

**STAFF SUMMARY
JUNE 2, 2021 PLANNING & ZONING COMMISSION
REGULAR MEETING**

DATE: May 26, 2021

AGENDA ITEM NUMBER: 7

ACTION TO BE CONSIDERED: Consideration of Resolution No. PZ 09-21, Series of 2021:

(PUBLIC HEARING)

**A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING
CHAPTER 17 OF THE DILLON MUNICIPAL CODE REGARDING SUBDIVISIONS**

SUMMARY:

There has been prepared a draft ordinance that, if approved by the Town Council, would amend the Subdivision Code, which amendments include:

1. Reorganization for greater chronological flow;
2. Stronger prohibition language for greater enforceability;
3. Removal of the Town Council call up process for Class S-3 (Lot Line Adjustments/Miscellaneous Subdivisions) and Class S-2 (Minor) subdivision applications;
4. Removal of unused definitions;
5. Implementation of an administrative review process for Class S-3 subdivision applications;
6. Town Manager authority to make administrative interpretations of ambiguous or conflicting code language or provisions, and applicant authority to appeal such interpretations;
7. Town Manager authority to waive preapplication conference for proposed Class S-3 subdivisions;
8. Addition of DURA as authorized subdivision applicant;
9. Removal of application and supplemental material requirements to resolution for greater flexibility and code readability;
10. Addition of costs and funds deposit agreement requirement to cover consultant and attorney costs in review of subdivision applications;

11. Revised application deadlines and noticing requirements for consistency with zoning procedures;

12. Revised appeals provisions for consistency with zoning procedures;

13. Revised Wetlands Regulations (Appendix 17-C) to require the applicant to submit wetland delineation report when property contains or abuts a wetland; and

14. Attachment of a new Wetland District map to describe and depict wetlands and various subcategories of wetlands within the Town.

BUDGET IMPACT: None

STAFF RECOMMENDATION: Approval of the Resolution recommending amendments set forth in Annotated Ordinance.

MOTION FOR APPROVAL: I move we approve Resolution PZ 09-21, Series of 2021.

MOTION, SECOND, ROLL-CALL VOTE

Resolutions require affirmative votes from majority of the members present

DEPARTMENT HEAD RESPONSIBLE: Scott O'Brien, Public Works Director

RESOLUTION NO. PZ 09-21
Series of 2021

**A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE
AMENDING CHAPTER 17 OF THE DILLON MUNICIPAL CODE
REGARDING SUBDIVISIONS.**

WHEREAS, pursuant to Section 2-6-70 of the Dillon Municipal Code (“Town Code”), the Planning and Zoning Commission of the Town of Dillon (“Planning Commission”) has the sole and exclusive initial jurisdiction (except as limited by state statutes) over the subdivision platting of land within the Town, regulations for which are contained in Chapter 17 of the Town Code (“Subdivision Code”); and

WHEREAS, there has been prepared a draft ordinance that, if approved by the Town Council, would amend the Subdivision Code, which amendments include:

1. Reorganization for greater chronological flow;
2. Stronger prohibition language for greater enforceability;
3. Removal of the Town Council call up process for Class S-3 (Lot Line Adjustments/Miscellaneous Subdivisions) and Class S-2 (Minor) subdivision applications;
4. Removal of unused definitions;
5. Implementation of an administrative review process for Class S-3 subdivision applications;
6. Town Manager authority to make administrative interpretations of ambiguous or conflicting code language or provisions, and applicant authority to appeal such interpretations;
7. Town Manager authority to waive preapplication conference for proposed Class S-3 subdivisions;
8. Addition of DURA as authorized subdivision applicant;
9. Removal of application and supplemental material requirements to resolution for greater flexibility and code readability;
10. Addition of costs and funds deposit agreement requirement to cover consultant and attorney costs in review of subdivision applications;

11. Revised application deadlines and noticing requirements for consistency with zoning procedures;

12. Revised appeals provisions for consistency with zoning procedures; and

13. Attachment of a new Wetland District map to describe and depict wetlands and various subcategories of wetlands within the Town.

WHEREAS, the Planning Commission held a duly-noticed public hearing on the draft ordinance, at which hearing evidence and testimony were entered into the record; and

WHEREAS, based on the advice of Town staff and the documents made part of the record of the public hearing, the Planning Commission recommends the Town Council adopt the draft ordinance setting forth the amendments to Chapter 17 of the Town Code, attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:

Section 1. Pursuant to Section 2-6-70 of the Dillon Municipal Code, the Planning Commission hereby recommends that the Town Council adopt the amendments to Chapter 17 of the Dillon Municipal Code proposed in the draft Ordinance attached to this resolution as Exhibit A.

APPROVED AND ADOPTED THIS 2ND DAY OF JUNE, 2021, BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO.

**PLANNING AND ZONING COMMISSION,
TOWN OF DILLON**

By: _____
Alison Johnston, Chairperson

ATTEST:

Michelle Haynes, Secretary to the Commission

EXHIBIT A

**PLANNING AND ZONING COMMISSION
JUNE 2, 2021 REGULAR MEETING
ANNOTATED DRAFT**

COMMENTS SHOWN IN **HIGHLIGHT**
IF NO COMMENT, NO SUBSTANTIVE AMENDMENT RECOMMENDED

**ORDINANCE NO. _____ - 21
Series of 2021**

**AN ORDINANCE AMENDING CHAPTER 17 OF THE DILLON
MUNICIPAL CODE REGARDING SUBDIVISIONS AND TO UPDATE
CROSS-REFERENCES THERETO**

WHEREAS, the Planning and Zoning Commission studied a draft of this Ordinance in a public hearing at its June 2, 2021 meeting, at which public hearing evidence and testimony were received, and after such public hearing recommended that the Town Council adopt the same by Resolution No. PZ 09-21, Series of 2021; and

WHEREAS, the Town Council held a public hearing on this Ordinance on _____, 2021, at which evidence and testimony were received, and after such public hearing finds that the Ordinance should be adopted.

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

Section 1. Article I of Chapter 17 of the Dillon Municipal Code is hereby repealed in its entirety and replaced to read as follows:

**ARTICLE I
GENERAL**

Division 1 – General Provisions

- Sec. 17-1-10.- Title.
- Sec. 17-1-20.- Purpose
- Sec. 17-1-30.- Authority
- Sec. 17-1-40.- Jurisdiction
- Sec. 17-1-50.- Compliance required.
- Sec. 17-1-60.- Conflict and severability.
- Sec. 17-1-70.- Savings provision.
- Sec. 17-1-80.- Amendments.
- Sec. 17-1-90.- Conditions.
- Sec. 17-1-100.- Resubdivision of land.
- Sec. 17-1-110.- Administrative interpretations.
- Sec. 17-1-120.- Appeal of administrative interpretation.

- Sec. 17-1-130.- Relationship to comprehensive plan.
- Sec. 17-1-140.- Time limit on subdivision approvals.
- Sec. 17-1-150.- Computation of time.

Division 2 – Definitions

- Sec. 17-1-200.- Definitions.

Division 1 – General Provisions

Sec. 17-1-10. Title.

This Chapter shall be known as the Dillon Subdivision Code.

[Changed from “Regulations” to “Code” throughout]

Sec. 17-1-20. Purpose.

The purpose of this Chapter is to promote and protect the community's public health, safety and welfare by providing the Town with an efficient and orderly mechanism for:

- (1) Regulating the subdivision, platting and replatting of land and structures within the Town;
- (2) Reviewing, approving and recording plats associated with the subdivision of land or structures;
- (3) Providing assurances for the completion and maintenance of subdivision improvements;
- (4) Ensuring that all public improvements are completed or guaranteed to be complete prior to the sale of any lots or parcels;
- (5) Approving and accepting fees in lieu of dedications of land for public purposes where provided for by this Chapter;
- (6) Reviewing, approving and accepting the location and dedication of land for public uses;
- (7) Ensuring that all subdivisions, plats and dedications of land are in conformance with the Dillon Comprehensive Plan, Street Standards, Storm Drainage Standards, Flood Damage Prevention Regulations, Water Quality and Sediment Transport Control Standards and the Dillon Land Development Code;
- (8) Ensuring that the community has the ability to provide adequate public services to the property including access, utilities, police and fire protection; and

(9) Ensuring that proper public access is provided to all subdivisions; and thereby securing for the present and future residents of the Town the beneficial effects of the subdivision of land and structures, while protecting the community against actions that would deteriorate the quality of the natural and man-made environment.

