

**ORDINANCE NO. \_\_\_\_\_ - 19**

**Series of 2019**

**AN ORDINANCE REPEALING AND RE-ENACTING WITH AMENDMENTS ARTICLES I AND II OF CHAPTER 16 OF THE DILLON MUNICIPAL CODE**

**WHEREAS,** [To be added prior to Town Council Review]

**NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DILLON, COLORADO:**

**Section 1.** Article I of Chapter 16 of the Dillon Municipal Code is hereby repealed and reenacted in its entirety, to read as follows:

**ARTICLE I**

**GENERAL PROVISIONS**

Division 1 – General.

Sec. 16-1-10. – Title.

Sec. 16-1-20. – Purpose.

Sec. 16-1-30. – Authority; severability.

Sec. 16-1-40. – Jurisdiction.

Sec. 16-1-50. – Applicability.

Sec. 16-1-60. – Conflict.

Sec. 16-1-70. – Annexed Territory.

Sec. 16-1-80. – Relationship to Comprehensive Plan.

Sec. 16-1-90. – Computation of Time.

Sec. 16-1-100. – Nature of Proceedings.

Sec. 16-1-110. – General Rules of Interpretation.

Sec. 16-1-120. – Administrative Provisions.

Sec. 16-1-130. – Appeals of Administrative Interpretations.

Division 2 – Definitions.

Sec. 16-1-200. – Definitions.

Division 3 – Map and Text Amendments.

Sec. 16-1-300. – Amendments.

**Division 1 – General.**

**Sec. 16-1-10. - Title.**

This Chapter is entitled, and may be cited as, the Dillon Land Development Code.

**Sec. 16-1-20. - Purpose.**

The purpose of this Chapter is to ensure that future growth and development which occurs in the Town is in accordance with the wishes of the residents thereof; to identify and secure, for present and future residents, the beneficial impacts of growth; to identify and avoid the negative impacts of growth; to ensure that future growth is of the proper type, design and location and served by a proper range of public services and facilities; and in other respects, to achieve the goals and implement the policies of the Comprehensive Plan, as amended from time to time.

**Sec. 16-1-30. - Authority; severability.**

This Chapter is adopted pursuant to the authority granted by the applicable provisions of the Charter and the Constitution and laws of the State. A determination by a court that any section or part of this Chapter is illegal or unconstitutional shall have no effect on the enforcement of any other section or part. Repeal or invalidation of this Chapter or any portion hereof does not abrogate or annul any permit, any other lawful permit or any easement or covenant hereto.

**Sec. 16-1-40. -Jurisdiction.**

This Chapter shall apply to all land, buildings, structures, and uses thereof located within the corporate boundaries of the Town, unless an exemption is provided by or pursuant to the terms of this Chapter.

**Section 16-1-50. -Applicability.**

No building or structure shall be erected and no existing building or structure shall be moved, altered, or extended, nor shall any land, building, or structure be used, designed to be used, or intended to be used for any purpose or in any manner other than as provided for in this Chapter for the zoning district in which such land, building, or structure is located and with other applicable regulations of the Town.

**Section 16-1-60. -Conflict.**

a. Public provisions: This Chapter is not intended to interfere with, abrogate or annul any other ordinance, rule, or regulation, statute or other provision of law. Where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule, or regulation or other provision of law, the more restrictive or the higher standards shall control.

b. Private provisions: This Chapter is not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of this Chapter are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of this Chapter shall govern.

**16-1-70. -Annexed Territory.**

When any territory is brought into the jurisdiction of the Town, by annexation or otherwise, the Town Council shall designate the zoning district(s) applicable to such territory at the time of annexation. This provision shall not preclude subsequent rezoning of such property by amendment.

**16-1-80. -Relationship to Comprehensive Plan.**

a. The Town Council intends for this Chapter to implement the planning policies in the Comprehensive Plan, other land use plans and planning documents. While the Town Council reaffirms its commitment that this Chapter be in conformity with the Comprehensive Plan and adopted planning policies, the Council hereby expresses its intent that neither this Chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan or any other planning document.

b. Pursuant to Charter § 14-9, no land development by any private or governmental entity which, in the judgment of the Council, will significantly affect the Town, and no subdivision of land, zoning change or annexation shall be approved without considering the effect of such approval on the Comprehensive Plan. The Town Council hereby declares that only map and text amendments and Level IV developments significantly affect the Town, and thus only approvals of map and text amendments and Level IV development applications shall require a finding by the Town Council of the effect of the approval on the Comprehensive Plan.

**16-1-90. -Computation of Time.**

Number of days expressed in this Chapter shall be computed pursuant to Section 1-2-20 of this Code.

**Sec. 16-1-100. -Nature of proceedings.**

All matters relating to the development of property within the corporate boundaries of the Town shall be deemed quasi-judicial in nature except proceedings pursuant to Division 3 of this Article I, which shall be deemed legislative in character and not quasi-judicial.

**Sec. 16-1-110. - General rules of interpretation.**

When used in this Chapter, certain words shall be interpreted as follows:

- a. the masculine includes the feminine and the neuter genders;
- b. words in the present tense include the future tense;
- c. words in the singular number include the plural number;
- d. the word *shall* is mandatory; and
- e. the word *may* is permissive.

**16-1-120. –Administrative interpretations.**

a. Subject to subsection (b) and the appeals process set forth in Section 16-1-130, the Town Manager shall have final authority to interpret terms, words and phrases, or determine the applicability of, the provisions of this Chapter in each of the following cases:

1. Where any provision is ambiguous or open to multiple interpretations;

2. Where two or more conflicting provisions purport to apply to a specific case; and

3. Where terms, words, and phrases are (i) ambiguous or open to multiple interpretations and (ii) are not otherwise defined in this Chapter.

b. The Town Manager interpretation shall be consistent with (i) the intent of this Chapter and (ii) with the intent of the subject zone district.

**Sec. 16-1-130. –Appeal of administrative interpretation.**

An appeal of any administrative interpretation authorized by this Chapter may be submitted to the Planning Commission in writing, and shall be reviewed by the Commission in a public hearing. The Commission shall defer to the administrative interpretation unless the applicant proves that such interpretation is (i) not in compliance with section 16-1-120(b) or (ii) arbitrary and capricious. All decisions of the Planning Commission on appeal of an administrative interpretation shall be final, and the applicant shall have no further right of appeal.

**Division 2 – Definitions.**

**Sec. 16-1-200. - Definitions.**

As used in this Chapter, the following words shall have the following meanings unless otherwise provided:

*Accessory apartment* means a residential unit located within a single-family dwelling, or within the garage of a single-family dwelling, which is secondary in size and use to the single-family dwelling, and meets the following criteria:

1. The total dwelling area of the unit is no greater than one-third (1/3) of the total dwelling area of the primary single-family unit.

2. The total dwelling area of the unit is no greater in size than nine hundred (900) square feet.

3. Units shall only be utilized for long-term rental purposes, and deed restrictions or covenants shall be recorded indicating the allowed use.

Accessory apartments that meet the criteria will be considered as a component of the single-family unit, while those that do not will be considered as duplex units.

*Accessory Structure* means a detached subordinate building located on the same lot as the principal building, the use of which is incidental to the principal building or use of the lot; such building shall not be used for living or sleeping quarters in a residential district and shall not contain plumbing capable of facilitating a bathroom or a kitchen, with the exception of detached accessory apartments.

*ADA* means the Americans with Disabilities Act, as may be amended from time to time.

*Addition* means an extension or increase in floor area or height of a building or structure.

*Adult entertainment* means an establishment which contains any exhibition, display or dance which involves the exposure to view of any portion of the female breast below the top of the areola, male genitals, female genitals or the pubic hair, anus or cleft of the buttocks of any person or male genitals in a discernibly turgid state even if completely and opaquely covered.

*Alteration* means any change, addition or modification in construction or occupancy.

*Antenna* shall have the meaning assigned to it in Section 16-12-20.

*Applicant* means the owner of record of the property which is the subject of an application, or the duly authorized agent of the owner or the successors in interest. In the absence of the owner of record or a duly authorized agent, the actual occupants of the development, if any, will be assumed to be acting jointly and severally as the *applicant* for the purposes of this Chapter.

*Artisan's studio* means the combination of a residence and an artisan's workshop which conforms to the off-street parking requirements for a residential use as contained in this Chapter.

*Artisan's workshop* means an establishment for the preparation, display and sale of individually handcrafted artwork, including jewelry, furniture, sculpture, pottery, paintings, drawings, photography, leather craft, musical instruments, hand-woven articles and related arts or crafts items.

*Automobile service* means an activity that includes the dispensing of petroleum products and the service, cleaning or repair of motor vehicles within a fully enclosed building. *Automobile service* shall require that all vehicles left for repair and all exterior storage areas be fully screened from all adjacent properties, including public rights-of-ways. *Automobile service* does not include the servicing of vehicles or trucks having more than two (2) axles, or greater in length than twenty-two (22) feet, nor does it include the display of vehicles or trailers for sale or rental, nor the storage of towing vehicles or wrecked vehicles in any manner.

*Bed and breakfast* means a facility of residential character which provides sleeping accommodations for hire, for thirty (30) days or less, on a day-to-day basis, with one (1) or more meals per day included, and a manager who is either an owner or lessee of the property residing on the premises.

*Brewpub* means a restaurant establishment which has an attached brewing operation, which brewing operation occupies less than ten thousand (10,000) square feet of gross floor area. The attached brewing operation processes water, malt, hops and yeast into beer or ale by mashing, cooking and fermenting. The attached brewing operation sells fermented malt beverages through wholesale and for consumption on premises within the restaurant.

*Building height* means the height of a building as measured from the highest point of the building vertically, to an elevation that represents the median elevation of the site, within the proposed building footprint, prior to construction. A sunken area within the building footprint that does not exceed fifty percent (50%) of the square footage of the building footprint shall not be utilized to determine building height. Where a sunken area equal to less than fifty percent (50%) of the building footprint exists, the Town shall determine building height utilizing an elevation that represents the elevation of the site if the sunken area did not exist. For the purposes of determining building height, chimneys, mechanical equipment, nonhabitable architectural elements and roof vents shall be allowed to exceed the allowed building height by eight (8) feet. The median elevation shall be determined by adding the site elevation of the building footprint at the lowest point of the foundation, with that at the highest point of the foundation, and

dividing by two (2). That point shall be used as the base elevation from which to determine the allowed building height for the proposed project.

*Change of use* means to modify the utilization of a parcel or structure from its historic or current use to a new and/or different use.

*Charter* means the Town of Dillon Home Rule Charter, as may be amended from time to time.

*Child care center* means a facility other than a school which is maintained for the care of four (4) or more children under the age of sixteen (16) not related to the owner, operator or manager thereof.

*Child care facility* means a commercial establishment for daily care or instruction of children.

*Church* means any institution that people regularly attend to participate in or hold religious services, meetings and other activities. The term *church* shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

*Classification* means a particular class that a development is placed in for review under the provisions of this Chapter. In those instances where a development does not fall under one (1) of the four (4) classifications, the Town Manager shall place the application in its most appropriate classification.

