a legal nonconforming building, the required front yard setback shall be calculated as the average of the front yard setback of the adjacent building and the minimum front yard setback for the zoning district.
6. Permanent features allowed within setbacks shall include:
 - i. Cornices, canopies, eaves or other similar architectural features if they extend no more than two feet into a required setback and if they do not encroach into or overhang an easement;
 - ii. Steps or ramps to the principal entrance and necessary landings, provided they do not extend more than six feet into the required setback;
 - iii. Landscaping;
 - iv. Fences and walls, subject to height and other restrictions of this Article;
 - v. Utility service lines to a structure and utility lines, wires and associated structures within a utility easement;
 - vi. Fire escapes, provided they do not extend more than six feet into the required setback;
 - vii. Uncovered patios, porches and decks not more than thirty inches above grade, provided they do not extend more than thirty percent of the required setback distance into the required setback area; and

- viii. Open or covered patios, porches, and decks attached to residential dwellings greater than thirty inches in height may extend no more than five feet into a required front or rear setback or five feet into a required side yard setback adjacent to a street, provided they do not encroach into or overhang an easement or property line and do not obstruct any sight distance triangle.

16.03.070. Conditional uses

- A. **Purpose.** In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a conditional use permit. Specific conditional uses for each zone district are listed in the Table of permitted and conditional uses by Zoning District.

Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this Section is intended to assure compatibility and harmonious development between conditional uses, surrounding properties and the Town at large. Conditional uses may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria. The scope and elements of any conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied.

- B. **Conditional Use review process.**

- 1. Optional pre-application conference. The applicant may attend a pre-application conference with a representative from the Town. The purpose of the meeting is to discuss the conditional use submittal requirements and review process.
- 2. Conditional Use application submittal. The applicant shall submit the complete conditional use application package to the Town and shall request that the application be reviewed by the Planning Commission and Council. Conditional use requests shall include:
 - a. Land use application form.
 - b. Title commitment. The title commitment must be current and dated no more than thirty days from the date of conditional use application submittal.
 - c. Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use

review criteria have been satisfied.

- d. A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.
 - e. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.
 - f. Such additional material as the Town may prescribe or the applicant may submit pertinent to the application.
 - g. Surrounding and interested property ownership report - Provide the Town with a current set of mailing labels (not more than thirty days old) of the names and addresses of the surrounding property owners (within one hundred fifty [150] feet of the property), mineral interest owners and mineral and oil and gas lessees of record for the property, and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
3. Conditional Use application certification of completion. Within a reasonable period of time, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town. The original application and all documents requiring a signature shall be signed in blue ink.
4. Planning Commission review of the Conditional Use application. The Planning Commission shall hold a meeting to review the application and determine if the application complies with the conditional use review criteria. The Planning Commission will then recommend to the Council approval, approval with conditions or denial.
5. Set Conditional Use public hearing date and notify public. The Town Clerk shall send notice of public hearing to the applicant, all property owners of record within three hundred feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property, and to the appropriate referral agencies no less than thirty days before the hearing. The referral information shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property, appropriate background information and the applicant's name. The Town Clerk shall also publish notice in a newspaper of general circulation. The Town Clerk shall prepare a public hearing notification sign to be posted on the property by the applicant. The hearing may be held no less than fifteen days from the date of property posting and newspaper publication. If the conditional use request is accompanying another application

which is scheduled for public hearing before the Board, one public hearing may be held on both applications.

6. Council public hearing and action on the Conditional Use. The Council shall hold a public hearing on the conditional use application. Following the public hearing, the Board may approve, conditionally approve or deny the conditional use application based on the conditional use review criteria. A conditional use permit may be revocable, may be granted for a limited time period, or may be granted subject to conditions as the Board may prescribe. Conditions may include, but shall not be limited to: requiring special setbacks, open spaces, fences or walls, landscaping or screening, street dedication and improvement, regulation of vehicular access and parking, signs, illumination, hours and methods of operation, control of potential nuisances, prescription of standards for maintenance of buildings and grounds, and prescription of development schedules.

7. Record Conditional Use map. The Town shall record one original Mylar of the conditional use map in the office of the Routt County Clerk and Recorder. The recording fee shall be paid by the applicant.

C. **Conditional Use review criteria.** The Town shall use the following criteria to evaluate the applicant's request:

1. The conditional use will satisfy all applicable provisions of the zoning code and subdivision regulations unless a variance is being requested.

