

Chapter 9
Creede Development Code

Article 4

General Provisions

9-04-010 Short Title

This Title shall be known and may be cited as the “Development Code,” the “Creede Development Code” or “CDC”.

9-04-020 Authority

The Development Code is adopted and enacted pursuant to the authority provided by Article 65.1 Areas and Activities of State and Local Interest, Article 65.5 Notification of Surface Development, Article 67 Planned Unit Development Act of 1972, and Article 68 Vested Property Rights of Title 24, Colorado Revised Statutes; Article 20 Local Government Regulation of Land Use of Title 29, Colorado Revised Statutes; and Article 12 Annexation – Consolidation – Disconnection, Article 15 Exercise of Municipal Powers, Article 16 Ordinances – Penalties, Article 20 Taxation and Finance, Article 23 Planning and Zoning, and Article 25 Public Improvements of Title 31, Colorado Revised Statutes; and other applicable state and federal laws and regulations.

9-04-030 Purposes¹

The Development Code is intended to promote and achieve the following goals and purposes for the Creede community, including the residents, property owners, business owners and visitors:

(a) Divide the City into zones, restricting and requiring therein the location, erection, construction, reconstruction, alteration, and use of buildings, structures, and land for trade, industry, residence, and other specified uses; regulate the intensity of the use of lot areas; regulate and determine the area of open spaces surrounding such buildings; establish building lines and locations of buildings designed for specified industrial, commercial, residential, and other uses within such areas; establish standards to which buildings or structures shall conform; establish standards for use of areas adjoining such buildings or structures;²

(b) Implement the goals and policies of the Comprehensive Plan of the City of Creede and other applicable planning documents of the City;

¹ Alternative language is suggested for introduction and listed purposes. “Purposes” have legal significance when used as the basis for interpreting and applying development regulations. The alternative language better captures nuances in land use law as well as provides enhanced direction to reviewing officials with regard to interpretation and application of development regulations.

² New purpose: This language integrates statutory zoning purpose language.

(c) Comply with the purposes stated in state and federal regulations which authorize the regulations in this Development Code;

(d) Promote the safe, effective and efficient arrangement of streets and routes for motorized recreation, passive recreation and pedestrian travel and avoid undue traffic congestion and degradation of the level of service provided by streets and roadways, and enhance effective, attractive and economical pedestrian opportunities;

(e) Promote the design of new developments to relate to the City's historic development pattern;

(f) Promote compact, well-defined neighborhoods that reinforce and enhance the City's character, and foster a sense of community;

(g) Promote adequate light, air, landscaping and open space and avoid undue concentration or sprawl of population;

(h) Provide a planned and orderly use of land, protection of the environment, and preservation of viability, all to conserve the value of the investments of the people of the Creede community and encourage a high quality of life and the most appropriate use of land throughout the municipality;

(i) Prevent the inefficient use of land; avoid increased demands on public services and facilities which exceed capacity or degrade the level of service for existing residents; provide for phased development of government services and facilities which maximizes efficiency and optimizes costs to taxpayers and users; and promote sufficient, economical and high-quality provision of all public services and public facilities, including but not limited to water, sewage, schools, libraries, police, parks, recreation, open space, and medical facilities;

(j) Minimize the risk of damage and injury to people, structures and public infrastructure created by wild fire, avalanche, unstable slopes, rock fall, mudslides, flood danger and other natural hazards;

(k) Achieve or exceed federal clean air standards;

(l) Sustain water sources by maintaining the natural watershed, preventing accelerated erosion, reducing runoff and consequent sedimentation, eliminating pollutants introduced directly into streams, and enhancing public access to recreational water sources;

(m) Maintain the natural scenic beauty of Mineral County in order to preserve areas of historical and archaeological importance, provide for adequate open spaces, preserve scenic views, provide recreational opportunities, sustain the tourist-based economy, and preserve property values;

(n) Promote architectural design which is compatible, functional, practical and complimentary to Creede's mountain environment and historic character, including but not limited to use of materials, scale, arrangement of fenestration, entries, and roof lines, and use of decorative architectural elements;

(o) Achieve innovation and advancement in design of the built environment to improve efficiency, reduce energy consumption, reduce emission of pollutants, reduce consumption of non-renewable natural resources, and attain sustainability;

(p) Achieve a diverse range of attainable housing which meets the housing needs created by jobs in the City of Creede, provides a range of housing types and price points to serve a complete range of life stages, and promotes a balanced, diverse, and stable full time residential community which is balanced with the visitor economy;

(q) Promote quality real estate investments which conserve property values by disclosing risks, taxes and fees; by incorporating practical and comprehensible legal arrangements; and by promoting accuracy in investment expectations; and,

(r) Promote the health, safety, and welfare of the Creede community.

9-04-040 Interpretation³

(a) **Conflict of Laws.** In their interpretation and application, the provisions of this Development Code shall be held to be minimum requirements for the promotion of the public health, safety and welfare. Whenever the requirements of this Development Code are more or less restrictive than the requirement of any other lawfully adopted rules, regulations or ordinances, including any applicable state or federal regulations, the more restrictive regulation or the regulation imposing the higher standards shall govern.

(b) **Meanings and Intent.** All provisions, terms, phrases, and expressions contained in this Development Code shall be construed according to the stated purposes in this Development Code. All provisions, terms, phrases, and expressions contained in this Development Code shall be construed according to the general purposes set forth in §9-04-030 and the specific purpose statements set forth throughout this Development Code. The stated purpose in a specific section of this Development Code shall control over the general purposes stated in §9-04-030 to the extent of any conflict in the stated purposes.

(c) **Headings, Illustrations, and Text.** In the event of a conflict or inconsistency between the text of this Development Code and any heading, caption, figure, illustration, table, or map, the text shall control.

(d) **Lists and Examples.** Unless otherwise specifically indicated, lists of items or examples that use terms such as “for example,” “including,” and “such as,” or similar language are intended to provide examples and shall not be interpreted as exhaustive lists of all possibilities or requirements.

(e) **References to Other Regulations/Publications.** Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

³ Additional language is proposed for precision.

(f) Delegation of Authority. Any act authorized by this Development Code to be carried out by a specific official of the City may be carried out by a designee of such official. The Board of Trustees shall be authorized to carry out any act or designate any official to carry out any act authorized by this Development Code.

(g) Technical and Nontechnical Terms. Words and phrases not otherwise defined in this Development Code shall be construed according to the common and approved usage of the language. Technical words and phrases not otherwise defined in this Chapter 9 which may have acquired a particular and appropriate meaning in law shall be construed and understood according to such meaning. The most recent version of Webster's Dictionary or the most recent version of Black's Law Dictionary may be used to interpret the definition of a word or phrase not defined in this Development Code.

(h) Public Officials and Agencies. All public officials, bodies, and agencies to which references are made are those of the City of Creede unless otherwise indicated.

(i) Mandatory and Discretionary Terms. The words "shall," "must," or "will" are always mandatory, and the words "may" or "should" are always discretionary.

(j) Conjunctions. Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

(1) "And" indicates that all connected items, provisions, or events shall apply: and

(2) "Or" indicates that one or more of the connected items, conditions, provisions, or events shall apply.

(k) Tenses and Plurals. Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

(l) Relationship to Third Party Agreement. The Development Code is not intended to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of private agreements or restrictive covenants running with land. Where the Development Code imposes a greater restriction than that of any other law, contract, or deed, the provisions of the Development Code shall control. Nothing in the Development Code shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with the Development Code. In no case shall the City be obligated to enforce the provisions of any easement, covenants, or agreements between private parties.

(m) Authority of City Manager to Interpret. The City Manager, or his or her designee, has authority to render an interpretation or usage of terms used in this Development Code as applied to a specific development applications or activity or where such term or phrase is not defined in this Development Code. The City Manager shall use the rules of interpretation set forth in this Section and shall render interpretations in writing upon request. The written interpretation of the City Manager may be appealed to the Board of Adjustment in accordance with §9-16-130, *Appeal*.

9-04-050 Computation of Time

This Section shall apply to the requirements and procedures of this Chapter 9. The time within which an act is required to be done shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, an official holiday recognized by the State of Colorado, or any official holiday recognized by the City of Creede, the last day shall be deemed to be the next day which is not a Saturday, Sunday or official holiday. The failure of the City to perform any act within the timeframe required for the City shall not be deemed to be an automatic approval by the City or a waiver of the City's ability to review an application for development for compliance with the applicable standards and regulations.

The following time-related words shall have the following meaning:

“Day” means a calendar day unless working day is specified.

“Week” means seven (7) calendar days.

“Month” means a calendar month.

“Year” means a calendar year, unless a fiscal year is indicated.

9-04-060 Applicability

(a) **Jurisdiction.** The Development Code shall be effective throughout the City of Creede's corporate boundaries. The City of Creede's planning jurisdiction includes all land within the City of Creede and the land within three miles of the City of Creede's corporate boundaries to the extent of the City's major street plan. A copy of a map showing the boundaries of the City of Creede and the area within the three mile planning jurisdiction shall be available for public inspection in the Creede Town Hall.

(b) **Permit Requirement.** The Development Code establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the City of Creede's Comprehensive Plan, with the regulations and standards adopted in this Development Code, or with such regulations as are applicable in the Creede Municipal Code or state or federal law. Issuance of a building permit or grading permit is required prior to the commencement of any development in the City, including grading property or erecting, constructing, reconstructing, altering, moving, or changing the use of any building, structure, or improvement within the City. A permit shall not be issued until the plans for development of the proposed erection, construction, reconstruction, alteration, moving, use or grading fully conform to the land development regulations in effect at the time of submitting the permit.

9-04-070 Applicability to Public Agencies

The provisions of the Development Code shall apply to all public bodies, districts, and agencies of the federal, state, county, and municipal governments to the extent permitted by law.⁴

9-04-080 Exemption for Essential Services

The normal maintenance by public utilities, special districts, or municipal departments of underground, surface, or overhead electrical, television, steam, gas, fuel, water, sewer, or storm drainage transmission, collection, or distribution systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants, and similar equipment in connection therewith are exempted from the application of this Development Code. Not included in the exemption granted by this Section is the construction or alteration by public utilities or special districts of any aboveground systems or improvements within the right-of-way pursuant to Article 2 of Chapter 11 of the Creede Municipal Code. Business offices and maintenance yards of such public utilities, special districts, or municipal departments are not included in the exemption granted by this section.

9-04-090 Relationship to Comprehensive Plan⁵

(a) **Implementation.** It is the intention of the City that the Development Code implements the planning policies adopted in the *City of Creede Comprehensive Plan* (including related documents as all may be amended or updated from time to time as defined in Article 8) for the City of Creede and its extraterritorial planning area. This Development Code and any amendment to it may not be challenged on the basis of any alleged nonconformity with the Comprehensive Plan.

(b) **Advisory Only.** Pursuant to C.R.S. 31-23-206 the Creede Comprehensive Plan is advisory only.

9-04-100 Fees⁶

(a) **Fees.** Reasonable fees sufficient to cover the costs of administration, peer review by professionals qualified in fields relevant to development applications, inspection, publication of notice and similar matters will be charged to applicants for all development applications. The Board of Trustees may adopt, amend and update a schedule of fees by resolution. The City Manager may require additional fees when deemed necessary and reasonable based on the nature and character of the review required or where unusual issues are presented which may require additional review.

⁴ The City may legally decide to exempt the application of the CDC to City owned property or other property or may enact a shortened process for development approvals on City property or other public property.

⁵ The Comprehensive Plan is only an advisory document, therefore it should only be considered as a basis for adopting regulations and compliance with the Comprehensive Plan should not be a review criteria for development applications. NOTE: CLUC referred to Comprehensive Plan for procedures and criteria for amendment. The CDC adopts procedures and criteria for amendment of the Comprehensive Plan.

⁶ This section establishes detailed regulations for collection of fees. A pass-through system is established to enable 100% cost recovery for development application review. The City can establish flat fees for relatively simple applications.

(b) Pass Through Accounts. All development applications shall be treated as pass-through accounts whereby the Applicant shall be liable for all costs of review incurred by the City. Additional review fees may be requested if the initial amount designated in the Fee Schedule is not sufficient for the cost of application review. Upon request by the Applicant, the City shall provide an estimate of the cost for review of a development application. The City Manager may withhold processing and review of a development application where the Applicant has not provided sufficient fees to continue or complete the application review. The City shall return the balance of any unused application review fees when the application process is complete.

(c) Payment In-Full Required. All development applications shall be required to pay the City in full for all costs incurred for the review of a development application. Payment in full to the City of the costs incurred for development application review shall be a condition to each and every development application. The failure to pay the City in full for the costs incurred for development application review within thirty-five (35) days of final approval shall render any such approval null and void. The Board of Trustees may waive this requirement, reduce fees, or extend the time period for payment.

(d) Interest on Delinquent Fees. Development application review fees and charges which are not paid within thirty (30) days of sending an invoice shall be deemed to be past due and shall bear interest at the rate one percent (1%) interest per month.⁷

(e) Lien for Delinquent Fees. All delinquent development application review fees and charges along with such interest that has accrued thereon shall be subject to a lien on the property which the development application concerned and all such delinquent charges may be certified to the Treasurer of Mineral County, Colorado and may be collected and paid over to the City of Creede by the Treasurer of Mineral County, Colorado in the same manner as taxes are authorized by CRS §31-20-105.⁸

9-04-110 Transition to Creede Development Code

(a) Purpose. The purpose of this Section is to clarify the status of properties with pending applications or recent approvals, as those terms are used below, and properties with outstanding violations, at the time of the adoption of the Development Code.

(b) Effective Date. The provisions of the Development Code became effective on *[Insert effective date of adoption - 30 days after ordinance]*. Development plans approved under previous regulations that received vested property rights by approval of the Board of Trustees shall be valid for the duration of that vested property right provided that all terms and conditions of such vested right approval are followed. Existing legal uses that may become nonconforming by adoption of this Development Code shall become legal nonconforming uses subject to the provisions of this Section.

⁷ The interest rate should be specified. 1.5% per month (18% annual) is relatively common. We suggested 1% which believe is reasonable and a punitive, profit motivated rate.

⁸ CRS §31-20-105 states, “§ 31-20-105. Municipality may certify delinquent charges Any municipality, in addition to the means provided by law, if by ordinance it so elects, may cause any or all delinquent charges, assessments, or taxes made or levied to be certified to the treasurer of the county and be collected and paid over by the treasurer of the county in the same manner as taxes are authorized to be by this title.”

(c) **Violations Continue.** Any violation of the previous Creede Land Use Code, shall continue to be a violation under the Development Code and shall be subject to the penalties and enforcement in this Article.

(d) **Preliminary Subdivision and PUD Approvals.** Preliminary subdivision and preliminary PUD approvals granted prior to the effective date of the Development Code shall be considered as approved pursuant to the Development Code. Preliminary subdivision and PUD approvals granted under the previous regulations shall be valid for two (2) years from the date of approval unless a vested right providing a longer period was granted by the Board of Trustees by ordinance. Extensions of preliminary subdivision plats and preliminary PUD plans may be granted in accordance with §9-16-020(h). Failure to obtain a final plat or final planned unit development plan approval in the allowed time shall result in the expiration of the preliminary plan. Applications for final subdivision plat and final planned unit development plan shall follow application submittal requirements and review procedures in this Development Code and shall be subject to the standards and review criteria in this Development Code provided that this Development Code shall not be so applied as to alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of a site specific development plan with vested property rights as defined and approved by the City of Creede.

(e) **Future Subdivisions.** Large tracts or blocks of land contained within a recorded subdivision that were intended or designed for re-subdivision into smaller tracts, lots, or building sites when originally approved, shall comply with all provisions of the Development Code.

(f) **Projects with Final Approval.** Development projects with final approval that are valid on [*Insert effective date*], shall remain valid until their termination date. Projects with valid approvals or permits may be completed in conformance to the development standards in effect at the time of approval.

(g) **Active Building Permits.** Any building or development for which a building permit was granted prior to [*Insert effective date*] shall be allowed to proceed to construction under the regulations in place when the building permit was issued. If the development for which the building permit is issued prior to [*Insert effective date*] fails to comply with the time frames for development established for the building permit, the building permit shall expire and future development shall comply with the requirements of the Development Code.

(h) **Violations, Enforcement, and Penalties.** A use, structure, or lot not lawfully existing at the time of the adoption of the Development Code is deemed lawful and conforming as of the effective date of the Development Code if it conforms to all of the requirements of the Development Code. Payment shall be required for any civil penalty assessed under the previous code, even if the original violation is no longer considered a violation under the Development Code.

9-04-120 Non-Conforming Uses and Structures⁹

(a) **Intent.** Within the districts established by this zoning code, or amendments thereto that may be adopted, there may exist lots, structures and uses of land and structures, which were lawfully established before this Development Code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Development Code or by future amendment to the Development Code. It is the intent of this Section to permit these nonconformities to continue until they are removed, abandoned or more than fifty percent (50%) destroyed. It is the further intent of this Section that nonconforming structures and uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except as provided in this section.

(b) **Uses of Land.** Where at the time of the passage of this Development Code, or amendment thereof, lawful use of land existed which would not be permitted by the regulations imposed by this Development Code, the use may be continued so long as it remains otherwise lawful, provided:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy greater area of land than was occupied at the effective date of adoption or amendment of this Development Code;

(2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Development Code;

(3) Any such nonconforming use of land which ceases for any reason for a period of one hundred eight (180) days shall be deemed abandoned, then any subsequent use of such land shall conform to the regulations specified by this Development Code for the district in which such land is located; and,

(4) No additional structure, not conforming to the requirements of this Development Code, shall be erected in connection with such nonconforming use of land.

(c) **Structures.** Where a lawful structure existed at the effective date of adoption or amendment of the Development Code that could not be built under the terms of this Development Code by reason of restrictions on area, lot coverage, height, location on the lot or other requirements concerning the structure, such structure may continue to exist so long as it remains otherwise lawful, subject to the following provisions:

⁹ This language is updated and expanded to better address all situations which may arise from non-conforming uses and structures. Specifically, non-conforming structures are addressed separately from non-conforming uses. NOTE: The CLUC included language which amortized certain non-conforming uses [see Sec. 4.7(b)]. The CRS §38-1-101(3)(a) prohibits amortization clauses; therefore, this language has not been incorporated into the draft CDC. CRS §38-1-101 states, "Notwithstanding any other provision of law to the contrary, a local government shall not enact or enforce an ordinance, resolution, or regulation that requires a nonconforming property use that was lawful at the time of its inception to be terminated or eliminated by amortization."

(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;

(2) Should fifty percent (50%) or more of such nonconforming structures or nonconforming portion of a structure be destroyed by fire or other disaster it shall not be reconstructed except in conformity with the provisions of this zoning code unless a permit for repair or reconstruction of a damaged nonconforming structure is issued pursuant to subsection (d) below;

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after having been moved; and

(4) Additions or alterations to a non-conforming structure which meet the requirements of the Development Code shall not be prohibited.

(d) Repair or Reconstruction of Nonconforming Structures.¹⁰ Any repair or reconstruction of a non-conforming structure when compliance with all of the requirements of the Development Code may result in a hardship or burden, the owner of a nonconforming structure which is damaged by fire or other disaster by more than fifty percent (50%) of its replacement cost may apply to the Planning and Zoning Commission (PZC) for a permit to repair or reconstruct the nonconforming structure. The decision of the PZC may be appealed to the Board of Trustees in accordance with §9-16-130. The PZC shall use the criteria set forth in this section to review an application to repair or reconstruct a damaged nonconforming structure:

(1) The damage to the nonconforming structure was not caused by the intentional act of criminal conduct of the owner of the nonconforming structure, or the owner's agent or representative;

(2) The repair or reconstruction of the damaged nonconforming structure as proposed by the Applicant will not result in a greater degree of nonconformity than existed immediately prior to the structure being damaged;

(3) The repair or reconstruction of the damaged nonconforming structure as proposed by the Applicant will be compatible and consistent with the existing development character in the immediate vicinity of the damaged structure;

(4) The damaged nonconforming structure has been brought into compliance with the requirements of the Development Code to the maximum extent practical; and,

(5) The continuation of the nonconformity would not threaten the health or safety of the Creede community, would not present risk of damage or injury to property or persons, and would not materially or adversely affect property values.

¹⁰ This is a new provision which allows a property owner to apply to restore a non-conforming use which is destroyed by more than 50%.

(e) Uses of Structures or of Structures and Premises in Combination. If lawful use involving individual structures, or of structures and premises in combination, existed at the effective date of adoption or amendment of the Development Code that would not be allowed in the district under the terms of this Development Code, that use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this zoning code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

(2) Any nonconforming use may not be extended throughout any parts of a building, unless such building was manifestly arranged or designed for such use at the time of adoption or amendment of the Development Code, but no such use shall be extended to occupy any land outside such building;

(3) Any structure, or structures and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(4) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of one hundred and eighty (180) days,¹¹ the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and,

(5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. *Destruction*, for the purpose of this Subsection, is defined as loss of fifty percent (50%) or more or of substantial damage to the structure.

(6) Any non-conforming use or non-conforming structure may be restored provided that less than fifty percent (50%) of such structure has been destroyed or damaged and provided that restoration commences within one hundred and eighty (180) days of the event which caused destruction.

(7) A mobile home in any zone district may be replaced with a newer model mobile home provided that such mobile home meets all applicable building code regulations as may be adopted from time to time and provided that such replacement mobile home does not expand the footprint of the prior mobile home or increase any other non-conformity.

(f) Lot Reduction – Prohibition against Establishing New Nonconforming Uses.

(1) No lot or parcel of land, nor any interest therein, shall be transferred, conveyed, sold, subdivided or acquired either in whole or in part, so as to create a new nonconforming use, to avoid, circumvent or subvert any provision of this Development Code, or so as to

¹¹ A one year period for abandonment of a non-conforming use is common. Some communities adopt 180 days, including Creede in the existing CLUC.

leave remaining any lot or width or area below the requirements for a legal building site as described in this Development Code; nor shall any lot or portion of a lot required for a legal building site under the provisions of this Development Code be used as a portion of a lot required as a site for another structure.

(2) No building permit shall be issued for any lot or parcel of land which has been transferred, conveyed, sold, subdivided or acquired in violation of this Section.

9-04-130 Severability

If any court of competent jurisdiction invalidates any provision of the Development Code, then such judgment shall not affect the validity and continued enforcement of any other provision of the Development Code. If any court of competent jurisdiction invalidates the application of any provision of the Development Code, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment. If any court of competent jurisdiction invalidates any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

9-04-140 Save Harmless Clause

An applicant agrees to save the City, its officers, employees, and agents harmless from any and all costs, damages, and liabilities that may occur, or be claimed to occur, by reason of any work performed as a result of any development approval granted by the City.

9-04-150 Disclaimer of Liability

This Development Code shall not be construed as imposing upon the City, or any official or employee of the City, any liability or responsibility for damages of any kind to any person by reason of inspection authorized in the Development Code, or failure to inspect, or by reason of issuance of an application approval or building permit, or by reason of pursuing or failing to pursue an action for injunctive relief.

9-04-160 Violations

(a) **Compliance Required.** It is unlawful for any person to commence, or any property owner or lessee to allow any development activity or subdivide land within the entire area of the City without having first complied with the provisions of the Development Code. In the territory subject to subdivision jurisdiction beyond the municipal limits, it is unlawful for any person to subdivide land without having conformed with the major street plan of the City.

(b) **Permit or Approval Based on Materially False Information.** Any building permit or approval authorized by the Building Official that is issued in reliance upon any materially false statement in the development application or in supporting documents or oral statements, is void from the beginning and shall be revoked.

(c) **Transfer or Sale of Interest Prior to Final Subdivision Approval.** It is unlawful for any person to transfer or sell, or agree to sell any lot, tract, parcel, site, separate interest (including a leasehold interest), condominium interest, timeshare estate, or any other division within a subdivision within the City until such subdivision has been approved in writing by the Board of Trustees and a plat thereof recorded in the office of the Mineral County Clerk and Recorder. A written agreement to sell a condominium unit prior to Final Subdivision approval shall not constitute a violation of this Section if: The written agreement is expressly conditioned upon approval of the Board of Trustees of the final subdivision plat and all related documents, the preliminary plan has been approved by the Board of Trustees, the written agreement provides that the prospective buyer or purchase is entitled to terminate the written agreement and is entitled to receive the full amount of any monies deposited, and the form of the written agreement has received approval by the City Attorney prior to using the form of such written agreement with a prospective purchaser or buyer.

(d) **Public Nuisance.** Violations of this code may coincide with actions or conditions that are identified as a public nuisance in Chapter 7 of the Creede Municipal Code. When that is the case, the City Manager may proceed under this Development Code as well as the procedures of Chapter 7.

(e) **Persons Liable.** The owner of property upon which any violation of this Development Code occurs shall be held responsible for the violation and be subject to the penalties and remedies provided in this section.

(f) **Violations Cumulative.** Any person violating any of the provisions of the Development Code shall be deemed to have committed a civil infraction for each and every day or portion of a day during which any infraction is committed, continued, or permitted.

9-04-170 Penalties

Any person violating any of the provisions of the Development Code shall be subject to the penalties contained in Article 4 of Chapter 1 of the Creede Municipal Code. Any remedies provided for in this section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. The imposition of any penalty under this Development Code shall not preclude the City or affected property owner from instituting any appropriate action or proceeding to require compliance with the provisions of this Development Code.

9-04-180 Civil Infraction

Every person violating any provision of this Development Code shall be deemed to have committed a civil infraction for each and every day or portion of a day during which any infraction is committed, continued, or permitted and shall be subject to the penalties contained in Article 4 of Chapter 1 of the Creede Municipal Code.

9-04-190 Enforcement Authority and Procedures¹²

¹² Additional language is proposed to improve legal enforcement authority and clearly set forth procedures, particularly with regard to entry upon a premises for inspection and enforcement of code violations.

(a) Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of the Development Code, or whenever the City Manager has reasonable cause to believe that there exists in any building or upon any premises any violation of the Development Code, the City Manager may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the City Manager by the Development Code. If such building or premises are occupied, the City Manager shall first present proper credentials and demand entry. If such building or premises are unoccupied, the City Manager shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. The City Manager may be accompanied by a duly authorized law enforcement officer.

