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Chapter 16 Zoning

ARTICLE I Purpose

Sec. 16-1. Declaration of purpose.

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared with the premise that the Town of Williamsburg Colorado is a Rural classification under State Department of Local Affairs (DOLA) designations, and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population; to facilitate the adequate provision of transportation, water, parks and other public requirements; to conserve the value of buildings; to encourage the most appropriate use of land; and to otherwise provide for the growth of an orderly and viable community.

Secs. 16-2—16-10. Reserved.

ARTICLE II Definitions and Usage

Sec. 16-11. Rules of construction of language.

For the purposes of this Chapter, words used herein shall be interpreted in accordance with the following rules:

1. The particular controls the general.
2. In case of any difference of meaning or implication between the text of this Chapter and the heading of a section or subsection thereof, the text shall control.
3. The word "shall" is mandatory unless the context clearly indicates the contrary. The word "may" is permissive.
4. Words used in the present tense include the future unless the context clearly indicates the future tense.
5. Words used in the singular number include the plural and words used in the plural number include the singular, unless the context clearly indicates the contrary.

Sec. 16-12. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

1. *Basement* means that portion of a building between floor and ceiling which is partly below and partly above grade but so located that the vertical distance from grade to the floor is more than the vertical distance from normal grade to ceiling.
2. *Building* means any structure used, designed or intended for the roofed shelter, enclosure or protection of persons, animals or property.
3. *Child care center* means _____
4. *Clinic, medical or dental* means a group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices but not including bed-patient care.
5. *Complete application* means an application wherein all of the required information and submittal materials in the particulars required by this Code have been submitted to and received by Planning & Zoning, or official specified in this Code, and Planning & Zoning has certified the application as complete.
6. *Cottage (Small) Commercial* means a gainful occupation conducted by members of a household within its place of residence and incidental to the use of the premises.
7. *Equivalent performance engineering basis* means that, by using engineering calculations or testing, following commonly accepted engineering practices, all components and subsystems will perform to meet health, safety and functional requirements to the same extent as required single-family housing units.
8. *Individual sewage disposal system* means any sewage disposal system not connected to the public sewer system serving no more than one (1) lot and approved and authorized by Fremont County Department of Public Health and Environment, and any other appropriate or local agency.
9. *Lot* means a single parcel of contiguous land occupied or intended to be occupied.
10. *Manufactured home* means a single-family dwelling which:

- a. Is partially or entirely manufactured in a factory;
 - b. Is not less than twenty-four (24) feet in width and thirty-six (36) feet in length;
 - c. Is installed on an engineered permanent foundation;
 - d. Has brick, wood, masonite or a cosmetically equivalent exterior siding and a pitched roof;
 - e. Meets or exceeds on an equivalent performance engineering basis standards established by the Building Code of the Town.
 - f. Is certified pursuant to the 'National Manufactured Housing Construction and Safety Standards of 1974", 42 U.S.C. Section 5401, seq., as amended.
11. *Nonconforming lot* means a lot which does not conform to the lot size regulations of the Town.
12. *Nonconforming structure* means a structure which does not conform with definitions of Agricultural Estates (AE) Zoning.
13. *Nonconforming use of land* means a use of any land in a way which does not conform to the use, density or open space regulations of Agricultural Estates (AE) Zoning.
14. *Nonconforming use of structure* means a use carried on within any building which does not conform with definitions of Agricultural Estates (AE) Zoning.
15. *Offset* means the horizontal distance between any structure and a lot line, other than a street right-of-way line.
16. *Off-street parking space* means the area on a lot designed to accommodate a parked motor vehicle as an accessory service to the use of said lot and with adequate access thereto from the public street.
17. *Outdoor recreational facilities* means land and structures, along with accessory equipment, desired and utilized for leisure-time activities of a predominantly outdoor nature and further classified as follows:
- a. *Public* - Facilities owned and operated by a governmental agency for limited or general public use.
 - b. *Private group* - Facilities owned and operated by a group for the exclusive use of the members of such group and their guests ~~and not for profit~~ as a business.
 - c. *Private residential* - Facilities owned by an individual, located on the same lot as or an adjoining lot to his or her residence and intended solely for the use of his or her family and guests.
18. *Setback* means the horizontal distance between any structure and the established street right-of-way line.
19. *Small group living facilities* means state-licensed group homes **for not more than 8 (eight)** developmentally disabled or mentally ill, nonprofit or owner-occupied group homes for **not more than eight (8) persons aged 60 or older**, as defined in **CRS §31-23-303(2)**, wherein unrelated individuals are living together in a single dwelling unit with common access to and common use of all living and eating areas and all facilities for the preparation and serving of food within the dwelling unit.
20. *Street* means a public or private right-of-way usually affording primary access to abutting property.
21. *Street frontage* means that portion of a legal lot which abuts a designated public or private street.