2. The conditional use will conform with or further the goals, policies and strategies set forth in the Town of Hayden Comprehensive Plan.

3. The conditional use will be adequately served with public utilities, services, and facilities (i.e. water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.

4. The conditional use will not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district.
5. The conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
6. Potential negative impacts of the conditional use on the rest of the neighborhood or of the neighborhood on the conditional use have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods. The applicant shall satisfactorily address the following impacts:
 - a. Traffic; activity levels; light; noise; odor; building type, style and scale; hours of operation; dust; and erosion control.
7. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained.

16.03.080. Nonconforming uses/buildings
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Requirements for nonconforming uses/buildings. Except as provided in this Section, the lawful use of any building or land existing at the time of enactment of this Article, or of any amendments to this chapter, may be continued even though such use does not conform to the requirements of this Code.

Definitions:

1. Abandonment. Abandonment means whenever a nonconforming use or building has been discontinued for a period of one hundred eighty days, such use shall not thereafter be reestablished and any future use shall be in conformance with the provisions of this Article.

2. Completion. Completion means that any building or structure for which a building permit has been issued prior to the date of enactment of this Article may be completed and used in accordance with the plans, specifications and permits on which said building permit was granted, if construction is commenced within sixty days after the issuance of said permit and diligently pursue to completion.

3. Displacement. Displacement means no nonconforming use or building shall be altered, extended or restored so as to displace any conforming use. A trailer house in any district may not be altered in any way. When it is removed it may only be replaced with a permitted or conditional use.

4. Extensions. Extensions means a nonconforming use shall not be extended, but the extension of a conforming building shall not be deemed the extension of such nonconforming use; however, businesses in RLD and RHD zones shall not be extended under any circumstances.

5. Repairs and maintenance. Repairs and maintenance means ordinary repairs and maintenance of a nonconforming building shall not be deemed an extension of such nonconforming building and shall be permitted.

6. Restoration. Restoration means a nonconforming building which has been damaged by fire or other causes and which may be restored to its original condition, provided that such work is commenced within one hundred eighty days of such calamity and less than fifty percent of the fair market value of the building is destroyed.

7. Unsafe buildings. Unsafe buildings means any nonconforming building or portion thereof declared unsafe by the Building Inspector, which may be replaced, strengthened or restored to a safe condition.

16.03.090. Appeals and variances

- A. **Purpose.** The Board of Adjustment shall hear and decide appeals from any order, requirement, decision, or determination made by any administrative official charged with the enforcement of this Code. In addition, the Board of Adjustment shall hear and decide all requests for a variance from the

requirements of this Code. Such variance shall not be granted if it would be detrimental to the public good, create a conflict with the Town of Hayden Comprehensive Plan or impair the intent and purpose of this Code.

B. Membership.

1. The membership of the Board of Adjustment must consist of five residents of the municipality, appointed by the Town Board of Trustees. Their terms of office are three years, and must be fixed so that the terms of office expire in different years. Appointments to fill vacancies are to be made only for the unexpired portion of the term. The Town Board of Trustees may remove any member of the Board of Adjustment for cause upon written charges and after a public hearing.

2. The Board of Adjustment shall elect from its own membership a chairperson and vice-chairperson, who shall serve annual terms and who may succeed themselves. For the conduct of any hearing or the taking of any action, a quorum of three members is required. An affirmative majority vote shall be necessary to authorize any action of the Board of Adjustment.

C. Appeal application.

1. Any aggrieved applicant may appeal a denial of a building or other development permit, or any order, requirement, decision, interpretation or determination made by an administrative official charged with the enforcement of this Code.

a. An appeal to the Board of Adjustment shall be made within ten days after denial of a building permit or other development permit, or receipt of a written notice of an order, requirement, decision, interpretation or determination by an administrative official of the Town. Failure to make a timely appeal shall be considered a waiver of the appellant's rights to appeal to the Board of Adjustment.

b. The applicant shall file with the Town Clerk a written notice of appeal on a form approved by the Council and pay the fee set by the current fee schedule.

c. The Town Clerk shall forward a copy of the notice of appeal to the Planning Staff or other appropriate administrative officer, who shall prepare a record of the Town action being appealed for consideration by the Board of Adjustment.

D. Variance application. Any person of interest, or an officer or department of the Town may apply to the Board of Adjustment for a variance from the literal interpretation of the provisions this Code.