(b) Refusal of Entry. Should entry be refused, the City Manager shall have recourse to every remedy provided by law to secure entry. When the City Manager shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other person having charge, care, or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the City Manager for the purpose of inspection and examination pursuant to the Development Code. Any person failing or refusing to permit entry shall be deemed to have committed a violation of this section.

(c) Enforcement Procedures. If the City Manager finds that any provision of the Development Code is being violated, the following actions may be taken:

(1) Non-emergency Violations. In the case of violations of this Development Code that do not constitute an emergency or require immediate attention, written notice of the nature of the violation and required corrective action to be taken shall be given to the property owner, agent, occupant, or to the applicant for any relevant permit. Notice shall be given in person, by certified U.S. Mail (return receipt requested), or by posting notice on the premises. The notice shall specify the Development Code provisions allegedly in violation, and shall state that the individual has a period of thirty (30) days from the date of the notice of violation in which to correct the alleged violations before further enforcement action shall be taken. The notice shall also state any appeal and/or variance procedures available pursuant to this Development Code. In the event that the violation is not corrected and cured within thirty (30) days of the date of the notice of violation, the City Manager shall refer the violation to the City Attorney who shall promptly file a complaint in municipal court seeking penalties, injunction, abatement and such other remedies as may be appropriate.

(2) Emergency Violations. In the case of violations of this Development Code that constitute an emergency as a potential imminent threat to health or safety of the public, to public infrastructure, to damage to other properties, or to soil erosion or water quality degradation, the City Manager may use the enforcement powers available under this Development Code without prior notice, but shall attempt to give notice simultaneously with beginning enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, occupant, or to the applicant for any relevant permit. The City Manager shall refer the violation to the City Attorney who shall promptly file a complaint in municipal court seeking penalties, injunction, abatement and such other remedies as may be appropriate.

(3) Extension of Time For Correction. The City Manager may grant an extension of the time to cure an alleged violation, up to a total of ninety (90) days, if the City Manager finds that due to the nature of the alleged violation, it reasonably appears that it cannot be corrected within thirty (30) days.

9-04-200 Enforcement Actions and Remedies

(a) Board of Trustees. The Board of Trustees may refer violations to the City Attorney, direct the building official to issue a stop work order, set a hearing for revocation of a permit, or take such other enforcement action set forth in this Section.

(b) Penalties. When a violation is referred to the City Attorney by the City Manager or the Board of Trustees, the City Attorney shall promptly file a complaint in municipal court or other court of competent jurisdiction seeking penalties, injunction, abatement and such other remedies as may be appropriate.

(c) Deny/Withhold Permits. The City Manager or Building Official may deny and withhold all permits, certificates, or other forms of authorization to use or develop any land, structure, or improvements thereon until the alleged violation related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation. The denial or withholding of a permit by the City Manager or Building Official may be appealed to the Board of Trustees as provided in §9-16-130, *Appeal*.

(d) Revocation of Permits.

(1) Referral by City Manager. The City Manager may refer a request to revoke a development permit or building permit to the Board of Trustees based upon violation of the Development Code.

(2) Hearing Required. The Board of Trustees may revoke any development permit, building permit or other authorization, after notice and a hearing. This Section shall not apply to the forfeiture of vested property rights.

(3) Notice of Hearing. The hearing on the revocation of a development permit, building permit or other authorization shall be conducted during a regular or special meeting of the Board of Trustees not less than eleven (11) days, nor more than forty-five (45) days from the date the notice of the hearing is given. Notice of hearing shall be deemed given to the owner, the owner's agent or other person to whom the development permit was issued, upon deposit of said notice in the U.S. Mail, by certified mail, return receipt requested, addressed to the last known address of said person or to the address of record according to the Mineral County Assessor's records. Additional methods of service may also be utilized to give notice of the public hearing.

(4) Findings. Following the hearing, the Board of Trustees upon a finding of the following, may revoke any development permit, building permit or other authorization:

- (i) There is a departure from the approved plans, specifications, or conditions of approval; or
- (ii) There is a violation of any provision of the Development Code; or
- (iii) The development permit was obtained by false representation; or
- (iv) The development permit was issued in error; or
- (v) Public improvements are not constructed in accordance with the approved final plat and supplemental information; or
- (vi) There is a material failure in the security granted for the public improvements.

(5) Notice of Revocation. Written notice of revocation shall be served upon the owner, the owner's agent, applicant, or other person to whom the permit was issued by certified U.S. mail, return receipt requested, or such notice may be posted in a prominent location at the place of the violation. No work or construction or use of the property shall proceed after service of the revocation notice.

(e) Stop Work Order.

(1) Issuance of Stop Work Order. The City Manager or Building Official may issue a written order to stop work on any property on which there is an uncorrected violation of either a provision of this Development Code or a provision of a development permit, building permit or other form of authorization. The stop work order shall specify the Development Code provisions allegedly in violation. Service of the order shall be given in person, by certified U.S. Mail (return receipt requested) or by posting notice on the premises. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order. The notice shall also state any appeal and/or variance procedures available pursuant to this Development Code.

(2) Timing/Notice. The stop work order may be issued in conjunction with a notice of violation or subsequent to such notice. The stop work order may also specify a shorter time for correction of the violation than the thirty (30) day period specified in §9-04-190(c)(1) above. The stop work order shall also indicate that failure to comply with the order may subject the violator to criminal liability as penalty for the violation(s).

(f) Abatement or Injunctive Relief. The City Manager, through the City Attorney, may initiate injunction or abatement proceedings or other appropriate legal action in the District Court or other court of competent jurisdiction to abate, remove, or enjoin such violation and to recover damages, costs, and reasonable attorney's fees incurred in the abatement and removal of such violation. In any court proceedings in which the City seeks a preliminary injunction, it shall be presumed that a violation of this Development Code is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the

subject violation. The City may also abate a public nuisance in accordance with the procedures set forth in Article 1 of Chapter 7 of the Creede Municipal Code.

(g) Remedies Cumulative. The remedies provided for violations of this Development Code shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(h) Compliance Agreement. The City Manager or the City Attorney may enter into a compliance agreement with the following terms:

(1) The violation shall be defined and admitted; and,

(2) The manner and time frame in which the violation will be corrected shall be defined; and,

(3) The time frame for correction of the violation may not exceed six (6) months without approval by Board of Trustees; and,

(4) Prosecution of the violations shall be deferred during the time frame for correction of violation stated in the compliance agreement; and,

(5) The penalties shall be determined; and,

(6) The costs of enforcement shall be determined and payment of such costs shall be required; and,

(7) All enforcement actions and remedies may be pursued without waiver in the event that the violation is not corrected in accordance with the terms of the compliance agreement.

(i) Appeals of Enforcement Actions. Appeals of any order, requirement, decision, or determination made by an administrative official in the enforcement of this Development Code shall be made to the Board of Trustees in accordance with the provisions of §9-16-130, *Appeal*.

Article 8

Definitions

9-08-010 General Definitions¹³

The terms in this Section shall be defined as stated in this Section. The rules of interpretation stated in §9-04-040, *Interpretation*, shall apply to the interpretation and application of the definitions in this Section.

Access means the place, means, or way by which pedestrians and vehicles shall have adequate, usable and legal ingress and egress to property, use, or parking space.¹⁴

Access Grade means the slope of a road, street, driveway, or other means of access, as measured from the edge of the asphalt or roadway along the centerline of the means of access.¹⁵

Accessory Building means a subordinate building or structure, the use of which is customarily incidental to that of the main building or to the main use of the land, which is located on the same lot (or on a contiguous lot in the same ownership) with the main building or use. Accessory buildings are only permitted when they are incidental or accessory to an existing and permitted principal or conditional use.¹⁶

Accessory Dwelling means an apartment integrated within a single-family dwelling, or located in a detached accessory building, such as carriage houses or agricultural-type outbuildings, located on the same lot as single-family dwellings. Accessory dwellings shall be limited to eight hundred fifty (850) square feet in floor area. For purposes of calculating residential density, each accessory dwelling shall count as one-half (½) dwelling unit. There shall not be more than one (1) accessory dwelling located on a lot in addition to the single-family dwelling.¹⁷

Accessory Structure means a subordinate building or use that is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.¹⁸

Accessory Use means a subordinate use, clearly incidental and related to the main structure, building, or use of land, and located on the same lot (or on a contiguous lot in the same ownership) as that of the main structure, building, or use.¹⁹

Adjacent means meeting or touching at some point, or separated from a lot or parcel by one of the following: a street, alley, or other right-of-way, lake, stream or open space.²⁰

¹³ Definitions are not numbered, rather they are simply alphabetical. Therefore, there is no need to update citations or use sub-citations, like "7.a" There is no legal significance or requirement to have a specific citation to each definition.

¹⁴ Added to address regulating driveway and other access to property.

¹⁵ Added to address regulating driveway and other vehicle access to property.

¹⁶ Same as CMLC.

¹⁷ Same as CMLC.

¹⁸ Added for clarity with Accessory Uses.

¹⁹ Same as CMLC.

Agricultural Activity shall mean farming, including plowing, tillage, cropping, utilization of best management practices, seeding, cultivating or harvesting for the production of food and fiber products (except commercial logging and timber harvesting operations); the grazing or raising of livestock (except in feedlots); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise.²¹

Alley means a minor or secondary way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.²²

Alteration means any change, addition or modification in construction, structure, occupancy or use; or, any change in the exterior materials or design which is inconsistent with an approved design.²³

Animal Boarding means the operation of an establishment in which domesticated animals other than household pets are housed, groomed, bred, boarded, trained or sold. This term shall not include the operation of a kennel.²⁴

Annual High Water Mark means the visible line on the edge of a river, stream, lake, pond, spring or seep up to which the presence and action of water are so usual and long conditions (with a recurrence interval of one (1) year or less) so as to create a distinct character with respect to vegetation and the nature of the soil.²⁵

Applicant means an owner of real property, the owner's representative, or owner of an option to acquire the property or portion thereof, who is authorized to represent and/or act upon any application or submittal.²⁶

Appurtenances are the visible, functional, or ornamental objects accessory to and part of a building.²⁷

Architectural Projection means a non-habitable building element, including but not limited to chimneys, cupolas, towers, and steeples, which physically projects beyond the plane of a required limitation (i.e., height).²⁸

Basement means the definition of Basement as set forth in the most recent version of the International Building Code adopted by the City of Creede.

²⁰ Same as CMLC.

²¹ Same as CMLC.

²² Same as CMLC.

²³ Same as CMLC, except expanded to reference changes in structures and changes in exterior design.

²⁴ Same as CMLC.

²⁵ This is a new definition for regulation of flood plains.

²⁶ Definition revised to not include mineral owners and lessees. If the mineral estate is severed, then mineral owners are not necessarily applicants. CRS §24-65.5-103 requires notice to mineral owners. Lessees must have permission of the property owner to apply for any application under the CDC.

²⁷ Same as CMLC.

²⁸ New definition which relates to building height allowances.

Bed and Breakfast means an establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee and which is occupied by the operator of such establishment.²⁹

Berm means a mound of earth used to screen or separate one area from another to reduce visual, noise and similar impacts of development. Berm may also mean the act of pushing earth into a mound.³⁰

Best Management Practice (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practice to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Blank Wall means an exterior building wall with no windows or other openings and a single material and uniform texture on a single plane.

Block means a unit of land, or a group of lots, bounded by streets or by a combination of streets and public lands, or other rights-of-way other than an alley, waterways or any barrier to the continuity of development, or land which is designated as a block on any recorded subdivision plat.³¹

Block Diversity Plan means a plan provided by an applicant which demonstrates the mix of housing models and styles offered within a neighborhood and within each block face. [NOTE: Should minimum standards for a Block Diversity Plan be set forth in the Development Code?]

Boarding and rooming house means a building or portion of which is used to accommodate, for compensation, four (4) or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The word compensation shall include compensation in money, services or other things of value.³²

Board of Trustees means the governing board of the City of Creede.³³

Buildable Area means the area of any site, lot, parcel or any portion thereof which does not contain land under water, public rights-of-way, areas in excess of forty percent (40%) slope, or other constraints which restrict the physical ability or legal right to build on the property.³⁴

Building means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, which is permanently affixed to the land and has one (1) or more floors and a roof.³⁵

²⁹ Same as CMLC.

³⁰ New definition.

³¹ Same as CMLC.

³² Same as CMLC.

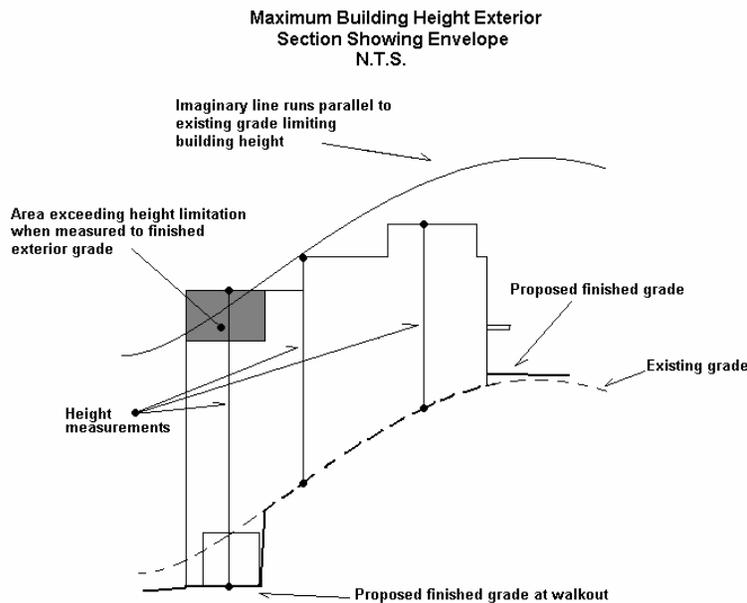
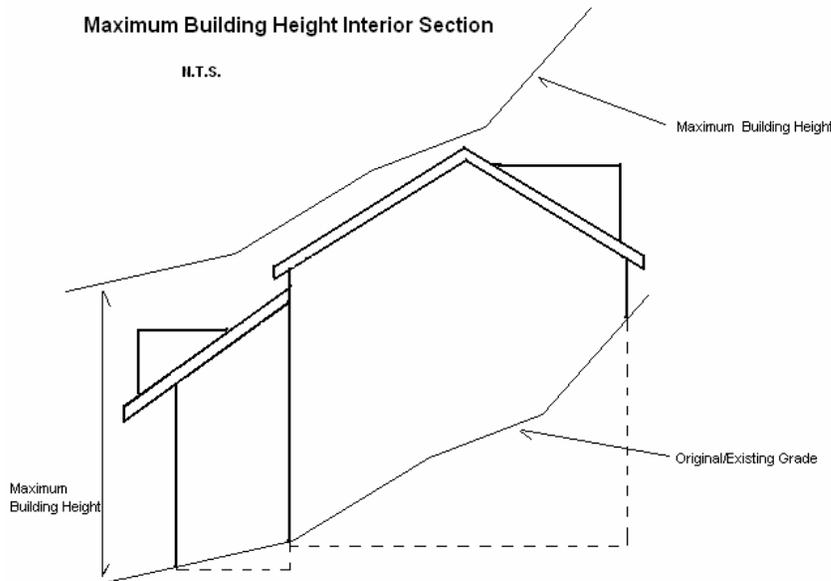
³³ Same as CMLC.

³⁴ New definition.

³⁵ Same as CMLC.

Building Code means the building codes adopted in Chapter 18 of the Creede Municipal Code, as may be amended.

Building Height means the distance measured vertically from the existing grade or finished grade (whichever is more restrictive) at any given point outside the building to the top of a flat roof, mansard roof or sloping roof. Within a building, height shall be measured vertically from any point on a flat roof, mansard roof or sloping roof to the existing grade or finished grade directly below said point.³⁶



³⁶ Revised definition which (1) prevents building up finished grade to increase building height, and (2) incorporates a "parallel slope" methodology for measurement, which prevents tall building elevations on the downhill side of sloped lots. NOTE the existing definition language stated that the height was measured to highest point however the graphic depicted a measurement to the midpoint of the ridge to eave, which is the IBC method of calculating building height.

Carport means a structure attached or made a part of the main structure, and that is open to the outside on at least two (2) sides for the purpose of sheltering motor-driven vehicles used by occupants of the main structure.

Cash-in-lieu (also known as “fee-in-lieu”) means that the payment of funds to the City instead of the dedication of real property interest when the Board of Trustees determines that the dedication of real property interest is not practical or as beneficial as payment of cash-in-lieu of land dedication. Payment of cash-in-lieu shall comply with the following requirements unless otherwise provided for by this Development Code:

(a) Payment shall be based on the fair market value of the entire property based on the per square foot value of the property with the requested development approval that requires dedication of land or cash-in-lieu.

(b) The value of the land shall be based upon an amount negotiated between the City and the applicant taking into consideration sales of comparable properties. In the event that the City and the applicant are not able to negotiate a mutually acceptable per square foot value for cash-in-lieu of dedication of land, the applicant shall provide an appraisal to the City at the applicant’s cost for consideration by the Board of Trustees. The Board of Trustees may accept the applicant’s proposed appraised value or may reject the applicant’s proposed appraised value and commission an independent appraisal which shall be paid by the applicant. The Board of Trustees shall then use appraised value as set forth by the appraisal commission by the City.

(c) Combination of dedication and cash-in-lieu:

(1) The applicant, at the option of the Board of Trustees, may meet the dedication requirements through a combination of cash-in-lieu and land dedication in those cases where a portion of the dedication of land is not desired.

(2) The value of the combination of both the land dedication and the cash-in-lieu of land shall not exceed the full market value of the total required dedication of sites and land areas.³⁷

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with, and within the boundaries of, such cemetery.³⁸

Child Care Center means a facility, by whatever name known, which is maintained for the whole or part of a day for the care of five (5) or more children under the age of sixteen (16) years who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated education purposes. The term includes, but is not limited to, facilities commonly known as day-care centers, day nurseries, nursery schools, preschools, play groups, day camps, summer camps, centers for developmentally disabled children and those facilities which give twenty-four hour per day care for dependent and neglected children, but specifically excludes any family-care home as defined

³⁷ Same as CMLC.

³⁸ Same as CMLC.

in this Code. Child care centers are also those facilities for children under the age of six (6) years with stated educational purposes which are operated in conjunction with a public, private or parochial college or a private or parochial school, except that the term shall not apply to a kindergarten maintained in connection with a public, private or parochial elementary school system of at least six (6) grades so long as the school system is not also providing extended day services.³⁹

Church or Place of Worship and Assembly means a building containing a hall, auditorium or other suitable room or rooms used for the purpose of conducting religious or other services or meetings of the occupants of such structure. Church or place of worship and assembly shall include churches, synagogues or the like, but shall not include buildings used for commercial endeavors, including, but not limited to, commercial motion picture houses or stage productions.⁴⁰

City means the City of Creede.

Clinic means a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

Clubs and Lodges means organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, excluding clubs operated for profit and/or places of worship or assembly.

Common Element means that portion of a condominium project held in common ownership by the owners or the condominium association or that portion of a project other than a condominium project which is not under the exclusive ownership or possession of the owners or occupants of a limited portion of the project.⁴¹

Common Open Space means open space designed and intended primarily for the use or enjoyment of residents, occupants and owners of a specific property or development.

Community Facility means a publicly owned facility or office building which is primarily intended to serve the recreational, educational, cultural, administrative, or entertainment needs of the community as a whole.

Compatibility means the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development.

³⁹ Same as CMLC.

⁴⁰ Same as CMLC.

⁴¹ New definition for condominiums.

Comprehensive Plan means the City of Creede Comprehensive Plan, the Sub Area Plan for the Creede Resources, Inc. Properties, and any other document adopted as a supplement or sub-area plan of the City of Creede Comprehensive Plan, which are adopted by the Planning Commission and Board of Trustees in accordance with C.R.S § 31-23-206 and the requirements of this Chapter 9, as all such documents may be amended from time to time provided that such amendments or supplemental documents are adopted by ordinance.⁴²

Condominium means an individual airspace unit together with the interest in the common elements appurtenant to such unit.

Conservation Easement means an interest in real property that provides the owner of the easement the right to prohibit certain users or acts with respect to the property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space, or historical importance. See also §38-30.5-102 C.R.S.⁴³

Covenants means private written agreements outlining regulations specific to a development. As private restrictions, they are not enforced by the City. In the event of conflict between the covenants and this Code, this Code controls.⁴⁴

Crosswalk means a pathway delineated on a street for pedestrians to cross.

Cul-de-sac means a local street with only one outlet and having the other end for the reversal of traffic movement.⁴⁵

Dedication means any grant by the owner of a right to use real property for the public in general, involving a transfer of property rights, and an acceptance of the dedicated property by the appropriate public agency.⁴⁶

Density, Dwelling Units per Acre, means the overall average number of dwelling units located on the gross or net residential acreage (as applicable) contained within the development and calculated on a per-acre basis. Gross density is calculated by dividing the total number of units by the total acreage. Net density is calculated by dividing the [total number of units] by the [total acreage minus all publicly dedicated land].

Detention Basin means a man-made or natural water collector facility designed to collect surface and sub-surface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of property, into natural or manmade outlets.⁴⁷

Developer means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.⁴⁸

⁴² Replaces "City Comprehensive Plan," includes reference to Sub-Area plans and states adoption must be by ordinance .

⁴³ Same as CMLC.

⁴⁴ Same as CMLC.

⁴⁵ Same as CMLC.

⁴⁶ Same as CMLC.

⁴⁷ Same as CMLC.

Development means the grading or clearing of land, the erection, construction or alteration of structures, the change of use of a property, or the division of property to create two (2) or more separate ownership interests.

(a) *Development* shall also include:

(1) Any construction, placement, reconstruction, alteration of the size, or material change in the external appearance of a structure on land;

(2) Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;

(3) Any change in use of land or a structure;

(4) Any alteration within thirty (30) feet of a shore or bank of a river, stream, lake, pond, reservoir or wetland;

(5) The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land;

(6) The demolition of a structure;

(7) The clearing of land as an adjunct of construction;

(8) The deposit of refuse, solid or liquid waste, or fill on a parcel of land;

(9) The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property; and

(10) The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.

(b) *Development* shall *not* include:

(1) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of way;

(2) Work by any public utility for the purpose of inspecting, repairing, renewing or constructing, on established rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles, or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic generating activity;

⁴⁸ Same as CMLC.

- (3) The maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;
- (4) The use of any land for an agricultural activity;
- (5) A change in the ownership or form of ownership of any parcel or structure; or
- (6) The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.⁴⁹

Development Application means the various, written and graphical documents for building permits, grading permits, annexation, subdivision, boundary line agreements, conditional use permits or special review use permits, site specific development plans, vested rights, floodplain development, variance permits, zoning or re-zoning permits etc.

Development Plan, (PUD) means the written and graphical documents that detail the provisions for development of a PUD development. These provisions may include, and need not be limited to, easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrians, areas, and parking facilities; common open space, and other public facilities as further defined in §9-16-060.

District means a section or sections of the incorporated area of the City for which the regulations and provisions governing the use of building and land are uniform for each class of use permitted therein.

Downtown means the original business district of City. The boundary of downtown may change as City continues to grow.

Drive Aisle means the lane(s) in a parking lot devoted to the passage of vehicles, as opposed to the parking stalls. The term *drive aisle* does not include lanes used only or primarily for drive-in customer service.

Driveway means a constructed vehicular access serving one (1) or more properties and abutting a public or private road.

Dwelling means a building or portion thereof, used exclusively for residential occupancy, including single-family dwellings, duplex and multi-family dwellings.

Dwelling, Apartment means a room or suite of rooms in a multi-family structure that is arranged, designed, used or intended to be used as a housekeeping unit for a single family on a rental basis only.

Dwelling, Duplex means a building occupied by two (2) families living independently of each other.

⁴⁹ Same as CMLC.

Dwelling, Multi-family means a dwelling containing three (3) or more dwelling units, not including hotels, motels, fraternity houses and sorority houses and similar group accommodations.⁵⁰

Dwelling, Single-family means a building designed exclusively for occupancy by one (1) family, but not including mobile home, otherwise provided herein.⁵¹

Dwelling, Timeshare, Interval Ownership, or Fractional Fee Ownership means any parcel or lot of land or condominium unit, whether fee interest, leasehold or contractual right, whereby more than four persons (ownership of an interest in joint tenancy by two (2) persons being considered one (1) person for the purpose of this section) are entitled to the use, occupancy or possession of such lot, parcel or unit according to a fixed or floating time schedule occurring periodically over any period of time (the use, occupancy or possession by each person being exclusive of that by the others). *Timesharing unit* includes, but is not limited to, a timeshare estate as defined in §38-33-110, C.R.S., (1973), as amended.⁵²

Dwelling Unit means one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, duplex or multi-family dwelling or mixed-use building.⁵³

Easement means an ownership interest in real property entitling the holder thereof to use, but not possession, of that real property for one (1) or more specific purposes, public or private.

Elevation means the external vertical plane of a building. Elevations are considered different if they have different roof lines, building materials, details, color and overall stylistic expression

Entertainment facilities and theaters means a building or part of a building devoted to showing motion pictures or dramatic, musical or live performances.⁵⁴

Environmentally Sensitive Area means aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical plant communities, and ridge lines.⁵⁵

Family Child Care Home means a facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four (24) hour care for children under the age of eighteen (18) years who are not related to the head of such home. Family child care home may include infant-toddler child care homes, large child care homes, experienced provider child care homes, and such other types of family child care homes designated by rules of the State Department of Social Services pursuant to C.R.S. §26-6-106(2)(p).⁵⁶

⁵⁰ Same as CMLC.

⁵¹ Same as CMLC.

⁵² This definition is added in case timeshares are proposed.

⁵³ Same as CMLC.

⁵⁴ Same as CMLC.

⁵⁵ Same as CMLC.

⁵⁶ Same as CMLC.

Farm Animal means animals commonly raised or kept in an agricultural, rather than an urban, environment including, but not limited to, chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules.⁵⁷

Feedlot means any tract of land or structure, pen or corral, wherein cattle, horses, sheep, goats, emus, ostriches or swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market or slaughter.

FEMA means Federal Emergency Management Agency.⁵⁸

Fence means enclosing framework for exterior areas, such as yards or gardens.