22. *Use, accessory* means a use subordinate to and customarily incidental to the permitted principal use of the property or buildings and located upon the same lot as the principal use.

Secs. 16-13--16-20. Reserved.

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ARTICLE III Establishment of Zoning and Official Zoning Map

Sec. 16-21. Official Zoning District Map.

1. The Town is hereby zoned as shown on the Official Zoning Map of the Town, which, together with all explanatory material thereon, is hereby adopted by reference and declared to be a part of this Chapter.
2. The Official Zoning Map, which shall be located in the office of the Town Clerk, shall be identified by the signature of the Mayor and attested by the Town Clerk, and shall bear the seal of the Town under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 16-21 of the Zoning Ordinance of the Town", together with the date of adoption of this Chapter.

Sec. 16-22. Changes in Official Zoning Map.

No changes of any nature shall be made on the Official Zoning Map or matters shown thereon. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Chapter and punishable as provided in this Code.

Sec. 16-23. Replacement of official map.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of nature or number of changes and additions, the Board of Trustees may, by resolution, adopt a new Official District Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereto.

Secs. 16-24--16-30. Reserved.

ARTICLE IV Administration and Enforcement

Sec. 16-31. Planning & Zoning Commission.

1. The Planning & Zoning Commission (Planning & Zoning) designated by the Board of Trustees shall administer and enforce this Chapter. Planning & Zoning may be provided with the assistance of such other persons as the Board of Trustees may direct.
2. If Planning & Zoning, or their Designee, shall find that any of the provisions of this Chapter are being violated, Designee shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The Designee shall order discontinuance of illegal use of land, buildings or removal of illegal buildings or structures or of additions, or structural changes thereto, or of any illegal work being done; or take any other action authorized by this Code to ensure compliance with or prevent violation of its provisions.

Sec. 16-32. Building permits.

No building or other structure shall be erected, moved, added to, remodeled, repaired, structurally altered or any work accomplished or undertaken subject to the requirements of Chapter 18 without obtaining a permit therefore, issued by the Designee. No building permit shall be issued except in conformity with the provisions of this Code, except after order from the Town or its Designee.

Sec. 16-33. Expiration of building permit.

1. If The work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire.
2. If The work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire.
3. If work is yet to be completed upon permit expiration, permittee must apply for a new permit.

Sec. 16-34. Compliance with approved plans and applications.

Building permits issued on the basis of plans and applications approved by Planning & Zoning authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use, arrangement or construction significantly different than authorized shall be deemed a violation of this Code.

Sec. 16-35. Public hearings.

1. No regulation, restriction or boundary of this Chapter shall become effective, nor shall any such restriction or boundary be amended until after a public hearing thereon, at which parties in interest and citizens shall have an opportunity to be heard.

2. Upon the filing of an application, petition or other document, the Designee shall set a date for a public hearing, which date shall be not more than sixty (60) days from the date of filing such petition, application or document.
3. Not less than fifteen (15) days prior to the date set for the hearing, the Designee shall cause a notice stating the time, place and purpose of such hearing to be published once in a newspaper in general circulation in the County of Fremont. When the hearing involves the granting of a conditional use, a notice stating the time, place and purpose of such hearing shall be posted in the vicinity of such proposed change or conditional use.

Secs. 16-36—16-50. Reserved.

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ARTICLE V Amendments

Sec. 16-51. No Authority to amend.