1. For a variance request, the applicant shall submit the following to the Town Clerk:

a. Land use application form.

- b. Title commitment. The title commitment must be current and dated no more than thirty days from the date of preliminary plat application submittal.
 - c. Explanation letter – identifying the variance being requested, a citation of the portion of the Town Land Use Code from which relief is requested and explaining what exceptional condition, practical difficulty, or unnecessary hardship exists to require the variance. The letter shall also address how the variance, if granted, will not be detrimental to the public good, create a conflict with the Town Comprehensive Plan or impair the intent and purpose of this Code.
 - d. Map – Staff will dictate map requirements based on the variance being requested. The map shall typically consist of a scale drawing depicting the property affected by the variance request, including, but not limited to, required or existing setbacks and proposed setbacks from adjacent lot lines or structures and any other information that will assist the Board of Adjustment in understanding the request.
 - e. Surrounding and interested property ownership mailing labels - Provide the Town Clerk with a current set of mailing labels not more than thirty days old (matching Avery 8160 form) of the names and addresses of the surrounding property owners within one hundred fifty (150) feet of the property, mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
- E. Set public hearing and complete public and referral agency notification.**
- 1. The Town Clerk shall send notice of public hearing to the applicant, all property owners of record within one hundred fifty feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property, and to the appropriate referral agencies. The Clerk shall also publish notice in a newspaper of general circulation with the hearing. A public hearing notification sign, clearly visible from the adjoining street, will be posted on the property by the applicant. All notices shall be prepared as directed in Chapter 16, Article 1, Section 17 of this Code.
- F. Board of Adjustment public hearing and action on the appeal or variance request.** The Board of Adjustment (BOA) shall make the decision on appeals and variances at a regular meeting of the BOA.
- 1. The appellant, or the applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the BOA.

2. The BOA shall have all the powers of the applicable Town administrative official on the action appealed. The BOA may in whole or in part affirm, reverse or amend the decisions of the applicable Town administrative official.
3. The BOA may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of the Town Land Use Code.
4. The BOA may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested. A variance may be granted for indefinite duration or a specified period of time.
5. No single decision of the BOA sets a precedent. The decision of the BOA shall be made on the particular facts of each case.
6. Variances granted by the Board of Adjustment shall be recorded with the Routt County Clerk and Recorder at the expense of the applicant.

Any appeal of the decision of the Board of Adjustment may be made to the District Court as provided by law; provided however, that such appeal must be made prior to thirty days following the date of the final action taken by the Board of Adjustment, as provided by Rule 106, Colorado Rules of Civil Procedure.

- G. Appeal criteria for administrative interpretation.** The Board of Adjustment, in hearing an appeal from an interpretation of the Town of Hayden Land Use Code, shall consider:
1. The technical meaning of the provision being appealed;
 2. Evidence of the manner in which the provision has been interpreted in the past;
 3. The positive or negative impact of the requested appeal on the achievement of stated Town development goals and objectives; and

4. The intent of the provision in implementing the Town Comprehensive Plan.

In approving a requested interpretation, the Board of Adjustment shall provide a written record of its findings and the staff shall use it to propose amendments that address future interpretation problems.

H. Variance criteria for approval.

1. The Board of Adjustment shall not grant a variance to the Code, which:
 - a. Permits a land use not allowed in the zoning district in which the property is located; or
 - b. Is in the public right-of-way or on public property; or
 - c. Alters any definition of the Code; or
 - d. Is other than the minimum variance that will afford relief with the least modification possible to the requirements of the Code; or
 - e. Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to of the Code; or
 - f. Is based exclusively on findings of personal or financial hardship. Convenience, profit or caprice shall not constitute undue hardship; or
 - g. The variance will neither result in the extension of a nonconforming situation, use, building or lot, nor authorize the initiation of a nonconforming use of land, nor conflict with the goals and policies of the Comprehensive Plan.

2. In order to grant a variance to the Code, the Board of Adjustment shall find that all the following have been satisfied:
 - a. That there are unique physical circumstances or conditions of the land such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical condition of the land particular to the affected property;
 - b. That because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of the Code;
 - c. That such unique physical circumstances or conditions are unique and unusual or nearly so, rather than one shared by many surrounding properties;
 - d. That due to such unique physical circumstances or conditions of the land, the strict application of the Code would create a demonstrated hardship;
 - e. That the demonstrable hardship is not self-imposed;
 - f. That the hardship or poor land use of which the applicant complains is one suffered by the applicant alone and not by neighbors or the general public;

- g.** That the variance, if granted, will not adversely affect the proposed development or use of adjacent property or neighborhood;
- h.** That the variance, if granted, will not change the character of the zoning district in which the property is located;
- i.** That the variance, if granted, is in keeping with the intent of the Code;
- j.** That the variance, if granted in a floodplain or floodway, meets the requirements of floodplains and floodways of this Code and any other applicable law; and
- k.** That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of Town.