FHA means Federal Housing Administration.⁵⁹

Floodplain or Flood Hazard Area means an area which has been designated by the Board of Trustees, the Colorado Water Conservation Board, or FEMA as susceptible to flooding.⁶⁰

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.⁶¹

Foster Care Home means a facility that is certified by the county department of social services or a child placement agency for child care in a place of residence of a family or person for the purpose of providing twenty-four (24) hour family care for a child under the age of eighteen (18) years who is not related to the head of such home, except in the case of relative care.⁶²

Frontage means the portion of a lot that fronts on a public or private street.

Functional Open Space means open space which is large enough to serve a practical purpose such as recreation, wildlife habitat or preservation of areas of agricultural, archeological or historical significance and shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells or their appurtenances, or other hazards to the public.⁶³

Gasoline station means any building, land area, premises or portion thereof, where gasoline or other petroleum products or fuels are sold and light maintenance activities such as engine tune-ups, lubrication, minor repairs and carburetor cleaning may be conducted. Gasoline station may include premises where heavy automobile maintenance activities such as engine overhaul, automobile painting and body fender work are conducted.⁶⁴

⁵⁷ Same as CMLC.

⁵⁸ Same as CMLC.

⁵⁹ Same as CMLC.

⁶⁰ Same as CMLC.

⁶¹ Same as CMLC.

⁶² Same as CMLC.

⁶³ Same as CMLC.

⁶⁴ Same as CMLC.

Geologic Hazard means unstable or potentially unstable slopes, undermining, faulting, landslides, rock falls, flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.⁶⁵

Government Services, Offices and Facilities means an office or building of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to: employment offices, public assistance offices, or motor vehicle licensing and registration services.

Group Home, developmentally disabled means a group home, licensed by the state, for the exclusive use of not more than eight (8) developmentally disabled persons and the appropriate staff.⁶⁶

Group Home, elderly means an owner-occupied or nonprofit group home for the exclusive use of not more than eight (8) persons sixty (60) years of age or older and the appropriate staff.

(a) “*Nonprofit group home*” means a group home for the aged which is owned and operated by a person or organization as provided by 31-23-303, C.R.S., 1973.

(b) “*Owner-occupied group home*” means a group home for the aged which is owned and operated by an individual or individuals who actually reside at and maintain their primary place of residence in the group home.⁶⁷

Group Home, mentally ill means a group home, licensed by the state, for the exclusive use of not more than eight (8) mentally ill persons and the appropriate staff.⁶⁸

Guest House means an accessory structure which is physically detached from a single-family dwelling unit, is serviced through the same utility meters or connections as the principal use, and is intended for temporary occupancy by visitors to the family residing in the single-family dwelling.⁶⁹

Highway Corridor means the area within one thousand five hundred (1,500) feet of the rights-of-way of the State Highway.⁷⁰

Home Occupation means an occupation or business activity which results in a product or service and is conducted in whole or in part in a dwelling unit, and is subordinate to the residential use of the dwelling unit, and complies with the following standards.

(a) Does not create impacts greater than customary residential use, including but not limited to vehicle traffic, noise, vibration, and odors;

⁶⁵ Same as CMLC.

⁶⁶ Same as CMLC.

⁶⁷ Same as CMLC.

⁶⁸ Same as CMLC.

⁶⁹ Same as CMLC.

⁷⁰ Same as CMLC.

(b) Does not create outdoor storage which is not screened from view by neighboring property owners and from the public right-of-ways;

(c) Does not cause or require customers, delivery persons, or any person, to regularly enter the property on which the dwelling unit is located during normal business hour and does not cause or require any persons to enter the property during normal non-business hours;

(d) Does not employ persons who are not residents of the dwelling located on the property;

(e) Does not require alteration to the residence to satisfy applicable City, Fire or Building Codes, or County health regulations;

(f) Does not require or allow any signs to be visible from the outside of the property; and

(g) Does not change the appearance or residential character of the structure.

Homeowners Association means the association set up to enforce the covenants and maintain all common areas and buildings for a development (also known as “Owners Association”).⁷¹

Hospital means an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training and central services facilities and staff offices.⁷²

Hotel/motel/lodging establishment means a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are five (5) or more guest rooms.⁷³

Industrial means uses engaged in the basic processing and/or manufacturing of raw or previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products.

Infrastructure means those man-made structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.⁷⁴

Integrate means to combine or coordinate separate elements (such as housing, recreation, jobs, and shopping), so as to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.⁷⁵

Junkyard means an industrial use contained within a building, structure or parcel of land, or portion thereof, used for collecting, storing or selling wastepaper, rags, scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or

⁷¹ Same as CMLC.

⁷² Same as CMLC.

⁷³ Same as CMLC.

⁷⁴ Same as CMLC.

⁷⁵ Same as CMLC.

other material and including the sale of such material or parts thereof. Junkyard shall not include a recycling facility.⁷⁶

Kennel means a facility licensed to house dogs, cats or other household pets and/or where grooming, breeding, boarding, training or selling of animals is conducted as business.⁷⁷

Kitchen means a room or portion of a room devoted to the preparation or cooking of food for a person or a family living independently of any other family, which contains a sink and a stove, cooktop or oven powered by either natural gas, propane or 220-V electric hook-up.

Kitchen Facility means an area for cooking which includes a sink, refrigerator and fixture for cooking food.

Landowner means any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assign of such ownership interests.⁷⁸

Landscape Area means that portion of a parcel of land with any combination of living plants, such as trees, shrubs, vines, ground cover, native grasses, flowers, or lawns; natural features and non-living ground cover such as rock, stone and bark; and structural features, such as fountains, reflecting pools, art works, screen walls, fences and benches; but shall not include paved walkways or parking areas.

Lane means a private street; or a portion of a roadway delineated for a single line of vehicles; or a secondary means of access to the abutting lots and not intended for general traffic circulation.⁷⁹

Livestock means farm animals kept or raised for use, pleasure and/or profit.⁸⁰

Loading Space means an off-street space or berth on the same lot with a building, or contiguous thereto, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Long-term Care Facility means any of the following:

(a) ***Convalescent center*** means a health institution that is planned, organized, operated and maintained to offer facilities and services to inpatients requiring restorative care and treatment and that is either an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an affiliation with, all services in a general hospital.

(b) ***Nursing care facility*** means a health institution planned, organized, operated and maintained to provide facilities and health services with related social care to inpatients that require regular medical care and twenty-four (24) hour per day nursing services for illness, injury

⁷⁶ Same as CMLC.

⁷⁷ Same as CMLC.

⁷⁸ Same as CMLC.

⁷⁹ Same as CMLC.

⁸⁰ Same as CMLC.

or disability. Each patient shall be under the care of a physician licensed to practice medicine in the State of Colorado. The nursing services shall be organized and maintained to provide twenty-four (24) hour per day nursing services under the direction of a registered professional nurse employed full time.

(c) *Intermediate health care facility* means a health-related institution planned, organized, operated and maintained to provide facilities and services which are supportive, restorative or preventive in nature, with related social care, to individuals who because of a physical or mental condition, or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and twenty-four (24) hour per day nursing services are required.⁸¹

Lot means a parcel of real property as shown with a separate and distinct number or letter on a plat recorded with the Mineral County Clerk and Recorder, or when not so platted in a recorded subdivision, a parcel of real property abutting upon at least one public street and held under separate ownership.

Lot Area means the total horizontal area within the lot lines of a lot, except that beneath the mean waterline of a body of water.

Lot Coverage means the ratio of the area of the site which is rendered impermeable by buildings compared to the total area of a site, excluding those rendered undevelopable, expressed as a percentage.

Lot Depth means the average distance between the front lot line and the rear lot line.⁸²

Lot, double frontage means lots which front on one (1) public street and back on another.⁸³

Lot, flag means a lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.⁸⁴

Lot Line, front means the property line dividing a lot from a street.

Lot Line, rear means the line opposite the front lot line⁸⁵.

Lot Line, side means any lot lines other than the front lot line or rear lot line.⁸⁶

Lot Size means the total horizontal area within the lot lines of a lot; synonymous with area of lot.⁸⁷

⁸¹ Same as CMLC.

⁸² Same as CMLC.

⁸³ Same as CMLC.

⁸⁴ Same as CMLC.

⁸⁵ Same as CMLC.

⁸⁶ Same as CMLC.

⁸⁷ Same as CMLC.

Lot Width means the distance parallel to the front lot line, measured at the front building setback line. Lot width on a curving front lot line means the distance parallel to the tangent of the front lot line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.⁸⁸

Manufactured Home means a single-family dwelling which:

- (a) Is partially or entirely manufactured in a factory;
- (b) Is at least twenty-four (24) feet wide and thirty-six (36) feet long;
- (c) Is permanently affixed to and installed on an engineered permanent foundation;
- (d) Has a pitched or cosmetically equivalent roof, and brick or wood exterior siding; and
- (e) Complies with HUD or UBC standards, as applicable, or meets or exceeds equivalent requirements and performance engineering standards.⁸⁹

Mobile Home means a single-family dwelling unit partially or entirely manufactured in a factory, built on a permanent chassis, and which is designed to be transported on streets to the place where it is to be occupied as a dwelling unit. A mobile home shall conform to the following design and installation standards:

- (a) Is at least twenty-four (24) feet wide and thirty-six (36) feet long;
- (b) Is permanently affixed to and installed on an engineered, permanent perimeter foundation;
- (c) Has a pitched or cosmetically equivalent roof, and brick or wood exterior siding; and
- (d) Complies with HUD or UBC standards, as applicable, or meets or exceeds equivalent requirements and performance engineering standards.⁹⁰

Modified Grid Pattern means a grid pattern of streets and blocks adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas.⁹¹

Natural Areas means floodplains and flood ways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens, and any wetland area.

Nonconforming Building means a building or structure, or portion thereof, that does not conform to the regulations of this Code, but that was lawfully constructed under the regulations in force at the time of construction.⁹²

⁸⁸ Same as CMLC.

⁸⁹ Same as CMLC.

⁹⁰ Same as CMLC.

⁹¹ Same as CMLC.

Nonconforming Use means a use that does not conform to the use regulations of this Code, but that was lawfully established under the regulations in force at the time the use was established and has been in regular use since that time.⁹³

Off-street Parking Area means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, operation of motor vehicles, including driveways or access ways in and to such areas, but not including any outdoor storage area used principally as a “recreational vehicle, boat or truck storage” use, storage areas for landscaping and other bulk items or public streets and rights-of-way.⁹⁴

Open Space means any land or water area with its surface open to the sky, which serves specific uses of: providing park and recreation opportunities, conserving natural areas and environmental resources, structuring urban development form, and protecting areas of agricultural, archeological or historical significance. Open space shall not be considered synonymous with vacant or unused land but serves important urban functions. Usable open space shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells and their appurtenances, or other hazards to the public.⁹⁵

Outdoor Storage means the keeping, in an unroofed area, of any equipment, goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours. Containers and semi-trailers may not be used for residential or storage uses except on construction sites.⁹⁶

Outparcel means a parcel of land, generally located on the perimeter of a larger parcel of commercial land, that is subordinate to the larger parcel for access, parking, and drainage purposes.

Owner means the owner of a real property interest which is the subject of, and which would be benefitted by, a proposed development application. Owner shall include the fee title owner of record according to the Office of the Mineral County Assessor, by a legal title opinion, or by a title insurance commitment. Owner shall also include other persons who by partnership, joint venture, contractual relationship or other association have a 10% or greater equity interest in the property or in the owner of record or who have a contractual right to receive or obtain a defined portion of the property upon approval of a development application by the City.

Parcel means a tract or plot of land.⁹⁷

Park means an area open to the general public and reserved for recreational, educational or scenic purposes.⁹⁸

⁹² Same as CMLC.

⁹³ Same as CMLC.

⁹⁴ Same as CMLC.

⁹⁵ Same as CMLC.

⁹⁶ Same as CMLC.

⁹⁷ Same as CMLC.

⁹⁸ Same as CMLC.

Parking, Commercial means a parking lot, structure or garage that does not provide accessory parking to a specific building or use, is available for parking by the general public for a fee, may include reserved parking spaces, and which is owned by a private, non-governmental entity.

Parking, Public means a parking lot, structure or garage that is available for parking by the general public and which is owned by the City of Creede or a quasi-governmental entity approved by the City of Creede or approved by Mineral County.

Plan means the map(s) and supporting documentation for a development which includes but is not limited to, lots, blocks, easements, rights-of-way, pedestrian ways, park and school sites, open space areas, and conservation areas in accordance with the requirements of this Code.⁹⁹

Planned Unit Development (PUD) means an area of land, controlled by one or more landowners, to be developed under unified control or a unified plan and is developed as a whole in a single development operation or programmed series of development stages. The development may include dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which may not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restrictions to the existing land use regulations.

Planning and Zoning Commission (PZC) means the planning and zoning commission formed and appointed by the Board of Trustees in accordance with Article 12 of the Development Code.

Planning Area Boundary means the area surrounding the City that the City will consider annexing and developing. The Planning Area Boundary is delineated on the *Land Use Map* in the *Comprehensive Plan*.

Plat means a map of certain described land prepared in accordance with the requirements of this Code, and C.R.S. §38-51-106 as an instrument for recording of real estate interests with the Mineral County Clerk and Recorder.¹⁰⁰

Principal Use means the main use of land or of a structure as distinguished from a subordinate or accessory use.¹⁰¹

Proof of Ownership means ownership as specified in a current title insurance commitment or policy, or certification of title, issued by a title insurance company licensed by the state of Colorado.¹⁰²

Property means all real property subject to land use regulation by the City.¹⁰³

⁹⁹ Same as CMLC.

¹⁰⁰ Same as CMLC.

¹⁰¹ Same as CMLC.

¹⁰² Same as CMLC.

¹⁰³ Same as CMLC.

Property Line means the boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which the said lot, parcel or tract abuts.¹⁰⁴

Public Area means streets, parks, open spaces and other property designated or described as for public use on a map or plat of the City and fee title is vested in the City, other public body or a special district as defined in §32-1-103 C.R.S.¹⁰⁵

Public Benefit means a benefit which promotes a goal, intent or policy of the Creede Comprehensive Plan or a benefit which is realized by superior or innovative site design, building design, or architecture which substantially exceeds the City's minimum design and development standards; and, which means a benefit that is realized by the general public of the Creede community.

Public Facility means those constructed facilities, including but not limited to, transportation systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric, gas, telecommunication utilities or facilities, and publicly owned buildings or facilities.¹⁰⁶

Public Hearing means a meeting called by a public body for which public notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.¹⁰⁷

Public Improvement means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree lawn, landscaped open space, off-street parking area, lot improvement or other facility which benefits the public.¹⁰⁸

Public Open Space means an open space area conveyed or otherwise dedicated to the municipality, state or county or other public body for recreational or conservation uses. Public open spaces are to be unencumbered by oil and gas wells, as well as their appurtenances or other hazards to the public.¹⁰⁹

Public School means a free, tax supported school that is controlled and operated by a School District of the State of Colorado.

Public Use means uses which are owned by and operated for the public by the City, County, state, or federal governments or by school districts.

Public Utility means a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or storm water service or similar public services, but shall not include

¹⁰⁴ Same as CMLC.

¹⁰⁵ Same as CMLC.

¹⁰⁶ Same as CMLC.

¹⁰⁷ Same as CMLC.

¹⁰⁸ Same as CMLC.

¹⁰⁹ Same as CMLC.

railroads or other forms of rail mass transit or depots or terminals supporting the same or wireless telecommunication facilities.¹¹⁰

Recreational Vehicle (RV) means a vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted or drawn by another vehicle. The following shall be considered a recreational vehicle:

(a) Camping trailer or tent trailer means a folding structure, constructed of canvas plastic or similar water repellent material designed to be mounted on wheels and designed for travel and recreation.

(b) Motorized camper, motor home, recreational conversion van or bus means a recreational vehicle consisting of a portable, temporary dwelling to be used for travel, recreation and vacation uses, and constructed as an integral part of a self-propelled vehicle.

(c) Pick-up camper means a vehicle designed to be mounted on or loaded into a pick-up truck chassis for use as a temporary dwelling for travel and recreation.

(d) Tent means a portable or temporary cover or shelter, with or without side panels, which is supported by poles and is made of canvas, plastic or similar materials.

(e) Travel trailer means a towed vehicle designed as a temporary dwelling for travel and recreation.

(f) Travel trailer, self-contained means a trailer which can operate independently of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.¹¹¹

Recycling Facility, Drop-Off means a facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper, cardboard, clothing, or other materials for recycling purposes conducted totally within an enclosed structure or container. This definition does not include processing except for “can banks” that crush cans as they are deposited.

Restaurant means any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state; where fermented malt beverages, and/or malt, special malt or vinous and spirituous liquors may be produced on the premises as an accessory use; and where the design or principal method of operation included one (1) or both of the following characteristics.

(a) Customers are served their food and/or beverages by a restaurant employee at the same table or counter at which the items are consumed; or

¹¹⁰ Same as CMLC.

¹¹¹ Same as CMLC.

(b) Customers are served their food and/or beverages by means of a cafeteria type operation where the food or beverages are consumed within the restaurant building.¹¹²

Re-subdivision means the changing of any existing lot or lots, street rights-of-way or easements of a subdivision plat previously recorded with the County Clerk and Recorder.¹¹³

Right-of-way means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term “right-of-way” for land platting purposes shall mean that every right-of way established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use on the plat on which such right-of-way is established.¹¹⁴

Setback means the required unoccupied open space between the nearest projection of a structure and the property line of the lot on which the structure is located, except on properties where the street extends beyond the property line. In these instances the setback shall be measured from the edge of asphalt or walkway whichever is more restrictive.

Setback, front yard means the distance a building or structure must be placed from the front lot line.¹¹⁵

Setback, rear yard means the distance a building or structure must be placed from the rear lot line.¹¹⁶

Setback, side yard means the distance a building or structure must be placed from the side lot line.¹¹⁷

Sidewalk means the hard surface path within or adjacent to the street right-of-way for use by pedestrians and/or bicyclists.¹¹⁸

Significant Wildlife Habitat and Migration Corridors means areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.¹¹⁹

Site Plan means a scaled drawing of a lot, showing the actual measurements, the size and location of any existing or proposed buildings, the location of the lot in relation to abutting

¹¹² Same as CMLC.

¹¹³ Same as CMLC.

¹¹⁴ Same as CMLC.

¹¹⁵ Same as CMLC.

¹¹⁶ Same as CMLC.

¹¹⁷ Same as CMLC.

¹¹⁸ Same as CMLC.

¹¹⁹ Same as CMLC.

streets, and other details such as parking areas, access points, landscaped area, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements.¹²⁰

Site Specific Development Plan means the final plat of a subdivision or Final Development Plan of a PUD (Planned Unit Development) when approved by the Board of Trustees pursuant to all applicable sections of this Development Code.

Slope means the relationship of elevation or vertical measure as divided by the horizontal measurement shall be expressed as a percentage as a means of quantifying the term “slope.”

Street means a public thoroughfare which affords the principal means of access to abutting property.¹²¹

Streetscape means the distinguishing character of a particular street, within or adjacent to the public right-of-way, including paved materials, and the adjacent space extending along both sides of a street including landscaping, sidewalks, medians, lighting, street furniture, and signage.¹²²

Structure means a combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.¹²³

Subdivision means the platting of a lot or the division of a lot, tract or parcel of land into two (2) or more lots, plots, sites, or airspace units.

Subsidence means a local mass movement that involves the downward settling or sinking of the solid Earth’s surface. Subsidence may be due to natural geologic processes or man’s activity such as coal mining.¹²⁴

Survey means a land plat survey, stamped and signed by a registered Colorado Surveyor, showing topographic contour intervals depicted at an engineering scale.

Temporary Use means a prospective use intended for limited duration, is to be located in a zoning district not permitting such use, and shall not include continuing a nonconforming use or building.¹²⁵

Use means the purpose for which land or a building is designated, arranged or intended, or for which it either is or may be occupied or maintained.

Vegetation means plants growing in a place, including, but not limited to trees, shrubs, vines, grasses and groundcover.¹²⁶

¹²⁰ Same as CMLC.

¹²¹ Same as CMLC.

¹²² Same as CMLC.

¹²³ Same as CMLC.

¹²⁴ Same as CMLC.

¹²⁵ Same as CMLC.

¹²⁶ Same as CMLC.

Vehicle service and repair means the use of any building, land area, premises or portion thereof, where maintenance activities such as engine butn-up, lubrication, carburetor cleaning, brake repair, car washing, detailing, polishing or the like are conducted.

Vested Property Right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan, pursuant to §9-16-130, *Vested Property Right*.¹²⁷

Wireless Telecommunication Equipment means any equipment used to provide wireless telecommunication service, but which is not affixed to or contained within a wireless telecommunication facility, but is instead affixed to or mounted on an existing building or structure that is used for some other purpose. Wireless telecommunication equipment also includes a ground mounted base station used as an accessory structure that is connected to an antenna mounted on or affixed to an existing building.¹²⁸

Wireless Telecommunication Facility means any freestanding facility, building, pole, tower or structure used to provide only wireless telecommunication services, and which consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless telecommunication services.¹²⁹

Wireless Telecommunication Service means services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal Communications Commission for paging systems, enhanced specialized wireless telecommunication, personal communication services or cellular telephone.¹³⁰

Workshop and custom small industry means a facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, restoration of antiques and other art objects, or other similar uses.¹³¹

Yard means that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zone district in which the lot is located.¹³²

Yard, front means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.¹³³

Yard, front setback means the distance a building or structure must be placed from the back of the front property line.¹³⁴

¹²⁷ Same as CMLC.

¹²⁸ Same as CMLC.

¹²⁹ Same as CMLC.

¹³⁰ Same as CMLC.

¹³¹ Same as CMLC.

¹³² Same as CMLC.

¹³³ Same as CMLC.

¹³⁴ Same as CMLC.

Yard, rear means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.¹³⁵

Yard, rear setback means the distance a building or structure must be placed from the back of the rear property line.¹³⁶

Yard, side means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.¹³⁷

Yard, side setback means the distance a building or structure must be placed from the back of the side property line.¹³⁸

Zone District means a zone district of the City as established in Article 20 of this Code, unless the term is used in a context that clearly indicates that the term is meant to include both the zone district(s) of the City and the zone district(s) of an adjoining governmental jurisdiction, also referred to as “zoning district.”¹³⁹

Zoning Map means the official zoning map adopted by the City by ordinance, as amended.¹⁴⁰

¹³⁵ Same as CMLC.

¹³⁶ Same as CMLC.

¹³⁷ Same as CMLC.

¹³⁸ Same as CMLC.

¹³⁹ Same as CMLC.

¹⁴⁰ Same as CMLC.

Article 12

Development Application Review Authority

9-12-010 Purpose

The purpose of this Article 12 is to define the delegation of authority and responsibilities for review of development applications.

9-12-020 Summary Table of Review Authority

Table 9-16-1 summarizes the development application procedures in the Development Code and identifies the bodies that have review and decision-making responsibilities for each procedure. See Article 16 for details on each procedure.

9-12-030 Board of Trustees

In addition to other authority granted by charter, ordinance, or state law, the Board of Trustees shall have the following functions and duties related to the Development Code:

- (a) Application review and decision making authority as defined in Article 12;
- (b) Decisions on annexations of land into the City;
- (c) Negotiation and approval of development agreements; and,

(d) The exclusive authority to render a final decision which may be subject to any legal challenge, whether directly or by an appeal of a decision by the City Manager, Planning and Zoning Commission, or Board of Adjustment, on all land use and development application decisions pursuant to this Development Code.

9-12-040 Planning and Zoning Commission

(a) **Establishment and Purpose.**¹⁴¹ The purposes of the Planning and Zoning Commission (PZC) are amended as follows:

(1) To implement the goals and policies of the Creede Comprehensive Plan;

(2) To guide and accomplish a coordinated, adjusted, and harmonious development of the municipality and its environs, that will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, quality of life, and general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, the promotion of safety from fire, floodwaters, and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement,

¹⁴¹ These purposes differ from those in the CMC Sec. 2-9-40 in that they are broader and focused on the essence of what the PZC is established for and less on their specific duties as in the current code.

wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements;

(3) To promote health and general welfare; to provide adequate light and air; to prevent the overcrowding or inefficient use of land; to avoid undue concentration or dispersal of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;

(4) To preserve the natural beauty of the City's site and setting; to prevent indiscriminate clearing of property, removal of trees, and earthmoving; and to attain the objectives set out in the Development Code.

(b) **Duties.**¹⁴² The PZC shall have the following functions and duties:

(1) Review development applications, amendments to the Creede Comprehensive Plan and amendments to this Development Code, provide recommendations to the Board of Trustees, and render decisions as such authority is indicated in this Article 12;¹⁴³

(2) Upon request and direction by the Board of Trustees, make and recommend plans for the physical development of the City, including any areas outside its boundaries, subject to the approval of the legislative or governing body having jurisdiction thereof;¹⁴⁴

(3) Upon request and direction of the Board of Trustees, conduct research, prepare studies, review other matters which are related to the present conditions and future growth of the City of Creede, and provide comments and recommendations thereon to the Board of Trustees; and,¹⁴⁵

(4) Review and make recommendations to the Board of Trustees about the, code text amendments that address types of uses, parking standards, streetscapes, or other similar items.

(c) **Membership.**¹⁴⁶ The PZC shall be composed of not less than five (5) or more than seven (7) members appointed by the Board of Trustees.¹⁴⁷ All members of such commission

¹⁴² Similar to CMC Sec. 2-9-40.

¹⁴³ Tracts language in C.R.S. §31-23-206, C.R.S. §31-23-211, C.R.S. §31-23-214, C.R.S. §31-23-227, and C.R.S. Title 31 Article 23 Part 3.

¹⁴⁴ Tracts language in C.R.S. §31-23-206.

¹⁴⁵ Tracts language in C.R.S. §31-23-206, C.R.S. §31-23-207, and C.R.S. §31-23-210.

¹⁴⁶ The composition of membership should be discussed. The statutory default includes the Mayor and another member of the Town Board. A PZC which is completely separate from the Town Board is more common and avoids potential legal issues which can arise from someone voting on both the PZC and Board of Trustees. 5 members is adequate and Creede may wish to consider a 3 member board (2 for quorum) with 2 alternates.