There shall be no amendments to Zoning as it exists on the official Zoning Map - which is the document of record - at the time of the publication and adoption of these codes.

Secs. 16-52--16-60. Reserved.

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ARTICLE VI Board of Adjustment and Variances

Sec. 16-61. Variances.

Planning & Zoning is empowered to grant variances from the regulations and provisions of this Chapter. A variance, if granted, will constitute a change in the zoning provisions of this Chapter as distinct from a conditional use grant which allows for inclusion within the zones established by this Chapter certain anticipated uses of a unique nature or character justified by temporary conditions. Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.

Sec. 16-62. Variance procedure.

1. Application. An application for a variance shall be submitted to the Town Clerk in writing, together with the required application fee.
2. Determination by Planning & Zoning. Planning & Zoning shall give notice and hold a public hearing on all variance applications in accordance with Section 16-35 of this Code. Planning & Zoning shall consider the application for variance at a public meeting.

Sec. 16-63. Conditions on granting variances.

In granting any variance, Planning & Zoning may impose such conditions and requirements with respect to location, construction, maintenance and operation in addition to any which may be stipulated by this Chapter as deemed necessary for the protection of the adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code.

Sec. 16-64. Planning & Zoning Commission authorized to approve minor modifications.

1. Purpose and intent. The purpose and intent of this Section is to allow Planning & Zoning, or its Designee, to grant minor modifications up to a maximum of ten percent (10%) from zoning standards in cases where a deviation there from exists relative to existing structures. Relief under this Section shall not be available for the following:
 - a. Any application for a new development or proposed construction.
 - b. A building permit application.
 - c. A plot plan application.
 - d. An improvement location certificate.
 - e. Any minor modification that would result in any of the following:
 - i. An increase in permitted maximum development density or intensity.
 - ii. A change in permitted uses or mix of uses.
 - iii. An increase in the building height of principal structures.
 - iv. A decrease in the amount of required open space or landscaping.

2. Application. The applicant shall submit to the Designee a variance application, together with such supporting documentation as the Designee may require, and a review fee, the amount of which shall be set from time to time by resolution of the Board of Trustees.
3. Appeal. The Designee shall review the application and initially determine whether or not the application qualifies the applicant for relief under this Section. In the event the Designee determines that the application should be denied, appeal of the Designee's decision to Planning & Zoning shall be in accordance with the provisions of this Code.
4. Approval criteria. Upon complete submission of the application as aforesaid and approval thereof by Planning & Zoning, the Designee shall grant the modification unless it is in conflict with either the goals of the Comprehensive Plan or the purposes of the zoning code.
5. Effect of approval. The Designee shall state on the zoning certificate, and on all affected plans or plats, the nature of any minor modification and reason for approval thereof. The Designee shall also sign, date and, if applicable, record all such documentation.

Secs. 16-65--16-80. Reserved.

ARTICLE VII Conditional Use Grants

Sec. 16-81. Intent of conditional use grants.

The conditional use classification is intended to provide the inclusion within a zone of uses of such unique nature or character or uses which are so dependent upon specific contemporary conditions that predetermination of permissibility by right, or the detailing within the chapter of specific standards, requirements or conditions necessary or appropriate to such permissibility, is not practical, but which may be permitted in the zone where listed, subject to conditions and requirements as hereinafter specified.

Sec. 16-82. Approval of conditional use grants.

Subject to final approval and acceptance by the Board of Trustees, uses listed as conditional uses may be permitted upon a petition to Planning & Zoning for a conditional use grant and subject to approval by the Board of Trustees. Planning & Zoning shall base its determination on general considerations as to the effect of such permit on the health, safety, welfare and economic prosperity of the Town and specifically on the effect of such use upon the immediate neighborhood in which it would be located, including the considerations listed in Section 16-85 below.

Sec. 16-83. Application to existing uses.

A use which existed lawfully on a lot at the time said lot was placed in a zone where such use would be permitted only upon approval of a conditional use grant shall automatically be granted conditional use status. In such case, the grant of conditional use status shall be based upon the existing conditions at that time, and any expansion or change in use shall require changing of the conditional use grant. Petition may be made at any time for expansion or other change of the conditional use grant, and such petition shall not prejudice the existing use as herein authorized.