Sec. 17-1-30. Authority.

The Town Council hereby finds, determines and declares that it has the power to adopt the Dillon Subdivision Code pursuant to Sections 29-20-104, 31-23-213 and 31-23-214, C.R.S., and the powers granted to home rule municipalities in Colorado by Article XX of the Colorado Constitution.

Sec. 17-1-40. Jurisdiction.

This Chapter shall apply to all subdivisions of land and structures located within the corporate limits of the Town.

[Moved some requirements to Sec. 17-1-50, below]

Sec. 17-1-50. Compliance required.

(a) Without first complying with the provisions of this Chapter, no person shall:

(1) Divide a lot, tract or parcel of land into two (2) or more lots, sites or other divisions of land;

(2) Divide any structure into two (2) or more units, including but not limited to condominium and townhome units;

(3) Build a structure upon any tract of land that has not been previously platted; or

(4) Modify, adjust, or eliminate an existing lot line or parcel boundary.

(b) No person shall transfer, convey or sell any parcel or unit before a plat of such parcel or unit has been approved by the Town and recorded in accordance with the provisions of this Chapter.

(c) No land or structure shall be subdivided within the Town until the subdivider has undertaken each of the following in accordance with the requirements of this Chapter:

(1) Submitted an application and necessary supporting data to the Town;

(2) Obtained approval of the subdivision by the Town, as provided for in this Chapter; and

(3) Recorded the approved plat.

(d) No person, being the owner or the agent of the owner of any land located within the corporate boundaries of the Town, shall advertise or hold out to an individual buyer as a subdivided lot any parcel of land, or a subdivided unit any unit, not subdivided under the requirements of this Chapter.

[New Section. Some requirements moved from Jurisdiction. Some prohibitions added for greater enforcement.]

Sec. 17-1-60. Conflict and severability.

(a) Conflict with public and private provisions:

(1) 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.

(2) 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.

(b) Severability: If any part or provision of this Chapter or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of the Chapter or the application thereof to other persons or circumstances. The Town hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases had been declared invalid.

Sec. 17-1-70. Savings provision.

This Chapter shall not be construed as:

(1) Abating any action now pending under or by virtue of, prior existing subdivision regulations;

(2) Discontinuing, abating, or modifying any penalty accruing or about to accrue under prior existing subdivision regulations;

(3) Affecting the liability of any person under prior existing subdivision regulations;

(4) Waiving any right of the Town under any section or provision existing at the time of adoption of this Chapter; or

(5) Vacating or annulling any rights obtained by any person except as shall be expressly provided for in this Chapter.

Sec. 17-1-80. Amendments.

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:

A. Study and recommendation concerning the proposed amendment by the Planning Commission following a public hearing duly noticed in accordance with Article II, Division 7.

B. Completion of a public hearing before the Town Council after at notice of such hearing has been giving in accordance with Article II, Division 7.

[Changed to mimic zoning requirements. Requires P&Z review of proposed subdivision amendments.]

Sec. 17-1-90. Conditions.

The Town Council and Planning Commission have the authority to approve a subdivision plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare, and the subdivider has the duty to comply with all such conditions laid down by the Town for the design, dedication, improvement and restrictive use of the land so as to ensure the project conforms to the purposes herein and the Town's Comprehensive Plan.

Sec. 17-1-100. Resubdivision of land.

(a) Procedure for resubdivision: For any proposed resubdivision of land as defined by this Chapter, a plan shall be reviewed for approval by the Town utilizing the same procedures, rules and regulations as for a subdivision.

(b) Procedures for subdivision where future development parcels exist: Where a parcel of land is subdivided and the subdivision plan indicates that one (1) or more portions of the parcel will not be subdivided into individual building lots, but will be retained for future subdivision and development, the subdivision shall be designed and the remnant parcels located in such a manner that allows for the future extension of streets, trails and utilities.

Sec. 17-1-110. - Administrative interpretations.

A. Subject to subsection (B) and the appeals process set forth in Section 17-1-120, 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:
 - (a) Ambiguous or open to multiple interpretations; and
 - (b) Are not otherwise defined in this Chapter.

B. The Town Manager interpretation shall be consistent with the intent of this Chapter.

[New provision: mimics administrative interpretation provision of zoning code.]

Sec. 17-1-120. - Appeal of administrative interpretation.

An appeal of any administrative interpretation authorized by this Chapter may be submitted to the Planning Commission in writing, accompanied by a fee established by resolution or ordinance of the Town Council, and shall be reviewed by the Planning Commission in a public hearing. The Planning Commission shall defer to the administrative interpretation unless the applicant proves that such interpretation is (1) not in compliance with subsection 17-1-110(B); or (2) 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 under this Chapter.

[New provision: mimics appeal of administrative

interpretations provision of zoning code.]

Sec. 17-1-130. - 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 Town 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 Section 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, for purposes of this Chapter, only Class S-1 subdivisions significantly affect the Town, and thus only approvals of Class S-1 subdivision applications shall require a finding by the Town Council of the effect of the approval on the Comprehensive Plan.

[Subsection B added to fulfill Charter requirement.]

Sec. 17-1-140. - Time limit on subdivision approvals.

A. Subdivision plan approvals shall be null and void if the approved final plat is not recorded within the following time limits:

1. Class S-3 subdivision: Class S-3 subdivision approvals shall be valid for a period of one (1) year after the date of the approval by the Development Review Committee.

2. Class S-1 and S-2 subdivisions: Class S-1 and Class S-2 subdivision approvals shall be valid for a period of eighteen (18) months after the date of the approval by the Planning Commission or Town Council, whichever body makes the final decision, unless otherwise authorized by the provisions of this Chapter.

B. Other provisions unaffected: Approval of a subdivision application shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the subdivision, development, or use of property.

C. Amendment to subdivision plan: In the event an amendment to an approved subdivision plan is proposed and approved prior to the recording of the originally approved plan, the effective date of such amendment for the purpose of determining the duration of the approval shall be the date of the approval of the

originally approved plan, unless the Development Review Committee, Planning Commission, or Town Council, whichever body makes the final decision, specifically finds to the contrary and incorporates such finding into its approval of the amendment.

D. Extension of subdivision approval: The subdivision approval period may be extended by the **Development Review Committee**. An application for an extension shall be made in writing to the Town Manager and shall include such supplemental information as the Town Manager or Town Manager's designee may require. Such application must be received at least thirty (30) days prior to the expiration of the subdivision approval period. An application for an extension which is received within the specified time period shall extend the approval period until such application is finally determined, and an application for extension shall be considered even though at the time of such consideration the approval period would have otherwise expired. Failure to submit a written request for extension within the specified time period shall cause the subdivision approval to expire in the time period as provided in subsections (A)(1) and (2) above.

[Changed from P&Z to DRC.]

F. Development Review Committee action: The Development Review Committee may approve the requested extension, deny the requested extension, or approve the requested extension with conditions; provided that, the requested extension may be denied only if (i) the applicant caused the delay in recording, and (ii) circumstances have changed such that approval of the extension, even with conditions, would be contrary to the public interest.

**[Added criteria for denial.
Subject to P&Z appeal, per Art. II, Div. 9.]**

G. Length of extension: If an extension is granted, the Development Review Committee shall fix the period of extension for filing and recording of the approved final plat, which may be up to and including a period of an additional twelve (12) months for Class S-1 and S-2 subdivisions and six (6) months for Class S-3 subdivisions. Subdivision plan approvals shall be null and void if the approved final plat is not recorded within the period of extension. No subdivision approval period may be extended more than once.