¹⁴⁷ C.R.S. §31-23-203(3) and the CMC Sec. 2-9-20 also contain the following language "When the Commission is limited to five (5) members, the membership shall consist of the Mayor and a member of the governing body as ex officio members and three (3) persons appointed by the Board of Trustees." However, C.R.S. §31-23-203(4) states that membership may be determined by the Board of Trustees by ordinance.

shall be registered electors of the municipality and, if any member ceases to reside in such municipality, his or her membership on the commission shall automatically terminate.¹⁴⁸

(d) Quorum. Four (4) members of the PZC shall constitute a quorum for the transaction of business, but in the absence of a quorum, a lesser number shall adjourn any meeting to a later time or date. In the absence of all members, any staff member shall adjourn any meeting to a later time or date.

(e) Term. The term of office for a member shall be two (2) years on an overlapping tenure. A member of the PZC may be removed by the Board of Trustees pursuant to §9-12-040(h), *Removal from Office*.¹⁴⁹

(f) Vacancies. A vacancy on the PZC shall occur whenever a member of the PZC is removed by the Board of Trustees, dies, becomes incapacitated and unable to perform the required duties for a period of ninety (90) days, resigns, or is convicted of a felony. In the event a vacancy occurs, the Board of Trustees shall appoint a successor to fill the vacancy and serve the remainder of the term of the former member.

(g) Removal from Office. A member of the PZC may be removed for misconduct, conduct unbecoming of a city official, violation of the state code of ethics, inefficiency, or more than two (2) unexcused absences within a twelve (12) month period. Prior to removal, the Board of Trustees shall conduct a hearing and shall provide written notice to the PZC member stating the grounds for removal at least three (3) days prior to the hearing.¹⁵⁰

(h) Officers. The PZC shall select its own chairperson, a vice chairperson, and a secretary from among its members. The chair or, in the absence of the chair, the vice chair, shall be the presiding officer of its meeting. In the absence of both the chair and the vice chair from a meeting, the members present shall appoint a member to serve as acting chair at the meeting.¹⁵¹

(a) Compensation. All members of the PZC shall serve without compensation, and the appointed members shall hold no other Municipal office.¹⁵²

(b) Staff. The City Manager or City Clerk shall serve as the staff of the PZC and shall provide the service of a recording secretary who shall act in the capacity of secretary for the PZC for the purpose of receiving applications and other material for consideration for the PZC.¹⁵³

(c) Rules and Regulations. The PZC shall operate in accordance with its own rules of procedure; provided, however, that the PZC shall submit its proposed rules or any amendment to the rules to the Board of Trustees, which by motion shall approve the rules or amendment and

¹⁴⁸ The statutory language in C.R.S. §31-23-203 requires that the members of the PZC be “bona fide residents” of the municipality.

¹⁴⁹ C.R.S. §31-23-203(3) states that terms shall be 6 years. However, C.R.S. §31-23-203(4) states that membership term may be determined by the Board of Trustees by ordinance.

¹⁵⁰ The statutory language in C.R.S. §31-23-203 states that members may be removed for “inefficiency, neglect of duty, or malfeasance in office.” However, C.R.S. §31-23-203(4) states that removal of members may be determined by the Board of Trustees by ordinance.

¹⁵¹ C.R.S. §31-23-204.

¹⁵² Same as CMC Ch. 2 Article 9. This is the same as C.R.S. §31-23-203.

¹⁵³ C.R.S. §31-23-205.

direct their adoption by the PZC, or disapprove the proposal with directions for revision and resubmission. The rules shall be filed with the City Clerk and maintained in the records of the City and shall be subject to public inspection. The PZC may provide for certain variances, exceptions, and exemptions from the requirements of its rules and regulations.¹⁵⁴

(d) Meetings. The PZC shall meet in accordance with the rules of procedure governing the PZC, and otherwise upon the call of the chairperson, or in the absence of the chair, by the vice chairperson. All meetings shall be held at the offices of the City, unless otherwise specified, with adequate notice given to all interested parties.

(e) Material to be Submitted. The PZC shall adopt rules and regulations including procedures and schedules for applications requiring action by the PZC.

(f) Agenda. The PZC may schedule the review of applications on the next available agenda when the next agenda is full and will likely result in an overly long meeting.

(g) Authority to Retain Consultants. The PZC is authorized to retain the services of one or more consultants, provided funds have been appropriated by the City for said purpose or paid as part of the application fee by the applicant, to advise and assist the PZC in performing the functions prescribed in this section. The consultants may be retained to advise the commission on a single project, on a number of projects, or on a continuing basis.¹⁵⁵

9-12-020 City Manager

The City Manager is authorized and directed to do the following:

(a) Review applications, provide recommendations, and render administrative decisions as indicated in this Chapter 9;

(b) Establish application submittal requirements, including content and quantities of materials to be submitted;

(c) Render interpretations of the Development Code;

(d) Enforce all provisions of the Development Code, for which purpose the City Manager shall have the powers of a law enforcement officer; and,

(e) Delegate any duty set forth in this Development Code to another official within the City when determined appropriate and efficient by the City Manager.

9-12-030 Board of Adjustments¹⁵⁶

(a) Establishment. There is hereby established a board of adjustments (BOA). The membership of the BOA shall be composed of the Board of Trustees.

¹⁵⁴ C.R.S. §31-23-204.

¹⁵⁵ C.R.S. §31-23-205.

¹⁵⁶ C.R.S. §31-23-307.

(b) Purpose. The BOA shall hear and decide appeals from any order, requirement, decision, or determination made by any administrative official charged with the enforcement of this Development Code. In addition, the BOA shall hear and decide all requests for a variance from the requirements of this Development Code. Such variance shall not be granted if it would be detrimental to the public good, create a conflict with the Creede Comprehensive Plan or impair the intent and purpose of this Development Code.¹⁵⁷

(c) Compensation. All members of the BOA shall serve without compensation, and the appointed members shall hold no other Municipal office.

(d) Meetings. The meetings of the BOA shall be scheduled as necessary when variance applications or appeals are submitted to the City. Generally, meetings of the BOA shall be scheduled to coincide with meetings of the Board of Trustees as is convenient.¹⁵⁸

(e) General Rules. The BOA shall follow the general rules and procedures of the Board of Trustees. The BOA may adopt specific rules which are consistent with the provisions of this Article 12. The Chairperson of the BOA shall be the same as the respective position with the Board of Trustees. The Chairperson may schedule meetings of the BOA. The Chairperson may administer oaths and compel the attendance of witnesses by application to the district court. The court upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings. All meetings shall be open to the public. The BOA shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be a public record and immediately filed in the Creede Town Hall.¹⁵⁹

(f) Voting. The concurring vote of four (4) members of the Board of Adjustments shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.¹⁶⁰

9-12-040 Other Departments and Agencies

The City may request review and input of applications from other City boards, commissions, departments, other governmental agencies, and non-government agencies, as determined appropriate considering the nature of the application.

¹⁵⁷ C.R.S. §31-23-301.

¹⁵⁸ Language from Ord. 369 Board of Adjustment, Section 2.

¹⁵⁹ Language from Ord. 369 Board of Adjustment, Section 2.

¹⁶⁰ Language from Ord. 369 Board of Adjustment, Section 2.

Article 16

Development Review Procedures¹⁶¹

9-16-010 Purpose.

This article contains regulations and the procedures for development applications. §9-16-020 contains regulations that are generally applicable to all development application review procedures, described in a series of sequential steps. The purpose is to establish uniform procedures for application types to the extent possible. Subsequent sections identify the applicability of the common steps to specific procedures, noting any differences between the common procedures and those for the specific procedure. Specific procedure provisions supplement, rather than replace, provisions of the common steps, unless the provisions conflict, in which case the provisions of the specific procedure control. Table 9-16-1 indicates the specific review and approval procedures of this chapter, with section references.

Table 9-16-1: Development Review Procedures and Review Authority				
Procedure		City Manager	PZC	BOT
Comprehensive Plan Amendment (§9-16-030)		R	H-R	H-D
Code Text Amendment (§9-16-040)		R	H-R	H-D
Rezoning (§9-16-050)		R	H-R	H-D
Planned Unit Development (§9-16-060)	Administrative PUD	D		A
	Preliminary PUD	R	H-R	H-D
	Final PUD	R	H-R	H-D
Administrative Subdivision (§9-16-070)		D		A
Minor Subdivision (§9-16-070)		R		H-D
Major Subdivision (§9-16-070)	Preliminary Plan	R	H-R	H-D
	Final Plat	R		H-D
Annexation (Article 36)		R	H-R	H-D
Special Review Use (§9-16-080)		R	H-R	H-D
Variance (§9-16-090)		R	H-R	H-R
Right-of-Way Vacation (§9-16-100)		R		H-D
Vested Property Right (§9-16-110)		R	H-R	H-D
Location, Character, and Extent (§9-16-120)		R	H-R	H-D
Appeal (§9-16-130)				H-D
R=Review/Recommendations; H=Public Hearing; D=Decision; A=Appeal				

9-16-020 General Procedures and Requirements.¹⁶²

¹⁶¹ This Article combines the zoning and subdivision application review procedures and expands the procedures. In the current CLUC zoning and subdivision articles are separate. In addition, this article places review procedures for variances, code text, comprehensive plan amendments, code text amendments and rezonings all in the same article and all go through the same general review procedures, rather than have separate procedures for each category. Westcliffe's development code contains similar general procedures, but does not create a separate Article for procedures alone, all is consolidated under the Chapter on Administration. Additional procedures may exist for each separate development application.

The following procedures shall apply to all development applications which are reviewed under this Article 16.

(a) Step 1: Pre-application Conference. A pre-application conference is required for all development applications unless waived by the City Manager. The pre-application conference serves to assist the applicant with (1) identifying information which must be provided for a complete development application, (2) understanding the development application review process, (3) identifying appropriate referral agencies for review and comment, (4) achieving compliance with development standards, understanding relevant planning issues, and (5) determining appropriate fees. The City Manager may include other City representatives in the pre-application conference as deemed appropriate. The applicant shall provide sufficient information to the City Manager at least five (5) business days prior to a scheduled pre-application conference, unless such time frame is waived by the City Manager. Minimum information shall include applicant information, property description, description of proposed development or nature of development application, and conceptual site plans or drawings which illustrate the nature of the development application. The City Manager may determine that the information provided is insufficient and request additional information. If the applicant fails to provide sufficient information for a pre-application meeting and seeks to proceed with the application process, the City Manager may notify the PZC and the Board of Trustees of the lack of adequate information submitted at the pre-application conference. The City Manager may provide a written letter after the pre-application conference summarizing application submittal requirements, review procedures, development standards, planning issues, and required fees. The informal evaluation of the City Manager and staff provided at the pre-application conference are not binding upon the applicant or the City. Critical issues relevant to a development application may not be apparent at the pre-application conference and may require additional review, submissions, or studies later in the application process.

(b) Step 2: Application Submittal.

(1) Applicant. The owner of real property, or authorized representative of the owner with a properly acknowledged power of attorney, may submit a development application. No development application shall be received for processing or approved, and no application for a building permit shall be granted, when the applicant is in default under any related or unrelated agreement or obligation to the City.

(2) Application Submittal Requirements. The applicant shall submit the application to the City Manager. Application submittal requirements for every application type shall be established by the City Manager on submittal forms available at the Creede Town Hall. The City Manager may waive submission requirements where appropriate to specific applications; however, the waiver of any submission requirement shall not preclude the PZC or the Board of Trustees from requiring such information where deemed necessary for evaluation of the development application with the applicable review criteria. The minimum submittal requirements for all applications shall include:

- (i)** Completed application form;

¹⁶² The CLUC Article 3 does contain general procedures applicable to all development applications, but they are not as extensive. In addition, the current Land Use Code separates out procedures for subdivisions.

- (ii) Owner's signature or an acknowledged power of attorney if the owner has authorized an agent or representative to act as the applicant;
- (iii) Title insurance commitment which has been updated within sixty (60) days of the application submittal along with copies of all documents listed in the exceptions;
- (iv) Legal description of the property subject to the development application;
- (v) Development application review fees; and
- (vi) Survey for current owner and no more than three (3) years old stamped by a surveyor licensed in the State of Colorado. If property pins have not been maintained in a satisfactory manner or are in question, a new survey may be required.

(3) Required Studies and Reports. Reports or studies may be necessary to adequately evaluate the development application for compliance with the review criteria. Such reports include but are not limited to: studies of soils, geological hazards, fiscal impacts, market analysis, traffic impacts, and/or environmental impacts. The applicant shall furnish the reports or studies needed at the applicant's sole expense. The City may require independent peer review of any report or study provided by the applicant. The applicant and the City may agree to retain a mutually acceptable consultant to prepare a report or study, which cost shall be paid by the applicant. All required reports or studies shall be executed by professionals or other persons qualified to provide the requested reports. The form and content of reports or studies may be established by the City Manager.

(4) Concurrent Review Permitted. Where multiple development applications concern the same property then the City Manager may permit concurrent review of the development applications for efficiency and practicality.

(5) Multiple Applications. A single property shall not be permitted to have more than one (1) application of the same type being processed concurrently.

(6) Fees. Fees shall be paid in accordance with §9-04-100, *Fees*.

(c) Step 3: Application Processing.

(1) Determination of Completeness. A development application shall be reviewed for completeness by the City Manager within ten (10) business days after receipt. If the application is determined to not be complete then a written communication shall be promptly provided to the applicant indicating the specific deficiencies in the application. The determination that an application is complete or the failure to determine an application is incomplete within ten (10) days shall not preclude the City from requiring information which is necessary and relevant to evaluate the development application for compliance with the review criteria. A determination by the City Manager that the application is incomplete may

be appealed to the Board of Adjustment¹⁶³ in accordance with the procedures in §9-16-130, *Appeal*.

(2) Referral to Other Agencies. Development applications may be referred to other agencies for review and comment. The City Manager shall attempt to identify appropriate referral agencies and shall consider the comments from referral agencies as part of the staff review and report. The PZC and the Board of Trustees may determine that referral of a development application to an agency for review and comment is appropriate where such referral agencies may provide comments relevant to evaluating the development application for compliance with the review criteria. Referral of development applications to other agencies shall provide a minimum timeframe for review and comment of fourteen (14) days for development plans, design review, variances, amendments to text of Development Code, and minor subdivisions; and twenty-one (21) days for preliminary subdivision, planned unit development, planned unit development amendments, and re-zoning; however, the timeframe for review and comment may be extended if the development application presents technical issues which require additional review, if additional information is provided by the applicant, or the application is modified. Referral agencies may include, but are not limited to:

(i) Any utility, local improvement or service district, or ditch company, when applicable;

(ii) The Colorado Department of Transportation when the proposed development is adjacent to or in sufficient proximity to affect a right-of-way, interchange, or other facility;

(iii) The Colorado Geological Survey for findings and recommendations pertaining to geologic factors, including geologic hazards, mineralized areas, and sand and gravel areas that would have a significant impact on the proposed use of the land;

(iv) Any other agency concerned with a matter or area of local interest that could be affected by the application;

(3) Staff Review and Report. The City Manager shall review the application in accordance with the criteria established in this chapter and shall prepare written findings of fact. If authorized as the decision-making authority, the City Manager shall inform the applicant in writing of the findings and determination. If not authorized as the decision-making authority, the City Manager shall prepare a recommendation and submit the recommendation and findings to the appropriate review and decision-making authority.

(4) Required Processing. Applicants shall be required to continuously and diligently pursue their development applications which shall include responding in a timely manner to staff comments and requests. An Applicant which fails to respond to staff comments or requests for a period of four (4) months shall be administratively withdrawn by the City Manager unless the City Manager determines that good cause exists to extend the application timeframe and approves such extension in writing.

¹⁶³ Should this appeal be to the Board of Adjustment or the Board of Trustees?

(d) Step 4: Notice. Notice shall be required for all public hearings conducted by the Planning Commission and Board of Trustees.

(1) Published and Posted Notice. Notice shall be published in a newspaper of general circulation within the City and posted in the designated official places of posting by the City at least fifteen (15) days prior to the hearing date.¹⁶⁴

(2) Mailed Notice. For procedures that require mailed notice, notice shall be sent by first-class mail to all real property owners within three hundred (300) feet of the property which is the subject of a development application, as measured from the boundary of the property. If a property within three hundred (300) feet that requires notification is a condominium project, notice may be mailed to the managing agent, registered agent, or any member of the board of directors of the project. Mailed notice shall be postmarked at least fifteen (15) days prior to the meeting. Mailed notice shall be sent by the City at the applicant's expense. The Mineral County Assessor's records may be used to determine the addresses of real property owners. The City shall include a certificate of mailing in the public record.

(3) Notice Content. Every required form of notice shall state the time and place of the hearing, the name of the applicant, a general description of the subject property indicating its location (which shall be shown by map), a brief summary of the subject matter of the hearing, a description of the proposed development, a statement that the application or information relating to the proposed change or amendment is available in the City Manager's office during regular business hours for review or inspection by the public, and a statement that written comments may be submitted to the City. All required notices shall be approved by the City Manager prior to posting or distributing.

(4) Constructive Notice. 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 notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. Any person who appears at a public hearing is deemed to have received constructive notice and waived any grounds to challenge defective notice. If a question arises at the hearing regarding the adequacy of notice, the reviewing or decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Code. When the records of the City document the publication, mailing, and posting of notices as required by this section, it shall be presumed that notice was given as required by this Section. If the reviewing or decision-making body takes action to continue a hearing to a future specified date, time and location, then constructive notice is deemed to have been provided for such continued hearing date and additional notices shall not be required.

¹⁶⁴ C.R.S. §31-23-304 requires that notice be published in at least 15 days prior to a public hearing unless another period is established in the Development Code. The Mineral County Miner is published once a week on Thursday and all notices must be submitted to the paper one week prior. An 11 day period for publication is suggested for consideration because it may allow for more timely processing of applications due to the schedule of publication of the paper.

(e) **Step 5: Public Hearings.** The City Manager shall schedule a public hearing date before the PZC and/or Board of Trustees after a complete application has been received, City staff has completed City staff review and referral agencies have had an opportunity to provide comments. The City Manager may delay the scheduling of a public hearing to a subsequent meeting where an agenda of the PZC or Board of Trustees is full. A complete application shall be scheduled for an initial public hearing within seventy-five (75) days after the date that the application is determined to be complete unless the applicant consents to scheduling the public hearing on a later date. The PZC or Board of Trustees may continue a public hearing on its own initiative for a maximum of thirty-five (35) days after the date of the initial public hearing without the consent of the applicant. PZC or Board of Trustees may continue a public hearing for a maximum of ninety-five (95) days with the consent of the applicant.

(f) **Step 6: Review and Decision.** The following rules shall apply to review, recommendations, and decisions conducted at public hearings.

(1) **Review Criteria.** The reviewing authority shall be the City Manager when the City Manager has the authority to administratively approve a development application. The reviewing authority shall be the PZC and/or the Board of Trustees for all development applications which are subject to public hearing. The reviewing authority shall review development applications for compliance with all relevant standards and criteria as set forth in the specific procedures for the particular application in this Development Code as well as the following general criteria which shall apply to all development applications:

(i) The development application is complete;

(ii) The development application provides sufficient information to allow the reviewing authority to determine that the development application complies with the relevant review criteria;

(iii) The development application complies with the goals and policies of the Creede Comprehensive Plan; and,

(iv) The demand for public services or infrastructure exceeding current capacity is mitigated by the development application.

(2) **Authority to Require Additional Studies.** If the reviewing authority finds that the submittal materials are not adequate to evaluate the development against the review criteria, it may require additional studies as necessary. In doing so, the reviewing authority shall indicate the specific consequence(s) or concern(s) for which the standard submittal requirements fail to provide adequate means of evaluation and the data or information needed for proper evaluation. The results of any study or analysis shall not dictate either approval or disapproval of the proposed project.

(3) **Findings.** The reviewing authority shall adopt written findings which document that a recommendation or decision is based upon a determination of whether the development application complies with the applicable review criteria. The written findings shall state the conditions or mitigation.

(4) Conditions. The reviewing authority may recommend approval, or may approve, a development application with conditions where such conditions are deemed necessary to ensure compliance with the applicable review criteria and the purpose and intent of this Development Code. Conditions shall be in written form and attached to the approved plan, plat, or permit. Conditions may include specific time limits for performance of any condition. Conditions may include financial performance guarantees from the applicant where the condition requires improvements for mitigation, where deemed necessary to public health, safety, or welfare, or where deemed necessary to protect adjacent property or public infrastructure. Financial performance guarantees shall be in the form of an agreement which is acceptable to the City and shall be executed by the applicant.

(5) Final Decision. A decision by the City Manager or the PZC shall become final unless a written appeal is timely submitted to the City in accordance with §9-16-130, *Appeal*. The date of the decision shall be the date that the reviewing authority renders a decision. The City shall mail the written findings and notification of decision to the applicant within five working days of the decision of the reviewing authority. The Board of Trustees reserves the authority to render a final decision on all decisions rendered under this Development Code and only a decision of the Board of Trustees may be subject to legal challenge. The failure to timely submit a written appeal of a decision of the City Manager or the PZC shall be deemed to be a waiver of any right to legally challenge such decision.

(g) Minor Amendment. The applicant may apply to the City Manager for minor amendments to an approved development application. Minor amendments to an approved development application may be approved, approved with conditions, or denied administratively by the City Manager. The City Manager is authorized to approve minor amendments only if the development approval, as so amended, complies with the standards of the Development Code. The City Manager may refer a minor amendment to the decision-making body that was responsible for the original approval if the City Manager determines the amendment may result in a material change to the approved development application. Proposed amendments to an approved development application which are determined by the City Manager to not be a minor amendment shall be reviewed and processed in the same manner as would be required under this Development Code for the original application for which the amendment is sought and shall include full application fees. Minor amendments shall consist of any of the following:

(1) Any change to any permit or other form of approval that was originally subject only to administrative review and was approved by the City Manager, provided such change would not have disqualified the original application from administrative review under this Development Code had it been requested at that time; and provided that the minor amendment does not result in an increase of more than ten percent (10%) in the amount of square footage of a land use or structure and does not result in a change in the types of uses in the project.

(2) Correction of any errors caused by mistakes that do not materially alter the substance of the development plan or plat as represented to the Board of Trustees.

(3) A change to an approved design which results in a ten percent (10%) or less increase to lot coverage;, access and parking configurations which are less than ten (10) feet;

alterations to the landscaping plan or drainage plan which substantially comply with the original approval; and, as are all determined by the City Manager.

- (4) Changes to an approved development application which do not result in:
 - (i) An increase in the approved number of dwelling units;
 - (ii) An increase in the amount of square footage of a non-residential land use
 - (iii) A change in the housing mix or use mix ratio; or,
 - (iv) A change in the character of the development.

(h) Termination of Approval. All development approvals shall expire and become void two (2) years after the date of the approval if a building permit has not been issued prior to the expiration date, except when a different duration is specified in the development approval, a different duration is specified in the specific procedures for the development approval, or a request for extension is approved by the reviewing authority which granted the original development approval. The owner shall submit a written request for an extension to the City Manager prior to the expiration date and shall state the reasons and circumstances for such extension request. The City Manager and the PZC may provide one (1) extension for a maximum of one (1) year. The Board of Trustees may provide multiple extensions and may provide extensions greater than one (1) year.¹⁶⁵

9-16-030 Comprehensive Plan Amendment.

This section sets forth procedures for reviewing proposed amendments to the texts and maps of the Creede Comprehensive Plan. The amendment process is established in order to provide flexibility in response to changing circumstances, to reflect changes in public policy, and to advance the general welfare of the City.

(a) Review Procedures. Applications to amend the Creede Comprehensive Plan shall follow the general review procedures set forth in §9-16-020, *General Procedures and Requirements*. Applications to amend the Comprehensive Plan may be initiated by the Board of Trustees, any registered voter of the City of Creede, or any property owner in the City of Creede.

(b) Review Authority. The PZC shall review applications for amendments to the Creede Comprehensive Plan and shall provide a recommendation to the Board of Trustees after conducting a public hearing. The Board of Trustees shall render the final decision on an application to amend the Creede Comprehensive Plan after conducting a public hearing. Amendments to the Creede Comprehensive Plan shall be approved by ordinance of the Board of Trustees.¹⁶⁶

¹⁶⁵ Westcliffe's Development Code Sec. 10-1-13 contains the same time for expiration for final approvals (2 years) and provides for Board of Trustee approval of extension.

¹⁶⁶ C.R.S. §31-23-206.

(c) **Review Criteria.** The PZC and Board of Trustees shall use the following review criteria as the basis for recommendations and decisions on applications to amend the Creede Comprehensive Development Plan:¹⁶⁷

(1) The surrounding area is compatible with the land use proposed in the plan amendment or the proposed land use provides an essential public benefit and other locations are not feasible or practical;

(2) Transportation services and infrastructure have adequate current capacity, or planned capacity, to serve potential traffic demands of the land use proposed in the plan amendment;

(3) Public services and facilities have adequate current capacity, or planned capacity, to serve the land use proposed in the plan amendment;

(4) The proposed land use in the plan amendment will result in a better location or form of development for the City, even if the current plan designation is still considered appropriate;

(5) Strict adherence to the current plan would result in a situation neither intended nor in keeping with other key elements and policies of the plan;

(6) The proposed plan amendment will promote the purposes stated in this Development Code; and,

(7) The proposed plan amendment will promote the health, safety or welfare of the Creede Community and will be consistent with the general goals and policies of the Creede Comprehensive Plan.

9-16-040 Code Text Amendment.

The Board of Trustees may amend the text of the Development Code, including the adoption, modification, or replacement of appendices to the Development Code, pursuant to this section. The purpose of a code text amendment is to address changed conditions, unintended consequences or changes in public policy, to advance the general welfare of the City.

(a) **Review Procedures.** Applications to amend the text of the Development Code shall follow the general review procedures set forth in §9-16-020, *General Procedures and Requirements*. Applications to amend the text of the Development Code may be initiated by the Board of Trustees, any property owner within the City of Creede, or any registered elector within the City of Creede.¹⁶⁸

(b) **Review Authority.** The PZC shall review applications to amend the text of the Development Code and shall provide a recommendation to the Board of Trustees after conducting a public hearing. The Board of Trustees shall render the final decision on an

¹⁶⁷ C.R.S. §31-23-206.