*Clinic* means an establishment operated and conducted by one (1) or more doctors, dentists or veterinarians.

*Commercial structure* means a building or structure designed for retail and/or small-scale wholesale trade. The term encompasses, but is not limited to, stores, markets, shopping centers, stalls, arcades, and shops.

*Commercial vehicle* means a vehicle used for the transportation of persons or freight, licensed or defined as a commercial vehicle by the code of the State, including trucks with a gross vehicle weight of five thousand (5,000) kg or greater or a bus with seating capacity greater than nine (9) persons.

*Commission or Planning Commission* means the Planning and Zoning Commission of the Town of Dillon.

*Comprehensive Plan* means the overall long-range plan for the future development of the Town which includes goals and policies, future land use, transportation and community facilities plans, as might be adopted and amended



from time to time by the Town and in compliance with the Charter and C.R.S. 31-23-206, as amended. The *Comprehensive Plan* may also be called the Dillon Comprehensive Plan or the Dillon Master Plan.

*Concept plan* means an informal site plan and narrative defining a proposed project designed for review by the Town Manager and/or the Development Review Committee or to be used as an initial review vessel for large projects.

*Conditional use* means an activity, development or use generally similar to other uses permitted within a zoning district, which because of the manner in which the proposed use could be developed, may not be appropriate; a) in all situations, or b) without the imposition of special conditions required to ensure compatibility with existing and potential land uses within the vicinity.

*Condominium* means a multi-unit structure in which units may be individually owned by the sale of the air space contained within the unit and a divided interest in the common elements.

*Correction or adjustment* means a proposed change to an approved development permit that a) qualifies as neither a major nor minor change, and b) is to correct a clerical or scrivener's error, to make a technical change, or to make a de minimis adjustment.

*Consent calendar* means a document presented to the Town Council by the Town Manager listing decisions made by the Commission.

*Council or Town Council* means the Town of Dillon, Colorado, Town Council, including the Mayor, unless otherwise provided.

*Development* means any activity:

- a. Enumerated in Section 16-2-30;
- b. Requiring a grading or building permit;
- c. Involving a change in the use or intensity of use on the land or improvements thereon, or the enlargement, reconstruction or renovation of improvements; or
- d. Involving the demolition of improvements.

*Development agreement* means a legal document executed between the developer and the Town, subsequent to application approval and development

permit issuance, but prior to issuance of a building permit for the development, obligating the developer to construct public improvements within and adjacent to the proposed development related to or necessitated by the impacts of the development. A development agreement is not a building permit.

*Development permit* means a permit issued by the Town after approval of a development indicating approval and any conditions that may be required as a component of the approval.

*Development Review Committee* means a committee consisting of the Town Manager, the Town Engineer, the Town Public Works Director, the Town Planner and any referral agency members the Town Manager deems appropriate to participate.

*Dormitory* means a structure in which individual sleeping spaces are rented to individual tenants on a short-term basis with necessary support facilities (bathroom, kitchen, etc.) being provided in common.

*Drive-in or drive-through facility* means any use which conducts a portion of its business with persons remaining in their automobiles.

*Duplex* means a residential structure not meeting the definition of an *accessory apartment* and containing two (2) attached dwelling units, which may be located on one (1) parcel of land or two (2) parcels of land.

*DURA* means the Town of Dillon Urban Renewal Authority.

*Dwelling unit* means any structure or part thereof designed to be occupied as living quarters for any period of time.

*Earth-disturbing activity* means the mechanical removal of rock, natural soil, fill and/or any combination thereof; placement or stockpiling of fill; or clearing of trees and vegetation for the purpose of constructing roads, site improvements or structures.

*Entertainment use* means a use which is intended to provide for the entertainment and/or recreation of people such as indoor or outdoor recreational facilities, cultural facilities such as museums, or activities such as bowling alleys, game parlors or theaters.

*Family* means any number of people living and cooking together within a dwelling unit as a single independent housekeeping unit, but shall not include a group of more than five (5) individuals not related by blood, marriage or adoption or pursuant to legal guardianship.

*Floor area* means the area included within the surrounding exterior walls (excluding the exterior wall itself) of a building or portion thereof, exclusive of vent shafts and courts, and including all areas of the building designed as living area that have a floor-to-ceiling height of seven (7) feet or more. For projects where the floor area of a building or portion thereof is not normally provided within surrounding walls, the floor area shall be the usable area under the vertical portions of the roof (warehouses, lumber storage, etc.).

*Fully screened* means screening through the use of fencing, building elements or landscaping that provides an opaque screen to a minimum of six (6) feet in height adequate to block the view of a particular use or structure from adjacent properties and public rights-of-way.

*Grading permit* means a permit required pursuant to Chapter 11, Article III, of this Code.

*Gross dwelling area* means the floor area included within the surrounding exterior walls (including the exterior wall itself) of a building or portion thereof, utilized as a dwelling area of the building, including closets, bathrooms, living rooms, etc., excluding those areas of the building that are not designed as living area, have a floor-to-ceiling height of less than seven (7) feet, and have no windows.

*Group home* means a residential facility which provides shelter, supervision, care and/or rehabilitation for three (3) or more individuals. This may include, but is not limited to, nursing homes, rest homes and orphanages, as well as family care facilities.

*Home occupation* means an incidental use of a dwelling unit for gainful employment of one (1) or more of the residents living in the dwelling unit.

*Hotel/motel* means an establishment that provides temporary lodging in guest rooms and in which meals, entertainment and various personal services for the public may or may not be provided.

*Hotel/motel suite* means an establishment similar in nature to a hotel or motel with the exception that more than twenty-five percent (25%) of the units are suites, which means they provide a separate bedroom from the main unit.

*Industrial use or structure* means a use or structure used for storage, processing and/or shipping of agricultural or timber products; mineral extraction; and production, fabrication, assembly, auto body repair shops or storage of products.

*Land owner* means any owner of a legal or equitable interest in real property, including heirs, successors and assigns of such ownership interest.

*Landscaping* means any combination of materials such as trees, shrubs, vines, ground cover, flowers or turf, and may include natural features such as fountains, reflective pools, art work, screen walls, fences, street furniture, decks and ornamental concrete or stone work.

*Landscaping maintenance* includes the regular irrigation, weeding, fertilization, mowing, trash cleanup and pruning of all landscaping; the treatment or repair of all diseased, insect-ridden, broken or vandalized landscaping; and the replacement of dead or irreparable landscaping with substantially similar materials.

*Licensed engineer* means an engineer licensed to practice in the State.

*Lot* means a single parcel of land, all boundaries of which are shown and described on a map of record, and the location of which is referenced on such map of record to at least one (1) permanent monument.

*Lot (land) area* means the square footage of land contained within a lot or parcel, exclusive of any public rights-of-ways or other parcels dedicated to or owned by a public entity.

*Lot line, front* means the property line dividing a lot from a street right-of-way or private access.

*Lot line, rear* means the property line parallel and opposite to the front lot line; where no property line exists parallel to the front lot line, a line parallel to the front lot line which bisects the boundary of a lot and has a minimum length of ten (10) feet shall constitute the rear lot line.

*Lot line, side* means any property line of a lot other than a front or rear lot line.

*Lot line, street side* means a side lot line, that abuts a public street right-of-way.

*Major Change* means a proposed change to an approved development permit that results in any one or more of the following:

a. A change the general character of the development or the proposed density;

- b. A change the boundaries of the permitted development;
- c. A change in any use, such as residential to commercial;
- d. A significant change to the location or amount of land devoted to a specific land use; or
- e. A relaxing of dimensional standards or other specific requirements established by the Planning Commission or Town Council as a condition of approval.

*Marina* means a facility used for the purpose of boating, including but not limited to docks, storage, offices, restaurants and retail shops.

*Mass model* means a scale model of the proposed building, or development, indicating the general design of the building, including building heights, building dimensions, wall and roof planes, and general architectural character.

*Massage parlor* means an establishment or place primarily in the business of providing massage services, but not licensed pursuant to the Colorado Massage Parlor Code (Article 48.5 of Title 12, C.R.S.).

*Minor change* means a proposed change to an approved development permit that does not qualify as a *correction or adjustment* and does not:

- a. Change the general character of the development or the proposed density;
- b. Change the boundaries of the permitted development;
- c. Change any use, such as residential to commercial;
- d. Significantly change the location or amount of land devoted to a specific land use; or
- e. Relax dimensional standards or other specific requirements established by the Planning Commission or Town Council as a condition of approval.

*Mixed use* means a development which incorporates any combination of commercial, residential or industrial uses within a building or project.

*Modification* means any change in the scope, character or nature of plans, specifications, etc., of any development which has been reviewed and adopted by the Town.

*Multi-family dwelling, structure or complex* means a residential structure or group of structures containing three (3) or more attached dwelling units.

*Nonconforming building* means an existing building that does not conform to the location or bulk requirements of this Chapter for the district in which such nonconforming building is located, either at the effective date of the initial ordinance codified herein or as a result of subsequent amendments which may be incorporated into this Chapter.

*Nonconforming use* means any legally existing use, whether within a building or other structure, or on a tract of land which does not conform to the use regulations of this Chapter for the district in which such nonconforming use is located, either at the effective date of the initial ordinance codified herein or as a result of subsequent amendments which may be incorporated into this Chapter.

*Office* means a room, studio, suite or building in which a person transacts his or her business or carries on a stated occupation, including but not limited to accounting, correspondence, telephone answering, research, editing, administration or analysis; or the conduct of a business by salesmen, sales representatives or professionals such as engineers, architects, planners, land surveyors, lawyers, real estate brokers, insurance agents, doctors, dentists or the like.

*Open space* means an exterior space located within the physical boundaries of a project which: 1) is usable for recreational purposes; 2) provides for natural or man-made landscaping areas; or 3) provides for the protection of natural resources such as stream channels, steep slopes or other natural areas; or is an outdoor area designated for public or private gathering or enjoyment, as approved by the Town Manager.

*Open space, private* means a usable open space adjoining and directly accessible to a dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests.

*Open space, public* means any owned by the Town and used for recreational use, open space, or green belt area and accessible to the general public.

*Pawnbroker* means a person, partnership, limited liability company, or corporation regularly engaged in the business in a pawnshop of making contracts

for purchase or purchase transactions in the course of business; or lending or advancing money or other things for profit on the pledge and possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness; or, who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price. The term does not include Secondhand Dealers as defined in and regulated by C.R.S. Section 18-13-114 through C.R.S. Section 18-13-118.

*Pawnshop* means any business that loans money on deposit of personal property or deals in the purchase or possession of personal property on condition of selling the same back again to the pledgor or depositor, or loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property. A Pawnshop is an establishment wherein the business of a Pawnbroker is conducted. A Pawnshop shall not be deemed a retail sales establishment except for the purposes of determining off-street parking requirements, water and sewer rates (EQR's), and signage requirements.

*Person* means a natural person or a partnership, joint venture, corporation, association, organization or public agency.