Sec. 16-84. Termination of conditional uses.

Where a permitted conditional use does not continue in conformity with the conditions of the original approval or where a use is no longer compatible with the surrounding area, the conditional use grant may be terminated by the Board of Trustees upon referral to the Board and public hearing thereon. Such use shall thereafter be classified as a legal nonconforming use; except that, where the action is due to failure to comply with the conditions of the conditional use grant, the Board of Trustees may require complete termination of the use.

Sec. 16-85. Standards and requirements for conditional use grants.

1. Approval of a conditional use grant shall be based on the evaluation of such factors as the following:
 - a. The character and quality of the area in which the use will be located.

- b. The physical appearance of the use, including suitability of architectural and landscaping treatment.
 - c. Appropriate location of the building or buildings on the lot.
 - d. Adequate provision of parking, loading and circulation facilities.
 - e. Potential effect of the use upon off-site vehicular and pedestrian traffic circulation, with particular reference to potential traffic congestion.
 - f. Potential effect of the use on storm drainage in the area.
 - g. Adequacy of planting screens where necessary.
 - h. Provision of operational controls where necessary to avoid hazardous conditions or eliminate potential air or water pollutants or other noxious influences.
 - i. The general compatibility of the proposed use with the area in which it is to be located.
2. Conformity with regulations. Except as may be specifically otherwise provided, any conditional use shall conform to the lot size, building location, building size, open space and height limitation regulations.
3. Accessory uses. Uses and structures accessory to a principal conditional use shall be subject to appropriate regulations in the same manner as herein set forth for the principal conditional use.

Sec. 16-86. Procedure for conditional use grants.

1. Filing. A petition for a conditional use grant shall be submitted in writing and filed with the Town Clerk, who shall promptly refer such petition to the Board of Trustees. Such petition shall be accompanied by building site and operational plans and by such other data and information as necessary for proper evaluation of the request.
2. Hearing. The Board of Trustees shall conduct a study and investigation of the petition and shall give public notice and hold a public hearing thereon as provided in Section 16-35.
3. Decision. Following public hearing, the Board of Trustees shall make a determination and set forth its decision in writing, indicating conditions of approval or if the petition is disapproved, indicating the reasons for disapproval. The determination of the Board of Trustees shall be transmitted forthwith in writing to the Town Clerk, who shall place the item on the agenda for the next regular meeting, at which time the Board of Trustees shall formally approve or disapprove their decision.
4. Recording. When a conditional use grant is approved, such approval shall be appropriately noted on building permits and zoning certificates.

Secs. 16-87--16-100. Reserved.

ARTICLE VIII General Application of Regulations

Sec. 16-101. Compliance with regulations.

Within the Town, the use of any land, the size and placement of lots, the use, location and type of structure thereon and the provision of open spaces shall be in compliance with the regulations established herein and made applicable to the zone in which such land or structure is located.

Secs. 16-102–16-120. Reserved.

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ARTICLE IX Agricultural Estates (AE) Zoning

Sec 16-121. Declaration of Purpose.

The Agricultural Estates (AE) Zoning is intended to provide for residential areas providing for the maximum usage of topographic features to promote a balance of residential zoning by creating a rural environment.

Sec. 16-122. Uses permitted by right.

1. Single-family and detached dwellings, including manufactured homes
2. Duplex dwellings as attached two-family dwelling units with separate ownership
3. Triplex dwellings as attached two-family dwelling units with separate ownership
4. Public parks and private recreation areas.
5. Public and private schools
6. Cottage (small) commercial
7. Bed and Breakfast or rental of properties for short-term stays
8. Home school
9. Orchard, vineyard and garden spaces
10. Assisted living residence
11. Nursing home

Sec. 16-123. Conditional and/or special uses.

1. Public childcare center or family care home
2. Public utilities building/structures (including electrical transmission and distribution features)
3. Contractor's yard or buildings
4. Religious or public gatherings
5. Towers that exceed 50 feet in height
6. Town administration buildings and yards
7. Fire and police stations

Sec 16-124. Exclusions.

1. Major commercial

Sec. 16-125 - 16-140. Reserved.