¹⁶⁸ C.R.S. §31-23-215 states that the PZC may recommend amendments to the Board of Trustees.

application to amend the text of the Development Code after conducting a public hearing. Amendments to the text of the Development Code shall be approved by ordinance of the Board of Trustees.

(c) **Review Criteria.** The PZC and Board of Trustees shall use the following review criteria as the basis for recommendations and decisions on applications to amend the text of the Development Code:

(1) The text amendment promotes the health, safety, and general welfare of the Creede Community;

(2) The text amendment promotes or implements the goals and policies of the Creede Comprehensive Plan;

(3) The text amendment promotes or implements the purposes stated in this Development Code; or

(4) The text amendment is necessary or desirable to respond to changed conditions, new planning concepts, or other social or economic conditions.

9-16-050 Zoning Amendments.

The boundaries of any zone district may be changed, or the zone classification of any parcel of land may be changed, pursuant to this section. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments to the Official Zoning Map that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the City.

(a) **Review Procedures.** Applications for a zoning amendment shall follow the general review procedures set forth in §9-16-020, *General Procedures and Requirements*. Applications for zoning amendments may be initiated by the Board of Trustees or the property owner and may not be initiated by any other person.¹⁶⁹

(b) **Review Authority.** The PZC shall review applications for zoning amendments and shall provide a recommendation to the Board of Trustees after conducting a public hearing. The Board of Trustees shall render the final decision on an application for zoning amendment after conducting a public hearing. Zoning amendments shall be approved by ordinance of the Board of Trustees.

(c) **Review Criteria.** The PZC and Board of Trustees shall use the following review criteria as the basis for recommendations and decisions on applications for zoning amendment:

(1) Evidence of substantial compliance with the purpose of the Development Code;

¹⁶⁹ C.R.S. §31-23-304 states that the Board of Trustees “shall provide for the manner in which such regulations and restrictions and the boundaries of such districts are determined, established, enforced, and, from time to time, amended, supplemented, or changed.” CLUC Sec. 4-10 states that “amendments may be initiated by the City Council, City Staff, the Planning Commission, or by written application of any property owner or resident of the City.”

- (2) Consistency with the Creede Comprehensive Plan;
- (3) Physical suitability of the land for the proposed development or subdivision;
- (4) Compatibility with surrounding land uses;
- (5) Whether the proposed rezoning is justified by changed or changing conditions in the character of the area proposed to be rezoned
- (6) Whether there are adequate facilities available to serve development for the type and scope suggested by the proposed zone compared to the existing zoning, while maintaining adequate levels of service to existing development;
- (7) Whether the rezoning is consistent with the stated purpose of the proposed zoning district(s);
- (8) That, compared to the existing zoning the rezoning is not likely to result in adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (9) That, compared to the existing zoning, the rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract;
- (10) For rezoning within an existing PUD, consistency with the relevant PUD Master Plan as reflected in the approval of the applicable PUD; and,
- (11) Adequate mitigation is required for zoning amendment applications which result in greater intensity of land use or increased demands on public facilities and infrastructure.

(d) Mitigation. Zoning amendment applications which propose a greater intensity of land use or increased demands on public services or infrastructure shall be required to provide adequate mitigation of such impacts. Greater intensity of land use or increased demands on public facilities and infrastructure shall include, but are not limited to: transportation, water, sewer, schools, emergency services, police, parks and recreation, medical, and library. Adequate mitigation may include providing dedications of land or cash-in-lieu for the proportionate share of capital investment in public facilities and infrastructure related to the potential incremental increase of demand created from the existing zoning classification to the proposed zoning classification.

9-16-060 Planned Unit Development (PUD).¹⁷⁰

(a) Intent. This Planned Unit Development (PUD) District is enacted pursuant to the Planned Unit Development Act of 1972 as amended (C.R.S. 24-67-101, *et seq.*). The PUD is intended to be used as an overlay zone district that supplements the underlying standard zone district. The intent and purpose of this district is to permit and encourage innovative design and high quality, master-planned developments on large parcels of land. This district is created to

¹⁷⁰ This section's language is from the PUD regulations adopted in 2011, Ordinance 362.

allow and encourage compatible uses to be developed in accordance with a unified development plan in harmony with the environment and surrounding neighborhood. The PUD District is intended to permit greater flexibility in the application of zoning and development standards and greater freedom in providing a mix of land uses in the development of a balanced community. PUDs are expected to preserve critical environmental resources, provide above-average open space and recreational amenities, include exceptional design, and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.

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

(c) PUD Restrictions and General Requirements. Properties utilizing the PUD District shall be subject to the following:

(1) There shall be no minimum lot, parcel or tract size for PUD applications.

(2) The area of land for the PUD may be controlled by one or more landowners and must be developed under unified control or a unified plan of development.

(3) Areas designated as private streets and/or common open space including land, an area of water, or a combination of land and water within the site designated for a PUD which are designed and intended primarily for the use or enjoyment of residents, occupants and owners of the PUD shall include provisions for the establishment of an organization for the ownership and maintenance of such private streets and/or common open space areas unless other adequate arrangements for the ownership and maintenance thereof are provided in a manner acceptable to the City.

(4) All requirements set forth in this Code otherwise applicable to the area of land proposed for a PUD shall govern, except to the extent that the unified plan of development for residential, commercial, educational, recreational or industrial uses or any combination thereof may propose exceptions in lot size, bulk, type of use, density, lot coverage, open space, or other standards within the existing land use regulations.

(5) No PUD may be approved by the City without the written consent of the landowner whose property is included within the PUD.

(d) PUD Approval Procedure. All PUD District applications shall be submitted and processed in the same manner as applications for zoning amendments as set forth in §9-16-020, *General Procedures and Requirements*. Where deemed appropriate, the City may elect to require a PUD District application to also submit a subdivision plat concurrently with a PUD District application and shall process such subdivision plat in accordance with submittal requirements, procedures and standards for review set forth in §9-16-070 *Subdivisions*. To the extent practical, the City shall strive to combine public hearings and noticing requirements for both a PUD District application and accompanying subdivision plat application.

(e) **Approval by Ordinance.** PUD Zoning and a PUD Plan shall be approved by ordinance.

(f) **Application Submittal Requirements.** In addition to information required for zoning amendments in §9-16-050, a PUD District application shall include the following:

(1) A PUD District application fee.

(2) A PUD Plan which depicts various land use areas on the property.

(3) PUD Zoning, including permitted, conditional and prohibited uses, building and site standards, minimum lot sizes, and other applicable zoning regulations for various land use areas as depicted in the PUD Plan.

(4) A draft of all documents relevant to the PUD, including but not limited to proposed Development Agreements, Intergovernmental Agreements, Declarations for Common Owner's Associations.

(5) Written PUD description as part of the general development information which includes:

(i) List all subdivision regulation exceptions proposed for the PUD.

(ii) Identify the underlying zoning district(s) for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the district(s). If any conditional uses are requested, explain how the conditional use review criteria will be addressed.

(iii) Identify and explain the benefits which will be provided by the PUD to offset the impact of the modifications requested (i.e., if the minimum lot size is decreased, additional functional, centrally located common open space will be provided; or if the width of the local street right-of-way is decreased by eliminating on-street parking, then there will be designated parking areas with 500 feet of all residences, etc.). All proposed benefits must offset the proposed modifications.

(iv) Explain how the proposed PUD will be compatible with adjacent neighborhoods which now exist or are proposed in the future. Describe any proposed buffering techniques which serve to achieve such compatibility.

(v) Explain how the PUD supports and implements the Creede Comprehensive Plan.

(vi) Explain any proposed phasing of the PUD.

(vii) Explain the process to amend the PUD Zoning or PUD Plan if different than then the Code.

(viii) Provide any additional relevant information which the City may deem necessary.

(g) **PUD Review Criteria.** The following review procedures shall be used when considering a PUD District application:

(1) The PUD addresses a unique situation, confers a substantial benefit to the City, or incorporates creative site design such that it achieves the purposes of this Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments.

(2) The PUD rezoning will promote the public health, safety, and general welfare of the Creede community;

(3) The PUD rezoning is consistent with the Creede Comprehensive Plan and the purposes of this Development Code;

(4) Facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

(5) The PUD rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;

(6) The PUD rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and

(7) Future uses on the subject tract will be compatible in scale with uses on other properties in the vicinity of the subject tract.

(h) **Amendments to a PUD Development Plan or PUD Zoning.** Amendments to a PUD Development Plan shall follow the process for initial zoning of a PUD District and approval of a PUD Development Plan and PUD Zoning unless otherwise set forth in an approved PUD Development Plan or PUD Zoning. Written notice of a public hearing for an amendment to a PUD Development Plan or PUD Zoning shall be sent to all property owners within the PUD District area. Unless restricted by the terms of a development agreement granting vested property rights, any property owner within the PUD District or the Board of Trustees of the City of Creede may initiate an amendment to a PUD Development Plan or PUD Zoning.

(i) **Rezoning PUD Districts.** A PUD District, or portions thereof, may be rezoned to another zone district or districts in accordance with the procedures and standards for zoning amendments set forth in this Code. Written notice of a public hearing for rezoning a PUD

District shall be sent to all property owners within the PUD District area. Unless restricted by the terms of a development agreement granting vested property rights, any property owner within the PUD District or the Board of Trustees of the City of Creede may initiate an application to rezone a PUD District.

9-16-070 Subdivisions. The purpose of the subdivision review procedures is to ensure compliance with all the standards and requirements in this Development Code, and encourage quality development consistent with the goals, policies, and objectives in the Creede Comprehensive Plan.

(a) **Applicability.** The procedures of this section shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land, including land used for condominiums, apartments, or any other multiple dwelling units or creation of an estate in airspace, except any subdivisions that are specifically excluded by state law. If a tract of land that has been created or subdivided in the past is later described as a single tract in deeds or plat by the legal or equitable owners, any later subdivisions of that tract, even if along the lines of the earlier subdivision, shall be subject to the requirements of these regulations. If any tract of land or airspace has been subdivided as one type of subdivision and thereafter is subdivided so as to create a different type of subdivision (for example, conversion of a condominium subdivision to a timesharing subdivision), the conversion shall be subject to the requirements of this Development Code. Unless the method of disposition is adopted for the purpose of evading the requirements of the Development Code, this procedure shall not apply to any division of land that:

- (1) Is created by a lien, mortgage, deed of trust, or any other security instrument;
- (2) Is created by any interest in an investment entity;
- (3) Creates cemetery lots;
- (4) Creates an interest or interests in oil, gas, minerals, or water that are severed from the surface ownership of real property;
- (5) Is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common of such interest. For the purpose of this paragraph, any interest in common owned in joint tenancy shall be considered a single interest;
- (6) Creates a leasehold interest with a term of less than twenty (20) years and involves no change in use or degree of use of the leasehold estate;

(b) **Subdivision Categories.**¹⁷¹ Categories of subdivisions are established and defined as follows for the purpose of determining the appropriate subdivision review procedure:

¹⁷¹ CLUC Article 5 Subdivisions does not separate the subdivisions into categories. Westcliffe's Subdivision Regulations have categories for major and minor subdivisions. The minor subdivision category is similar to the administrative subdivision category in this Development Code.

(1) Major Subdivision. Major subdivisions include all subdivisions which would create four (4) or more separate parcels of land or which would require or which propose public improvements.

(2) Minor Subdivisions. Minor subdivisions include all subdivisions which would create less than four (4) separate parcels of land, subdivisions which do not require or propose public improvements, subdivisions which consolidate two (2) or more lots into a single lot in a previously recorded subdivision plat, and subdivisions which move any lot lines by more than two (2) feet; but shall not include subdivisions which are administrative subdivisions. Condominium and timeshare subdivisions more than four (4) units which do not propose public improvements shall be processed as minor subdivisions.

(3) Administrative Subdivisions. Administrative subdivisions are subdivisions which include dividing a parcel of land for a duplex, subdivisions for the purpose of correcting survey errors, condominium and timeshare subdivisions up to four (4) units, and subdivisions which adjust lot lines by two (2) feet or less and which do not change the number of lots. The City Manager shall have the authority to determine that an administrative subdivision application shall be processed as a minor subdivision where the character of the subdivision application, or multiple applications, presents issues which warrant review and approval by the Board of Trustees. All administrative subdivisions are exempt from notice requirements outlined in §9-16-020(d).

(c) Review Procedures. Applications for a subdivision shall follow the general review procedures set forth in §9-16-020, *General Procedures and Requirements*. Applications for subdivision must be initiated by the owner of real property. The City Manager may combine preliminary plan and final plat review where the subdivision application can be reviewed efficiently and effectively with a combined process. Where subdivision approval will be required to implement development in a proposed PUD, the applicant shall file a single preliminary plan incorporating the application requirements of both the PUD and subdivision preliminary plans. The provisions and procedures for public notice, hearing, and review for a PUD as prescribed in the Development Code shall apply to the application.

(d) Review Authority. The review authority for a subdivision application shall be determined by the subdivision category.

(1) Major Subdivision. Major subdivisions shall be required to obtain approval for preliminary plan and for final plat. The PZC shall review a preliminary plan for a major subdivision application and shall provide a recommendation to the Board of Trustees after conducting a public hearing. The Board of Trustees shall render the final decision on a preliminary plan for a major subdivision application after conducting a public hearing. The Board of Trustees shall review the final plat for major subdivision applications and render a final decision after conducting a public hearing. The preliminary plan and final plat for major subdivisions shall be approved by resolution of the Board of Trustees.

(2) Minor Subdivision. Minor subdivisions shall require final plat review and approval only where no public improvements are proposed; however, the review criteria for a preliminary plan shall apply to review of minor subdivision final plats in addition to the

review criteria for a final plat. The Board of Trustees shall render the final decision on a minor subdivision application after conducting a public hearing. Minor subdivisions shall be approved by resolution of the Board of Trustees.

(3) Administrative Subdivisions. Administrative subdivisions shall require final plat review and approval only; however, the review criteria for a preliminary plan shall apply to review of administrative subdivisions in addition to the review criteria for a final plat. The City Manager shall review and render decisions on administrative subdivisions. A decision of the City Manager may be appealed to the Board of Adjustment¹⁷² pursuant to §9-16-130, *Appeal*.

(e) Preliminary Plan Review Criteria.¹⁷³ The reviewing authority will use the following review criteria as the basis for recommendations and decisions on applications for preliminary plan subdivision applications:

(1) The proposed subdivision shall comply with all applicable use, density and development standards set forth in this Development Code that have not otherwise been modified or waived pursuant to this Article and that would affect or influence the layout of lots, blocks, and streets. Applicants shall not create lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible;

(2) The subdivision application shall comply with the purposes of the Development Code;

(3) The subdivision application shall be consistent with the Creede Comprehensive Plan and other community planning documents;

(4) The land shall be physically suitable for the proposed development or subdivision;

(5) The proposed subdivision shall be compatible with surrounding land uses;

(6) Conveyance of Water Rights: In order to provide a continuing source of municipal water for the City of Creede, all Subdivisions may be required to transfer water rights or provide a fee in lieu thereof.

(7) There are adequate public facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads and will be conveniently located in relation to schools, police, fire protection and emergency medical services;

(8) The proposed utility and road extensions are consistent with the utility's service plan and are consistent with the City of Creede Comprehensive Plan;

¹⁷² Should this appeal be to the Board of Adjustment or the Board of Trustees?

¹⁷³ The CLUC Article 5 does not specifically outline the criteria that the subdivision preliminary plat must meet other than general application requirements. These Criteria are similar to the general subdivision design standards outlined in the Westcliffe Land Use Code Sec. 10-3-7.

(9) The utility lines are sized to serve the ultimate population of the service area to avoid future land disruption to upgrade under-sized lines;

(10) The subdivision is compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area;

(11) A proposed subdivision for an existing PUD shall be consistent with the relevant PUD Master Plan as reflected in the approval of that PUD;

(12) Appropriate utilities, including water, sewer, electric, gas and telephone utilities, shall provide a “conditional capacity to serve” letter for the propose subdivision;

(13) That the general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision shall be designed in a way that minimizes the amount of land disturbance, minimize inefficiencies in the development of services, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes of this Development Code;

(14) Evidence that provision has been made for a public sewage disposal system or, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with state and local laws and regulations;

(15) Evidence that all areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the applicant and that the proposed use of these areas are compatible with such conditions or that adequate mitigation is proposed;

(16) The subdivision application addresses the responsibility for maintaining all roads, open spaces, and other public and common facilities in the subdivision and that City can afford any proposed responsibilities to be assumed by the City;

(17) If applicable, the declarations and owners’ association are established in accordance with the law and are structured to provide adequate assurance that any site design standards required by this Development Code or conditions of approval for the proposed subdivision will be maintained or performed in a manner which is enforceable by the City; and,

(18) As applicable, the proposed phasing for development of the subdivision is rational in terms of available infrastructure capacity and financing.

(f) **Final Plat Review Criteria**¹⁷⁴. After approval of a preliminary plan, the applicant may submit an application for a final plat. The following criteria shall apply to review of a final plat subdivision application:

(1) The City Manager and/or Land Use Administrator¹⁷⁵ shall compare the legal description of the subject property with the County records to determine that:

¹⁷⁴ The CLUC Article 5 does not contain any criteria that the subdivision final plat must meet.

(i) The property described contains all contiguous single ownership and does not create a new or remaining unrecognized parcel of less than thirty-five (35) acres in size;

(ii) The lots and parcels have descriptions that both close and contain the area indicated; and

(iii) The plat is correct in accordance with surveying and platting standards of the state.

(2) The final plat conforms to the approved preliminary plan and incorporates all recommended changes, modifications, and conditions attached to the approval of the preliminary plan;

(3) The final plat conforms to all preliminary plan criteria;

(4) The development will substantially comply with all sections of the Development Code;

(5) The final plat complies with all applicable technical standards adopted by the City; and,

(6) Appropriate utilities shall provide an ability to serve letter including, but not limited to, water, sewer, electric, gas, and telecommunication facilities.

(g) **Public Improvements Guarantee.** Guarantees for public improvements shall comply with the following:¹⁷⁶

(1) No Final Plat shall be approved or recorded until the applicant has submitted, and the PZC and the Board of Trustees have approved, a Subdivision Improvements Agreement (SIA) guaranteeing the construction of improvements shown in the Final Plat documents, which have not previously been completed and approved by the City. Such Agreement shall set forth a method and a time schedule for construction of said improvements. The SIA shall run with and be a burden upon the land described in the agreement.

(2) The SIA shall contain a security arrangement approved by the City, which reasonably guarantees that the required improvements shall be completed. The guarantee may take the form of a performance bond or an irrevocable letter of credit. Such security arrangement shall provide that the City may cause the improvements to be completed if not completed pursuant to the timetable specified in the SIA. The cost of completion then will be paid pursuant to the security arrangement. The amount of security posted shall not limit the liability of the applicant to pay for the full cost of completion of the improvements.

(3) The security shall not be released until the City has inspected the improvements and accepted them as completed in accordance with the SIA and the warranty period has expired.

¹⁷⁵ Should this be Public Works Director? Or another staff member?

¹⁷⁶ This language from CLUC Article 5, Sec. 5-02-20.

The agreement shall require letters or receipts from all utility companies stating the required installations have been completed and paid for before the security is released.

(4) The applicant shall be responsible to correct and repair any defect in any improvements due to materials or workmanship which appears for a period of two (2) years from the date of approval of completion.

(h) **Revocation.** An approval of a final plat is revoked pursuant to this section.

(1) **Recording.** The City shall cause the final plat and restrictive covenants, if any, to be recorded within ninety (90) days from the date of approval and acceptance of the Board of Trustees.

(2) **Vacation.** The final plat approval shall include a determination of a reasonable time by which the project should be completed. All plats given final approval shall contain a notation indicating the date by which a project is expected to be completed, that shall be prima facie evidence of a reasonable time by which the project should have been completed. A plat or any portion thereof that has been finally approved by the Board of Trustees and has been recorded shall be subject to vacation proceedings if the project that is the subject of the subdivision is not completed within the time set by the Board of Trustees.

(3) **Extension.** Extensions of the time limit for project completion may be obtained from the Board of Trustees for good cause shown, upon request by the applicant or owner of the tract, if made before vacation proceedings are instituted.

9-16-080 Special Review Use.¹⁷⁷

(a) **Purpose.** This section provides a discretionary approval process for special review uses, that have unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed use(s) will not have a significant adverse impact on surrounding uses or on the community-at-large.

(b) **Applicability.** A Special Review Use (SRU) permit is required for any use allowed by special review as outlined in Table 9-24-1, *Permitted Uses*.

(c) **Review Procedures.** Applications for a special review use shall follow the general review procedures set forth in §9-16-020, *General Procedures and Requirements*. Applications for special review use may be initiated by the owner of property for which a special review use is desired.

(d) **Review Authority.** The PZC shall review and render a recommendation to the Board of Trustees on an application for a special review use after conducting a public hearing.

(e) **Review Criteria.** The PZC shall use the following review criteria as the basis for a recommendation on an application for a special review use:

¹⁷⁷ A Special Review Use is the same as the use termed Conditional Use in the CLUC Sec. 4-3.

(1) The proposed use is consistent with the Comprehensive Plan and all applicable provisions of this Development Code and applicable state and federal regulations;

(2) The proposed use is consistent with the purpose and intent of the zoning district in which it is located and any applicable use-specific standards in the Development Code;

(3) The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics;

(4) Any significant adverse impacts (including, but not limited to, hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts) anticipated to result from the use will be mitigated or offset to the maximum extent practicable;

(5) Facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development; and

(6) Adequate assurances of continuing maintenance have been provided.

(f) Expiration and Preliminary Review. SRU approvals may state a timeframe for duration in the approval ordinance. If a timeframe is stated then at least thirty (30) days prior to the expiration, the holder of the SRU approval may apply for a review hearing before the PZC. The PZC shall review the use against the criteria in §9-16-080(e) to determine whether the special review use will be allowed to continue. A SRU approval expires pursuant to this section.

(1) Developments and uses granted by a special review use permit shall be developed or established in accordance with an approved development schedule or within two (2) years of the date of approval if no development schedule is established. Failure to develop or establish such development or uses in accordance with the time period approved on the permit shall result in the expiration of the permit.

(2) If an approved use ceases operation for any reason for a period of one year, the special review use permit shall be deemed expired. If the conditions of a permit become the responsibility of a person or entity other than the applicant, the City Manager shall be notified in writing, identifying the new person or entity responsible for maintaining the conditions of the approval/permit. Until such notice is received, the applicant shall remain responsible. Such notice shall be attached to the permit on file at the City.

(3) If conditions of approval are not maintained, it shall be considered a violation of this Development Code and subject to revocation proceedings.

9-16-090 Variance.

In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of the Development Code as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape, or dimensions of a

site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations, or traffic conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance. It is not the intent of this section to allow variances in the classification of uses of property.

(a) Review Procedures. Applications for a variance shall follow the general review procedures set forth in §9-16-020, *General Procedures and Requirements*. Applications for variance may be initiated by the owner of property for which a variance is desired.

(b) Review Authority. The Board of Adjustment shall review and render a decision on an application for a variance after conducting a public hearing. The decision of the Board of Adjustment may be appealed to Board of Adjustment¹⁷⁸ pursuant to §9-16-130, *Appeal*.

(c) Review Criteria. The Board of Adjustment shall use the following review criteria as the basis for a decision on an application for a variance:

(1) The degree to which relief from the strict or literal interpretation and enforcements of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity, or to attain the objectives of the Development Code without grant of special privilege;

(2) The effect of the requested variance on light and air, distribution of population, transportation and traffic facilities, public facilities and utilities, and public safety;

(3) Such other factors and criteria related to the subject property, proposed development, or variance request as the decision-making body deems applicable to the proposed variance.

(d) Required Findings. The Board of Adjustment shall make the following written findings before granting a variance:

(1) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same district;

(2) That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity;

(3) That the variance is warranted for one or more of the following reasons:

(i) The strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Development Code;

(ii) There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone; or

¹⁷⁸ Should this appeal be to the Board of Adjustment or the Board of Trustees?

(iii) The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone district;

(e) **Conditions.** A variance granted by the Board of Adjustment may contain limitations as to time or disposition or use of the tract in question in order to ensure that the stated purpose of the variance request is realized.

(f) **Action Notice.** The City Manager shall notify the applicant for a variance in writing of the Board of Adjustment's action within five (5) days after a decision has been rendered.

(g) **Expiration.** The variance approval expires if a building permit is not obtained within one (1) year of the approval.

9-16-100 Right-of-Way Vacation.

The purpose of this section is to provide procedures and standards for the vacation of right-of-ways in the City of Creede. The procedures and authority set forth in CRS §43-2-301 *et. seq.* shall apply unless in conflict with any specific provision set forth in this §9-16-100, *Right-of-Way Vacation*. The vacation of public easements are also considered right-of-ways in this section.

(a) **Definitions Incorporated.** The definitions set forth in CRS §43-2-301 are incorporated in this §9-16-100, *Right-of-Way Vacation*.

(b) **Review Procedures.** Applications for the vacation of a right-of-way shall follow the general review procedures set forth in §9-16-020, *General Procedures and Requirements*. Applications for vacation of a right-of-way may be initiated by the Board of Trustees or by a property owner abutting the right-of-way proposed for vacation. Applications to move or alter a right-of-way shall be processed as a subdivision application concurrently with a right-of-way vacation application, in which case the ordinance approving the vacation of a right-of-way, or portion thereof, shall also approve a final plat which results in the dedication of the moved or altered right-of-way, or portion thereof. Public easement vacations can be processed as part of a Major or Minor subdivision application.

(c) **Review Authority.** The Board of Trustees shall review and render the final decision on an application to vacate a right-of-way after conducting a public hearing. Vacation of a right-of-way shall be approved by ordinance of the Board of Trustees.