*Personal service establishment* means any building or use wherein the primary occupation is the repair, care of, maintenance or customizing of wearing apparel, articles of adornment or other personal properties that are worn or carried about the person or are a physical component of the person. It may also include financial institutions such as banks. For the purpose of this Chapter, *personal service establishments* shall include, but not be limited to barber shops, beauty parlors, pet grooming establishments, laundering, cleaning and other garment service businesses, shoe cleaning or repair shops, but not including offices of physicians, dentists or veterinarians.

*Planned unit development* means a development by a single owner or a group of owners acting jointly, involving a related group of residences or businesses and associated uses, planned as a single entity and therefore susceptible to development and regulation as one (1) complex land use unit rather than as a mere aggregation of individual buildings located on separate lots.

*Public hearing* means a public hearing before either the Planning Commission or the Town Council which allows for public participation, and which is noticed as required in this Chapter.

*Public parlor* means any area set aside by the Town for recreational use, open space or green belt areas, excluding officially designated trail corridors.

*Recreational use* means a structure or area designated and/or developed for human enjoyment, interaction, diversion or amenity. This includes, but shall not be limited to parks; playgrounds; play fields; and areas or structures associated with skiing, sledding, picnicking, equestrian activities, hiking, sightseeing, fishing, boating, swimming and other active recreational endeavors.

*Referral agencies* means those public or private agencies whose official responsibility or scope of concern is affected by a particular development proposal, which may include such entities as the staff and administration of the Town, the County, the State, the United States, utility companies, special districts, Summit Historical Society, citizens associations and other similar associations.

*Repair* means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

*Remodel* means work to improve upon or transform the existing design and layout of a unit or multiple units of a structure, without an addition.

*Residential use* refers to the use of a structure as living quarters. The following constitute various types of residential uses within the Town:

- a. Accessory apartments.
- b. Bed and breakfasts.
- c. Condominiums.
- d. Dormitories.
- e. Duplexes.
- f. Multi-family dwelling units.
- g. Single-family dwelling units.
- h. Time-shared (interval ownership) units.
- i. Townhouses.

*Residential zoning district* means those zoning districts defined as Residential Estate Zone (RE), Residential Low Density Zone (RL), Residential Medium Density Zone (RM) and Residential High Density Zone (RH) in Article III of this Chapter and in accordance with the Town Zoning Map.



*Restaurant, outdoor seating* means an outdoor seating area provided in conjunction with a restaurant or eating establishment. Any portion of a seating area that is covered, either in whole or in part, by any permanent structure, other than the restaurant's roof overhang not exceeding two (2) feet in width, shall not be considered outdoor seating for the purposes of this Chapter, but shall be considered as part of the restaurant itself.

*Retail marijuana stores* has the same meaning as in the Colorado Retail Marijuana Code.

*Retail store* means any building or use wherein the primary occupation is the sale of merchandise for use or consumption by the immediate purchaser. This shall include the rental of small appliances and equipment, but does not include a vehicle rental establishment.

*School* means a facility that provides a curriculum of elementary or secondary academic instruction, including kindergartens, elementary schools, middle schools, junior high schools and high schools.

*Shed* means an *accessory structure* used for used as a storage space, a shelter for animals, or a workshop.

*Short-term rental* shall have the meaning assigned to it in Section 6-11-20 of this Code.

*Single-family dwelling units* means a residential structure containing one (1) single, detached dwelling unit on one (1) parcel of land.

*Site specific development plan* means a Level II, III, or IV development plan which has been approved or conditionally approved by the Town Council, Planning Commission or Development Review Committee, depending upon which body has authorization.

*Site work* means the disruption of any parcel of land for activities such as landscaping, grubbing, grading or utility work.

*Solar Panel* means a panel designed to absorb the sun's rays as a source of energy for generating electricity or heating.

*Street* means a strip of land intended for vehicular use and providing the principal means of access to a property.

*Structure* means anything constructed or erected, which requires a fixed location on the ground or attachment to something else having a fixed location on the ground.

*Structural modification* means construction work done to modify an existing structure that involves the repair, modification, removal or addition of one or more load bearing elements of the structure. A load bearing element is typically a wall, post or foundation that supports a structural load.

*Summer seasonal parking lot* means an off-street parking facility which is limited to use as a parking facility for vehicles from April 1 through November 30 of each year. A summer seasonal parking lot may be used for snow storage and trailer and boat storage as approved by the Town Manager.

*Telecommunication tower* has the meaning assigned to “tower” in Section 16-12-20.

*Temporary construction trailer* means a trailer placed on a construction site during the construction of a permanent project.

*Temporary structure* means a structure other than a vendor cart or construction trailer that is not intended as a permanent structure and does not provide a permanent foundation and underground utilities.

*Tenant finish* means a remodel of an existing structure, without an addition, to accommodate a new business or tenant.

*Time-shared (interval ownership) unit* means a residential unit which is owned by more than one (1) person with the ownership interest divided by specific periods of time.

*Town Center* means the area zoned as Core Area Retail (CA) Zone and is synonymous with "Town Core."

*Townhouse* means a multi-family structure in which individual units are owned by separate persons, including an undivided fee simple ownership in the land upon which the unit sits.

*Town Manager* means the Town Manager of the Town or the Town Manager's designee.

*Use* means the physical improvements, human activity and efforts thereof on a site or parcel of land.

*Vacant or undeveloped lot* means a lot which contains no permitted or conditional use or structure as allowed within a specific zoning district. The development of an accessory structure or use on a lot (such as a driveway or garage), independent of or prior to the development of a permitted or conditional use, does not constitute development for the purposes of this definition, and such lot shall still be considered to be vacant or undeveloped.

*Variance* means a departure from the requirements of this Chapter relating to the coverage, setback, height, lot size or other development standards and regulations of the applicable zoning district, but not involving the actual use.

*Vehicle* means any device by which people or property is transported upon a roadway, such as automobiles, motorcycles, trucks, trailers, recreational vehicles, boats and other heavy rolling stock.

*Vehicle rental establishment* means any use of property primarily for the rental of vehicles such as automobiles, motorcycles, trucks, trailers, recreational vehicles, boats and other heavy rolling stock, and wherein vehicles are stored.

*Wholesale trade class 1* shall be limited to brewpubs, artisan's workshops, artisan's studios and those wholesale trade establishments which manufacture, repair or assemble apparel, furniture, home furnishings, skis, snowboards, kayaks, canoes, sails, tents, backpacks, sleeping bags and other nonmotorized recreational equipment for indoor or outdoor use. This class shall also include wholesale trade establishments which produce ingestible items, such as food, beverages and alcoholic beverages. Allowable uses as production of ingestible items would include bakeries, confectioners and catering.

*Wholesale trade class 2* shall include all wholesale trade establishments that are not specifically identified under wholesale trade class 1.

*Wholesale trade establishment* means any building wherein the primary occupation is the sale of merchandise for resale.

*Wood-burning appliance* means any appliance, including fireplaces, wood stoves, wood furnaces, etc., that utilizes the burning of wood for heating, cooking or other similar purposes.

*Yard* means an open space on a lot, unoccupied by any structure, and located on the same lot with the building or use which it serves.

*Yard, front* means a yard extending between the side lot lines across the full width of the lot and lying between the front lot line and any portion of any structure on the lot. In those instances where a lot abuts two (2) streets, such as a

corner lot or a double frontage lot, the Town Manager shall designate which yard constitutes the front yard based on the existing development patterns within the neighborhood.

*Yard, interior side* means a yard extending between the front and rear lot lines along the full width of the lot and lying between the rear lot line and any portion of any structure on the lot.

*Yard, rear* means a yard extending between the side lot lines across the full width of the lot and lying between the rear lot line and any portion of any structure on the lot.

*Yard, street side* means a yard extending between the front and rear lot lines along the full length of the lot and lying between the side lot line that abuts a public way and any portion of any structure on the lot.

### **Division 3 – Text and Map Amendments.**

#### **Sec. 16-1-300. - Amendments.**

a. Procedure. Amendments to this Chapter shall be in accordance with the Charter, state law and all other applicable Town ordinances and shall require the following action:

1. Study and recommendation concerning the proposed amendment by the Planning Commission following a public hearing.

2. Completion of a public hearing before the Town Council after at least fifteen (15) days' notice of the time and place of such hearing shall have been given by at least one (1) publication in a newspaper of general circulation within the Town.

b. Text changes. The Town may from time to time initiate or hear requests to amend the text of this Chapter, subject to the above procedures. The applicant shall be charged a fee to cover the costs of advertising and processing the amendment.

c. Map changes. For proposed amendments to the zoning district map of the Town, the Town Clerk shall send a written notice of said hearing at least fifteen (15) days prior to the hearing date to the property owners within the area requesting rezoning and to the owners of property adjacent to the area proposed for rezoning. The applicant shall be responsible for submitting correct names and addresses of these owners of record. Failure to mail such notice to every property owner due to clerical omissions shall not affect the validity of any hearing or

determination of the Town Council. The applicant will be charged a fee to cover the costs of advertising and processing the zone change request.

d. Burden of proof. The burden of proof shall be on the applicant to prove that the application for map or text amendment meets the evaluation criteria set forth in subsection (e). The applicant's burden is heightened when the request would result in a substantial departure from present land use patterns.

e. Applications for text and map amendments shall be granted only if the following criteria, to the extent applicable, have been met:

1. Granting the request is in the public interest.

2. The public interest is best served by granting the application at the time of the hearing.

3. The proposed action substantially accords with the applicable goals and policies of the Comprehensive Plan or other applicable, duly-adopted goals and policies of the Planning Commission and Town Council.

4. There has been a change in the neighborhood or community or a mistake in the planning or zoning of the land, such that it would be inconsistent with the applicable goals and policies of the Comprehensive Plan or other applicable, duly-adopted goals and policies of the Planning Commission and Town Council to develop the property as presently zoned or in accordance with existing zoning regulations.

f. Compliance. The Town Council may attach conditions to any amendment if such conditions are found necessary to insure compliance with the intent and purpose of this Chapter.

g. Pursuant to Charter § 14-9, no zoning change shall be approved without considering the effect of such approval on the Comprehensive Plan.

**Section 2.** Article II of Chapter 16 of the Dillon Municipal Code is hereby repealed and reenacted in its entirety, to read as follows:

## **ARTICLE II**

### **ZONING APPLICATION REVIEW PROCEDURES**

Division 1 – Permit Application.

- Sec. 16-2-10. – Permits Required.
- Sec. 16-2-20. – Approval Criteria.
- Sec. 16-2-30. – Development Level Classification.
- Sec. 16-2-40. – Development Application Submittal.
- Sec. 16-2-50. – Authority to File Applications.
- Sec. 16-2-60. – Proof of Ownership.
- Sec. 16-2-70. – Form of Application.
- Sec. 16-2-80. – Consolidated Development Applications and Review.
- Sec. 16-2-90. – Level I Specific Application Requirements.
- Sec. 16-2-100. – Level II, III and IV Specific Application Requirements.
- Sec. 16-2-110. – Additional Information.
- Sec. 16-2-120. – Application Fee.
- Sec. 16-2-130. – Costs and Funds Deposit Agreement.
- Sec. 16-2-140. – Inactive Files.