The condition of any variance authorized shall be stated in writing in the minutes of the Board of Adjustment with the justifications set forth.

- I. Minor variance.** A request may be made for the award of a minor variance to certain provisions of this Code.
 - 1.** A minor variance is limited to the following situations:
 - a.** The location of fences or sheds (outbuildings) on a particular lot; and
 - b.** The construction of open or closed porch additions to residential properties. Porch additions designed as sleeping rooms (bedrooms) are specifically excluded from this category.

All requests other than those listed above must be considered through the standard variance processes as identified in Section 16.03.090 of this code.

- 2.** Criteria for granting a minor variance shall include meeting all of the following conditions:
 - a.** The variance being requested meets the predominant setback line established on the basis of the average of existing front yard setbacks within the block frontage of the request, and the opposite block frontage;
 - b.** That the variance, if granted, will not adversely effect the proposed development or use of adjacent properties or the neighborhood; and
 - c.** That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of the Town of Hayden.
- 3.** Any such request for a minor variance shall be reviewed by Town staff that will develop a report to be submitted to the Board of Adjustment for review and action. Public notice will be in accordance with Section 16.03.090.C. Any minor variances will be deemed approved upon written communication

from the Town stating the approval with any conditions that may be imposed by the Board of Adjustment.

16.03.100. Waivers

- A. Purpose.** The Council may authorize waivers from the Code in cases where, due to exceptional conditions peculiar to the site, practical difficulties or an unnecessary hardship is placed on the landowner. Such waiver shall not be granted if it would be detrimental to the public good, create a conflict with the Town Comprehensive Plan, or impair the intent and purpose of this Code.
- B. Waiver application.**
 - 1. Waiver requests in conjunction with other applications.** The applicant shall submit the following to the Town Clerk in conjunction with another application (i.e. zoning amendment):
 - a.** Explanation letter – identifying the waiver being requested and explaining what exceptional condition, practical difficulty, or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the Town Comprehensive Plan or impair the intent and purpose of this Code.
- C. Waiver criteria for approval.** The condition of any waiver authorized shall be stated in writing in the minutes of the Council with the justifications set forth. Waivers may be granted only if they meet the following criteria:
 - 1.** The waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.
 - 2.** The waiver, if granted, is the minimum waiver of applicable Code provision that will afford relief and is the least modification possible of the Code provisions which are in question.
 - 3.** That such practical difficulties or unnecessary hardship has not been created by the applicant.

16.03.110. Amendments

- A. Initiation of amendments to text or official zoning map.** The Council may from time to time, amend, supplement, change or repeal the regulations and provisions of this Article. Amendments to the text of this Code may be initiated by the Council, Town Staff, the Planning Commission, or by written application of any property owner or resident of the Town. Amendments to the zoning district map may be initiated by the Council, Town Staff, the Planning Commission, or by a real property owner in the area to be included in the proposed amendment.
- B. General rezoning of the town.** Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision be

made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for fifteen days prior to the public hearing on such amendments.

C. Zoning amendment application process.

1. Optional pre-application conference. The applicant may attend a pre-application conference with a representative from the Town. The purpose of the meeting is to discuss the zoning amendment, submittal requirements and review process.

2. Zoning amendment application submittal. The applicant shall submit one copy of the complete zoning amendment application package to the Town Clerk and shall request that the application be reviewed by the Planning Commission and Council. Note: In the case of text amendments, only items a. and b., below are required.
 - a. Completed land use application form, zoning amendment, application fee and fee agreement;
 - b. A written description of the proposed change to the text of this Article, including the citation of the portion of the Article to be changed and the wording of the proposed change. The description must provide the rationale for the proposed change, citing specific difficulties with the existing text and similar provisions in zoning codes of other jurisdictions that support the rationale of the proposed change.
 - c. A legal description for all property to be considered for rezoning;
 - d. Current proof of ownership in the form of title insurance issued with thirty days of submission of the application (for zoning map amendments only).
 - e. A zoning amendment map of the area included in the proposed change, twenty-four inches high by thirty-six inches wide, with the following information:
 - i. North arrow, scale (1" = 100' or 1" = 200'), and date of preparation.
 - ii. The subdivision or block and lot name of the area to be zoned (if applicable) at the top of each sheet.
 - iii. Legal description of area to be zoned (entire area and individual zoning districts). In unsubdivided property, zone boundaries shall be determined by a metes and bounds description.
 - iv. Location and boundaries, including dimensions, of the property(s) proposed for rezoning. Note: Zone boundaries are to be the center lines of physical streets, roads, highways, alleys, railroad rights-of-way, and channelized waterways, or such lines extended.