**[Whole section revised to disentangle subdivision approvals from
development permit process.]**

Sec. 17-1-150.- Computation of time.

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

[Added for consistency with zoning code and Chapter 1 of Town Code.]

Division 2 – Definitions

[Draft uses redline to show changes to/removal of definitions.]

Sec. 17-1-200. Definitions.

For the purpose of this Chapter, certain terms or words shall be as defined below. Words in the present tense include the future; the singular number includes the plural and vice versa. The word "shall" is mandatory, and the word "may" is permissive.

Alley means a permanent service right-of-way providing a secondary access to abutting properties.

[Phase not used.]

Block means a grouping of lots bounded by streets or other defining elements such as public property, stream bank or other physical or legal features.

Block length means the distance between intersections of through streets, measured between the right-of-way lines of the intersecting streets, which distance is the longest dimension of a block.

Bond means a type of security or collateral posted by the subdivider and approved by the Town Attorney which guarantees that all required improvements shall be completed and/or maintained as per the approved plans and requirements of this Chapter.

[Concept of "call-up" removed from Substantive Provisions.]

Class S-1 subdivision means a subdivision of land which will result in six (6) or more lots, parcels and/or tracts or which includes a total of six (6) or more acres of land and any Class S-2 subdivision requiring a variance.

Class S-2 subdivision means a subdivision of land which will result in fewer than six (6) lots, parcels and/or tracts and any Class S-3 subdivision requiring a variance. Subdivisions that normally fall into this classification that include the development of public improvements, development on slopes greater than twenty percent (20%) and other Class S-2 subdivisions of an unusual nature may be reclassified as Class S-1 subdivisions if the Town Manager believes that

Deleted: *Approval by Town Council* means the approval by the Town Council of the issuance of a development permit for a subdivision, either by affirmation of the decision of the Planning and Zoning Commission or following a call-up procedure held in accordance with Section 17-3-40 of this Chapter.

Deleted: *Call up* means action of the Town Council to vacate a decision of the Planning and Zoning Commission made pursuant to this Chapter and to make that decision itself. ¶

Deleted: less

the review of the application as a Class S-1 subdivision would be in the best interest of the community.

Class S-3 subdivision means a subdivision of a structure into separate units of interest, including condominiums, time-share interests, cooperatives, townhouses, duplexes (the separation of the duplex into two [2] lots) and the modification or deletion of existing property lines resulting in the creation of no additional lots (lot line adjustment).

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. The Comprehensive Plan may also be called the Dillon Comprehensive Plan or the Dillon Master Plan.

Days refers to calendar days rather than working days.

[Phase not used.]

Dedication means the devotion of land to a public use by the owner manifesting the intention that it shall be accepted and used presently or in the future for a public purpose.

[DURA means the Town of Dillon Urban Renewal Authority.](#)

[DURA added in Substantive Provisions as Authorized Applicant.]

Easement means a right granted to use land owned by another for a special limited purpose.

Engineer means a registered, professional civil engineer authorized to practice engineering in the state of Colorado.

Erosion means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

Fee schedule means the Town of Dillon, Colorado's fee schedule, whether adopted by resolution or ordinance.

Floodplain means the area of land adjoining the channel of a river, stream or other similar body of water which may be inundated by a flood that can be reasonably expected to occur. The floodplain includes all the lands within the

Deleted: *De novo hearing* means a hearing where the decision is based on the testimony presented at the hearing and not the testimony or record of any preceding hearings.

limits of the 100-year floodplain as defined by the Federal Emergency Management Agency.

Grading means any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof.

Improvements (development) means all things constructed or placed within the subdivision, including but not limited to the following:

- a. Roads, streets, alleys, driveways, access ways, entrances into rights-of-way, street signs and lights and other street furniture.
- b. Grading, creation of slopes, retaining walls and monuments.
- c. Sidewalks, crosswalks, pedestrian paths and bicycle paths.
- d. Curbs, gutters and curb returns.
- e. Water mains, utility pipes and utility conduit lines.
- f. Sodding, landscaping, tree planting, irrigation improvements and erosion control measures.

Lot means a plot or parcel of land occupied or capable of being occupied by one (1) principal building and the accessory buildings or uses incidental to it, including such open spaces as required by this Chapter. In the case of multi-family structures and public, institutional, commercial or industrial structures, a group of structures under the same ownership may be considered as occupying the same lot.

Lot depth means the distance between the front lot line and the rear lot line of a lot measured in a straight line. For lots which are not square or generally rectangular in shape, lot depth shall be the measurement from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot frontage means that portion of a lot abutting the right-of-way of a dedicated street, private road or road easement, measured along the right-of-way, road or easement located between side lot lines of a lot. For lots abutting more than one (1) right-of-way, the Town Manager shall designate which lot line constitutes the lot frontage based on existing land use patterns found in the neighborhood.

Lot line adjustment means the modification or deletion of an existing property line resulting in the creation of no additional lots or parcels.

Lot width means the shortest distance between the side lot lines of a lot measured in a straight line. For lots which are not square or generally rectangular in shape, lot widths shall be the measurement from the midpoint of one (1) of the side lot lines to the midpoint of the other.

Monument means a permanent survey marker.

Open space means a parcel of land dedicated to the Town which is suitable for recreational purposes, provides for natural or man-made landscaping areas or provides for the protection of significant natural resources such as stream channels, steep slopes or wetlands.

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

Planning Commission or Commission means the Town of Dillon, Colorado, Planning and Zoning Commission.

Deleted: and Zoning

Plat means a map or plan indicating all proposed property lines, easements, rights-of-way and dedications intended for use as a recording document.

Private street means a strip of land occupied/used for or intended to be occupied/used for a vehicular access to more than one (1) property, which is similar in nature and construction to a street, but where the area occupied by the vehicular access is not dedicated to the public for general public purposes.

Resubdivision means a change in the map of an approved or recorded subdivision or resubdivision, if such change:

- a. Affects any street layout shown on such map;
- b. Affects any area reserved thereon for public use;
- c. Changes the size or dimension of any lot or creates an additional lot.

Right-of-way means a strip of land occupied or intended to be occupied by a street, walkway, road, utilities, water main, sewer main or for any other public purpose.

Roadway means that portion of a street designed for vehicular traffic and, where curbs are installed, that portion between the curbs.

Sidewalk means an improved right-of-way for pedestrian circulation that is usually part of a street right-of-way.

Streets means a right-of-way which provides for vehicular, bicycle and pedestrian circulation, which includes the following types of streets. Driveways, including common driveways that provide access from a street to a townhouse or other multi-family project, are not considered streets for the purpose of this Chapter.

a. Cul-de-sac means a local street of short length having only one (1) outlet with provision for a turnaround at its termination and which is not intended to be extended or continued to serve future subdivisions or adjacent land. A cul-de-sac is also known as a dead-end street.

b. Stub street means a dead-end local street which provides for eventual extension of a street onto unplatted land.

c. Major arterial streets and highways means those used primarily for fast or heavy traffic.

d. Minor arterials and collector streets means those which carry traffic from minor streets to the major street system of major arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within the development.

e. Local streets (also called minor streets) means those which are used primarily for access to abutting properties.

Structure means anything that is constructed or erected and located on or under the ground or attached to something fixed to the ground.

Subdivider means a person who undertakes the subdivision or resubdivision of land or structures or any activity governed by this Chapter who holds any legal or equitable interest in the land being subdivided, or, in those instances where the subdivider is not the owner of the land, an applicant who has received written consent from the owner to subdivide the land.