Division 2 – Completeness Review.

- Sec. 16-2-150. – Determination of Application Completeness.
- Sec. 16-2-160. – Referral and Review.

Division 3 – Substantive Review of Level I Applications.

- Sec. 16-2-170. – Procedure.
- Sec. 16-2-180. – Approval Criteria.
- Sec. 16-2-190. – Appeal.

Division 4 – Substantive Review of Level II Applications.

- Sec. 16-2-200. – Procedure and Review Criteria.
- Sec. 16-2-210. – Appeal.

Division 5 – Substantive Review of Level III Applications.

- Sec. 16-2-220. – Substantive Review Procedures.
- Sec. 16-2-230. – Approval Criteria.
- Sec. 16-2-240. – Appeal.

Division 6 – Substantive Review of Level IV Applications.

- Sec. 16-2-250. – Substantive Review Procedures.
- Sec. 16-2-260. – Review and Recommendation by Planning Commission.
- Sec. 16-2-270. – Review and Action by Town Council.
- Sec. 16-2-280. – Approval Criteria.
- Sec. 16-2-290. – Appeal.

Division 7 – Public Hearing Notice Requirements.

- Sec. 16-2-300. – Required Notice.
- Sec. 16-2-310. – Contents of Notices.

Sec. 16-2-320. – Defects.

Division 8 – Public Hearing Process.

Sec. 16-2-330. – Applicability.

Sec. 16-2-340. – Burden of Proof.

Sec. 16-2-350. – Hearing Record.

Division 9 – Appeals.

Sec. 16-2-360. – Appeals.

Sec. 16-2-370. – Application for Appeal; Fee.

Sec. 16-2-380. – Reviewer on Appeal.

Sec. 16-2-390.- Decisions on Appeal Made to Applicant in Writing; Final.

Division 10 – Conditions of Approval.

Sec. 16-2-400. – Conditions.

Division 11 – Permit Issuance, Duration and Revocation.

Sec. 16-2-410. – Permit Issuance.

Sec. 16-2-420. – Relation to Other Code Provisions.

Sec. 16-2-430. – Other Permits.

Sec. 16-2-440. – Duration of Development Permits.

Sec. 16-2-450. – Revocation of Permits.

Division 12 – Development Agreement.

Sec. 16-2-460. – Development Agreement.

Division 13 – Changes to Approved Development Permits.

Sec. 16-2-470. – Form of Proposals.

Sec. 16-2-480. – Review of Corrections or Adjustments.

Sec. 16-2-490. – Proposed Changes to Approved Level I or II  
Development Permits.

Sec. 16-2-500. – Proposed Changes to Level III Development Permits.

Sec. 16-2-510. – Proposed Changes to Level IV Development Permits.

**Division 1 – Permit Application.**

**Sec. 16-2-10. - Permits required.**

It is unlawful for any person to undertake, conduct or use, or cause to be undertaken, conducted or used, any development without having first complied with the provisions of this Chapter and having obtained approval and a development permit from the Town.

**Sec. 16-2-20. -Preapplication Conference.**

a. Unless waived in writing by the Town Manager, the applicant shall meet with the Town Planner prior to submission of a development application. The Town Planner may invite pertinent staff and outside reviewing agencies to attend the preapplication conference.

b. The purpose of this conference is to acquaint the Town with the applicant's intentions and to acquaint the applicant with the substantive and procedural requirements of this Chapter and other applicable standards and requirements.

c. The applicant shall be prepared to discuss the proposed application at the preapplication conference. The applicant shall be encouraged to provide a concept plan and/or a drawing of the proposed development, building, topographical maps and other information pertinent to the proposed development. Such drawings and materials should be provided to the Town Planner a minimum of seven (7) days prior to the preapplication conference.

d. Following the preapplication conference, the Town Planner shall classify the request as either a Level I, II, III or IV Development application. Any request not clearly included in one of the classifications set forth in Section 16-2-30 shall be classified by the Town Manager.

**Sec. 16-2-30. –Development Level Classifications.**

a. Level I: The following development types shall be considered Level I developments:

1. Remodel of a residential building containing a single dwelling unit.
2. Home occupations.
3. Tenant finish or remodel of one (1) unit in a commercial, office, and/or industrial structure.
4. Deck for a single family home or duplex.
5. Roof or siding replacement without structural modifications.
6. Hot tub or swimming pool at a single family home or duplex.



7. Fence.
8. Shed or accessory structure with a footprint less than or equal to two hundred (200) square feet.
9. Window or door replacement without structural modifications.
10. Solar panel mounted on roof.

b. Level II: The following development activities shall be considered Level II developments:

1. Shed or accessory structure greater than two hundred (200) square feet in an area zoned residential.
2. Roof or siding replacement with structural modifications.
3. Antennae replacement on an approved telecommunication tower.
4. Addition of one or more antennae(s) to an approved telecommunication tower.
5. Remodels of residential buildings containing greater than one (1) dwelling unit (e.g., remodel of a condominium building).
6. Addition to a residential building.
7. New single-family structure.
8. New duplex.
9. Window or door replacement with structural modifications.
10. Replacement of existing hot tub and/or swimming pool associated with any commercial, office, industrial, or multi-family residential building.
11. Replacement of outdoor patio or deck on commercial, office, industrial, or multi-family residential building.

c. Level III: The following development activities shall be considered Level III developments:

1. New multi-family residential building or condominium.
2. New hotel or motel building.
3. New commercial, office, and/or industrial building.
4. New mixed-use building.
5. New bed and breakfast or boarding houses.
6. Minor PUD amendment.
7. Accessory dwelling unit.
8. Outside patio or deck associated with any commercial, office, industrial, or multi-family residential building.
9. Accessory structure greater than two hundred (200) square feet in a non-residential zoned area.
10. Addition to a commercial, office, and/or industrial building.
11. New hot tub or swimming pool associated with any commercial, office, industrial, or multi-family residential building.
12. Freestanding solar panel.
13. Major change to a Level III development permit.
14. Minor change to an approved Level IV development permit.

d. Level IV: The following development activities shall be considered Level IV developments:

1. PUD.
2. Major PUD amendment.
3. Major change to a Level IV development permit.

4. Multi-family residential uses in the Mixed Use (MU) Zone.
5. Telecommunication tower.

**Sec. 16-2-40. - Development Application Submittal.**

No development permit may be issued by the Town until an application has been submitted utilizing the processes set forth in this Article.

**Sec. 16-2-50. -Authority to File Applications.**

a. Unless otherwise specified in this Chapter, applications for review and approval may be initiated by:

1. Any person or entity meeting the definition of applicant as defined in this Chapter;
2. The Town Council;
3. DURA; or
4. Other entities that have rights provided by law.

b. When an authorized agent files an application under this Chapter on behalf of a property owner, the agent shall provide the Town with written documentation that the owner has duly authorized the filing of the application.

c. Where a development application directly affects the property interests of the occupants of an existing development, the applicant shall provide the Town with written documentation that such affected occupants have duly authorized the filing of the application.

d. When the Town Council or DURA initiates action under this Chapter, it does so without influencing the approval or denial of the application. Notwithstanding any provisions in this Chapter to the contrary, unless exempted from the application of the provisions of this Chapter by utilizing the procedures set forth in state statute, all applications of the Town Council or DURA shall be reviewed by the Planning Commission in accordance with procedures and approval criteria established herein for Level III development applications. Town Council and DURA applications for Planned Unit Developments may be approved by resolution of the Planning Commission and shall not require ordinance approval.

**Sec. 16-2-60. -Proof of Ownership.**

Prior to a determination of completeness in accordance with Division 2 of this Article, or at any time thereafter, the Town Manager may require documentation establishing proof of ownership of the property proposed for development, and showing any encumbrances to title thereto.

**Sec. 16-2-70. -Form of Application.**

Applications and submission materials required under this Chapter shall be submitted in a form and in such a number as required by the Town Manager.

**Sec. 16-2-80. -Consolidated Development Applications and Review.**

Multiple development activities or requests for the same site to be developed may be consolidated into one application for submittal and review depending upon the complexity of the proposal, as may be permitted or required by the Town Manager at the discretion of Town Manager. Consolidated applications shall be reviewed in accordance with the level of review (Level I, II, III, or IV) applicable to the activity or request requiring the highest level of review pursuant to this Chapter.

**Sec. 16-2-90. -Level I Specific Application Requirements.**

Applicants for Level I development permits shall file a short description of the proposal and application materials needed to adequately describe the proposal, including but not limited to floor plans, building elevations, site plans and other similar plans.

**Sec. 16-2-100. -Level II, III and IV Specific Application Requirements.**

Unless waived in writing by the Town Engineer, applications for Level II, III, and IV development permits shall supply the following drawings and materials to the Town. For Level III and IV applications, such drawings and materials shall be provided no later than forty-two (42) calendar days preceding the scheduled Planning Commission hearing. All of the following documents and materials shall be submitted electronically as PDFs or in other electronic formats as approved by the Town Engineer. The Town Manager may also require any required plans and maps to be submitted as hard copies.

a. Site plan map indicating the general site design of the project, including all existing and proposed improvements. The site plan map shall provide adequate detail to evaluate the preliminary landscaping; circulation; parking; snow stacking; location of all buildings and their entrances, uses and heights; walls; fences; loading points; refuse, recycling, and grease containers;

location of all public rights-of-way; accessible routes as required under the ADA; all existing and proposed easements; drainage facilities; finished grade elevations; dimension lines where appropriate; direction of storm water runoff flows; and any other items related to the project as directed by the Town Manager. The site plan map shall include dimensions at an identified scale, and shall depict the property corners and all permanent survey monuments.

b. Existing features map depicting the existing topography of the site at one (1) foot intervals, significant natural features and vegetation, names of adjacent subdivisions and the footprint of any existing structures or improvements located on the site.

c. Floor plans.

d. Building elevations at an identified scale indicating the general architectural character of the building with heights referenced to USGS datum.

e. A general description or sampling of the building materials proposed for the development.

f. A vicinity map, which may be included on the overall site plan.

g. An application on a form provided by the Town, signed by the property owner or agent having power of attorney.

h. Proof of ownership in the form of a copy of the property deed and copy of title commitment dated within 30 days of submitting the application to the Town; provided, however, that, such form of proof of ownership is not required for Level II applications.

i. A list of property owners whose property lies within three hundred (300) feet of the subject property and their last known address as shown on the most current County Assessor's records and addressed and stamped (with first-class mail) envelopes for each property owner on the list; provided, however, that, such list is not required for Level II applications, except on appeal of a decision of the Development Review Committee to the Planning Commission.

j. Completed Certification of Notice to Mineral Estate Holders in accordance with Section 24-65.5-103, C.R.S., on forms provided by the Town; provided, however, that, such certification is not required for Level II applications.

**Sec. 16-2-110. -Additional Information.**

Additional application-specific information may be required by the Town Manager, Public Works Director, Planning Commission and/or Town Council, as necessary and appropriate to evaluate fully whether an application complies with the requirements of this Chapter.