- v. The acreage or square footage contained within the property proposed for rezoning.
 - vi. All existing land uses in the proposed rezoning area.
 - vii. Zoning and existing land uses on all lands adjacent to the proposed rezoning.
 - viii. The location and dimensions for all existing public rights-of-way including streets, and centerlines of water-courses within and adjacent to the rezoning.
 - ix. The names of all adjoining subdivisions with lines of abutting lots, and departing property lines of adjoining properties not subdivided.
 - x. Certificate blocks for Surveyor, Planning Commission, Council, and Routt County Clerk and Recorder.
 - xi. An AutoCAD™ drawing file (release 12 or higher) of the zoning amendment map on acceptable electronic transfer. The electronic file must be compatible with the CommunityViz software system currently in use at the Town of Hayden.
- f. A written statement describing the proposal and addressing the following points:
- i. Rationale for the proposed rezoning;
 - ii. Present and future impacts on the existing adjacent zone districts, uses, and physical character of the surrounding area;
 - iii. Impact of the proposed zone on area accesses and traffic patterns;
 - iv. Availability of utilities for any potential development;
 - v. Present and future impacts on public facilities and services, including, but not limited to, fire, police, water, sanitation, roadways, parks, schools, and transit;
 - vi. The relationship between the proposal and the Town Comprehensive Plan; and
 - vii. Public benefits arising from the proposal.
- g. Surrounding and interested property ownership mailing labels - Provide the Town Clerk with a two current sets of mailing labels not more than thirty days old (matching Avery 8160 form) of the names and addresses of the surrounding property owners (within one hundred fifty feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
3. Zoning amendment application certification of completion. Within a reasonable period of time, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the

required number of copies of the application to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink.

4. Set zoning amendment public hearing and complete public notification process. The Town Clerk shall send notice of public hearing to the applicant, all property owners and of record within one hundred fifty feet of the property in question, all mineral interest owners and oil and gas lessees of record and to the appropriate referral agencies. The Town Clerk shall also publish notice in a newspaper of general circulation. For zoning map amendments, the Town Clerk shall prepare a public hearing notification sign to be posted on the property by the applicant. Notices shall be prepared as set forth in 16.01.170 of this Code.

If the zoning amendment request is accompanying another application which is scheduled for public hearings before the Planning Commission and Council, one public hearing may be held on both applications. Such notice shall not be required for text amendments.

5. Planning Commission public hearing and action on the zoning amendment. The Planning Commission shall hold a public hearing to review the zoning amendment. The Commission shall then make a recommendation to the Council to approve, conditionally approve, or deny the application.
6. Notify parties of interest. As set forth in 16.01.170 of this code, staff shall notify: surrounding property owners within one hundred fifty feet, mineral interest owners of record, mineral and oil and gas lessees for the property, and other interested parties. The notice shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property, and the applicant's name.
7. Set Council public hearing and complete public notification process. The Council shall schedule a public hearing for the purpose of taking action on the zoning amendment. The Town Clerk shall publish notice in a newspaper of general circulation as detailed in 16.01.170 of this Code.
8. Council public hearing and action on the zoning amendment. The Council shall, after receiving the report and recommendations from the Planning Commission, hold a public hearing and act upon the proposed amendment. Following the required hearing, the Council shall consider the comments and evidence presented at the hearing and evaluate the application in accordance

with the criteria listed below and approve, approve with conditions, or deny the application, in whole or in part.