Subdivision means [\(i\) the division of a tract or parcel of land into two \(2\) or more parcels, lots, sites or other division for the purpose, whether immediate or future, of transfer of ownership, sale or building development, including any resubdivision, or \(ii\) the modification or deletion of existing property lines resulting in the creation of no additional lots \(lot line adjustment\)](#). Subdivision shall include, but not be limited to, the following types of developments and/or legal interests:

a. Division of land: The division of land, whether by deed, metes and bounds description, map, plat or other recorded instrument.

b. Division of a structure: The division of a structure into two (2) or more separate interests through division of the fee title thereto, whether by conveyance, license, contract for sale or any other method of disposition, including but not limited to the creation of a common interest community pursuant to the Common Interest Ownership Act, Article 33.3, Title 38, C.R.S.

c. Time-share interests: The creation of interval estates, time-share estates, time span estates and other time-sharing interests as defined by the Condominium Ownership Act, Article 33, Title 38, C.R.S.

d. Cooperative: The creation of a cooperative as defined in the Colorado Common Interest Ownership Act, Article 33.3, Title 38, C.R.S.

e. Exclusions: Unless the method of land disposition is adopted for the purpose of evading this Chapter, the term subdivision, as defined in this Section, shall not apply to any division of land or interests in land:

1. Which is created by any court in this state pursuant to the law of eminent domain, partition or by operation of law.

2. Which is created by lien, mortgage, deed of trust or any other security instrument or the foreclosure of any such instrument.

3. Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity.

4. Which creates an interest or interests in oil, gas, minerals or water which are now or hereafter severed from the surface ownership of real property.

5. Which creates a parcel or parcels as a result of the acquisition of land by the Town.

Subdivision improvements agreement means an agreement entered into by the Town and the subdivider prior to filing of a subdivision plat. The agreement specifies development requirements, including the responsibility for and the timing of infrastructure improvements and public facilities, dedications, fees and remedies in the event obligations are not met.

Surveyor means a land surveyor who is registered as a professional land surveyor and authorized to practice within the state of Colorado.

Town Council or *Council* means the Town of Dillon, Colorado, Town Council.

Town Hall means the Town Hall of the Town of Dillon, Colorado.

Town Manager means the Town of Dillon, Colorado, Town Manager or [the Town Manager's designee](#).

Deleted: authorized representative

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

Section 2. Article II of Chapter 17 of the Dillon Municipal Code is hereby repealed in its entirety and replaced to read as follows:

ARTICLE II SUBDIVISION PROCESS

- Division 1 – Authorized Applicants
 - Sec. 17-2-10.- Authority to file applications.
 - Sec. 17-2-20.- Proof of ownership.
- Division 2 – Preapplication Conference
 - Sec. 17-2-30.- Preapplication conference.
 - Sec. 17-2-40.- Preliminary subdivision plan.
- Division 3 – General Application Requirements
 - Sec. 17-2-50.- Application and supplemental materials required.
 - Sec. 17-2-60.- Additional information.
 - Sec. 17-2-70.- Application fee.
 - Sec. 17-2-80.- Cost and funds deposit agreement.
- Division 4 – Application Deadlines and Inactivity
 - Sec. 17-2-90.- Application filing deadlines.
 - Sec. 17-2-100.- Inactive files.
- Division 5 – Completeness Review and Referrals
 - Sec. 17-2-110.- Determination of application completeness.
 - Sec. 17-2-120.- Referral.
- Division 6 – Substantive Review
 - Sec. 17-2-130.- Class S-3 applications.
 - Sec. 17-2-140.- Class S-2 applications.
 - Sec. 17-2-150.- Class S-1 applications.
- Division 7 – Public Hearing Notice Requirements
 - Sec. 17-2-160.- Required notice.
 - Sec. 17-2-170.- Contents of notices.
 - Sec. 17-2-180.- Defects.
- Division 8 – Public Hearing Process
 - Sec. 17-2-190.- Applicability.
 - Sec. 17-2-200.- Burden of proof.
 - Sec. 17-2-210.- Hearing record.
- Division 9 – Appeals
 - Sec. 17-2-220.- Appeals.

- Sec. 17-2-230.- Applications for appeal; fee.
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Division 10 – Process for Completion

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- Sec. 17-2-330.- Filing of plat.
- Sec. 17-2-340.- Assurance of completion and maintenance of improvements.
- Sec. 17-2-350. - Subdivider reimbursement agreements.

Division 1 – Authorized Applicants

Sec. 17-2-10. - Authority to file applications.

(1) Unless otherwise specified in this Code, applications for subdivision and approval may be initiated by:

- a. The owner of the property that is the subject of the application;
- b. The owner's authorized agent;
- c. The Town Council or DURA; or

[Added DURA as authorized applicant.]

- d. Other entities that have rights provided by law.

(2) When an authorized agent files an application under this Code on behalf of a property owner, the agent shall provide the Town with written documentation that the owner of the property has authorized the filing of the application.

(3) When a review or decision making body initiates action under this Code, it does so without influencing the approval or denial of the application. All such applications shall be reviewed in accordance with the requirements and criteria of this Code.

Sec. 17-2-20. – Proof of ownership.

Prior to a determination of completeness in accordance with Division 4 of this Article, or at any time thereafter, the Town Manager may require documentation (1) establishing proof of ownership of the property proposed for subdivision, and showing any encumbrances to title thereto, or (2) the written consent of the owner of the property if the subdivider does not own the property.

[New provision for the protection of the Town and Commission.]

Division 2 – Preapplication Requirements

Sec. 17-2-30. - Preapplication conference.

A. Unless waived by the Town Manager for an application for Class S-3 subdivision, the subdivider shall attend a conference with the Town Manager and other staff (including any referral agencies deemed appropriate) prior to the submission of any subdivision application. The purpose of the conference is to acquaint the Town with the Subdivider's intentions concerning the proposed subdivision, to acquaint the subdivider with the substantive and procedural requirements of this Chapter and to identify policies which create opportunities or pose constraints for the proposed subdivision.

[Added TM waiver for Class S-3.]

B. For all proposed Class S-1 and Class S-2 subdivisions, the applicant shall provide for review at the preapplication conference a scale drawing indicating proposed lot and block configurations; on- and off-site circulation; and other information pertinent to the issues under consideration.

Sec. 17-2-40. – Preliminary subdivision plan.

A. Except as provided in subsection (C), all Class S-1 and S-2 subdivision applicants shall submit a preliminary subdivision plan to the Planning Commission for review in a public hearing prior to the submission of a formal application and the commencement of the review of a final subdivision plan. The requirements for the preliminary subdivision plan shall be established through resolution adopted by the Town Council.

B. No decisions shall be rendered by the Planning Commission concerning the preliminary subdivision plan at the preliminary hearing. The Planning Commission shall provide direction to the applicant and shall either require the applicant to resubmit the preliminary application for a second Planning Commission review or allow, by an affirmative vote of the members present, for the applicant to prepare a final subdivision plan and submit that plan for review and action in accordance with this Chapter. If the Planning Commission requires a second hearing on a preliminary subdivision plan, the

applicant shall be allowed to proceed to a final subdivision plan after the conclusion of the second preliminary hearing without an affirmative vote.

C. The preliminary and final hearings for a Class S-2 Subdivision application may be combined if the Town Manager determines that the issues involved in the application are such that no useful purpose would be served by requiring two (2) separate hearings. In such cases, when it is determined that the application is ready for final hearing, the Town Manager may schedule the application for a single hearing, which shall include all required notice and public hearing requirements for a final hearing.

D. Applicants for Class S-3 subdivisions shall not be required to submit a preliminary subdivision plan and may commence with a formal application following the preapplication conference or waiver by the Town Manager in accordance with Section 17-2-30.

Division 3 – General Application Requirements

Sec. 17-2-50. - Application and supplemental materials required.

Prior to undertaking any subdivision of a parcel or structure, the subdivider shall submit an application on forms provided by the Town and all required supplemental materials. Required supplemental requirements for subdivisions shall be established through resolution adopted by the Town Council.

**[Specific application requirements removed
to resolution for greater flexibility in amendment,
and greater applicant comprehension.]**

Sec. 17-2-60.- Additional information.

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

Sec. 17-2-70. - 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 subdivision 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.

[Combined from S-1, S-2, and S-3 specific application requirements]

Sec. 17-2-80. – Cost and funds deposit agreement.