**16-2-120. –Application Fee.**

Application fees are hereby established for the purpose of recovering the costs incurred by the Town for internal staff time in processing and reviewing development applications and related documents and materials, in noticing required public hearings, and in recording approved applications and other documents. Such fees shall be set by resolution or ordinance of the Town Council. The application fee shall be paid by the applicant prior to or simultaneously with the filing of the application with the Town.

**Sec. 16-2-130. -Cost and Funds Deposit Agreement.**

a. At the time of submittal of any development application, or at such earlier time as the Town begins to incur consultant review fees related to the proposed project, an applicant for a Level II, III, or IV development permit shall enter into a cost and funds deposit agreement with the Town to pay all costs actually incurred by the Town in review of the development proposal prior to application, the application, application documents and materials, and required agreements, unless such requirement has been waived in writing by the Town Manager. Such costs shall include, but not be limited to, attorneys' fees, review fees from consultants acting as staff, recording fees, and other fees from review, but shall not include costs incurred by the Town for internal staff review. Such cost and funds deposit agreement shall be accompanied by a deposit paid by the applicant, which shall be based on the estimated costs of review fees applicable to the project. Such estimated costs shall be set forth in an exhibit to the cost and funds deposit agreement. The estimated cost exhibit shall be reviewed annually and estimated costs shall be adjusted, if necessary, by the Town Manager on the basis of actual expenses incurred by the Town to reflect the effects of inflation and other changes in costs.

b. Depleted Funds. If deposited funds are depleted prior to completion of review of the application, application documents and materials, and any required agreements, the applicant shall promptly deposit additional monies with the Town in a mutually agreeable amount. If such additional monies are not deposited when necessary, application review, including but not limited to the scheduling of public hearings, will be suspended until such time as the additional monies are deposited. Additionally, if a negative balance exists at any time and additional funds are not deposited within fifteen (15) days after written notice from the Town, then a five percent (5%) penalty shall be added to such balance

and such balance shall bear interest at the rate of one and one-half percent (1.5%) per month.

c. Refund. The Town shall refund any monies deposited by the applicant pursuant to a cost and funds deposit agreement and remaining after payment of the actual costs incurred by the Town.

d. Outstanding Fees and Costs. No new applications shall be accepted by the Town from an applicant until all previous fees and costs associated with that applicant are paid in full.

**Sec. 16-2-140. -Inactive Files.**

If an applicant fails to submit required information for a period of more than six (6) months from the initial request, the application shall become void and the resubmittal of a new application and deposit shall be required. The Town Manager may grant no more than two (2) extensions of time to this provision, of no more than six (6) months each, upon a written request by the applicant.

**Division 2 – Completeness Review.**

**Sec. 16-2-150. -Determination of Application Completeness.**

Within fourteen (14) calendar days after receipt of the application and application fee, the Town Manager shall determine whether the application is complete and ready for review.

a. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Chapter. An application will be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the Chapter, including the fully-executed cost and funds deposit agreement and applicable deposit, unless not required or waived in writing by the Town Manager in accordance with Section 16-2-130(a). The determination of completeness shall not be based upon the perceived merits of the development proposal. The determination shall be made by the Town Manager.

b. If an application is determined to be incomplete, the Town Manager shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a future resubmittal.

c. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed incomplete.

d. No substantive review shall occur and no public hearings shall be scheduled on an application until the application has been deemed complete in accordance with this Section.

**Sec. 16-2-160. -Referral and Review.**

a. The Town Planner shall refer the application to referral agencies to review the project for compliance with applicable agency requirements and with applicable requirements of this Chapter and other applicable Town regulations, standards, and ordinances.

1. The Town Planner will determine the appropriate referral agencies to which to refer the application based on the impacts of the proposed use, the scale and complexity of the proposed development, the service providers for the project, and the location of the project. Such referral agencies include but are not limited to architectural consultants, utility providers, the Colorado Department of Transportation, applicable fire districts and other special districts.

2. The referral agencies shall have twenty (20) calendar days to return their comments to the Town Planner. During the twenty (20) day period, Town staff shall provide timely feedback to the applicant concerning comments received from the referral agencies and shall inform the agencies of any changes the applicant has made to the project that pertain to them.

3. The Town Planner may request a meeting with the applicant and referral agencies that may be affected by the application or request.

b. Any comments from the referral agencies may be made part of the hearing record of the Planning Commission or Town Council on request of the applicant or at the discretion of the Town Manager.

**Division 3 – Substantive Review of Level I Applications.**

**Sec. 16-2-170. –Procedure.**

a. Once a completed Level I application and all accompanying materials have been submitted, the Town Manager shall review the proposal and, within seven (7) calendar days, approve it with or without conditions or deny it. In addition, the Town Manager shall have the right within the same seven-day period to reclassify any Level I application as a Level II application and process it accordingly.



b. The Town Manager shall then indicate the decision on the application and return it to the applicant.

c. If the decision was for approval, with or without conditions, a development permit will be issued and shall be signed by the applicant. The applicant may proceed with the project after obtaining any and all necessary construction or building permits.

**Sec. 16-2-180. –Approval Criteria.**

Prior to approving an application for a Level I Development Permit, the Town Manager shall find that the application substantially complies with all applicable requirements of this Chapter, and applicable Town regulations, standards, and ordinances.

**Sec. 16-2-190. -Appeal.**

a. A decision of the Town Manager regarding a Level I application may be appealed in accordance with Division 9 of this Article.

**Division 4 – Substantive Review of Level II Applications.**

**Sec. 16-2-200. -Procedure and Review Criteria.**

Once a completed Level II application and all accompanying materials have been submitted, The Development Review Committee shall have twenty (20) calendar days to return its comments and decision to the applicant. The decision shall be based on the following considerations

a. If the proposed development is in substantial compliance with all applicable requirements of this Chapter, and applicable Town regulations, standards, and ordinances, and if all other required approvals for the development application were issued and remain valid and effective, the Development Review Committee may approve the application. In addition, the Development Review Committee may attach conditions which are reasonable and necessary and relate to impacts created by the proposal.

b. If the proposed development is not in substantial compliance with all applicable requirements of this Chapter, and applicable Town regulations, standards, and ordinances, the Development Review Committee may deny the application.

c. The Development Review Committee may also continue the project review for up to fourteen (14) calendar days for good cause, or to allow additional information and materials to be submitted that will allow for a comprehensive review. In the event a project is continued, the applicant shall submit any additional materials he or she wishes the Town to consider at least five (5) calendar days prior to the continued review, unless otherwise specified by the Town.

**Sec. 16-2-210. –Appeal.**

A decision of the Development Review Committee regarding a Level II application may be appealed by the applicant pursuant to Division 9 of this Article.

**Division 5 – Substantive Review of Level III Applications.**

**Sec. 16-2-220. –Substantive review process.**

a. All Level III applications shall be required to be submitted to the Planning Commission for review at a minimum of one (1) public hearing.

b. All public hearings shall be noticed in accordance with Division 7 of this Article, and conducted in accordance with Division 8 of this Article.

c. The first public hearing shall be held not more than forty-five (45) calendar days from the date an application is deemed complete.

d. Prior to the first public hearing of the Planning Commission, Town staff shall deliver to the applicant and Commission, its written report on the application, including their conclusion on whether the proposed development substantially complies with all other applicable requirements of this Chapter and other applicable Town regulations, standards, and ordinances, which shall be made a part of the hearing record.

e. Following any public hearing, the Planning Commission shall render a decision to approve, approve with conditions, deny, or continue a Level III Development Permit based on the approval criteria set forth in Section 16-2-510; except that, the Planning Commission shall not be required to render a decision where the approval or denial of a separate application at the same public meeting has rendered a decision on the subject application moot. Any conditions must be reasonably related to impacts created by the proposal. Any continuance shall be for no longer than thirty-five (35) days.

**Sec. 16-2-230. –Approval Criteria.**

a. Prior to making a decision on a Level III Development Permit, the Planning and Zoning Commission shall require a finding that the applicant and evidence presented to the reviewing body established the following by competent and sufficient evidence:

1. All other required approvals for the development application were issued and remain valid and effective.

2. The proposed development substantially complies with all applicable requirements of this Code, and applicable Town regulations, standards, and ordinances.

**Sec. 16-2-240. -Appeal.**

A decision of the Planning Commission regarding a Level III application may be appealed by the applicant pursuant to Division 9 of this Article.

**Division 6 – Substantive Review of Level IV Applications.**

**Sec. 16-2-250. –Substantive review process.**

a. All Level IV applications shall be required to be reviewed by the Planning Commission and Town Council at a minimum of one (1) public hearing each for compliance with the standards, regulations, and provisions set forth in this Chapter.

b. The first public hearing of the Planning Commission shall be held not more than forty-five (45) calendar days from the date an application is deemed complete.

c. Prior to the first public hearing of the Planning Commission, Town staff shall deliver to the applicant and Commission, its written report on the application, including their conclusion on whether the proposed development substantially complies with all other applicable requirements of this Chapter and other applicable Town regulations, standards, and ordinances, which shall be made part of both the Planning Commission and Town Council hearing records.

d. The Town Council hold a public hearing on the application at which it shall review the Planning Commission's recommendations within forty-five (45) calendar days of receipt of the recommendation.

e. All public hearings shall be noticed in accordance with Division 7 of this Article, and conducted in accordance with Division 8 of this Article.

**Sec. 16-2-260. -Review and Recommendation by Planning Commission.**

a. Following the Planning Commission's review of the Level IV development application in a public hearing, the Planning Commission shall either continue the application, or provide a recommendation to the Town Council to approve, approve with conditions, or deny the application based on the approval criteria set forth in Division 8 of this Article. Any conditions must be reasonably related to impacts created by the proposal. Any continuance shall be for no longer than thirty-five (35) days.

**Sec. 16-2-270. -Review and action by Town Council.**

a. Following the Town Council's review of the Level IV development application in a public hearing, the Town Council shall continue the application or render a final decision to approve, approve with conditions, or deny the application based on the approval criteria set forth in Division 8 of this Article. Any conditions must be reasonably related to impacts created by the proposal. Any continuance shall be for no longer than thirty-five (35) days.

b. Pursuant to Charter § 14-9 and Section 16-1-80 of this Chapter, no Level IV application shall be approved without a finding by the Town Council considering the effect of such approval on the Comprehensive Plan.

**Sec. 16-2-280. -Approval Criteria.**

a. Prior to making a recommendation or a decision on a Level IV development application, the Planning and Zoning Commission and Town Council, respectively, shall require a finding that the applicant and evidence presented to the reviewing body established the following by competent and sufficient evidence:

1. All required approvals for the development application were issued and remain valid and effective.

2. The proposed development substantially complies with all other applicable requirements of this Code and other applicable Town regulations, standards, and ordinances.

**Sec. 16-2-290. -Appeal.**

A decision of the Town Council regarding a Level IV application may be appealed by the applicant pursuant to Division 9 of this Article.