9. Post approval actions.

- a.** Upon approval of an amendment to the official zoning map by the Council, the Town Clerk shall cause an appropriate revision of the official zoning map to be prepared for recording with the Routt County Clerk and Recorder. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.
- b.** Upon approval of an ordinance amending, changing or repealing part of the text of this Article, the Town Clerk shall certify a copy of the ordinance and place it in the official records of the Town and make appropriate supplements to this Article.
- c.** The applicant initiating the official zoning map amendment shall have thirty days after approval of the amendment by the Council to submit to the Town Clerk two original drawings of the approved zoning amendment map for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment. The zoning amendment map shall be prepared by a licensed surveyor or engineer. Inaccurate, incomplete or poorly drawn plans shall be rejected. In addition, the petitioner shall submit one 11" x 17" reduction of the zoning amendment map and an AutoCAD™ drawing file (release 12 or higher) suitable for use in the CommunityViz software program of the zoning amendment map on an acceptable electronic media.
- d.** Within thirty days of receipt of the zoning amendment map, the Town Clerk shall review the documents for compliance with the Council approval, obtain the Town Officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the Routt County Clerk and Recorder's Office for recordation.

D. Criteria for amendments to the official zoning map. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:

- 1.** To correct a manifest error in an ordinance establishing the zoning for a specific property;
- 2.** To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally; or

3. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Town Comprehensive Plan; or
4. The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Town Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan; or
5. The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or
6. A rezoning to Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.

This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map.

E. Criteria for text amendments to the zoning code. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the text of this Article shall not be amended except:

1. To correct a manifest error in the text of this Article; or
2. To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town Staff; or
3. To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Article; or
4. To further the implementation of the goals and objectives of the Town Comprehensive Plan.

F. Map – Amendment upon zoning establishment or modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official maps to include the annexed area with the

proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

16.03.120. Wireless telecommunication services, facilities and equipment

- A. Permitted Zoning District.** Wireless telecommunication services facilities shall be permitted only in the industrial zoning districts (I-1 or I-2).
- B. Use permitted by conditional review.** It is unlawful for any person to install or operate such a wireless telecommunication services facility unless a use by conditional review has first been approved by the Council as provided in this Article. The approval of such use by conditional review does not relieve the operator from otherwise complying with all applicable regulatory requirements of the Town, state and federal governments.
- C. Application requirements.**
 - 1. Site plans.** The site plans for a wireless telecommunication service facility shall be submitted on one or more plats or maps, at a scale not less than 1" = 50', showing the following information:
 - a.** The proposed size, location and boundaries of the commercial mobile radio service facility site, including existing and proposed topography at two foot intervals, referenced to USGS data, state plane coordinates and a legal description of the proposed site;
 - b.** Elevations of all towers and equipment, indicating materials, overall exterior dimensions and colors;
 - c.** True north arrow;
 - d.** Locations and size of existing improvements, existing vegetation, if any; location and size of proposed improvements, including any landscaping;
 - e.** Existing utility easements and other rights-of-way of record, if any;
 - f.** Location of access roads;
 - g.** The names of abutting subdivisions or the names of owners of abutting, unplatted property within four hundred feet of the site; zoning and uses of adjacent parcels; and
 - h.** Proof of ownership in a form acceptable to the Town.
 - i.** The location of the GPS in both latitude/longitude and UTM meters.
 - 2. Vicinity maps.** The vicinity maps submitted with an application under this Article shall include one or more maps showing the location of existing and planned commercial mobile radio service

facilities belonging to the applicant, within five miles of the proposed facility. Planned facilities may be identified in general terms and need not be address specific.

3. Written narrative. The application shall include the following in narrative form:
 - a. The applicant's and surface owner's names, addresses, signatures and designation of agent, if applicable;
 - b. An explanation of the need for such a facility, operating plan and proposed coverage area;
 - c. If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one-mile radius of the facility;
 - d. A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC);
 - e. Affirmation that the proposed facility, alone or in combination with other like facilities, will comply with current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields;
 - f. Affirmation that the facility will comply at all times with current FCC regulations prohibiting localized interference with reception of television and radio broadcasts;
 - g. Affirmation that the facility will not interfere with any public safety frequencies servicing the Town and its residents;
 - h. Affirmation that, if approved, the applicant and surface owner will make the facility available, on a reasonable basis, to other service providers; and
 - i. An explanation of compatibility with the Town Comprehensive Plan.
- D. **Review criteria.** The recommendation of the Planning Commission and the decision of the Council shall be based on whether the applicant has demonstrated that the proposed wireless telecommunications services facility meets the following standards:
 1. The site plan complies with the foregoing requirements;
 2. The vicinity map complies with the foregoing requirements;
 3. The narrative for the application complies with the foregoing requirements;

4. When applicable, compliance with the setback and height requirements;
5. When applicable, compliance with the accessory building requirements; and
6. When applicable, compliance with conditional mitigation co-location requirements as set forth.