A. At the time of submittal of any subdivision application, or at such earlier time as the Town begins to incur consultant review fees related to the proposed subdivision, the applicant 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 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.

[Whole Section added to cover consultant costs.]

Division 4 – Application Deadlines and Inactivity

Sec. 17-1-90. – Application filing deadlines.

A. For subdivision applications requiring preliminary subdivision plans, the subdivider shall submit the required application and supplemental materials at least twenty-eight (28) days prior to the hearing on the preliminary plan.

B. Final applications and supplemental materials for Class S-1 and S-2 subdivisions shall be submitted at least twenty-one (21) days prior to the public hearing on the final application.

C. Only applications determined complete in accordance with Section 17-2-110 shall be accepted as meeting the above deadlines; partial or incomplete applications shall be accepted, but will not be scheduled for review and hearings until all required elements of the application package have been received by the Town.

[New subsection (C) for protection of the Town.]

Sec. 17-2-100. - 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 5- Completeness Review and Referrals

Sec. 17-2-110. - Determination of application completeness.

Within ten (10) days of receipt of a subdivision application, the Town Manager or Town Manager's designee shall determine whether the application is complete and ready for substantive review.

A. If the application is determined to be complete, the application shall then be processed according to the substantive review procedures set forth in Division 6. An application will be considered complete if it is submitted in the

required form, includes all required supplemental materials, and is accompanied by the applicable fee and cost and funds deposit agreement, if applicable. The determination of completeness shall not be based upon the perceived merits of the subdivision proposal.

B. If an application is determined to be incomplete, the Town Manager or Town Manager's designee shall provide 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.

[Subsection (C) added to mimic zoning code.]

Sec. 17-2-120.- Referral.

A. Upon receipt of a completed application, the Town Manager may furnish copies of the application and supplemental materials to appropriate referral agencies, including the Lake Dillon Joint Fire Authority and applicable utility providers, for their review and comment.

B. The Town Manager shall review the application and supplemental materials and submit a report to the decision making body charged with reviewing the application.

Division 6- Substantive Review

Sec. 17-2-130. – Class S-3 Applications.

Once a completed Class S-3 subdivision application and all accompanying supplemental materials have been submitted, the Development Review Committee shall have twenty (20) calendar days to return its comments and decision to the applicant. Class S-3 subdivision applications shall not require a public hearing. The decision shall be based on the following considerations:

A. If the proposed subdivision 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 subdivision 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 the applicant wishes the Town to consider at least five (5) calendar days prior to the continued review, unless otherwise specified by the Town.

[Changed to Staff Level Review.]

Sec. 17-2-140. – Class S-2 Applications.

A. Except as provided in Section 17-2-40, an application for the final subdivision plan shall not be submitted, nor accepted, until a preliminary subdivision plan has been reviewed by the Planning Commission at least once in a public hearing. If more than one hundred twenty (120) days have elapsed since the last preliminary hearing on the plan, the Town Manager **may** require the applicant to appear before the Planning Commission at another preliminary hearing before proceeding to a final subdivision plan review.

[Changed “shall” to “may”]

B. All final Class-2 subdivision applications shall be required to be submitted to the Planning Commission for review at a minimum of one (1) public hearing.

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

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

E. 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.

F. Following any public hearing, the Planning Commission shall render a decision to approve, approve with conditions, deny, or continue a Class S-2 subdivision application based on the approval criteria set forth in subsection

(G); 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.

G. Prior to making a decision on a Class S-2 subdivision application, the Planning 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 subdivision application were issued and remain valid and effective.

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

Sec. 17-2-150. – Class S-1 Applications.

A. All final Class S-1 subdivision 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 shall 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.

F. Following the Planning Commission's review of the Class S-1 subdivision 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 subsection (I). Any conditions must be reasonably related to impacts created by the proposal. Any continuance shall be for no longer than thirty-five (35) days.

G. Following the Town Council's review of the Class S-1 subdivision 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 subsection (I). Any conditions must be reasonably related to impacts created by the proposal. Any continuance shall be for no longer than thirty-five (35) days.

H. Pursuant to Charter Section 14-9 and Section 17-1-130 of this Chapter, no Class S-1 subdivision application shall be approved without a finding by the Town Council considering the effect of such approval on the Comprehensive Plan.

[Changed to fulfill Charter requirement.]

I. Prior to making a recommendation or a decision on a Class S-1 subdivision application, the Planning 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 other required approvals for the subdivision application were issued and remain valid and effective.

2. The proposed subdivision substantially complies with the Comprehensive Plan, all applicable requirements of this Chapter, and applicable Town regulations, standards, and ordinances.

Division 7- Public Hearing Notice Requirements

[Changed for consistency with zoning notices.]

Sec. 17-2-160. - Required notice.

A. 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;

[Changed from "abutting" for consistency with zoning provisions]

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.

[New notice requirement for consistency with zoning code.]

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.

Sec. 17-2-170. - 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 or Planning Commission public hearing and the opportunity to be informed of the date of upcoming public hearings on the project.

Sec. 17-2-180. - Defects.

A. 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.

B. In all cases, 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. 17-2-190. - Applicability.

Except for text amendments pursuant to Section 17-1-80, the provisions of this Division 8 shall apply whenever a public hearing is required pursuant to the provisions of this Chapter.

Sec. 17-2-200. - Burden of proof.

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

Sec. 17-2-210. - 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

[Changed for consistency with zoning process.]

Sec. 17-2-220. - 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 17-1-110;
2. Recommendations by the Planning Commission; and
3. Decisions regarding variance requests pursuant to Article IV of this Chapter.

Sec. 17-2-230. - 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. 17-2-240. - Reviewer on appeal.

If an application for appeal is filed with the Town Clerk in accordance with Section 17-2-230, the appeal shall be reviewed as follows:

A. If the application is to appeal a decision by the 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. 17-2-250. - 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 – Process for Completion

**[Substantively the same as current code,
except removal of Council “call up.”]**

Sec. 17-2-260. - Subdivision final plat approval and recordation.

A. Within twelve (12) months after approval of a Class S-3 subdivision plan and within eighteen (18) months after approval of a Class S-1 or Class S-2 subdivision plan, the subdivider shall cause the subdivision or any part thereof to be surveyed and a plat prepared and recorded in conformance with the plan as approved by the Town or it shall be deemed expired for purposes of vested property rights.

B. If the subdivider wishes to proceed with the subdivision after the expiration of the time period following the approval of the final plan, the subdivider must resubmit the final plan and reapply for approval under the provisions of this Chapter.

C. Subsequent to final plan approval, but prior to recordation, a final plat which graphically and legally carries out in technical detail the requirements of the final subdivision plan as approved by the Town shall be submitted to the Town for review.

D. The following requirements and process shall be utilized to ensure compliance with plan approval and Town codes and to prepare the plat for recordation, with the exception that the Town Manager may waive requirements of this Division that the Town Manager determines are not required for the proper review and filing of the plat for specific Class S-3 subdivision plans.

Sec. 17-2-270. - Form and scale.

Two (2) Mylar copies of the final plat shall be submitted to the Town in a form acceptable to the Town. The scale of the final plat shall be 1" = 100'. The scale may be increased or decreased if necessary to fit the legal sized plat of twenty-four (24) inches by thirty-six (36) inches or eighteen (18) inches by twenty-four (24) inches, but in all cases the scale used shall be in multiples of ten (10).

Sec. 17-2-280. - Information on final plat.

In addition to that otherwise specified by law, the following information shall be shown on the final plat:

A. The name of the subdivision, the date, scale, north point, legend and existing features such as highways and waterways;

B. A written legal description of the subdivision boundaries;

C. Reference points of existing surveys identified, related to the plat by distances and bearings and referenced to a field book or map as follows:

1. Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the subdivision.

2. Adjoining corners of adjoining subdivisions.

3. Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this Chapter.