**Division 7 – Public Hearing Noticing Requirements.**

**Section 16-2-300. –Required Notice.**

a. Except as provided in Article I, Division 3, at least seven (7) but not more than fourteen (14) calendar days prior to any public hearing pursuant to this Chapter, the Town shall:

1. Mail notice to the property owners within three hundred (300) feet of the outside boundaries of the property;
2. Place a notice in a newspaper of general circulation in the community; and
3. Post a notice of the hearing in the Town Hall and on the property subject to the application.

b. Notice by mail shall also be given to County Assessor registered homeowners' associations within the three hundred (300) feet of the outside boundaries of the property and such additional persons as the Town Manager may designate.

c. Posted notice on the subject property shall be posted by the applicant along the public street rights-of-way bordering the property or as otherwise directed by the Town Manager. Before the public hearing, the applicant shall submit to the Town Manager a notarized affidavit, signed by the person who did the posting or the person who caused the posting to be done, that notice was posted and maintained as required herein. The applicant is responsible for ensuring that the posted notice remains in place, in legible condition until the public hearing is concluded, and for removal of said posted notice within two (2) days after the public hearing is concluded.

d. Subsection (a) notwithstanding, it is the applicant's responsibility to ensure the hearing record reflects that notice was posted, published, and mailed as required pursuant to this section.

**Section 16-2-310. -Contents of notices.**

a. Unless otherwise required by this Chapter, notice of all public hearings as required herein shall:

1. Identify the date, time and place of the public hearing;

2. If applicable, describe the property involved by street address or by legal description and nearest cross streets;

3. Describe the nature, scope and purpose of the proposed action;

4. Indicate that interested parties may appear at the hearing and speak on the matter; and

5. Indicate where additional information on the matter may be obtained.

b. Mailed notices shall include mention of an upcoming Town Council public hearing (when applicable) and the opportunity to be informed of the date of upcoming public hearings on the project.

**Section 16-2-320. –Defects.**

Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in a notice shall be limited to errors in legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Chapter. When the records of the Town document the publications, mailing and posting of notices as required herein, it shall be conclusively presumed that the notice of a public hearing was given as required herein.

**Division 8 – Public Hearing Process.**

**Sec. 16-2-330. – Applicability.**

The provisions of this Division 8 shall apply whenever a public hearing is required pursuant to the provisions of this Chapter.

**16-2-340. -Burden of Proof.**

The burden at public hearing shall be on the applicant to prove that the application complies with the provisions of this Chapter.

**16-2-350. –Hearing Record.**

a. The hearing record shall include, without limitation, all materials and testimony provided by the applicant, all testimony from the public concerning the application, and the recommendations contained in the staff report and presentation.

b. All recommendations or decisions following public hearings shall be made solely on the information entered into the public hearing record.

**Division 9 – Appeals.**

**Sec. 16-2-360.- Appeals.**

a. Except as provided in subsection (b), all decisions pursuant to this Chapter are reviewable on appeal in accordance with this Division.

b. The following are not reviewable on appeal under this Division:

1. Administrative interpretations pursuant to Section 16-1-120;
2. Recommendations by the Planning Commission;
3. Decisions regarding variance requests pursuant to Article X of this Chapter; and
4. Decisions regarding text or map amendments pursuant to Article I, Division 3.

**Sec. 16-2-370.- Applications for appeal; fee.**

Applications for appeal shall meet the following requirements, or the applicant's right of appeal shall be deemed waived and the decision deemed final:

a. The application for appeal shall be made in writing to the Town Clerk within five (5) days after a decision pursuant to this Chapter.

b. The application for appeal shall be accompanied by a fee set by resolution or ordinance of the Town Council to reimburse the Town for review of the application.

c. The application shall specify the grounds for appeal.

d. If not already provided by the applicant, the application for appeal shall be accompanied with a list of property owners whose property lies within three hundred (300) feet of the subject property and their last known address as shown on the most current County Assessor's records and addressed and stamped (with first-class mail) envelopes for each property owner on the list.

**Sec. 16-2-380.- Reviewer on appeal.**

If an application for appeal is filed with the Town Clerk in accordance with Section 16-2-370, the appeal shall be reviewed as follows:

a. If the application is to appeal a decision by the Town Manager or Development Review Committee, the application shall be reviewed by the Planning Commission in a public hearing which shall be noticed in accordance with Division 7 of this Article, and conducted in accordance with Division 8 of this Article.

b. If the application is to appeal a decision by the Planning Commission, the application shall be reviewed by the Town Council in a public hearing, which shall be noticed in accordance with Division 7 of this Article, and conducted in accordance with Division 8 of this Article.

c. Applications to appeal decisions by the Town Council are reviewable pursuant to Rule 106 of the Colorado Rules of Civil Procedure, or as otherwise provided by state or federal law.

**Sec. 16-2-390.- Decisions on appeal made to applicant in writing; final.**

The reviewer on appeal shall affirm, reverse, reverse wholly or partly, or modify the decision appealed. All decisions on appeal shall be made to the applicant in writing, which written decision shall be added to and become part of the record of the proceeding. All decisions on appeal shall be final, and the applicant shall have no further right of appeal under this Chapter.

**Division 10 – Conditions of approval.**

**Sec. 16-2-400. - Conditions.**

a. When authorized by this Article, the Town may place conditions upon the approval of an application, which are reasonably related to impacts created by the proposal, or which the Town deems necessary and proper to ensure that the project will be developed in the manner indicated in the application and in accordance with the standards and criteria established within this Chapter and



other applicable Town regulations and adopted codes. Said conditions shall be listed within a development permit or development agreement which shall be signed by the applicant and the Town prior to the issuance of a building permit.

b. The conditions may consist of one (1) or more of, but are not limited to, the following:

1. Development schedule. The conditions may place a reasonable time limit on any activities associated with the proposed development, or any portion thereof, to prevent speculation in permits, to enable new application or revisions to come forward for unfeasible developments, or to implement other land use policies of the Town.

2. Use. The conditions may restrict the future use of the proposed development to that indicated in the application and other similar uses.

3. Dedications. The conditions may require conveyances of title or easements to the Town, public utilities or the homeowner's association for purposes related to the public health, safety and welfare, which may include, but not be limited to, land and/or easements for parks, utilities, pedestrian paths, bikeways, schools, roads, transportation and other similar uses. The Town may also require construction of all facilities to public standards and the dedication of public facilities necessary to serve the development.

4. Homeowner's association. The conditions may require that if a homeowner's association or merchant's association is necessary or desirable to hold and maintain common property, it be created prior to issuance of a building permit.

5. Construction guarantees. The conditions may require the depositing of certified funds, in an amount to be determined by the Town, with the Town Clerk, the establishment of an escrow fund, the depositing of an irrevocable letter of credit, the posting of a bond or other surety, or collateral (which may provide for partial release) to ensure that all construction features required by this Chapter or the Code and conditions of approval are in fact constructed as represented and approved.

6. Indemnification; covenants. The conditions may require the recording of covenants and/or deed restrictions on the subject property or the indemnification of the Town in certain instances.

7. Public improvements. The conditions may require the installation of public improvements or participation in assessment districts for the installation of public improvements within, adjacent or contributing to the project.

8. Additional plans. The conditions may require that additional plans or engineered revisions to site, drainage or utility plans be submitted to the Town and approved prior to issuance of building permits or issuance of a certificate of occupancy, whichever is applicable.

**Division 11 – Permit Issuance, Duration and Revocation.**

**Sec. 16-2-410. Permit issuance.**

Once the decision of the Town has been finalized, the Town shall transmit by regular mail the final decision to the applicant and, if the application is approved, shall issue a development permit with or without conditions. The development permit shall not be valid until the applicant has signed it, indicating agreement with any and all conditions, and returns the permit to the Town.

**Sec. 16-2-420. - Relation to other Code provisions.**

A permit issued pursuant to this Chapter does not release the applicant from compliance with the provisions of this Chapter, the Code, the building, fire, electrical, solar, mechanical, plumbing and energy codes, or any other codes as adopted by the Town and amended from time to time.

**Sec. 16-2-430. - Other permits.**

and issuance of a development permit, and prior to construction, the applicant shall be responsible for obtaining all permits required pursuant to local, state, and federal law.

**Sec. 16-2-440. - Duration of development permits.**

a. Development approvals and permits issued by the Town pursuant to this Chapter are valid for the following time periods:

| <i>Level of Development</i> | <i>Duration of Permit</i> |
|-----------------------------|---------------------------|
| I                           | 6 months                  |
| II                          | 1 year                    |
| III                         | 2 years                   |
| IV                          | 2 years                   |

b. The term of a Level II, III or IV development permit shall commence on the date of approval of the permit by the Town Council, Planning Commission or Development Review Committee, depending upon which body has final jurisdiction. The term of a Level I permit and a grading permit shall commence on the date of issuance of such permit by staff.

c. Level III and IV permits may be extended by the Planning Commission for a period not to exceed one (1) year upon review of a written request for extension by the permit holder prior to the expiration date of the permit. Requests for extension shall be processed utilizing the Level III process.

**Sec. 16-2-460. - Revocation of permits.**

A permit may be revoked at any time for violation of the permit or any condition thereof by a motion of the Planning Commission at a hearing, and after written notice to the applicant at least seven (7) days in advance of the hearing.

**Division 12 – Development Agreement.**

**Sec. 16-2-470. - Development Agreement.**

a. Except as provided in subsection (b), subsequent to application approval, but prior to issuance of a building permit for the development, the developer shall either install all required improvements or enter into an agreement with the Town which shall obligate the developer to install and construct all public improvements within and adjacent to the proposed development as are reasonably related to or necessitated by the impacts of the development. In those instances where the developer is not the property owner, the property owner or owners shall either be co-signors to the agreement or shall provide alternative agreements allowing the Town to enter onto the property for the purposes of inspection of or completion of public improvements in the case the developer fails to complete all required improvements. If the developer chooses to enter into an agreement, the agreement shall specify the following at a minimum:

1. A description of all public improvements required.
2. An estimate of the cost of installing all public improvements.
3. The timing of public improvements in relation to the development of the project.
4. A description of all private improvements required by this Chapter, conditions of approval or other pertinent Town regulations.

5. A performance guarantee that the improvements will be installed in accordance with the approved plans.

b. A development agreement shall not be required under the following circumstances:

1. For Level I developments;
2. For Level II or III applications when waived in writing by the Town Manager; or
3. When the applicant has entered into a subdivision improvements agreement with the Town pursuant to Section 17-2-250(b).

**Division 13 – Changes to Approved Development Permits.**

**Sec. 16-2-480. –Form of proposals.**

Proposals for changes to approved development permits shall be made in writing to the Town Manager on forms provided by the Town.

**Sec. 16-2-490. –Review of corrections or adjustments.**

Proposed corrections or adjustments to approved development permits shall be processed as a Level I application, unless the Town Manager determines the proposed correction or adjustment is of such nature to merit Development Review Committee review, in which case the application shall be processed as a Level II application.

**Sec. 16-2-500. -Proposed changes to approved Level I or Level II development permits.**

At the discretion of the Town Manager, a proposed change to an approved Level I or Level II development permit, whether minor or major, may be processed as either a Level I or Level II development application.