The review criteria shall be included in the ordinance granting approval of the conditional use.

E. Height and setback requirements. In all performance districts where wireless telecommunications service facilities are allowed as uses by conditional review, the following apply:

1. Roof- or building-mounted commercial mobile radio service facilities may protrude no more than five feet above the parapet line of the building or structure, nor more than two and one-half feet outside of the building wall unless sufficient screening methods are demonstrated and accepted as part of the approval;
2. Roof- or building-mounted whip antenna(s) of no more than three inches in diameter, in groupings of five or less, may extend up to twelve feet above the parapet wall; and
3. Applicable zoning setback requirements of this Article must be met. At a minimum, all freestanding facilities shall be set back at least three hundred feet from all residentially zoned properties or residential structures on properties otherwise zoned.

F. Accessory buildings requirements

1. Accessory buildings located on the ground shall be no larger than four hundred square feet and must be constructed of durable, low maintenance materials, architecturally compatible and integrated with existing buildings and structures. Sites with greater than one hundred cubic feet of cabinet area, visible from a public right-of-way or residentially zoned or used area, must enclose the equipment in accessory buildings.

2. Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient by the Town.

G. Building- or roof-mounted facilities requirements. Building- or roof-mounted facilities are to be screened from public view, either by screening, location or other techniques deemed sufficient.

H. Freestanding wireless telecommunications facilities requirements. All freestanding wireless telecommunications facilities shall be designed and constructed in such a manner that they are:

1. Capable of serving, through original construction, expansion or replacement, a minimum of two users;
2. Constructed as a monopole, which tapers toward the top of the pole to the degree allowed by structural requirements, unless some other decorative type of structure is proposed and approved;
3. Of a neutral color, including fencing, buildings and cabinets, or to match existing buildings;
4. Hold only lighting required by the Federal Aviation Administration; and no signage;
5. No higher than fifty feet from the ground, with an additional twenty feet per co-locating user permitted, up to seventy feet. Exceptions may be granted upon request by the applicant; and
6. Constructed in accordance with a certified engineer's specifications and in compliance with all applicable U.B.C. provisions.

I. Conditional mitigation measures co-location

1. The Town encourages co-location of wireless telecommunications facilities to minimize the number of sites.

2. No wireless telecommunications facility owner or operator shall unfairly exclude a competitor from using the same facility or location. Unfair exclusion of use by a competitor may result in the revocation of the use by conditional review or site development plan.

- J. **Application fees.** Each applicant shall pay a non-refundable processing fee to reimburse the Town for the legal, engineering and land planning costs of reviewing the application. Legal publication costs are in addition to the fee and will be billed separately by the Town. No permit will be issued until all fees are paid.

- K. **Abandonment.** At the request of the Town, the operator must furnish a statement to the Town indicating the operational status of the facility. If the use has been discontinued, the date on which the facility was last used shall also be provided. Commercial mobile radio service facilities not used for a continuous period of six months shall be disassembled within twelve months of the last use.

- L. **Penalty.** Any person who constructs, installs or uses, or who causes to be constructed, installed or used, any wireless telecommunications facility in violation of any provision of this Article or of the conditions and requirement of the conditional use permit, may be punished as provided in Article 6 of this Code. Each day of unlawful operation constitutes a separate violation.

- M. **Civil action.** In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used or any land is or is proposed to be used in violation of any provision of this Article or the conditions and requirements of the commercial mobile radio service facility special use permit, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to the prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

16.03.130. Home Occupations

- A. Home occupations must meet the following standards:
 1. Medical, dental and real estate offices are not permitted as home occupations.
 2. In addition to the family occupying the dwelling containing the home occupation, there shall not be more than one outside employee working at the site of the home occupation.
 3. The employee and clients may park in on-street curbside parking spaces.
 4. The home occupation shall not exceed one thousand square feet or thirty percent of the total floor area of the dwelling, whichever is less, or can be located in an accessory building not to

exceed five hundred square feet. The home occupation shall be conducted entirely within the dwelling or designated accessory buildings.