4. Names of adjoining subdivisions and departing lot lines.

5. A statement identifying the basis of bearing and the specific monuments used for determination.

D. The exact location and width of street rights-of-way and easements intercepting the boundary of the tract.

E. Tract, block and lot boundary lines and street rights-of-way and center lines, with dimensions, bearing or deflection angles, radii, arcs, points of

curvature and tangent bearings. Tract boundaries and street bearings shall be shown to the nearest thirty (30) seconds with basis of bearings. Distances shall be shown to the nearest one-hundredth (0.01) feet. No ditto marks shall be used.

F. The names and width of the portion of streets being dedicated, the width of any existing right-of-way and the width on each side of the centerline. For streets on curvature, curve data shall be based on the street centerline. In addition to the centerline dimensions, the radius and center angle shall be indicated.

G. Easements denoted by fine dotted lines clearly identified and, if already of record, their recorded reference. (If an easement is not definitely located or recorded, there shall be a written statement of the easement.) The width of the easement, its length and bearing and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication.

H. Locations and widths of drainage channels, rights-of-way, and reserve strips at the end of stub streets or along the edge of partial width streets on the boundary of the subdivision.

I. Numbering of lots shall be as follows: Lot numbers beginning with the number 1 and numbered consecutively in sequence, generally following the same system as sections are numbered in a township. Additions to subdivisions shall begin with number 1 and follow the same pattern as previously described.

J. Land parcels to be dedicated for any purpose shall be distinguished from lots intended for sale with acreage and alphabetic symbols for each parcel indicated.

K. Notations indicating any limitations on rights of access to or from streets and lots or other parcels of land as established by the Town.

L. Such other information as the Town Manager may reasonably require.

M. Those certificates as shown in Appendix 17-A, or as approved by the Town Attorney.

[Added to give some flexibility]

Sec. 17-2-290. - Supplemental information with plat.

The following data shall accompany the plat:

A. A title report issued by a title insurance company in the name of the subdivider of the land, showing all parties whose consent is necessary and their interest in the premises. Such report shall have been prepared within thirty (30) days of the submission of the final plat.

B. Sheets and drawings showing the following:

1. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners and showing the error of closure, if any (closure sheet);

2. The computation of distances, angles and courses shown on the plat; and

3. Ties to existing monuments, proposed monuments, adjacent subdivisions and street corners.

C. A copy of any existing and proposed restrictive covenants applicable to the subdivision.

D. A copy of any dedications requiring separate documents.

E. For any property to be dedicated to the public, proof that all taxes and assessments on the tract have been paid.

F. If no subdivision improvement agreement is required, a certificate by the Town Engineer that the subdivider has installed all public improvements in accordance with the requirements of this Chapter, the Dillon Land Development Code and all Town engineering, drainage, erosion control standards, grading standards and street standards.

G. Final plans and specifications for all public utilities, including water, and preliminary plans and cost estimates for all other public utilities, including sewer, electrical, gas and cable television.

H. Final street, sidewalk, pedestrian path and bicycle path construction plans in accordance with approved Town specifications.

I. Final drainage and erosion control plans in accordance with approved Town specifications.

J. Final grading plans in accordance with approved Town specifications.

K. Final lighting and signage plans.

L. A final report outlining any potential environmental hazards within the proposed subdivision and all proposed measures to mitigate their impacts.

M. Final floodplain study or determination study, if applicable.

N. Such other information as the Town Manager or Town Engineer may reasonably request.

Sec. 17-2-300. - Survey requirements.

A complete and accurate survey of the land to be subdivided shall be prepared by a professional surveyor in accordance with standard practices and principles of land surveying and as provided in this Chapter and state law.

A. Monuments:

1. All monuments shall be set according to the provisions of state law and the requirements of this Chapter.

2. In making the survey for the subdivision, the survey shall set all permanent monuments prior to the recording of the final plat so the survey or any part thereof may be retraced. This shall be surveyed to the Town's coordinate system.

3. Delaying the placement of interior "post monumentation" may be permitted by approval of the Town at the time of approval of the final plat or upon special request prior to filing the final plat, subject to the following:

(a) The subdivider has shown that it is necessary and practical to delay the interior monumentation.

(b) The subdivider of the plat agrees to furnish a bond or cash deposit in an amount equal to not more than one hundred twenty percent (120%) of the estimated cost of performing the work for the interior monuments.

(c) The subdivider shall sign an agreement with the subdivider's surveyor and the Town Engineer:

(i) Indicating the amount of the bond or cash deposit to be furnished at the time of submitting the final plat;

(ii) Indicating how the surveyor is to be paid for the work of establishing the interior monuments;

(iii) Indicating that the rules for post monumentation as provided in Colorado Revised Statutes shall be followed;

(iv) Indicating the date when the monumentation will be completed; and

(v) Setting out other particulars that may be necessary to ensure the completion of the monumentation at a later date.

B. Utility markers: Permanent markers shall be provided for all underground water, sewer and utility stubs within the prepared subdivision as approved by the Town Engineer.

Sec. 17-2-310. - Dedication requirements.

A. All parcels of land shown on the final plat intended for public use shall be offered for dedication at the time the plat is filed.

B. All streets, bicycle paths, pedestrian ways, drainage channels, detention/retention basins, utility easements and other rights-of-way shown on the final plat intended for general public use shall be offered for dedication for public use at the time the final plat is filed.

C. All rights of access to and from streets, lots and parcels of land shown on the final plat intended to be surrendered shall be offered for dedication at the time the final plat is filed.

D. The Town shall have the right to require the subdivider to provide a one-foot reserve strip across the end of any stubbed street which adjoins unsubdivided land or along half streets (when allowed through a variance) adjoining unsubdivided land. The reserve strip shall be included in the dedication granting to the Town the right to control access over the reserve strip to ensure the continuation or completion of the streets.

Sec. 17-2-320. - Review and action procedures.

A. Upon receipt by the Town, the plat and other data shall be reviewed by the Town Manager and Town Engineer to determine that the subdivision as shown is substantially the same as it appeared on the approved final plan and that the plat is in compliance with the provisions of this Chapter, all applicable Town standards and any additional conditions imposed by the Town Planning Commission or Town Council.

B. The Town may make such checks in the field as are necessary to verify the accuracy of the plat and Town representatives may enter the property for this purpose.

C. If it is determined that the plat and all documents as submitted are not substantially the same as the approved final plan, the Town Manager shall

advise the subdivider of the changes or additions that must be made and shall afford the subdivider an opportunity to make the changes or additions. If it is determined that full conformity has been made, the Town Manager and Town Engineer shall so certify. Approval shall be indicated by the signature of the chair of the Planning Commission and Mayor on the plat. The approval of the plat does not constitute or affect any acceptance by the public of the dedication of any street or other easement shown on the plat.

Sec. 17-2-330. - Filing and recording of final plat.

A subdivider shall submit two (2) copies of the plat in Mylar for signatures of all public officials required by law and shall enter into a subdivision improvements agreement if required prior to filing the plat. Approval of the plat shall be null and void if the plat is not recorded within the time limits set forth in Section 17-1-140. The final plat after receiving all signatures shall be recorded by the Town, but only upon payment of the recording fee from the subdivider. After recordation, a copy of the plat shall be returned to the subdivider in a reasonable time.

Sec. 17-2-340. - Assurance of completion and maintenance of improvements.

A. Completion of improvements: All subdividers shall be required to complete all of the street and other improvements as specified in the subdivision plan or as required in this Chapter and to dedicate public improvements to the Town or other applicable public agencies, free and clear of all liens and encumbrances. The subdivider shall submit a certificate of title prior to conveying any land to the Town indicating all title restrictions.

B. Subdivision Improvements Agreement: Subsequent to final subdivision plan approval, but prior to recording a subdivision plat, the subdivider shall either install all required improvements or enter into an agreement with the Town which shall obligate the subdivider to install and construct all public improvements within and adjacent to the proposed subdivision as may be required under the provisions of this Chapter. In those instances where the subdivider 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 subdivider fails to complete all required improvements. If the subdivider 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 individual sites.

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.