(d) **Review Criteria.** The Board of Trustees shall use the following review criteria as the basis for a decision on an application to vacate a right-of-way:

(1) No right-of-way shall be vacated so as to leave any land adjoining the vacated right-of-way without an established public road or private-access easement connecting said land with another established public road;

(2) The right-of-way is determined to be platted on terrain which is not practical for the construction of a right-of-way due to terrain, topography, natural features or other

constraints, and the right-of-way does not provide any other potential benefit to the public, including but not limited to utility connections, pedestrian or recreation connections, drainage or public landscaping;

(3) Sufficient easements for utilities, access or other purposes are retained;

(4) Compensation may be required for the area of vacated right-of-way based upon the fair market value per square foot of the area vacated and the applied zoning; and,

(5) The vacated area of right-of-way shall be included in the same zone district as the abutting property to which the vacated right-of-way vests.

(e) **Recording, Deed.** The ordinance vacating a right-of-way shall be recorded in the office of the Mineral County Clerk and Recorder. The ordinance shall authorize the Mayor or other designee to execute a quit claim deed on behalf of the City of Creede which quit claim deed shall reference any exceptions, easements or reservations of the vacation and shall be recorded in the Office of the Mineral County Clerk and Recorder.

9-16-110 Vested Property Right.

The purpose of this Section is to provide procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended.

(a) As used in this Section, unless the context otherwise requires:

(1) *Community planning document* means the City of Creede Comprehensive Plan, any other planning documents adopted by the City of Creede through a public hearing process, and any planning document adopted by other governmental and quasi-governmental entities that provide public services or facilities to the City of Creede or which include the City of Creede within their service or planning boundaries.

(2) *Site specific development plan* means a planned unit development plan, or any amendment thereto, approved pursuant to §9-16-060, *Planned Unit Developments*, of this Code, together with a development agreement approved pursuant to §9-16-130 hereof. A site specific development plan that creates vested property rights may also include other development approvals if approved at the discretion of the Board of Trustees upon request by a property owner; however, such request shall not result in an application for a development approval other than a planned unit development plan to be treated as a site specific development plan for the purposes of C.R.S. §24-68-102.5(1).

(3) *Vested property right* means the right to undertake and complete the development and use of property under the express terms and conditions of a site specific development plan.

(b) Vested Property Right Created.

(1) A vested property right shall be deemed to have been created only upon the approval of a site specific development plan in accordance with this Article.

(2) A vested property right shall only be created if approved by ordinance which may be combined with an ordinance approving a site specific development plan and an accompanying development agreement. Amendments to any site specific development plan shall be subject to this Article and shall have a new vested property right as determined by the Board of Trustees. Any approval of a site specific development plan, or amendment to an existing site specific development plan, that creates vested property rights shall be adopted by ordinance as a legislative act and shall be subject to referendum. When creating a vested property right, the Board of Trustees may expressly exempt, in whole or in part, administrative amendments to site specific development plans from additional review and approval by Board of Trustees under this Article.

(3) The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and which are applicable to all properties or a similarly situated class of properties subject to land use regulation by the City, including but not limited to the regulations contained in Chapter 18 of this Code, regulations concerning subdivision improvements and right-of-way dedications, and regulations establishing requirements and specifications for any public infrastructure or public facility improvements. Ordinances or regulations which are general in nature and which are applicable to all properties or a similarly situated class of properties subject to land use regulation by the City shall not be deemed to alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of a property with vested property rights regardless of the financial impact of such ordinance or regulation.

(4) The establishment of a vested property right shall not preclude the application of any legislatively adopted fees which are general in nature, uniform in character and applicable to all properties or a similarly situated class of properties.

(c) **Notice and Hearing.** No site specific development plan shall be approved until after providing notice and conducting public hearings in compliance with §9-16-020(d).

(d) Notice of Approval.

(1) Each map, plat, site plan or other document constituting a site specific development plan shall contain the following language:

(i) Approval of this plan constitutes a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended, and Chapter 9, Article 16 of the Creede Municipal Code as amended.

(2) The failure of the document constituting a site specific development plan to contain the language specified in sub-section (d)(1)(i) above shall invalidate and void the creation of the vested property right. A notice stating that a vested property right has been created shall be published once by the City in a newspaper of general circulation in the City not more than fourteen (14) days after final adoption of the ordinance approving the site specific development plan. The notice shall include the following information:

(i) A statement advising the public of the site specific development plan approval, including the name of the project, the type and intensity of the use approved, and the specific property or development parcels affected;

(ii) A statement that a vested property right has been created in accordance with Article 68 of Title 24, Colorado Revised Statutes, and Chapter 9, Article 16 of the Creede Municipal Code, including the duration of the vested property right; and,

(iii) A statement that the citizen's rights of referendum shall run from the date of publication.

(e) Duration of Vested Right.

(1) A property right vested pursuant to this Article after [*Insert Effective Date*], shall remain vested for a period of three (3) years. The Board of Trustees may approve a period of vested property rights exceeding three (3) years by approval of a development agreement, which shall be part of the site specific development plan.

(2) The guidelines in this §9-16-130(e)(2) shall be considered when determining whether to grant vested property rights for a period greater than three (3) years, provided that site specific development plans that are granted vested property rights for a period greater than three (3) years because of the size, phasing, or absorption rate of such site specific development plan should have separate vesting created for the various phases of the development, as set forth in §9-16-130(e)(4). It shall be the burden of the applicant to propose appropriate reasons for granting a vested property right that is greater than three (3) years.

(i) The size and phasing of the development, specifically, but not limited to, whether the development can be reasonably completed within the vested rights period;

(ii) Economic cycles, and specifically but not limited to resort community economic cycles, regional and state economic cycles, and national economic cycles;

(iii) Market conditions, and specifically but not limited to absorption rates for leasing and sales of similar development projects;

(iv) Compliance with the City of Creede Comprehensive Plan and other community planning documents;

(v) Proposed public amenities and benefits that enhance the project and the overall attractiveness of the Creede community, including the degree to which such public amenities and benefits are defined in terms of design, timeframe, and phasing with development;

(vi) Projected public financial benefits or costs estimated to be caused by the development project, including the timeframe for realization by the City or other public entities and potential costs for operation and maintenance of any new public amenities or infrastructure dedicated to the City or other public entities;

(vii) The breadth and scope of the requested vested property right, including but not limited to the extent to which such vested property right restricts the City's ability to apply future legislatively adopted fees and regulations for the purpose of providing public infrastructure, public services and public facilities and for the purpose of meeting evolving community needs;

(viii) The terms of any existing site specific development plans with development agreements for the applicant's property that specify the duration of vested property rights;

(ix) Any proposed modifications to previously approved vested property rights to address changed conditions within the Creede community, compliance with the Comprehensive Plan and other community planning documents, or performance of previously approved site specific development plans; and,

(x) Any other factors deemed relevant by Board of Trustees when determining to grant a vested property right for a period greater than three (3) years.

(3) The City may approve a site specific development plan subject to such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare of the Creede community.

(4) Any site specific development plan for a multiple-phase development approved after [*Insert Effective Date*], may have separate vesting created for each phase. The vesting for any subsequent phase may be contingent upon completion of the preceding phase and review by the Board of Trustees. Such review shall include but not be limited to whether the landowner, developer, successors or assigns are in compliance with its obligations to the City, including but not limited to the terms and conditions of a site specific development plan, a development agreement and any other agreements between the landowner, developer, successor and assigns and the City, as they may have been amended from time to time.

(f) **Extension of Vested Property Rights.** A landowner may request an extension of vested property rights by submitting an application for extension of vested property rights at least six (6) months prior to the expiration of the vested property rights. No application for extension of a vested property right shall be approved until after providing notice and conducting public hearings in compliance with §9-16-020(d). The guidelines in §9-16-130(e)(2) shall be considered when determining whether to grant an extension to a vested property right. An extension of a vested property right shall be approved by ordinance. The notice of approval provisions in §9-16-130(d)(1) above shall apply to any approval for extension of vested property rights.

(g) **Forfeiture of Vested Property Rights.**

(1) Failure to abide by the terms and conditions of a vested property right will result in a forfeiture of the vested property rights in accordance with the procedures set forth herein.

(2) The process to consider forfeiture of vested property rights shall be initiated by passage of a resolution by the Board of Trustees stating the grounds therefore.

(3) No vested property right shall be deemed forfeited until after providing notice and conducting a public hearing. Notice shall be provided by publishing notice in a newspaper of general circulation, posting notice in the designated official places of posting, and mailing notice to the property owner sent to the address of record according to the County Assessor's records via first class United States mail at least thirty (30) days prior to the date of a hearing. A copy of the resolution initiating the process to consider forfeiture of the vested property right shall be included with the mailed notice to the property owner.

(4) At the hearing, the Board of Trustees shall consider all evidence and testimony presented concerning any failure to abide by the terms and conditions of a vested property right. The Board of Trustees may continue the public hearing to allow additional evidence to be gathered and presented.

(5) If Board of Trustees finds a failure to abide by the terms and conditions of the vested property right, the Board of Trustees may take action by ordinance to declare the vested property rights forfeited. The forfeiture of a vested property right shall have no effect upon public streets, alleys, rights-of-way, or other lands or easements previously dedicated or conveyed to the City or other public entities pursuant to the terms of a site specific development plan. Upon forfeiture of vested property rights, the site specific development plan shall be subject to all zoning, land use, and general regulations in effect at the time of forfeiture and as such may be amended from time to time thereafter.

9-16-120 Location, Character and Extent

This section implements and sets forth procedures for the regulation of the location, character and extent of public facilities as provided by C.R.S., §31-23-209, *Legal Status of Official Plan*, as amended. It is the intent of this Section to conform to the provisions of C.R.S., §31-23-209, to define the factors to be considered in the "Location, Character and Extent" process, and to prescribe procedures for the orderly consideration of Location, Character and Extent applications in order to effectuate the purposes of the State statute.

(a) **Applicability.** No road, park, public way, ground, or space, no public building or structure, and no major facility of a public utility shall be constructed or authorized, and no building permit for the same shall be issued, in the City unless and until the proposed location, character and extent thereof has been submitted to and approved by the City. Routine extensions of public utility lines and minor modifications to existing facilities shall not be subject to this procedure.

(b) **Review Procedures.** Applications for location, character and extent shall follow the general review procedures set forth in §9-16-020, *General Procedures and Requirements*. Applications for location, character and extent may be initiated by the owner or the governmental body having jurisdiction over the public facility. Applications for location, character and extent may be combined with other applications procedures and submittal requirements, including but not limited to development plan, design review, and subdivision. The failure of the PZC and the Board of Trustees to act within sixty (60) days from and after the date of official submission of a complete application to the City shall be deemed approval of such application.

(c) **Review Authority.** The PZC shall review applications for location, character and extent after conducting a public hearing. The PZC may approve, approve with conditions or deny an application for location, character and extent. In case of disapproval or approval with conditions which are not acceptable to the applicant, the PZC shall communicate its reasons to the Board of Trustees. The Board of Trustees shall review such decision of the PZC as soon as practical after conducting a public hearing and shall have the power to overrule or modify such decision by a majority vote. The public hearing by the Board of Trustees shall only require posted notice three (3) days prior to the hearing. If the public way, ground space, building, structure, or utility is one the authorization or financing of which does not, under the law or charter provisions governing the same, fall within the province of the municipal governing body, the submission to the PZC shall be by the governmental body having jurisdiction. The decision by the Board of Trustees to disapprove, or approve with conditions which are not acceptable to the governmental body having jurisdiction, may be overruled by said governmental body by a vote of not less than two-thirds of its membership.

(d) **Review Criteria.** The PZC and the Board of Trustees shall use the following review criteria as the basis for recommendations and decisions on applications for location, character and extent:

- (1) Evidence of substantial compliance with the purpose of the Development Code;
- (2) Consistency with the Creede Comprehensive Plan;
- (3) Physical suitability of the land for the public way, place, structure, facility or utility;
- (4) Compatibility with surrounding land uses; and
- (5) Adequate mitigation of adverse impact on nearby properties or neighborhoods, including by not limited to traffic, noise, odors, vibrations, and property values.

9-16-130 Appeal.

This section sets forth the procedures to appeal a decision of the City Manager which is made pursuant to this Development Code. Only a final decision of the City Manager may be appealed. Recommendations to a decision making authority are not subject to appeal.

(a) **Appeal Procedures.** An appeal may be submitted by an applicant for a development approval, a party in interest that has received notice of the development application, or a member of the Board of Adjustments. The appellant must provide a written request for appeal of a decision of the City Manager to the City Clerk within fourteen (14) days after the date of the decision. The Board of Adjustment shall conduct a public hearing within forty-five (45) days of receipt of a written request for appeal. Written notice of the public hearing date, time and location shall be mailed to the appellant via first class United States mail at least ten (10) days prior to the public hearing.

(b) **Review Authority.** The Board of Adjustment shall review appeals of decisions of the City Manager after conducting a public hearing. The Board of Adjustment shall render the final decision on an appeal.

(c) **Review Criteria.** The Board of Adjustment shall use the applicable review criteria to the decision that is appealed. Board of Adjustment shall review decisions *de novo*.

(d) **Decision.** The Board of Adjustments shall, in writing, confirm, modify, or reverse the decision within thirty-five (35) days of holding the public hearing on the appeal. Any decision by the Board of Adjustments that results in action modifying or reversing the decision of a City body or officer shall describe the specific reasons for the modification or reversal. Action of the Board of Adjustments shall become final immediately. Failure of the Board of Adjustments to act within the forty (40) additional days shall be deemed action confirming the decision unless the applicant consents to an additional time extension. A final decision of the Board of Adjustments may be challenged in district court in accordance with Rule 106(a)(4), Colorado Rules of Civil Procedure, provided that such appeal is filed no later than thirty (30) days after the date of the final decision.

(e) **Board of Adjustments Decision Final.** A decision of the Board of Trustees is final. An aggrieved person may appeal a decision of the Board of Trustees to the district court or to another state or federal court of competent jurisdiction.

Article 20¹⁷⁹

Zone Districts and Official Zoning Map

9-20-010 Chapter Purpose

This chapter establishes the zoning districts and contains basic information pertaining to the districts, including statements of purpose and dimensional standards and identifies the uses allowed within the districts.

9-20-020 Districts Established

For the purposes of this chapter, the City is hereby divided into districts, as follows:

R-1	Residential District, Single-Family
R-2	Residential District, Two (2) Family and Multi-Family
B-1	Downtown Business District
B-2	Highway Mixed Use District
MH	Mobile Home Park District
C	Commercial District
I	Industrial District
O	Open District

9-20-030 Official Zoning Map

(a) The location and boundaries of the zoning districts established in §9-20-020, *Districts Established*, are set forth on the zoning district map of the City. The City of Creede Zoning Map, along with all of the notations, references and other information shown on the map, is incorporated in and made part of this Title.

(b) If changes are made in district boundaries or other items portrayed on the official zoning district map in accordance with the procedures established in this Code, the changes shall be entered on the map.

(c) The official map shall be located in the office of the City Manager and shall be the final authority as to the current zoning status of land, buildings and other structures in the City.

9-20-040 Zoning Map Interpretation

When there is any uncertainty, contradiction or conflict about the intended location of any zoning district boundary on the zoning map, the City Manager shall provide an interpretation of the map or refers the request to the PZC. The City Manager and PZC, in interpreting the map or deciding any appeal, shall apply the following standards:

¹⁷⁹ The zoning districts and uses are the same as in CLUC Article 4.

(a) The zoning district boundary lines are intended to follow lot lines, subdivision lines, incorporation lines, or centerlines of rights-of-way.

(b) Where zoning district boundary lines approximately follow lot lines, subdivision lines, or incorporation lines, such lines shall be construed to be the boundary lines.

(c) Where the zone district cannot be determined from the map, it shall be determined from the Creede Comprehensive Plan and surrounding properties, subject to rezoning according to the provisions of this zoning code.

9-20-050 Residential Districts General Purposes.

The residential zoning districts are intended to:

(a) Provide appropriately located areas for residential development that are consistent with the Creede Comprehensive Plan and with the public health, safety, and general welfare;

(b) Ensure adequate light, air, and privacy for all dwelling units;

(c) Protect the scale and character of existing residential neighborhoods and the community;

(d) Discourage any use that would generate traffic or create congestion on neighborhood streets other than the normal traffic that serves the residents of the district; and

(e) Discourage any use that, because of its character or size, would create additional requirements and costs for public services that are in excess of such requirements and costs if the district were developed solely for the intended type of residential uses.

(1)

9-20-060 Residential District, Single-Family (R-1).¹⁸⁰

(a) **Intention.** This is a low-density housing district intended primarily for single-family uses on individual lots.

(b) **Permitted Uses.** The following uses shall be permitted in the R-1 District:

(1) Accessory buildings and accessory uses.

(2) Accessory dwelling when associated with a permitted use.

(3) Group homes for up to eight (8) developmentally disabled persons, handicapped individuals, children or senior citizens.

¹⁸⁰ The structure of each of the subsections describing each zone category is similar to Westcliffe's description of allowed uses and special review uses. In this Development Code the design regulations, including setbacks, are laid out in tables rather than described in a subsection as in Westcliffe's code.

- (4) Home occupations.
- (5) Parks and open space.
- (6) Single-family detached dwellings.

(c) **Special Review Uses.** Permitted special review uses in the R-1 District shall be as follows:

- (1) Child care centers.
- (2) Community facilities.
- (3) Church or place of worship and assembly.
- (4) Golf courses and or Golf driving range.
- (5) Limited outdoor recreation facilities.
- (6) Public and private schools for elementary, intermediate and high school education.
- (7) Public facilities, provided that business offices and repair and storage facilities are not included.

R-1 ZONING STANDARDS	
Design Regulation	Requirements
Minimum lot area per dwelling	5,000 Square Feet
Minimum lot width	50 feet per dwelling
Minimum lot frontage	40 feet
Minimum front yard setback	
Principal building	15 feet
Front-loaded garage (measured from the back of sidewalk)	22 feet
Accessory building	55 feet
Minimum side yard setback ¹⁸¹	5 feet
Minimum distance between buildings	10 feet
Minimum rear yard setback ¹⁸²	

¹⁸¹On corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback. (This Footnote From Creede Land Use Code and should be retained.)

¹⁸² *Swimming Pools, Spas and Hot Tubs; Rear Yard Requirements.* All swimming pools, spas and hot tubs, including aboveground and in-ground pools, having a depth greater than eighteen (18) inches shall only be placed or constructed in the rear yard of a residential lot. No swimming pools, spas or hot tubs shall be placed or constructed in the front yard or side yard of any residential lot. (This Footnote From Creede Land Use Code and should be retained.)

Principal building	20 feet
Garage with its entrance facing an alley	5 feet
Accessory building or structures	5 feet
Minimum floor area per dwelling unit	850
Maximum building height	35 feet

9-20-070 Residential District, Two (2) Family and Multi-Family (R-2).

(a) **Intention.** This is a high-density residential zone intended primarily for multi-family uses on individual lots. In order to facilitate appropriate higher densities near viable business centers, multi-family buildings are generally encouraged near a neighborhood commercial center. Street and open space designs in these areas shall be used to create compatibility among frontages, which encourage pedestrian interaction and discourage high automobile speeds. Multi-family residential developments shall be designed around or adjacent to open space.

(b) **Permitted Uses.** The following uses shall be permitted in the R-2 District:

(1) All permitted principal uses in the R-1 district.

(2) Two family dwellings.

(3) Multiple-family dwellings (no more than twenty-four (24) units per building), provided that the density and dimensional standards for the R-2 Residential District are met (refer to Section 4-5 for details) and the lot upon which any such dwelling is located is of sufficient size so that twenty (20) percent thereof shall be devoted to functional open space.

(4) Senior housing provided that the density and dimensional standards for the R-2 Residential District are met (refer to Section 4-5 for details) and the lot upon which any such dwelling is located is of sufficient size so that twenty (20) percent thereof shall be devoted to functional open space. Senior housing is exempted from the maximum number of twenty-four (24) units per building requirement for multi-family dwellings.

(c) **Special Review Uses.** Permitted special review uses in the R-2 District are as follows:

(1) All permitted conditional uses in the R-1 District.

(2) Bed and breakfasts.

(3) Boarding and rooming houses.

(4) Long term care facilities.

R-2 ZONING STANDARDS	
Design Regulation	Requirements
Minimum lot area per dwelling	1,500 Square Feet
Minimum lot width	20 feet per dwelling
Minimum lot frontage	18 feet for townhomes. 35 feet for apartments and condominiums.
Minimum front yard setback	
Principal building	15 feet
Front-loaded garage (measured from the back of sidewalk)	22 feet
Accessory building	45 feet
Minimum side yard setback ¹⁸³	8 feet
Minimum distance between buildings	Subject to building code.
Minimum rear yard setback ¹⁸⁴	
Principal building	20 feet
Garage with its entrance facing an alley	5 feet
Accessory building or structures	5 feet
Minimum floor area per dwelling unit	400
Maximum building height	35 feet

9-20-080 Downtown Business District (B-1).

(a) **Intention.** The Downtown District is intended to reflect the character of the original downtown and to provide for a mixture of uses that will strengthen and expand the core community.

(b) **Permitted Uses.** The following uses shall be permitted in the B-1 District:

(1) Residential Uses:

¹⁸³On corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback. (This Footnote From Creede Land Use Code and should be retained.)

¹⁸⁴ *Swimming Pools, Spas and Hot Tubs; Rear Yard Requirements.* All swimming pools, spas and hot tubs, including aboveground and in-ground pools, having a depth greater than eighteen (18) inches shall only be placed or constructed in the rear yard of a residential lot. No swimming pools, spas or hot tubs shall be placed or constructed in the front yard or side yard of any residential lot. (This Footnote From Creede Land Use Code and should be retained.)

(i) All permitted principal uses in the R-2 residential district except single-family residential and accessory dwelling.

(2) Institutional/Civic/Public Uses:

(i) Church or place of worship and assembly.

(ii) Parks and open space.

(iii) Public facilities with or without business offices, with no repair or storage facilities.

(iv) Public and private schools, including colleges, vocational training, and technical training.

(3) Commercial/Retail Uses:

(i) Artisan and photography studios and galleries.

(ii) Bed and breakfasts.

(iii) Boarding and rooming houses.

(iv) Child care centers.

(v) Convenience shopping and retail establishments without fuel sales.

(vi) Health and membership clubs.

(vii) Limited indoor recreation facilities.

(viii) Lodging establishments

(ix) Medical and dental offices and clinics.

(x) Mixed use dwelling units.

(xi) Open air farmers' market.

(xii) Personal and business service shops.

(xiii) Professional offices and financial services.

(xiv) Restaurants - standard and fast food without drive-through facilities.

(xv) Small grocery store.

(xvi) Tourist facilities.

(c) **Special Review Uses.** Permitted special review uses in the B-1 District shall be as follows:

- (1) All permitted conditional uses in the R-1 and R-2 districts.
- (2) Residential Uses:
 - (i) Single-family residential and accessory dwelling when associated with a principal use.
- (3) Institutional/Civic/Public Uses:
 - (i) Community facilities.
 - (ii) Public facilities with business offices and repair and storage facilities.
- (4) Commercial/Retail Uses:
 - (i) Bars and taverns.
 - (ii) Car wash
 - (iii) Clubs and lodges
 - (iv) Entertainment facilities and theaters.
 - (v) Gasoline stations.
 - (vi) Limited outdoor recreation facilities.
 - (vii) Long-term care facilities.
 - (viii) Motor vehicle service and repair.
 - (ix) Parking lots and parking garages as a principal use.
- (5) Industrial Uses:
 - (i) Workshops and custom small industry uses.

B-1 ZONING STANDARDS	
Design Regulation	Requirements
Minimum front yard setback	0 feet
Maximum side yard setback	0 feet

Minimum rear yard setback	0 feet ¹⁸⁵
Maximum floor area ratio (ratio of total floor area to total lot area)	2:1
Maximum net density	--
Maximum building height ¹⁸⁶	40 feet
Maximum ground level footprint	5,000 Square Feet

9-20-090 Highway Mixed Use District (B-2).

(a) Intention. The Highway Mixed Use District is intended to be a setting for development of a wide range of community and regional retail uses, offices and personal and business services. Secondly, it can accommodate a wide range of other uses including multi-family housing and mixed use dwelling units. The B-2 District is intended to integrate various commercial and multi-family uses while transitioning from the highway to adjacent lower density neighborhoods. While some Highway Mixed Use Commercial District areas may continue to meet the need for auto-related and other auto-oriented uses, it is the City’s intent that the B-2 District emphasizes safe and convenient personal mobility in many forms, with planning and design that accommodates pedestrians. Further, the B-2 District is intended to function with, rather than compete with, the downtown area. The Highway corridor is a visible commercial area for the community.

(b) Permitted Uses. The following uses shall be permitted in the B-2 District:

(1) Accessory/Miscellaneous Uses:

- (i) Accessory buildings.**
- (ii) Accessory uses.**

(2) Residential Uses:

- (i) Group homes.**
- (ii) Multiple family dwellings.**

(3) Institutional/Civic/Public Uses:

- (i) Church or place of worship and assembly.**

¹⁸⁵ If alley-loaded parking is provided, minimum rear yard setback shall be 25'. (This Footnote From Creede Land Use Code and should be retained.)

¹⁸⁶ The building height limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks, silos, nor to public building or structures located more than one (1) foot horizontally from the property line for each foot of building height. (This Footnote From Creede Land Use Code and should be retained.)

- (ii) Parks and open space.
 - (iii) Public facilities, with or without business offices or repair and storage facilities.
 - (iv) Transit facilities without repair or storage.
- (4) Commercial/Retail Uses:
- (i) Artisan and photography studios and galleries.
 - (ii) Bed and breakfasts.
 - (iii) Boarding and rooming houses.
 - (iv) Car wash.
 - (v) Child care centers.
 - (vi) Convenience retail stores with or without fuel sales.
 - (vii) Equipment rental establishments (without outdoor storage).
 - (viii) Food catering.
 - (ix) Funeral homes.
 - (x) Gasoline stations.
 - (xi) Health and membership clubs.
 - (xii) Limited indoor recreation facilities.
 - (xiii) Lodging establishments.
 - (xiv) Long term care facilities.
 - (xv) Medical and dental offices and clinics.
 - (xvi) Mixed use dwelling units.
 - (xvii) Motor vehicle service and repair (minor repairs).
 - (xviii) Open-air farmers' markets.
 - (xix) Licensed Personal Care and business service shops.
 - (xx) Plant nurseries and greenhouses.
 - (xxi) Print shops.