5. The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.
6. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation, including advertising signs or displays or advertising that solicits or directs persons to the address.
7. There must be no exterior storage on the premises of material or equipment used as a part of the home occupation, unless it is enclosed and lot coverage requirements for accessory uses are met.
8. No equipment or process shall be used in such home occupation which creates any glare, fumes, odors or other objectionable conditions detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling.
9. Proprietors of home occupations shall register annually with the Town Clerk, which registration shall include a review of compliance with the home occupation standards contained in this Code. If an ordinance exists requiring the issuance of a business license for all businesses and home occupations in the Town, compliance with that ordinance will supersede the requirements of this subsection.
10. The following uses because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than four [4] students being instructed at one [1] time); dental offices; medical offices; the painting of vehicles, trailers or boats; private schools with organized classes; radio and television repair; barber and/or beauty shop; welding shops; nursing homes; massage therapy by a massage therapist; sexually oriented businesses; and, irrespective of whether the use may be categorized as a sexually oriented business, any retail or wholesale sales to consumers upon the premises of any types of materials specified in this Chapter which describe or depict specified sexual activities or specified anatomical areas.
11. All exterior aspects of the home occupation operation shall not disrupt the residential character of the area.
12. The maximum number of vehicle trips per day for clients, which may visit the home occupation per day, is ten.

16.03.140. Temporary Uses

- A. Intent.** Temporary uses are uses established for a limited duration with the intent to discontinue the temporary use upon the expiration a particular time period. Concrete or asphalt batch plants and gravel or mineral mining are prohibited from applying to the Town as temporary uses. Any temporary use shall not involve the construction or alteration of any permanent structure and may be located in any zoning district.
- B. Temporary use categories.** There are three categories of temporary uses: Special Event, Site Location and Camping.
- 1. Special Event** temporary uses can be for a time period of no more that 30 days and include: bike or running races, conventions, seasonal sales, sports tournaments, circuses, yard sales, fairs, etc.
 - 2. Site Location** temporary use permits are for the placement of construction or sales trailers at commercial, residential or industrial construction sites. Site Location temporary use permits expire upon the issuance of a certificate of occupancy for the associated permanent structure or substantial completion of site development work for an approved subdivision.
 - 3. Camping** temporary uses are allowed within the residential districts of Hayden. Camping may include RV, travel trailer, “pop-up” camper or tents and must be located on a site associated with a permitted residential structure. Only one camping permit per residential lot or site is allowed at any one time and permits are allowed for a maximum of fourteen (14) consecutive days, renewable three (3) times per calendar year, for a maximum of forty-two (42) days in any calendar year.
- C. Application requirements.** There are two general categories of temporary uses: The first is for a special event of no more that 30 days. The Special Event temporary use is for bike or running races, sports tournaments, circuses, yard sales, etc. A Site Location temporary use is for the siting of construction trailers, sales trailers, an RV or Mobile Home at a construction site and other temporary uses of that nature.
- 1. Location plan.** The site plan for a temporary use shall be submitted on one or more plats or maps, at a scale not less that 1" = 50', showing the proposed size, access, parking, lighting, structures, sanitary facilities, location and boundaries of the proposed use.
 - 2. Bonding.** Depending on the size and proposed impacts of the temporary use, the Town may request the posting of a bond by the applicant to ensure compliance with the provisions of the temporary permit.
 - 3. Written narrative.** The application shall include the following in narrative form:

- a. The applicant's and owner's names, addresses, signatures and designation of agent, if applicable;
 - b. Identify whether the application is for a Special Event or Site Location;
 - c. An explanation of the need for such temporary use, operating plan, security arrangements, expected site or traffic impacts, and the proposed duration of the use; and
 - d. Potential impacts to neighboring properties and the Hayden community and the proposed mitigation of those impacts.
- D. Review process.** Approval of any temporary use will be an administrative matter. Staff will review the temporary use application based upon compliance with the requirements of this Section.
- E. Application fee.** Each applicant shall pay a non-refundable processing fee to reimburse the Town for the reviewing the application. No temporary use permit will be issued until this fee is paid.
- F. Duration and extension of time.** Special Event temporary use permits expire no more than 30 days after issuance with one administrative renewal (30 day maximum) possible if requested at least 7 days prior to expiration. For a Site Location temporary use the permit may be for a period to be determined by the Town with one administrative extension allowed if requested at least 30 days prior to expiration.
- G. Expiration of permit.** Upon the expiration of any temporary use permit, the location of the use must be returned to its condition prior to the issuance of the permit by the Town.

16.03.150. – 16.03.XXX Reserved.