C. Performance guarantees:

1. If the improvements are not installed prior to filing of the plat, the subdivider shall post an acceptable form of surety or collateral with the Town, prior to the time of recording the plat, in an amount equal to one hundred twenty percent (120%) of the estimated costs of all remaining public improvements not already installed.

2. Such performance guarantee shall be a letter of credit in an amount fixed by the Town Manager issued by a bank authorized to transact business in the State, in a form generally as prescribed by the Town and acceptable to the Town Attorney, or cash money in an amount fixed by the Town Manager or the Subdivision Improvements Agreement. If the developer fails to install the improvements as approved and/or the Town has unreimbursed costs or expenses resulting from such failure, the Town shall cash the letter of credit or call on the cash deposit for reimbursements or to complete the improvements. The period within which required improvements must be completed shall be incorporated in the Subdivision Improvements Agreement or guarantee. Said guarantee shall remain in full force and effect until released by the Town. If the amount of the letter of credit or cash deposit is less than the cost and expense incurred by the Town, the developer shall be liable to the Town for the difference, plus applicable interest.

D. Failure to complete subdivision: Where a performance guarantee has been posted and a Subdivision Improvements Agreement entered into and all improvements required by the Town have not been installed in compliance with such agreement, the Town may thereupon declare the agreement to be in default and may utilize the funds available from the performance guarantee to complete the improvements within the subdivision.

E. Release or reduction of performance guarantees:

1. The Town will not accept the required improvements, nor release a performance guarantee, until the Town Engineer has indicated that all required improvements have been satisfactorily completed and until the subdivider's engineer has certified to the Town Engineer, through submission of detailed as-built plans of the subdivision improvements, that all improvements

have been installed in accordance with the approved construction plans for the subdivision and are ready for dedication to the Town or other appropriate agencies.

2. A performance guarantee may be reduced by the Town upon actual completion of public improvements and then only in the ratio that the public improvements completed bears to the total public improvements of the plan. In no event shall a performance guarantee be reduced below twenty percent (20%) of the principal amount until all improvements have been completed and accepted by the Town.

F. Maintenance of improvements and maintenance bonds:

1. The subdivider shall be required to maintain the public improvements in the subdivision and to provide for snow removal, street cleaning, drainage and general maintenance of the streets and sidewalks prior to acceptance by the Town. In the event the subdivider fails to comply, the Town is authorized, through the Town Manager, to perform the necessary work without incurring any liability and charge such work to the subdivider. Any such charges shall become a first and prior lien on the subdivision.

2. The subdivider shall be required to file a maintenance bond with the Town in a form acceptable to the Town Attorney, prior to acceptance of any public improvements, in an amount equal to twenty percent (20%) of the original cost of the public improvements, in order to assure the satisfactory maintenance of the required improvements for a period of one (1) year after the date of their acceptance by the Town. Such bond shall guarantee all public improvements constructed by the subdivider shall remain free from defect for the required one-year period.

[Town sometimes requires, but Town Manager may waive in accordance with Sec. 17-4-10]

G. Issuance of permits:

1. Prior to the issuance of a building permit for any lot within the subdivision, the extent of street improvements shall be adequate for vehicular access by the prospective occupant and by police and fire and any other emergency equipment. At a minimum, the street shall be improved with a base course up to that portion of the street which provides direct access onto the lot for which a building permit is requested.

2. Prior to the issuance of a certificate of occupancy for any structure, all public improvements required by the subdivision plan shall be completed. The Town may waive the requirements of this Section if in the opinion of the Town Manager and Town Engineer the issuance of a certificate of

occupancy will not create significant adverse impacts to the community and the improvements remaining to be completed are satisfactorily guaranteed to be completed in a timely manner.

Sec. 17-2-350. - Subdivider reimbursement agreements.

A. Prior to the preliminary construction acceptance of any public improvement or facility that is not entirely within the subdivision and for which the subdivider expects to receive reimbursement for part or all of the costs of the extension or construction (off-site improvements), the subdivider may enter into a public improvement extension agreement with the Town. The agreement shall contain a description of the improvements to be constructed or extended, the legal description of the real property adjacent to the subdivider's improvements (adjacent properties), the names and addresses of the current owners of the adjacent properties from whom reimbursement is sought (adjacent property owners), the terms of the reimbursement to the subdivider, which terms shall not be inconsistent with this Section and an agreement by the subdivider to provide to the Town within sixty (60) days after the date of preliminary construction acceptance by the Town, its actual costs for such work.

B. The agreement shall also include the following provisions:

1. The term of the agreement shall be for a period not to exceed ten (10) years from the date of the signing of the agreement or until the subdivider has received reimbursement for the total reimbursement entitlement established by the agreement (plus any cost-of-living adjustment as hereinafter described), whichever shall first occur.

2. If at any time within the term of the agreement a building permit is issued by the Town for the construction of improvements upon any adjacent property which results in new improvements on the adjacent property being connected to or served by the off-site improvements constructed by the subdivider, the Town shall collect from the adjacent property owner at the time of the issuance of the building permit an amount which the Town determines in the agreement to represent the adjacent property owner's fair and equitable share of the cost of the construction or extension of the subdivider's off-site improvements. The amount of such adjacent property owner's share shall be determined at a public hearing of the Town Council after proper notice to adjacent property owners. The formula for the reimbursement agreement should be on a front footage basis, unless the Council determines that some other basis or combination of bases, would result in a more fair and equitable determination in a given case.

C. If the subdivider fails to comply with the terms and conditions of the agreement, the subdivider shall forfeit its right to reimbursement.

D. Nothing contained in the agreement or this Section shall operate to create a lien or encumbrance of any kind upon the adjacent properties.

E. The Town shall pay over to the subdivider all sums collected from the adjacent property owners pursuant to the agreement as and when collected. In no event may the actual amounts so paid to the subdivider by the Town exceed the total reimbursement entitlement established by the agreement (plus any applicable cost of living adjustment). After the expiration of the ten-year term, the agreement shall become null, void and have no further effect.

F. The subdivider shall construct such oversized improvements and utilities as the Town determines necessary. If such oversized improvements are determined by the Town not to be required to serve the subdivider's development, the cost of such oversizing may be included within the agreement or, at the option of the Town, the Town may reimburse the subdivider for the cost of the oversized portion of such improvements or utilities.

Section 3. Chapter 17 of the Dillon Municipal Code is hereby amended by the addition of a new Article IV, to read as follows:

ARTICLE IV WAIVERS AND VARIANCES

Sec. 17-4-10.- Waiver of requirements.

Sec. 17-4-20.- Variances.

Sec. 17-4-10. - Waiver of requirements.

Notwithstanding any provisions contained herein to the contrary, the Town Manager or Town Manager's designee or Planning Commission may waive any of the **application or supplemental material requirements** of this Chapter if such requirement is irrelevant to the scope or location of the subdivision proposal in question and the Town Manager or Town Manager's designee or Planning Commission incorporates such findings into the final decision.

**[Changed to clarify that waivers are for application requirements only.
Variance required for exceptions to substantive provisions.]**

Sec. 17-4-20. - Variances.

A. General: Where the Town finds that extraordinary hardships will result from strict compliance with the provisions of this Chapter, it may approve variances so that substantial justice may be done and the public interest secured, provided that such variances shall not have the effect of nullifying the basic intent and purpose of this Chapter, and further provided that the Town shall not approve

variances unless it makes findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance will not be detrimental to the public safety, health or welfare or have a significant adverse effect on any adjacent property;

2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;

3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the regulations found in this Chapter are carried out;

4. The granting of the variance will not in any manner conflict with the general goals, policies and provisions of the Town's Comprehensive Plan, Subdivision Code, or Land Development Code;

5. The unique circumstances associated with the property were not created by the applicant or anyone in privity to the applicant; and

6. The variance granted does not depart from the provisions of this Chapter more than necessary to alleviate the hardship.

B. Process: If a variance is requested, it shall be processed as a component of the overall subdivision application, and no variance may be granted unless the Town makes specific findings in support of variance related to the criteria listed above.