**Sec. 16-2-510. –Proposed changes to Level III development permits.**

a. The Town Manager may authorize a proposal for one or more minor change to an approved Level III development permit to be processed as a Level II application if the Town Manager determines that the change is of such nature not to merit Planning Commission review. If the Town Manager

determines that the proposed change is of such nature to merit Planning Commission review, the application shall be processed as a Level III application.

b. A proposal for one or more major change to an approved Level III development permit shall be reviewed as a Level III development application.

**Sec. 16-2-520. –Proposed changes to Level IV development permits.**

a. A proposal for one or more minor change to an approved Level IV development permit shall be reviewed as a Level III application.

b. A proposal for one or more major change to an approved Level IV development permit shall be reviewed as a Level IV development application.

**Section 3.** Section 16-4-20 of the Dillon Municipal Code is hereby repealed and reenacted in its entirety, to read as follows:

**Sec. 16-4-20. – Temporary uses and structures.**

a. Temporary uses of land may be permitted in any zoning district, subject to the requirements of this section and to other applicable regulations of the zoning district in which the use is permitted.

b. The purpose of this section is to authorize temporary structures to house temporary uses. Except for in connection with events for which the organizer has been issued a special event permit, no temporary structure shall be erected or placed within the Town until a temporary use permit has been approved in accordance with the provisions of this section.

c. It shall be unlawful for any person to occupy or use, or allow to be occupied or used, any structure for which the temporary use permit has expired or is otherwise no longer valid.

d. A temporary use permit shall not be granted for a use except upon a finding that the use and structure will, during the time of its existence:

1. Be compatible with the surrounding uses and community facilities.

2. Not be detrimental to or constitute a danger to the health, safety and welfare of the citizens of the Town.

3. Conform in all other aspects to the applicable zoning regulations and standards, except as specifically modified for the temporary use during the time it is permitted.

4. Conform in all aspects to applicable building and fire safety regulations and standards adopted by the Town.

5. Leave the site, following the temporary use, in a state that is capable of being restored to a satisfactory condition.

e. The temporary use shall be compatible with the zone district in which it is located.

f. No temporary structure may be used for human habitation.

g. A temporary use permit may be approved by the Town Manager for a period not to exceed one hundred and eighty (180) days.

h. Once an application for a temporary use permit has been deemed complete by the Town Manager, it shall be routed to Town staff and referral agencies for review and comment as determined appropriate by the Town Manager. The Town Manager may order inspections by the fire authority and building department, as applicable, and may condition any temporary use permit to ensure compliance with applicable building and fire safety regulations.

i. The applicant has the burden of demonstrating that the parking needs of the use are adequately accommodated.

j. Hard-surface all-weather ingress and egress, as approved by the Town Engineer, shall be provided.

k. The temporary use shall provide adequate trash containers, and all trash, rubbish and waste shall be completely contained on the site and removed daily.

l. Any signage provided in connection with the temporary use shall comply with the sign provisions of this Chapter.

m. Reasonable conditions or modifications may be imposed upon the granting of a temporary use permit not inconsistent with this Chapter.

n. The applicant shall obtain such other permits as may be required by applicable local, state or federal law, prior to occupying or using the temporary structure, or allowing the temporary structure to be occupied or used.

**Section 4.** Article IV of Chapter 16 is hereby amended to include Sections 16-4-10 through 16-4-100 under a new division heading titled “Division 1 – Miscellaneous”, to be organized as follows:

Division 1 –Miscellaneous.

- Sec. 16-4-10. – Building components extending into setbacks.
- Sec. 16-4-20. – Use of temporary structures.
- Sec. 16-4-30. – Lot area included in area calculations.
- Sec. 16-4-40. – Accessory apartments and secondary units.
- Sec. 16-4-50. – Fences, hedges and walls.
- Sec. 16-4-60. – Lighting.
- Sec. 16-4-70. – Home occupations.
- Sec. 16-4-80. – Nonconforming uses and buildings.
- Sec. 16-4-90. – Transfer of density.
- Sec. 16-4-100. – Adult entertainment.

**Section 5.** Article IV of Chapter 16 is hereby amended by the addition of a new Division 2, to read as follows:

Division 2 – Conditional Uses.

- Sec. 16-4-110. – Purpose.
- Sec. 16-4-120. – Authorization.
- Sec. 16-4-130.

**Division 2 – Conditional Uses.**

**Sec. 16-4-110. - Purpose.**

A conditional use is an activity generally similar to other uses permitted within a zoning district, which, because of the manner in which the proposed use could be developed, may not be appropriate in all situations or may require the imposition of special conditions to ensure compatibility with existing and potential land uses within the vicinity. In some instances, conditional uses may be referred to in this Chapter as a special review. In those instances, the special review shall mean a conditional use, and shall be treated as such hereunder.

**Sec. 16-4-120. - Authorization.**

Uses listed as conditional uses within any zoning district may be approved by the Planning Commission after at least one (1) public hearing, if the criteria contained in this Division have been satisfied. Conditional uses shall be established and maintained in accordance with the applicable development standards within the zoning district in which the use is located, and any conditions imposed as part of the approval.

**Sec. 16-4-130. - Conditional use criteria.**

The following criteria, in addition to other applicable criteria in this Chapter, shall be used to review and decide conditional use permit applications.

(1) The use is listed as a conditional use within the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the Comprehensive Plan and applicable zoning district.

(2) The parcel is suitable for the proposed conditional use, considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.

(3) The proposed conditional use will not have significant adverse impacts on the air or water quality of the community.

(4) The proposed conditional use will not substantially limit, impair or preclude the use of surrounding properties for the uses permitted in the applicable zoning district.

(5) Adequate public utilities and services are available or will be made available to the site prior to the establishment of the conditional use.

(6) If the conditional use is parking or storage uses accessory to a primary single-family use and located on an adjoining lot, the following additional criteria shall be met:

a. Parking shall not be allowed in any setback of the vacant lot.

b. There is no predetermined limit to the number of vehicles allowed on the vacant lot, but the Planning and Zoning Commission, using the perceived capacity as appropriate for the neighborhood, shall determine a maximum number of vehicles.

c. If more than two (2) vehicles are parked on the vacant lot, they shall be fully screened in accordance with Section 16-7-30.

d. No commercial vehicles are allowed to be parked or stored on the vacant lot.

(7) If the conditional use is for wholesale trade class 1 or wholesale trade class 2, the following additional criteria shall be met:



a. The proposed conditional use will not produce any noise or vibration issues that have significant adverse impacts on the community and the neighboring property owners and tenants in a multi-tenant building.

b. The proposed conditional use will not produce any smells, odors or noxious fumes that have significant adverse impacts on the community and the neighboring property owners and tenants in a multi-tenant building. The proposed conditional use shall meet all applicable code requirements for ventilation and fire protection.

c. The proposed conditional use will not produce any storage, loading or delivery activities related to the storage, loading or delivery of finished products or raw materials that have significant adverse impacts on the community and the neighboring property owners and tenants in a multi-tenant building.

d. The proposed conditional use will not cause its employees and vendors to occupy parking spaces intended for retail businesses within two hundred (200) feet of the business.

**Sec. 16-4-140. - Authorization of conditions.**

When deemed necessary to ensure that the use meets the criteria for approval, conditions addressing the following, or related, matters may be imposed:

- (1) Size, height and location of buildings and accessory structures.
- (2) Landscaping when necessary to provide screening from incompatible adjacent uses or from public rights-of-way.
- (3) Retention of existing trees and vegetation for buffering purposes.
- (4) Size, location, screening, drainage and surfacing of driveways, parking and loading areas and street access.
- (5) Size, height, location and materials for the construction of fences to screen the subject property from incompatible adjacent uses or from public rights-of-way.
- (6) Location and intensity of outdoor lighting.
- (7) Hours of operation or conduct of particular activities.

(8) Abatement, mitigation or prevention of nuisances.

(9) Availability and improvement of urban services, including street improvements, dedication of street right-of-way, traffic signs and signals, sewer, storm drainage, water and turnouts and shelters for mass transportation, provided that the condition applies only to the subject property or public right-of-way or easement abutting the subject property, or impacted by the subject property.

(10) Conditions may be imposed that require that all or part of the proposed development or use be deferred until certain events occur, such as the availability to the subject property of certain levels of service required to meet Town standards and provide for the health, safety and/or welfare of the community.

(11) Conditions may be imposed that require that any and all conditions imposed under this Section be recorded in the deed of records with the County Clerk and Recorder.

**Sec. 16-4-150. - Limits on conditions.**

The following limits and requirements apply to conditions imposed pursuant to this Division:

(1) Conditions shall be clear and objective; shall be reasonably related to the public health, safety and welfare; and shall be designed to reasonably effectuate their intended purpose.

(2) If the dedication of street right-of-way or street improvements are required as provided in this Division, the provision of the dedication, improvements or funding of such shall be deferred until a building permit is obtained.

**Sec. 16-4-160. - Transfer of conditional use permit.**

Unless otherwise provided in the final decision granting the conditional use permit, any conditional use permit granted pursuant to this Chapter shall run with the land, and shall automatically transfer to any new owner or occupant subject to all conditions of approval.

**Sec. 16-4-170. - Duration of permit.**

a. Except as provided in subsection (b), a conditional use permit shall expire if an applicant fails to obtain a building permit to construct the conditional use within one (1) year of the date of conditional use permit issuance.

b. If the conditional use permit is issued in connection with an approved development permit, the duration of the conditional use permit shall be concurrent with the duration of the development permit pursuant to Division 11 of Article II of this Chapter.

**Section 6.** Division 3 of Article V of Chapter 16 of the Dillon Municipal Code is hereby deleted in its entirety.

**Section 7.** Without influencing the remainder of the subsection, the introductory paragraph of subsection (c) of 16-5-130 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(c) PUD development plan and preliminary plan (with subdivision) application: PUDs shall be evaluated under the Level IV process established in Article II, ~~Division 2~~ of this Chapter. In addition to, or in combination with, the submittal requirements established in Article II, the applicant shall submit the following materials for Town review: five (5) full-sized 24" x 36" copies, twenty (20) 11" x 17" copies, and one (1) electronic copy or disk of the PUD development plan and preliminary subdivision plan (when appropriate) and accompanying text and documents which shall contain the following:

**Section 8.** Without influencing the remainder of subsection (d), subsection (d)(1) of 16-5-130 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(d) Review and findings by Planning and Zoning Commission.