(xxii) Professional offices and financial services.

(xxiii) Restaurants, with or without drive-through facilities.

(xxiv) Large retail establishments.

(xxv) Small grocery stores.

(xxvi) Supermarkets.

(xxvii) Tourist facilities.

(xxviii) Veterinary facilities, small animal clinics.

(5) Industrial uses:

(i) Workshop and custom small industry uses.

(c) **Special Review Uses.** Permitted special review uses in the B-2 District include the following:

(1) Residential Uses:

(i) Single-family dwellings.

(ii) Two-family dwellings.

(2) Institutional/Civic/Public Uses:

(i) Community facilities.

(ii) Golf courses and/or Golf Driving Ranges.

(iii) Public and private schools.

(iv) Public facilities with business offices and repair and storage facilities.

(3) Commercial/Retail Uses:

(i) Auto, RV, boat and truck sales. This use shall be limited to ten (10) percent of the total linear frontage along Highway within the City limits.

(ii) Auto, RV, boat and truck storage. This use shall be limited to ten (10) percent of the total linear frontage along Highway within the City limits.

(iii) Bars and taverns.

- (iv) Clubs and lodges.
 - (v) Entertainment facilities and theaters.
 - (vi) Equipment, truck and trailer rental establishments.
 - (vii) Hospitals.
 - (viii) Limited outdoor recreation facility.
 - (ix) Motor vehicle service and repair (major repairs).
 - (x) Nightclubs.
 - (xi) Parking lots and parking garages.
 - (xii) RV parks
 - (xiii) Retail and supply yard establishments with outdoor storage.
 - (xiv) Veterinary hospitals.
- (4) Industrial Uses:
- (i) Enclosed mini-storage facilities.
 - (ii) Research, experimental or testing laboratories.

B-2 ZONING STANDARDS	
Design Regulation	Requirements
Minimum front yard setback	15 feet
Maximum side yard setback	--
Minimum rear yard setback	15 feet
Maximum floor area ratio (ratio of total floor area to total lot area)	1:1
Maximum net density	--
Maximum building height ¹⁸⁷	35 feet
Maximum ground level footprint	5,000 Square Feet

¹⁸⁷ The building height limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks, silos, nor to public building or structures located more than one (1) foot horizontally from the property line for each foot of building height. (This footnote from Creede Land Use Code)

9-20-100 Mobile Home Park District (MH).

(a) **Intention.** This is a high density residential district on a parcel of land under single ownership or control on which two (2) or more mobile homes are occupied as residences.

(b) **General Requirements.** Requirements applicable to MH Districts include the following:

(1) The minimum number of acres which may constitute a MH district shall be one (1) acres.

(c) **Permitted Uses.** The following uses shall be permitted in the MH District:

(1) Accessory buildings and accessory uses.

(2) Home occupations.

(3) Mobile homes.

(4) Parks and open space.

(5) Public facilities, provided business offices and repair and storage facilities are not included.

MH ZONING STANDARDS	
Design Regulation	Requirements
Minimum lot area per dwelling	4,000 Square Feet
Minimum lot width	50 feet per dwelling
Minimum lot frontage	40 feet
Minimum front yard setback	
Principal building	15 feet
Front-loaded garage (measured from the back of sidewalk)	15 feet
Accessory building	40 feet
Minimum side yard setback ¹⁸⁸	10 feet
Minimum distance between buildings	20 feet
Minimum rear yard setback ¹⁸⁹	

¹⁸⁸On corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback. (This Footnote From Creede Land Use Code and should be retained.)

¹⁸⁹ *Swimming Pools, Spas and Hot Tubs; Rear Yard Requirements.* All swimming pools, spas and hot tubs, including aboveground and in-ground pools, having a depth greater than eighteen (18) inches shall only be placed or constructed in the rear yard of a residential lot. No swimming pools, spas or hot tubs shall be placed or constructed in the front yard or side yard of any residential lot. (This Footnote From Creede Land Use Code and should be retained.)

Principal building	10 or 20 feet ¹⁹⁰
Garage with its entrance facing an alley	5 feet
Accessory building or structures	5 feet
Minimum floor area per dwelling unit	864
Maximum building height	35 feet

9-20-110 Commercial District (C).

(a) Intention. This is a commercial district intended to provide for the location of auto-oriented and auto-dependent uses and/or uses which provide a wide range of general retail goods and services for residents of the entire community, as well as businesses and highway users, primarily inside of enclosed structures. The intent of these provisions is to facilitate convenient auto and pedestrian access, minimize traffic congestion and give consideration to site and architectural aesthetics. Locations for this zone require good access to major arterial streets and adequate water, sewer and power.

(b) Permitted Uses. The following uses shall be permitted in the C District:

- (1) All permitted principal uses in the B-2 District.
- (2) Bars and taverns.
- (3) Clubs and lodges.
- (4) Entertainment facilities and theaters.

(c) Special Review Uses. Permitted special review uses in the C District are as follows:

- (1) All permitted conditional uses in the B-2 District.
- (2) Public and private schools for elementary, intermediate and high school education.
- (3) RV parks.
- (4) Small animal boarding (kennels).
- (5) Warehouse, distribution and wholesale uses.

¹⁹⁰ Rear spacing shall be 20 feet when units are side to end and 10 feet when units are end to end. (This Footnote From Creede Land Use Code and should be retained.)

C ZONING STANDARDS	
Design Regulation	Requirements
Minimum front yard setback	15 feet
Maximum side yard setback	--
Minimum rear yard setback	15 feet ¹⁹¹
Maximum floor area ratio (ratio of total floor area to total lot area)	1:1
Maximum net density	--
Maximum building height ¹⁹²	40 feet
Maximum ground level footprint	--

9-20-120 Industrial District (I).

(a) Intention. This zoning district is intended to provide locations for a variety of workplaces and employment opportunities, including light industrial uses, research and development offices and institutions, manufacturing, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations. This district is also intended to accommodate secondary uses that complement and support the primary workplace uses, such as hotels, restaurants, convenience shopping, child care and housing. Locations for this zone require good access to major arterial streets and adequate water, sewer and power. Additionally, this district is intended to encourage the development of planned office and business parks; to promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities and streetscapes.

(b) Permitted Uses. The following uses shall be permitted in the I District:

- (1) Accessory buildings and accessory uses.
- (2) Auto, RV, boat and truck storage.
- (3) Car wash.
- (4) Enclosed mini-storage facilities.
- (5) Equipment rental establishments without outdoor storage.
- (6) Gasoline stations.

¹⁹¹ If alley-loaded parking is provided, minimum rear yard setback shall be 25'. (This Footnote From Creede Land Use Code and should be retained.)

¹⁹² The building height limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks, silos, nor to public building or structures located more than one (1) foot horizontally from the property line for each foot of building height. (This Footnote From Creede Land Use Code and should be retained.)

- (7) Manufacturing and preparing food products.
- (8) Manufacturing, assembly or packaging of products from previously prepared materials.
- (9) Manufacturing of electric or electronic instruments and devices.
- (10) Motor vehicle service and repair establishments (minor and major repairs).
- (11) Parking lots and parking garages (as principal use).
- (12) Parks and open space.
- (13) Plant nurseries and greenhouses.
- (14) Plumbing, electrical and carpenter shops.
- (15) Public facilities with or without business offices and repair and storage facilities.
- (16) Research, experimental or testing laboratories.
- (17) Retail and supply yard establishments with outdoor storage.
- (18) Veterinary facilities, large animal clinics.
- (19) Warehouse, distribution and wholesale uses.
- (20) Workshops and custom small industry uses.

(c) **Limitations.** Any use in this district shall conform to the following requirements:

- (1) All manufacturing and similar uses shall be carried on entirely within a completely enclosed structure.
- (2) Dust, fumes, odors, smoke, vapor and noise shall be confined to the site and be controlled in accordance with the state air pollution laws.
- (3) Outdoor storage, equipment and refuse areas shall be concealed from view from abutting rights-of-way and from adjoining residential districts.
- (4) Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent, maintainable surfacing with erosion control.
- (5) Light fixtures in parking areas shall be hooded and mounted not more than twenty-five (25) feet above the ground level and oriented in such a manner as not to shine into residential areas.

(d) Special Review Uses. Permitted special review uses in the I District shall be as follows:

- (1) Accessory dwelling when associated with a permitted use.
- (2) Adult uses including product sales and entertainment.
- (3) Artisan and photography studios and galleries.
- (4) Automobile, recreational vehicle, boat and truck sales.
- (5) Bars and taverns.
- (6) Child care centers.
- (7) Convenience shopping and retail establishments.
- (8) Dry cleaning plants.
- (9) Entertainment facilities and theaters.
- (10) Equipment, truck, trailer rental establishments with outdoor storage.
- (11) Golf courses and/or Golf Driving Ranges.
- (12) Group homes.
- (13) Limited outdoor recreation facilities.
- (14) Lodging establishments.
- (15) Night clubs.
- (16) Open-air farmers' markets.
- (17) Personal and business service shops.
- (18) Recycling facilities.
- (19) Resource extraction, processes and sales establishments.
- (20) Restaurants with drive-through¹⁹³.
- (21) Sales and leasing of farm implements, heavy equipment sales, mobile/manufactured homes, and heavy excavation equipment.
- (22) Small animal boarding (kennels).

¹⁹³ Should this read "thru"?

(23) Small grocery stores.

(24) Wireless telecommunications facilities (as permitted in §9-20-130(e) below).

(25) Veterinary hospitals.

(e) Zoning and Use of Wireless Telecommunication Services, Facilities and Equipment.¹⁹⁴

(1) Use Permitted by Special Review. Wireless telecommunication services facilities shall be permitted only in the industrial zoning district (I) as a special review use. It is unlawful for any person to install or operate such a wireless telecommunication services facility unless it has first been approved by the Board of Trustees as a special review use pursuant to this section. The approval of such special review use does not relieve the operator from otherwise complying with all applicable regulatory requirements of the City, state and federal governments.

(2) Height and Setback Requirements. The following apply to any wireless telecommunication services, facilities or equipment:

(i) Roof- or building-mounted commercial mobile radio service facilities may protrude no more than five (5) feet above the parapet line of the building or structure, nor more than two and one-half (2½) feet outside of the building wall unless sufficient screening methods are demonstrated and accepted as part of the approval;

(ii) Roof- or building-mounted whip antenna(s) of no more than three (3) inches in diameter, in groupings of five (5) or less, may extend up to twelve (12) feet above the parapet wall; and

(iii) Applicable zoning setback requirements of this Article must be met. At a minimum, all freestanding facilities shall be set back at least three hundred (300) feet from all residentially zoned properties or residential structures on properties otherwise zoned.

(3) Accessory Buildings Requirements.

(i) Accessory buildings located on the ground shall be no larger than four hundred (400) square feet and must be constructed of durable, low maintenance materials, architecturally compatible and integrated with existing buildings and structures. Sites with greater than one hundred (100) cubic feet of cabinet area, visible from a public right-of-way or residentially zoned or used area, must enclose the equipment in accessory buildings.

(ii) Accessory buildings and facilities are to be screened, to the extent possible,

¹⁹⁴ This section was Sec. 4-12 of the Creede Land Use Code and was moved to this section to facilitate ease of use and group all industrial uses together.

from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient.

(4) Building- or Roof-Mounted Facilities Requirements. Building- or roof-mounted facilities are to be screened from public view, either by screening, location or other techniques deemed sufficient.

(5) Freestanding Wireless Telecommunications Facilities Requirements. All freestanding wireless telecommunications facilities shall be designed and constructed in such a manner that they are:

(i) Capable of serving, through original construction, expansion or replacement, a minimum of two (2) users;

(ii) Constructed as a monopole, which tapers toward the top of the pole to the degree allowed by structural requirements, unless some other decorative type of structure is proposed and approved;

(iii) Of a neutral color, including fencing, buildings and cabinets, or to match existing buildings;

(iv) Hold only lighting required by the Federal Aviation Administration; and no signage;

(v) No higher than fifty (50) feet from the ground, with an additional twenty (20) feet per co-locating user permitted, up to seventy (70) feet. Exceptions may be granted upon request by the applicant; and

(vi) Constructed in accordance with a certified engineer’s specifications and in compliance with all applicable I.B.C. provisions.

I ZONING STANDARDS	
Design Regulation	Requirements
Minimum front yard setback	25 feet
Maximum side yard setback	--
Minimum rear yard setback	20 feet
Maximum floor area ratio (ratio of total floor area to total lot area)	1:1
Maximum net density	--
Maximum building height ¹⁹⁵	50 feet ¹⁹⁶

¹⁹⁵ The building height limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks, silos, nor to public building or structures located more than one (1) foot horizontally from the property line for each foot of building height. (This footnote from Creede Land Use Code)

¹⁹⁶ Subject to special review use process and increased setback consideration. (This footnote from Creede Land Use Code)

Maximum ground level footprint	--
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9-20-130 Open District (O)

(a) **Intention.** The purpose of this district is to preserve existing open areas without structures where topography, including slopes steeper than 20% grade, and other factors, such as known geologic hazards and flood-prone areas, are prevalent.

(b) **Permitted Uses.** The following uses shall be permitted in the O District:

(1) Parks and open space.

(c) **Special Review Use.** Permitted special review uses in the O District shall be as follows:

(1) Cemeteries;

(2) Limited outdoor recreation facilities; and

(3) Public facilities without business offices and repair and storage facilities.

O ZONING STANDARDS	
Design Regulation	Requirements
Minimum front yard setback	--
Maximum side yard setback	--
Minimum rear yard setback	--
Maximum floor area ratio (ratio of total floor area to total lot area)	--
Maximum net density	--
Maximum building height ¹⁹⁷	--
Maximum ground level footprint	--

(d) **Planned Unit Development.**¹⁹⁸ All PUD zone districts shall comply with the dimensional and development standards as well as the review processes and criteria outlined in §9-16-060, *Planned Unit Developments*.

¹⁹⁷ The building height limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks, silos, nor to public building or structures located more than one (1) foot horizontally from the property line for each foot of building height. (This Footnote From Creede Land Use Code and should be retained.)

¹⁹⁸ The PUD zone is made an overlay zone available in all districts in this Development Code, Westcliffe allows PUDs only to be used in certain zones.

9-20-160 Table of Permitted Uses

Table 9-24-1 below lists the uses allowed within all base zoning districts. Most uses are defined in Article 8, *Definitions*, for those uses that are undefined, §9-20-180, *Classification of New and Unlisted Uses*, shall serve as the process to define such term. Approval of a use listed in Table 9-24-1 and compliance with the applicable use-specific standards for that use authorizes that use only. Development or use of a property for any other use not specifically allowed in Table 9-24-1 and approved under the appropriate process is prohibited, unless determined by the City Manager that the proposed use is consistent with intent of the zone district.

(a) **Permitted By-Right Uses.** “P” in a cell indicates that the use is permitted by right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this Code, including the use-specific standards in this article.

(b) **Special Review Uses.** “S” in a cell indicates that, in the respective zoning district, the use is allowed only if reviewed and approved as a special review use in accordance with the procedures of §9-16-080, *Special Review Uses*. Special Review Uses are subject to all other applicable regulations of this Code.

(c) **Prohibited Uses.** A blank cell indicates that the use is prohibited in the respective zoning district.

(d) **Use-Specific Standards.** Regardless of whether a use is allowed by right or permitted as a special review use, there may be additional standards that are applicable to the use.

9-20-170 Table Organization

In Table 9-24-1, land uses and activities are classified into general “use categories” and specific “use types” based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts. This classification does not list every use or activity that may appropriately exist within each category, and specific uses may be listed in one category when they may reasonably have been listed in one or more other categories. The use categories are intended merely as an indexing tool and are not regulatory.

9-20-180 Classification of New and Unlisted Uses

The City recognizes that new types of land use will develop and forms of land use not anticipated in this Code may seek to locate in the City. When application is made for a use category or use type that is not specifically listed in Table 9-24-1, the City Manager shall make a determination as to the appropriate classification of any new or unlisted form of land use in the following manner:

(a) The City Manager shall provide an interpretation as to the zoning classification into which such use should be placed. In making such interpretation, the City Manager shall consider the nature of the use and whether it involves dwelling activity; sales; processing; type of product, storage and amount, and nature thereof; enclosed or open storage; anticipated employment;

transportation requirements; the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and the general requirements for public utilities such as water and sanitary sewer.

(b) Standards for new and unlisted uses may be interpreted as those of a similar use.

(c) Appeal of the City Manager's decision may be made to the PZC following procedures under §9-16-130, *Appeals*.

9-20-190 Table of Permitted Uses. Table 9-24-1

PERMITTED USES	R-1	R-2	MH	B-1	B-2	C	I	H¹⁹⁹	O
Residential Uses									
Accessory buildings and accessory uses	P	P	P	P	P	P	P		*
Accessory dwelling when associated with a permitted use	P	P	*	S	*	*	S		*
Group homes	P	P	*	P	P	P	S		*
Mobil home	*	*	P	*	*	*	*		*
Multiple-family dwellings	*	P	*	P	P	P	*		*
Senior housing	*	P	*	P	*	*	*		*
Single-family detached dwellings	P	P	P	S	S	S	*		*
Two-family dwellings	*	P	*	P	S	S	*		*
Institutional/Civic/Public Uses									
Cemeteries	*	*	*	*	*	*	*	*	S
Churches or place of worship and assembly	S	S	*	P	P	P	*		*
Community facilities	S	S	*	S	S	S	*		*
Golf courses	S	S	*	S	S	*	S		*
Golf driving range	S	S	*	S	S	*	S	S	*
Parks and open space	P	P	P	P	P	P	P	P	P
Public and private schools for elementary, intermediate and high school education	S	S	*	S	*	S	*		*
Public and private schools, including colleges, vocational training and technical training	*	*	*	P	S	S	*		*
Public facilities provided that business offices and repair and storage facilities are not included	S	S	P	P	P	P	P		S
Public facilities with business offices, but without repair and	*	*	*	P	P	P	P		*

¹⁹⁹Any principal use or conditional use set forth in the underlying district is allowed provided that the hazard has been mitigated. (This Footnote From Creede Land Use Code and should be retained.)

storage facilities									
Public facilities with business offices and repair and storage facilities	*	*	*	S	P	S	P		*
Transit facilities without repair or storage	*	*	*	*	P	P	*		*
Business/Commercial/Retail Uses									
Adult uses including product sales and entertainment	*	*	*	*	*	*	S		*
Artisan and photography studios and galleries	*	*	*	P	S	S	S		*
Auto, recreational vehicle, boat and truck sales	*	*	*	*	S	S	S		*
Auto, RV, boat and truck storage	*	*	*	*	S	S	P		*
Bars and taverns	*	*	*	S	S	P	S		*
Bed and breakfasts	*	S	*	P	P	P	*		*
Boarding and rooming houses	*	S	*	P	P	P	*		*
Car wash	*	*	*	S	P	P	P		*
Child care centers	S	S	*	P	P	P	S		*
Clubs and lodges	*	*	*	S	S	P	*		*
Convenience shopping and retail establishments	*	*	*	P	P	P	S		*
Entertainment facilities and theaters	*	*	*	S	S	P	S		*
Equipment, rental establishments without outdoor storage	*	*	*	*	P	P	P		*
Equipment, truck and trailer rental establishments with outdoor storage	*	*	*	*	S	S	S		*
Food catering	*	*	*	*	P	P	*		*
Funeral homes	*	*	*	*	P	P	*		*
Gasoline stations	*	*	*	S	P	P	P		*
Health and membership clubs	*	*	*	P	P	P	*		*
Home occupations - with restrictions	P	P	P	P	*	*	*		*

Hospitals	*	*	*	*	S	S	*		*
Large retail establishments	*	*	*	*	P	P	*		*
Limited indoor recreation facility	*	*	*	P	P	P	*		*
Limited outdoor recreation facility	S	S	*	S	S	S	S	S	S
Lodging establishments	*	*	*	P	P	P	S		*
Long term care facilities	*	S	*	S	P	P	*		*
Medical and dental offices and clinics	*	*	*	P	P	P	*		*
Mixed-use dwelling units	*	*	*	P	P	P	*		*
Motor vehicle service and repair (minor repairs)	*	*	*	S	P	P	P		*
Motor vehicle service and repair establishments (major repairs)	*	*	*	*	S	S	P		*
Night clubs	*	*	*	*	S	S	S		*
Open-air farmers' markets	*	*	*	P	P	P	S		*
Parking lots and parking garages (as a principal use)	*	*	*	S	S	S	P		*
Personal and business service shops	*	*	*	P	P	P	S		*
Plant nurseries & greenhouses	*	*	*	*	P	P	P		*
Print shops	*	*	*	*	P	P	*		*
Professional offices, financial services	*	*	*	P	P	P	*		*
RV parks	*	*	*	*	S	S	*		*
Restaurants/standard & fast food without drive-thru	*	*	*	P	P	P	*		*
Restaurants with drive-thru	*	*	*	*	P	P	S		*
Retail and supply yard establishments with outdoor storage	*	*	*	*	S	S	P		*
Sales and leasing of farm implements, heavy equipment sales, and heavy excavation equipment	*	*	*	*	*	*	S		*

Small animal boarding (kennels)	*	*	*	*	*	S	S		*
Small grocery stores	*	*	*	P	P	P	S		*
Supermarkets	*	*	*	*	P	P	*		*
Tourist facilities	*	*	*	P	P	P	*		*
Veterinary facilities, small animal clinics	*	*	*	*	P	P	*		*
Veterinary facilities, large animal clinics	*	*	*	*	*	*	P		*
Veterinary hospitals	*	*	*	*	S	S	S		*
Industrial Uses									
Dry cleaning plants	*	*	*	*	*	*	S		*
Enclosed mini-storage facilities	*	*	*	*	S	S	P		*
Manufacturing and preparation of food products	*	*	*	*	*	*	P		*
Manufacturing, assembly or packaging of products from previously prepared materials	*	*	*	*	*	*	P		*
Manufacturing of electric or electronic instruments and devices	*	*	*	*	*	*	P		*
Plumbing, electrical and carpenter shops	*	*	*	*	*	*	P		*
Recycling facilities	*	*	*	*	*	*	S		*
Research, experimental or testing laboratories	*	*	*	*	S	S	P		*
Resource extraction, processes and sales establishment	*	*	*	*	*	*	S	S	*
Sales and leasing of farm implements, heavy equipment sales, mobile/manufactured homes, and heavy excavation equipment	*	*	*	*	*	*	S		*
Warehouse, distribution and wholesale uses	*	*	*	*	*	S	P		*
Wireless telecommunications facilities	*	*	*	*	*	*	P		*

Workshops and custom small industry uses	*	*	*	S	P	P	P		*
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9-20-200 Use-Specific Regulations

(a) **Public Uses.** Where permitted in a district, public uses (as identified in Table 9-24-1, *Permitted Uses*) should conform to siting and use provisions of the Creede Comprehensive Plan.

(b) **Arboretum or Botanical Garden.** No sales are allowed except through gift shops that are approved accessory uses.

(c) **Home Occupations.** A home occupation must comply with the following limitations and conditions:

(1) The use must not produce noise, vibration, smoke, dust, odors, heat, or glare noticeable outside the dwelling unit where such activity is taking place;

(2) If the use is a day care, the use is limited to no more children than allowed by the state license for a childcare home (a state license is also required to operate a childcare home);

(3) The use does not have visible storage of equipment or parking of vehicles not normally associated with a residential use, including but not limited to trucks with a rating greater than three-quarter (¾) ton, earth-moving equipment, or cement mixers;

(4) The use does not alter the exterior of the property or affect the residential character of the neighborhood;

(5) The use does not interfere with parking, access, other normal activities on adjacent properties, or with other units in a multifamily development;

(6) Employees are not permitted to work on the property; the use shall be carried on by the inhabitants of the property;

(7) The use does not require alteration to the residence to satisfy applicable City fire or building codes or County health regulations;

(8) Exterior signs are not permitted; and,

(9) There may be only incidental sale of stocks, supplies, or products.

9-20-210 Accessory Uses and Structures

(a) **Purpose.** This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses, provided that the accessory use complies with all applicable standards in this section.

(b) Approval of Accessory Uses and Structures. All principal uses allowed in a zoning district shall be deemed to include those accessory uses, structures, and activities typically associated with the use, unless specifically prohibited in this Development Code. No accessory use may be established prior to establishment of the principal use with which such accessory use is associated. All accessory uses shall be subject to the standards in this §9-20-210, *Accessory Uses and Structures*, as well as any use-specific standards applicable to the associated principal use as set forth in §9-20-200, *Use-Specific Regulations*, above.

(c) Interpretation of Unidentified Accessory Uses and Structures. The City Manager shall evaluate applications for accessory uses that are not identified in this section on a case-by-case basis, based on the following standards:

- (1) The definition of "accessory use" in Article 8, *Definitions*, and the general accessory use standards and limitations established in this section;
- (2) The purpose and intent of the district in which the accessory use is located;
- (3) Potential adverse impacts the accessory use or structure may have on other lots, compared with other accessory uses permitted in the district; and
- (4) The compatibility of the accessory use with other principal and accessory uses permitted in the district.

(d) General Standards. All accessory uses and structures shall comply with the following general standards:

(1) Compliance with this Code.

(i) All accessory uses and structures shall be subject to the dimensional requirements of this Article. In the case of any conflict between the accessory use/structure standards of this section and any other requirement of this Development Code, the more restrictive standards shall control.

(ii) Accessory uses shall comply with all standards of this Development Code applicable to the principal use with which they are associated. Parking requirements shall be met for both the principal use and any accessory use.

(2) Location. The accessory use or structure shall be conducted or located on the same lot(s) as the principal use and to the rear of the front setback line, unless otherwise approved by the City Manager. No accessory structure shall be located within ten (10) feet of the site's principal structure unless otherwise specified in this section. When located to the rear of the primary structure, accessory buildings need not comply with the side or rear setback lines applicable to the primary structure provided that the accessory building is not located closer than ten feet from any alley and not closer than five feet from any property line.

(3) Size. The maximum total size of accessory buildings shall be six-hundred (600) square feet unless approved by Special use permit. No accessory building shall exceed the height of the site's principal structure.