Section 4. Chapter 17 of the Dillon Municipal Code is hereby amended by the addition of a new Article V, to read as follows:

ARTICLE V VIOLATIONS AND PENALTIES

Sec. 17-5-10.- Violations and penalties.

Sec. 17-5-10. - Violations and penalties.

A. It shall be unlawful for any person to violate the provisions of this Chapter. A person shall be guilty of a misdemeanor in any case where:

1. Any party violates a provision of this Chapter;

2. Any violation of any of the provisions of this Chapter exists in any building, any other structure or tract of land;

3. An order to remove any such violation has been served upon the owner, general agent, lessee or tenant of the building, other structure or tract of land (or any part thereof) or upon the architect, building contractor or any other person who commits or assists in any such violation; and

4. Such person fails to comply with such order within ten (10) days after the service thereof.

B. The Town Council may further institute, in addition to other remedies provided by law, such equitable proceedings, including but not limited to injunctions, mandamus, abatement or other appropriate action or proceedings as may be necessary to effect compliance with the provisions of this Chapter.

C. No building permit shall be issued for the construction of any building or structure located on a lot or parcel which has been subdivided in violation of the provisions of this Chapter.

D. The Town shall have the authority to bring an action in a court of competent jurisdiction for injunctive relief to enforce any plat restriction, plat note, plat map, master plan or planned unit development agreement and for damages arising out of failure to adhere to any such plat restriction, plat note, plat map, master plan or planned unit development agreement.

E. Penalty. Any person violating any provision of this Chapter, upon conviction thereof, shall be punished as provided in Section 1-4-20 of this Code. Each day during which such illegal action or use continues shall be deemed a separate offense.

Section 5. Exhibit “A” to the Town of Dillon Wetlands Regulations—Appendix 17-C to Chapter 17 of the Dillon Municipal Code—is hereby repealed and replaced with the attached exhibit, which shall be attached to and become part of Appendix 17-C as Exhibit “A.”

[Dan Burroughs to prepare the exhibit describing and depicting the “wetland district” and the various subcategories of wetlands (e.g., Dillon Bay Fen; wetland buffer area).]

Section 6. Subsection 16-5-130(c)(1)(h) of the Dillon Municipal Code is amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

h. A preliminary subdivision plan in conformance with Section ~~17-2-40~~ 17-2-20 or Section ~~17-2-120~~ of this Code, ~~depending on the number of proposed lots,~~ if the property is proposed to be subdivided.

Section 7. Subsection 16-9-30(a) of the Dillon Municipal Code is amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(a) The developer shall be responsible for bringing all public streets and roadways which lie wholly or substantially within a development, or are adjacent to a development, into compliance with the street and road standards set forth in adopted as Chapter 17, Article ~~III~~ VIII of this Code. This shall include the installation of street paving, drainage improvements, street lighting, signalization and street signs to Town standards, as well as the installation of curbs, gutters, sidewalks, pedestrian and bicycle paths and all other required improvements as outlined in Chapter 17. In addition, where a project is proposed adjacent to a road that does not meet Town standards with regard to right-of-way widths, it shall be the developer's responsibility to dedicate all additional necessary right-of-way.

Section 8. Section 5 of Appendix 17-C to Chapter 17 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

5. WETLAND BUFFER AREA.

5.1 WBA created. Within the Town the WBA is hereby created.

5.2 WBA general. In general terms, the WBA is intended to create a buffer area in which native vegetation is maintained and human activities and disturbance of the WBA is kept to a minimum.

5.3 WBA boundaries. As generally depicted on Exhibit A, the WBA boundary shall be:

A. One hundred fifty (150) feet from the edges of fen wetlands;

B. Seventy-five (75) feet from the edges of wetlands containing principal water bodies, because of their role as habitat; and

C. Fifty (50) feet from the edges of all other wetlands.

5.4 Wetlands Delineation Report. All applicants for development of a lot or lots containing a wetland or abutting a Wetlands District shall obtain a precise delineation of WBA boundaries, specifically identifying fen wetlands, wetlands containing principle water bodies, and all other wetlands, through the completion of a full field survey applying the standards of the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual. The applicant shall submit a report and scaled drawing of the precise delineation to the Town Engineer for review in concurrence with the development application. If determined accurate by the Town Engineer, the precise delineation shall serve to delineate the WBA

boundaries with respect to the proposed development in lieu of the depiction on Exhibit A.

5.5-5.4 Prohibited activities within the WBA. The following activities are prohibited within the WBA, unless specifically approved by the Town pursuant to Section 11 of these regulations, "Variance Procedures."

A. New building construction, erection or placement or increase in size of an existing building footprint.

B. New road construction.

C. Placement of material such as soil or gravel.

D. Removal or excavation of material such as soil, gravel or vegetation.

E. Vegetative cutting or clearing, except for maintenance of forest health as determined by the Town in consultation with the US Forest Service or Colorado State Forest Service.

F. Storage of hazardous materials/waste.

G. Construction of water improvement facilities such as detention ponds, unless located on non-wetland areas of the WBA. Approval by applicable regulatory agencies must be obtained.

5.6 ~~5.5~~ Permitted uses and activities within the WBA.

A. Maintenance and repair of existing streets, roads, highways and public utilities, provided that such uses are not enlarged and that such maintenance or repair is done in such a way that avoids or minimizes adverse impacts on wetlands.

B. Parks, when left in a natural state, wildlife and nature preserves, recreational uses limited to natural surface hiking and educational uses.

C. Public infrastructure, other than buildings and electrical substations, but including public utilities, streets, roads and bridges, provided that:

1. There is no practicable alternative route outside the wetland;

2. The public need cannot be met by existing facilities or the modification thereof;

3. The proposed facility is designed to allow the unimpeded circulation of water in the wetland, control runoff from paved surfaces and otherwise minimize adverse impacts on the wetland;

4. Any filling, excavating or draining that is necessary for the construction of the proposed facility must be done in a way that minimizes adverse impacts on the wetland;

5. Erosion control measures are implemented in accordance with the Town Erosion and Sedimentation Control Standards; and

6. Underground utilities are installed in watertight conduits sufficient to maintain the existing hydrology and to contain pipeline breaks.

D. Stormwater collection, provided that there is no practicable alternative site outside the Wetlands District and that a plan is prepared by the applicant and approved by the Planning and Zoning Commission listing steps for monitoring surface and subsurface water quality and a schedule of periodic maintenance of the facility while in use as a stormwater collection facility; and further provided that net flow does not exceed the wetland's natural water storage capacity and that the stormwater undergoes pretreatment as described in subparagraph (2) to prevent silt, debris and pollutants from entering the wetland.

1. No permit for stormwater collection use of a wetland shall involve decreasing the wetland's natural water storage capacity or placing more than twenty-five percent (25%) of the surface area of a constructed collection basin in the Wetlands District. The natural outflow from a Wetlands District shall not be changed so as to increase or decrease the normal pool elevation.

2. Pre-treatment measures may include sedimentation basins, vegetated swales and buffer strips. Riprap made of natural rock may be used only where vegetation cannot control erosion. Storm drains may not discharge directly into a wetland. Lining of swales with paving materials shall not be permitted.

3. No more than one (1) constructed collection basin may be placed within a single Wetlands District.

4. No permit shall be granted for stormwater collection use of a wetland buffer area subject to divided ownership unless the applicant first obtains and records an easement of use from the owners of all other affected properties.

Section 9. Subsection 10(G) of Appendix 17-C to Chapter 17 of the Dillon Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

G. Stormwater runoff from all developments directed into a Wetlands District shall be as provided in Section 5.6D ~~5.5D~~ of these regulations.

Section 10. If any 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 hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 11. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 12. The repeal or modification of any provision of the Municipal Code of the Town of Dillon by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any prior penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 13. 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 _____, 2021.**

**PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED BY
TITLE ONLY THIS ___ DAY OF _____, 2021.**

TOWN OF DILLON,
a Colorado municipal corporation

Carolyn Skowyra, Mayor

ATTEST:

Adrienne Stuckey, Town Clerk