(1) Commission action. The Planning and Zoning Commission, after review of the PUD development plan and program under the Level IV development review process (~~Sections 16-2-100 through 16-2-120 of this Chapter~~) and any accompanying subdivision application, shall either recommend approval of the application, with or without modifications and conditions or recommend denial. A recommendation for approval of a PUD shall be based on the following findings:

a. The proposed development and PUD plan are in substantial conformance with the Comprehensive Plan.

b. The PUD as set forth in the PUD development plan will not have an adverse impact on the surrounding area. The PUD is compatible with the scale, intensity, and type of land uses located on adjacent property.

c. The proposed benefits offset the proposed exceptions to the underlying zoning district and the subdivision regulations and such exceptions are in the best interest of the public health, safety and welfare.

d. Streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.

e. The proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create a drainage or pollution problem. The timing of installation of utility and drainage facilities will be closely coordinated with development construction and will not create a hardship on residents either within or outside the planned area.

f. The density in the proposed development will not result in the inability on the part of the Town or utility providers to provide public utilities or services to the project. The applicant must furnish to the Town such additional water rights, storage right and treatment capacity in the Joint Sewer Authority wastewater treatment plant as found necessary by the Town to serve the development following build out. The Town shall determine the quantity and quality of water rights required.

**Section 10.** Subsection (h) of 16-5-130 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(h) In the event the developer has failed to develop the PUD within the timeframe approved in the PUD Development Plan, or that timeframe identified in Section 16-2-440 ~~16-1-440 in this Code~~, the approval shall become null and void and the property shall revert to the original underlying zone.

**Section 11.** Section 16-10-40 of the Dillon Municipal Code is hereby deleted and replaced to read as follows:

**Sec. 16-10-40. - Procedure for action on variance application.**

Prior to deciding an application for a variance, the Planning Commission shall hold at least public hearing, which shall be noticed in accordance with Division 7 of Article II, and conducted in accordance with Division 8 of Article II.

**Section 12.** Without influencing the remainder of the Section, the introductory paragraph of Section 16-12-50 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

**Sec. 16-12-50. - Development permits.**

Towers, antennas and telecommunications facilities are considered structures, requiring issuance of a development permit in accordance with described in Section 16-1-50 and Article II of this Chapter. In connection with the issuance of a permit for a tower, antenna or telecommunications facility, and in order to provide the Town with accurate and current information concerning entities that own or operate telecommunications facilities within the Town; assist the Town in enforcement of this Article; assist the Town in the collection and enforcement of any licensed fees or charges that may be due to the Town; and assist the Town in monitoring compliance with local, state and federal laws, the applicant shall, prior to a permit being issued, submit registration information and a standard agreement to the Town.

**Section 13.** Subsection (4) of Section 16-3-110 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(4) Conditional uses. The following uses and their accessory uses may be permitted if in conformance with the intent of this Chapter, subject to the provisions of Article IV, Division 2, ~~Article V, Division 3~~, and after an appropriate review has been conducted.

- a. Churches.
- b. Governmental structures or uses, including but not limited to recreation buildings, parks or playgrounds.
- c. Parking or storage uses accessory to a primary single-family use and located on an adjoining lot.

**Section 14.** Subsection (3) of Section 16-3-120 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(3) Conditional uses. The following uses and their accessory uses may be permitted if in conformance with the intent of this Chapter, subject to the provisions of Article IV, Division 2, ~~Article V, Division 3~~, and after an appropriate review has been conducted.

- a. Churches.
- b. Governmental structures or uses, including but not limited to recreation buildings, parks or playgrounds.

- c. Nursery school, day nursery, kindergarten or similar child care facilities.
- d. Planned developments.
- e. Schools, both public and private.
- f. Veterinary clinics.
- g. Parking or storage uses accessory to a primary single-family use and located on an adjoining lot.

**Section 15.** Subsection (3) of Section 16-3-130 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(3) Conditional uses. The following uses and their accessory uses may be permitted if in conformance with the intent of this Charter, subject to the provisions of Article IV, Division 2, ~~Article V, Division 3~~, and after an appropriate review has been conducted.

- a. Multi-family dwellings of up to eight (8) units per building based on density provisions found in Subsection 16-3-130(5).
- b. Boarding, lodging or rooming houses.
- c. Nursery school, day nursery, kindergarten or similar child care facilities.
- d. Hotels, motels, inns or other similar uses.
- e. Churches.
- f. Public or private schools or colleges.
- g. Utility substations.
- h. Governmental structures or uses, including but not limited to recreation buildings, parks or playgrounds.
- i. Planned developments.
- j. Parking or storage uses accessory to a primary single-family use and located on an adjoining lot.

**Section 16.** Subsection (3) of Section 16-3-140 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(3) Conditional uses. The following uses and their accessory uses may be permitted if in conformance with the intent of this Chapter, subject to the provisions of Article IV, Division 2, ~~Article V, Division 3~~, and after an appropriate review has been conducted.

- a. Churches.
- b. Public or private schools or colleges.
- c. Utility substations.
- d. Hotels, motels, inns or other similar uses.
- e. Restaurants.
- f. Group homes.
- g. Governmental structures or uses, including but not limited to recreation buildings, parks or playgrounds.
- h. Nursery school, day nursery, kindergarten or similar child care facilities.
- i. Planned developments.
- j. Parking or storage uses accessory to a primary single-family use and located on an adjoining lot.

**Section 17.** Subsections (3) and (4) of Section 16-3-150 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(3) *Conditional uses.* The following uses and their accessory uses may be permitted if in conformance with the requirements of this Chapter, subject to the provisions of Article IV, Division 2, ~~Article V, Division 3~~, and after an appropriate review has been conducted.

- a. Governmental uses of land, including but not limited to recreation building, park, playground, fire station, library or museum.

- b. Wholesale trade class 1.
- c. Child care centers and child care facilities, except that they are not allowed within three hundred (300) feet of the Lake Dillon right-of-way.
- d. Club, lodge, fraternal organization.
- e. Business, trade schools, schools and colleges.
- f. Accessory uses to any permitted use in the CA zone, including but not limited to decks, patios, outdoor seating, outdoor food and beverage service, outdoor entertainment, temporary structures and playgrounds.
- g. Churches, except that they are not allowed within three hundred (300) feet of the Lake Dillon Drive right-of-way.
- h. Gymnasium.

(4) *Conditional uses in conjunction with a PUD.* The following uses and their accessory uses may be permitted if in conformance with the requirements of this Chapter, subject to the provisions of Article IV, Division 2, and Article V, Divisions 1, 2 and 3, and after an appropriate review has been conducted.

- a. Multi-family dwelling units on the ground floor level.

**Section 18.** Subsection (3) of Section 16-3-160 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(3) Conditional uses. The following uses and their accessory uses may be permitted if in conformance with the intent of this Chapter, subject to the provisions of Article IV, Division 2, ~~Article V, Division 3,~~ and after an appropriate review has been conducted:

- a. Child care facilities.
- b. Churches.
- c. Multi-family dwelling units at the density established for dwelling units within the RM zone.



- d. Drive-in facilities.
- e. Wholesale trade class 1 and wholesale trade class 2.
- f. Pawnshops in Accordance with Chapter 6 of the Dillon Municipal Code and the following criteria:

- i. No Pawnbroker shall operate a business within three hundred (300) feet from the following uses: a Church; Land Zoned as Parks and Opens Space (POS); a residential zoning district, regardless of jurisdiction; a Residential Use, unless the residential use is within the Mixed Use (MU) or Commercial (C) zoning districts and it is not in the same building as a Pawnshop. Under no circumstances shall a Pawnshop be located in the same building as a residential use; and no Pawnshop shall be in the same building as a pediatrician's office or a building having rooms for boarding.

- ii. No Pawnbroker shall operate a business within one thousand (1,000) feet of: a school; a Child Care Facility or Child Care Center, except for a Child Care Facility or a Child Care Center operated as an approved Home Occupation in a Residential Zoning District; a College Campus, whether a primary campus or not; a correctional institution, rehabilitation center, or Halfway House; or a Public Housing Project owned and operated by a government agency.

- iii. Measurement of Setbacks: For the purposes of this Section, the distance between a Pawnshop and any of the restricted uses stipulated shall be measured as follows: without regard to intervening structures, objects or Town limits, from the closest property line of the structure in which the Pawnshop is located to the nearest property line of the other use.

**Section 19.** Subsection (3) of Section 16-3-170 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(3) *Conditional uses.* In the MU zone, the following uses and their accessory uses may be permitted if in conformance with the intent of this Code, subject to the provisions of Article IV, Division 2 ~~Article V, Division 3~~ of this Chapter, and after an appropriate review has been conducted:

- a. Churches.
- b. Drive-in facilities, in conjunction with any permitted use.
- c. Group homes.
- d. Public uses.

- e. Planned developments.
- f. Wholesale trade class 1.

**Section 20.** Subsection (3) of Section 16-3-180 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(3) Conditional uses. The following uses and their accessory uses may be permitted if in conformance with the intent of this Chapter, subject to the provisions of Article IV, Division 2, ~~Article V, Division 3~~, and after an appropriate review has been conducted.

- a. Child care facilities if integrated into a planned marina development.
- b. Cemeteries.
- c. Entertainment uses if integrated into a planned marina development.
- d. Hotel or motel if integrated into a planned marina development, at the same density as allowed in the MU zone.
- e. Restaurants if integrated into a planned marina development.
- f. Retail stores if integrated into a planned marina development.
- g. Golf courses.

**Section 21.** Subsection (3) of Section 16-3-190 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(3) Conditional uses. The following uses and their accessory uses may be permitted if in conformance with the intent of this Chapter, subject to the provisions of Article IV, Division 2, ~~Article V, Division 3~~, and after an appropriate review has been conducted:

- a. Electric substations and gas regulator stations.
- b. Fire stations, police stations and telephone exchange buildings.

c. Caretaker units in association with the principal use of the property, at a density of not more than one (1) caretaker unit per five (5) acres of land area, with the exception that the first caretaker unit will be allowed for any property containing one (1) acre or more.

**Section 22.** Subsection (3) of Section 16-3-200 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(3) Conditional uses. The following uses and their accessory uses may be permitted when authorized in accordance with Article IV, Division 2, Article V, Division 3, and after a public review has been held:

- a. Cemeteries.
- b. Public uses.
- c. Additions and accessory uses to any existing use.
- d. Single-family dwellings on lots equal to or greater in size than five (5) acres.

**Section 23.** Subsection (a) of Section 17-2-40 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

**Sec. 17-2-40. - Town Council review procedures.**

(a) Public hearing: The Town Council shall review the Planning and Zoning Commission's recommendations within forty-five (45) days of receipt of the recommendation. The Town Council's review shall be conducted at a public hearing, at either a regularly scheduled meeting or special meeting, noticed as provided in Section 17-1-120 ~~16-2-120(d)~~. The Town Council shall have the right to continue the hearing for up to forty-five (45) days in order to review the application in a comprehensive manner and/or to consider additional materials or a greater time frame if requested in writing by the applicant.

**Section 24.** Severance Clause. If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

**Section 25.** Effective Date. This Ordinance shall take effect five days after publication following final passage.

**INTRODUCED, READ AND ORDERED PUBLISHED BY TITLE ONLY THIS \_\_\_ DAY OF \_\_\_\_\_, 2019.**

**PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED BY TITLE ONLY THIS \_\_\_ DAY OF \_\_\_\_\_, 2019.**

**TOWN OF DILLON,**

a Colorado municipal corporation

By: \_\_\_\_\_

Carolyn Skowyra, Mayor

**ATTEST:**

\_\_\_\_\_

Adrienne Stuckey, Town Clerk