(4) **Same Ownership Required.** The principal use and the accessory use shall be under the same ownership.

(5) **Same Utility Meter Required.** The principal use and the accessory use shall utilize the same utility meter, with the exception of an approved accessory dwelling unit.

(e) **Additional Standards for Specific Accessory Uses and Structures**

(1) **Accessory Dwelling Units.** An accessory dwelling unit shall be permitted subject to the following standards:

(i) **Districts Allowed.** Accessory dwelling units shall be allowed as accessory uses to principal residential uses in the following districts: R-1, R-2. Accessory dwelling units shall be allowed as special review uses in the following districts: B-1 and I.²⁰⁰

(ii) **Where Permitted on Lot.** A permitted accessory dwelling unit shall comply with all applicable site and building design, access, and other standards for principal dwelling units in the zoning district in which the accessory dwelling unit will be located. Accessory dwelling units may be a separate structure from the principal structure or be attached to and part of the principal structure. Recreational vehicles, travel trailers, and any other wheeled or transportable structure shall not be used as accessory dwelling units.

(iii) **Size of Accessory Dwelling Unit.** No accessory dwelling unit shall exceed eight hundred fifty (850) square feet in floor area.²⁰¹ An accessory dwelling unit shall contain private sanitary facilities with hot and cold running water and cooking and food storage facilities.

(iv) **Limit on Number.** There shall be no more than one (1) accessory dwelling unit on a lot in addition to the principal single-family dwelling.

(v) **Off-Street Parking.** At least one (1) off-street parking space shall be provided for each accessory dwelling unit.

(2) **Outdoor Display and Sales.**²⁰² Outdoor display and/or sales may be allowed as an accessory use for all commercial uses, provided that the display of such items does not impede the flow of pedestrian or vehicular traffic or create an unsafe condition. These provisions are not intended to apply to permanent outdoor display and sales, such as vehicle sales, that must be approved as part of the development site plan. The accessory outdoor display of goods shall meet all of the following requirements:

(i) Outdoor display or sale shall require approval of the City Manager and may be subject to appropriate conditions by the City Manager to ensure compliance with the provisions of this subsection.

²⁰⁰ Language added from Creede Land Use Code Sec. 4-4.

²⁰¹ Language added from Creede Land Use Code Sec. 4-4.

²⁰² Should this section be deleted?

(ii) Display of goods shall not be in drive aisles, loading zones, or fire lanes and shall not obstruct any entrance to the building.

(iii) The total area for display or sale of goods in the front of the building shall be limited to an area that measures five percent (5%) of the net square footage of the main building.

(iv) The outdoor display area may be located in a parking lot provided that the parking available does not fall below eighty percent (80%) of the off-site parking required for the building.

(v) No goods shall be attached to a building's wall surface.

(vi) The outdoor display area shall take place on an improved surface such as the sidewalk or pavement.

(vii) No outdoor displays shall be allowed in required landscape areas.

(viii) At least five (5) feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.

(3) **Outdoor Storage.**²⁰³ Outdoor storage is a permitted accessory use in the I zone district with approval of an SRU pursuant to §9-16-080, *Special Review Use*. In the NC, MC, and TC zone districts, outdoor storage is permitted through the site plan review process and subject to compliance with the following requirements:

(i) Except for outdoor storage associated with industrial or agricultural uses, each outdoor storage area shall be incorporated into the overall design of the primary structure on the site and shall be located at the rear of the primary structure.

(ii) Each outdoor storage area shall be screened from view from all property lines and adjacent rights-of-way by an opaque fence or wall between six (6) and eight (8) feet in height. The fence shall incorporate at least one of the predominant materials and one of the predominant colors used in the primary structure. The fence may exceed eight (8) feet in height where the difference in grade between the right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area. Materials may not be stored higher than the height of the primary structure. The perimeter of the fence or wall must be landscaped.

(iii) A landscaped earthen berm may be used instead of or in combination with a required fence or wall.

(iv) If the outdoor storage area is covered, then the covering shall include at least one of the predominant exposed roofing colors on the primary structure.

²⁰³ Should this section be deleted?

(v) No materials may be stored in areas intended for vehicular or pedestrian circulation.

(vi) No storage of any items may occur within the front setback area or within one-half (1/2) of each side setback nearest the street.

(vii) Rooftop outdoor storage is prohibited.

9-20-220 Temporary Uses and Structures

(a) **Purpose.** This Development Code allows for the establishment of certain temporary uses for limited duration, provided that such uses comply with the general and specific standards of this section.

(b) **Temporary Uses and Structures Allowed.** The following temporary uses are allowed provided they comply with the general standards of §9-20-220(g), *General Requirements for all Temporary Uses and Structures*, below.

(c) **Minor Temporary Uses.** The following uses shall be classified as minor temporary uses:

- (1) Temporary seasonal and holiday sales (e.g., sporting goods sales, tree lots, wreath sales);
- (2) Temporary real estate sales office (including Model Homes);
- (3) Contractor's office/temporary construction uses;
- (4) Off-site auto sales;
- (5) Travel trailers;
- (6) Farmer's market held on private property;
- (7) Temporary sales (parking lot, vacant lot, roadside);
- (8) Seasonal outdoor garden nursery;
- (9) Retail encroachment into required parking;
- (10) Fruit/vegetable stands;
- (11) Storage/shipping containers; and,
- (12) Auctions.

(d) **Major Temporary Uses.** The following uses shall be classified as major temporary uses:

- (1) Temporary special events held on private property;
- (2) Circuses, festivals, carnivals, and fairs held on private property; and,
- (3) Temporary lodging facilities.

(e) **Exemptions.** The regulations in this section shall not apply to the following uses:

- (1) Funeral processions;
- (2) Garage or estate sales;
- (3) Private parties for fewer than fifty (50) people; and
- (4) Weddings of immediate family of the homeowner, not to exceed one-hundred and fifty (150) guests;
- (5) Regularly scheduled school events such as athletic events that use existing parking, traffic controls, and public safety support;
- (6) Natural disasters and emergencies, staging and assembly grounds; and
- (7) A governmental agency acting within the scope of its functions.

(f) **Permits for Special Events on Public Property.** All special events on any street, alley sidewalk, public building, or public park shall be subject only to the following standards and procedures set forth in the Creede Municipal Code, and include but are not limited to:

- (1) Alcoholic beverage permits (Article 1 of Chapter 6, *Alcoholic Beverage Licenses*)

(g) **General Requirements For All Temporary Uses and Structures.** All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this Development Code:

- (1) The temporary use or structure shall not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
- (2) The temporary use shall comply with all applicable general and specific regulations of this Section, other City ordinances, and state law unless otherwise expressly stated;
- (3) Permanent alterations to the site are prohibited;
- (4) The temporary use or structure shall not violate any applicable conditions of approval that apply to a principal use on the site;
- (5) The temporary use regulations of this section do not exempt the applicant or operator from any other required permits, such as food service or building permits;

(6) If the property is undeveloped, it shall contain sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic circulation as required that may be associated with the temporary use, without disturbing sensitive or protected resources, including required buffers, 100-year floodplains, and required landscaping. At the conclusion of the temporary use or at expiration of the permit, whichever occurs first, all disturbed areas of the site shall be restored or improved to the condition that existed prior to the use;

(7) If the property is developed, the temporary use shall be located in an area that is not actively used by an existing approved principal use and that would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability;

(8) Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property, shall be anchored, and meet the requirements of the building official, including fire rating;

(9) Off-street parking shall be adequate to accommodate the proposed temporary use;

(10) The conduct of the temporary use will not require the diversion of so great a number of police officers of the City to restrict the ability to properly police the City;

(11) The conduct of such temporary use will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the City other than that to be occupied by the proposed line of movement and the areas contiguous thereto;

(12) The conduct of such temporary use will not interfere with the movement of firefighting equipment in route to a fire;

(13) The size, nature, or location of the temporary use or structure is not reasonably likely to cause a clear and present danger of injury to persons and property;

(14) Another temporary use permit application has not been received prior in time or has already been approved for the same time and place requested by the applicant or so close in time and place to that required by the applicant that the issuance of both permits would cause undue traffic congestion; and

(15) The location of the temporary use or structure will not substantially interfere with any construction or maintenance work scheduled to take place upon City streets.

Article 24²⁰⁴

Development Standards

9-24-010 Purpose and Applicability.

(a) **Purpose.** The purpose of the development standards in this article is to establish the minimum requirements for the development within the City of Creede. The development and design standards in this article shall apply to the physical layout and design of all development, unless exempted by this Development Code. These provisions address the physical relationship between development and adjacent properties, public streets, neighborhoods, and the natural environment in order to compliment the Comprehensive Plan vision for a more attractive, efficient, and livable community.

(b) **Applicability.** The general applicability of the provisions of this Article 24, *Development Standards*, are more completely defined in this section. All new development shall comply with the standards of this article. Any modification to an existing development that is non-conforming to the regulations of this article which results in an addition or removal of fifty percent (50%) or more of the development, shall require the entire development to come into compliance.

9-24-020 Compact Urban Growth

(a) **Purpose.** The City has adopted a compact urban growth policy that encourages and directs development to take place within areas contiguous to existing development in the community. This policy will accomplish several goals, including:

- (1) Improving air quality by reducing vehicle miles traveled and by promoting alternatives to the private automobile;
- (2) Preserving natural areas and features, particularly in the periphery of the City;
- (3) Making possible the efficient use of existing infrastructure and cost effective extensions of new services;
- (4) Encouraging in-fill development and reinvestment in built-up areas of the City.

(b) **Standards.** The following are the standards applicable to all development in the City:

- (1) The City has established a Planning Area and desires to adopt a cooperative planning area policy with Mineral County and the U.S. Forest Service. The purpose is to direct growth within the established Planning Area Boundary. It is the City's intent that no development shall be approved unless it is located within the established Planning Area Boundary and is consistent with the City Comprehensive Plan.

²⁰⁴ Language for this Article is from CLUC Article 6, revisions are noted in footnotes below.

(2) It is the policy of the City to ensure the community grows in a way that enhances its special qualities and maintains a continuity of density, diversity and interconnectedness. The districts below are to be used as a general guide in conjunction with the underlying land use designations on the Comprehensive Plan Future Land Use Map:

(i) Primary Mixed Use. Directs the most urban development closest to the original “old town” of City.

(ii) Primary Industrial/Business. Establishes the *State Highway/Interstate* corridor as the primary location for industrial/business park development.

(iii) Conservation Subdivision. Limits residential density and preserves open space in areas at the edge of the Planning Area Boundary (rural/urban interface).

(iv) Protected Natural Areas. Preserves continuous open space along drainage ways and flood channels.

(v) Floodplain Areas. A flood drainage plat is required.

9-24-030 Blocks and Lots.

(a) **Purpose.** The purpose of the block and lot standards is to continue existing block pattern in a manner that is compatible with site-specific environmental conditions.

(b) **Standards.**

(1) **Blocks (Exclusive of Conservation Subdivisions).** Streets shall be designed to create blocks that consider interconnectedness, topography, solar orientation, views, and other design features. The lengths, widths and shapes of blocks shall be determined with due regard to the following:

(i) Provision of adequate building sites suitable to the special needs of the type of use contemplated.

(ii) Need for convenient access, control and safety of vehicular and pedestrian traffic circulation.

(iii) Limitations and opportunities of topography.

(2) **Lot Dimension and Configuration.**

(i) Lot size, width, depth, shape, and orientation and minimum building setback lines shall conform to Article 20, *Zone Districts and Official Zoning Map*, and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy and view.

(ii) Depth and width of properties shall be adequate to provide for off-street parking, landscaping and loading areas required by the type of use and development contemplated.

(iii) All lots shall have frontage that is either adjacent to or directly accessible to a street. Street frontage shall typically not be less than twenty-five percent (25%) of the lot depth. Flag lots are prohibited unless otherwise approved by the Board of Trustees.

(iv) Corner lots for residential use shall have extra width to accommodate side elevation enhancements, such as porches and bay windows, the required building setback and utility easements on both street frontages. For a corner lot, the front of the lot is defined as the side having the shortest street frontage. In the case of a reverse corner lot, both sides abutting a street shall maintain a front yard setback.

(v) Double frontage lots for residential shall not be permitted except where essential to provide separation of residential properties from arterial streets or commercial uses, or to overcome specific disadvantage of topography and orientation. A planting screen easement of at least ten (10) feet in width, across which there shall be no vehicular right of access, may be required along the property line of lots abutting an arterial or other disadvantageous use.

(vi) Residential Lot Access to Adjacent Street.

(A) Driveway access to a local or collector street from a single- family detached residential lot shall be limited to one driveway curb-cut or driveway access of no greater than twenty (20) feet in width. A circular drive in which each access to the local or collector street is less than ten (10) feet in width, separated by at least thirty (30) feet and which is constructed as an integral part of the overall architectural design of the single family residence may be considered as a single driveway access.

9-24-040 Streets.

(a) **Purpose.** The purpose of the street standards is to establish a safe, efficient, attractive transportation system that promotes all modes of transportation and is sensitive to the environment.

(b) **Standards.** The local street system of any proposed development shall be designed to be safe, efficient, convenient and attractive, and consider the use by all modes of transportation that will use the system. Streets should be an inviting public space and an integral part of community design. Local streets shall provide for both intra- and inter-neighborhood connections to knit developments together, rather than forming barriers between them. All streets should interconnect to help create a comprehensive network of public areas to allow free movement of cars, bicycles and pedestrians.

(1) **Street Connections.** All streets shall be aligned to join with planned or existing streets as allowed by topography. All streets shall be designed to bear a logical relationship to

the topography of the land. Intersections of streets shall be at right angles unless otherwise approved by the City. Street intersections shall be separated by not less than one hundred twenty-five (125) feet as measured from the intersecting right-of-way lines.

(2) **Street Layout.** The street layout shall form an interconnected system of streets primarily in a grid or modified pattern adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas. The street layout shall emphasize the location of neighborhood focus points, other internal open space areas, gateways, and vistas. The use of cul-de-sacs and other roadways with a single point of access shall be minimized. The integration of traffic calming features within and adjacent to residential areas shall be utilized when appropriate. All streets shall be designed with snow removal taken into consideration.

(3) **Visibility at Intersections.** No shrubs, ground cover, berms, fences, structures, or other materials or items greater than thirty (30) inches in height shall be planted, created or maintained at street intersections within the site distance triangle. Trees shall not be planted in the site distance triangle.

(4) **Pedestrian Crossings at Street Intersections and Mid-block.** Pedestrian crossings shall be accessible to handicapped individuals and mid-block crossings may be required at the direction of the Board of Trustees.

(5) **Horizontal Alignment.** Horizontal alignment shall provide for the safety of pedestrians, bicyclists, and motorists. The street pattern shall be the most advantageous to serve the adjoining areas.

(6) **Vertical Alignment.** No vertical grade shall be less than four-tenths percent (4/10%) in order to facilitate adequate drainage. The maximum percent of street grade, except as approved by the City Engineer, shall be five percent (5%). Street grades shall not exceed four percent (4%) for a distance extending at least forty (40) feet in each direction from a street intersection.

(7) **Access.** Access to all subdivisions shall be from a public street system. Driveways shall not be permitted to have direct access to arterials or state highways (Principal Arterials).

(8) **Street Right-of-Way Dedication.** The full width of right-of-way for all streets being platted must be dedicated to the City and the streets shall be completed to City standards before acceptance by the City. The subdivider shall finalize an agreement with the City which guarantees the construction of the street to City standards.

(9) **Perimeter Streets.** When a street is dedicated which ends on the plat, the street right-of-way must be dedicated to the boundary of the plat.

(c) **Street Standards.** The width of street right-of-way and the design of the street it contains shall be designed by an engineer and approved by the City engineer.

(1) **Local Streets.**

(i) Local streets shall generally follow a modified grid pattern adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas. These streets shall generally parallel the arterial and collector street system, provide a variety of route options, interconnect to allow traffic to disperse in an equitable manner and be as narrow as possible without sacrificing the ability to accommodate expected traffic and services.

(ii) Right-of-way requirements for Local Streets with Detached Sidewalk:

(A) Fifty (50) feet of right-of-way.

(2) **Alleys.**

(i) Alleys shall be treated as public ways, and any lot having access from an alley shall also front upon a public street.

(ii) Garages, accessory dwellings above garages and rear yards may access the collector and local street system via an alley with minimal travel through other land uses.

(iii) Right-of-way requirements for Residential Alleys:

(A) Fifteen (15) feet of right-of-way.

(iv) Right-of-way requirements for Commercial/Industrial Alley:

(A) Fifteen (15) feet of right-of-way.

9-24-050 Parking.

(a) **Purpose.** The purpose of this Section is to provide adequate parking for motor vehicles while minimizing the visual impact of parking lots and structures.

(b) **Standards.** In all zone districts, off-street parking facilities for the storage of self-propelled motor vehicles for the use of occupants, employees and patrons of the building or structures hereafter erected, altered or extended shall be provided and maintained as herein prescribed.

(1) **Location.** Parking lots shall be located to the rear or side of buildings or in the interior of a block whenever possible.

(2) **Share-access.** Where feasible, parking lots shall share access drives with adjacent property with similar land uses.

(3) **Off-street parking design.** Any off-street parking area shall be designed so that vehicles may exit without backing onto a public street unless no other practical alternative is available. Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility or other structure.

(4) **Lighting.** All parking area lighting shall be full cutoff type fixtures. Any light used to illuminate parking areas or for any other purpose shall be so arranged as to reflect the light away from nearby residential properties, and away from the vision of passing motorists.

(c) **Parking Restrictions for Excess Weight Vehicles and Recreational Vehicles.**

(1) The owner or operator of any vehicle weighing in excess of ten thousand (10,000) pounds, other than emergency vehicles, shall not park said vehicle on any public right-of-way or roadway, except when making local deliveries, nor shall excess weight vehicles, boats, boat trailers, tractors, trailers, semi-trailers, motor homes, buses or detached/dismounted campers be parked or kept on private property for longer than seventy-two (72) hours, except as herein provided.

(2) No boat, boat trailer, tractor, trailer, semi-trailer, motor home, bus or detached/dismounted camper shall be kept or parked upon any public right-of-way or roadway, except for visitation purposes not exceeding twenty-four (24) hours.

(3) All excess weight vehicles, boats, boat trailers, motor homes, buses or detached/dismounted campers kept or stored on private residential property for longer than seventy-two (72) hours shall be kept or stored in the rear yard screened from view, or within an enclosed building. No such vehicle shall be used for storage or as a business or residential premises.

(4) All excess weight vehicles, boats, boat trailers, tractors, trailers, semi-trailers, motor homes, buses or detached/dismounted campers kept or stored on private property for longer than seventy-two (72) hours shall be kept or stored in a yard screened from view or within an enclosed building. The property where storage occurs must be properly zoned for the use. No such vehicle shall be used for storage or as a business or residential premises.

(5) No mobile home may be located permanently or temporarily in any residential area unless said area is zoned for the same.

9-24-060 Sidewalks, Multi-Use Pathways and Trails.

(a) **Purpose.** The purpose of the standards for sidewalks, multi-use pathways and trails is to assure a safe, convenient, and attractive pedestrian/bicycle system that minimizes conflicts between vehicles, bicycles and pedestrians.

(b) **Standards.**

(1) **Interconnected Network.** A sidewalk network that interconnects all dwelling units with other dwelling units, non-residential uses, and common open space may be required throughout each development.

(2) **Sidewalk Width.** Where sidewalks are installed they shall be a minimum of five (5) feet wide along local streets. **Sidewalk Location.** Sidewalks shall be located within the right-of-way unless otherwise authorized by the Board of Trustees.

(3) **Sidewalk Installation.** Sidewalks and related improvements shall be installed or constructed by the developer in accordance with plans and specifications approved by the City and, after installation or construction, they shall be subject to inspection and approval by the City. All required improvements shall be completed in accordance with the officially established grades.

(4) **Accessibility.** Sidewalks and plazas shall be accessible to handicapped individuals in accordance with the Americans with Disabilities Act requirements.

(5) **Multi-use Pathways and Trails (Bikeways).** Multi-use pathways shall be provided to link internal open space areas with peripheral open space areas and shall connect to multi-use pathway routes throughout the community where appropriate.

9-24-070 Easement and Utility Standards.

(a) **Utility Easement Width.** Easements may be more or less than widths stated if the specific utility indicates in writing a width other than those required by this Development Code. Utility easements shall be subject to the approval of the City and applicable utility company.

(b) **Multiple Installations within Easements.** Easements shall be designed so as to provide efficient installation of utilities. Public utility installations shall be located as to permit multiple installations within the easements. The developer will establish final utility grades prior to utility installations.

(c) **Underground Utilities.** Telephone lines, electric lines, cable television lines and other like utility services shall be placed underground in conduit. The subdivider shall be responsible for complying with the requirements of this Subsection, and shall make the necessary arrangements including any construction or installation charges with each utility provider for the installation of such facilities. Transformers, switching boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities shall be placed underground or on the surface but not on utility poles. Screening or fencing is required to the satisfaction of the Board of Trustees. Electric transmission and distribution feeder lines and necessary appurtenances thereto may not be placed above ground unless they are carrying greater than 115 kV. Such facilities shall be placed within easements or public streets, as therein provided, or upon private easements or rights-of-way provided for particular facilities.

(d) **Street Lighting.** Street lighting and associated underground street lighting supply circuits shall be installed. The minimum requirement shall be two hundred fifty (250) watt sodium vapor lamps at a maximum spacing of four hundred (400) feet for local streets. Arterial streets and commercial areas shall have a higher level of lighting as determined by the Board of Trustees.

9-24-080 Parks and Open Space.

(a) **Purpose.** To ensure that a comprehensive, integrated network of parks and open space is developed and preserved as the community grows.

(b) Ownership and Maintenance of Open Space.²⁰⁵

(1) The City shall own and maintain neighborhood parks, community parks, district parks and public trails.

(2) Pocket parks, landscaped outlots, and private recreational facilities shall be owned and maintained by a homeowners' association or the landowner.

(3) Environmentally sensitive, archaeological and historic resources may be dedicated to the City and maintained by the City if approved by the Board of Trustees.

(4) Conservation areas set aside as part of a Conservation Subdivision shall be owned and maintained by the homeowners' association.

(5) Stormwater detention and retention areas that function as open space shall be owned and maintained by a homeowners' association or the landowner, unless otherwise approved by the City.

(6) Areas designated as open space shall be maintained according to the designated function of the area. Applicants shall work with the National Resources Conservation Service to develop a management plan which addresses: irrigation, revegetation, erosion control, and weed management. If the area is to remain in private ownership, a mechanism which will assure maintenance will be funded in perpetuity must be in place at the time of final plat.

(c) Open Space Protection. Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and remain open in perpetuity. They may be dedicated to the public or held in private ownership. Appropriate ownership will be determined through the review process in cooperation with the landowner. Future use may include recreational or agricultural activities if approved by the City.

(d) Open Space Requirements.

(1) Open Space Includes:

(i) Areas within the community designated for the common use of the residents of an individual development and/or the community at large;

(ii) Areas designated for preservation and protection of environmental resources including floodplains, natural drainage ways, and wetland areas;

(iii) Areas impacted by subsidence;

(iv) Areas designated for agricultural preservation; and

²⁰⁵ The following language from CLUC Article 6 was deleted: "Ownership and maintenance of public open space shall be determined by the City on a case by case basis through the review process." As it conflicted with the language in 9-24-090(b)(1).

(v) Areas of archeological and historic significance.

(2) Open Space Shall Not Include the Following:

(i) Required setback areas around oil and gas production facilities;

(ii) Disconnected remnants of land created by division of sites into lots or parcels that do not qualify as functional open space or that preserve environmental resources, unless approved by the Board of Trustees;

(iii) Private yards;

(iv) Tree lawns in street rights-of-way; or

(v) Required parking lot landscaping associated with all uses, except parking specifically designated for access to open space areas and within commercial/industrial projects.

(3) Amount of Open Space Required. The amount of functional open space required in each development will be based on the density of the development, the recreational requirements of the anticipated users and the anticipated opportunities for public recreation within walking distance of the site one-quarter (¼) mile. However, all residential subdivisions shall dedicate a minimum of twelve percent (12%) of the gross land area for public parks, trails, open space or other civic purposes at the time of subdivision. Non-residential subdivisions shall dedicate twelve percent (12%) of the gross land area for public parks, trails, open space and other civic purposes at the time of subdivision. This dedication can be credited toward the overall open space required for the subdivision.

9-24-090 Dedication of Public Sites and Open Spaces.

(a) Purpose. The purpose of the dedication and/or payment is to provide the public facilities and/or services made necessary as a consequence of the site development, in an amount roughly proportional to the impact of the site development upon such facilities and/or services or the increased need for them brought about by the site development. The developer shall have the option, in its sole discretion, to accept the City's calculation of the required dedication, or to perform such studies as are necessary to demonstrate the actual impact of the site development upon public services and facilities, and the resulting appropriate dedication or other contribution.²⁰⁶

(b) Amount of Land Dedicated. The developer shall dedicate public sites for parks, open space, or other civic purposes prior to final approval for all site developments²⁰⁷ in accordance with the following requirements:

(1) Percentage Dedication. Dedication of such sites and land areas to the City, or to the public, which dedication shall be a minimum of ten percent (10%) of the total gross

²⁰⁶ This language is from Section 10-4-4 of the Westcliffe Code.

²⁰⁷ This language is from Section 10-4-4 of the Westcliffe Code.

area of the land within the proposed subdivision at the time of subdivision. This land dedication will be credited toward the overall open space required for each subdivision; or

(2) **Fee-in-Lieu of Dedication.** As determined by the Board of Trustees, the developer shall pay fee-in-lieu of land dedication in those cases where dedication of land is not the preferred alternative. Such payment shall be based on the fair market value of the entire property, to be determined after completion of the platting process. Such payment shall be held by the Board of Trustees for the acquisition of sites and land areas by the City. At the option of the Board of Trustees, the subdivider may meet the dedication requirements of this §9-24-100 through a combination of fee-in-lieu and land dedication.

9-24-100 School Site Dedication.²⁰⁸

(a) **Purpose.** It is declared to be the policy of the City, whenever there is an annexation of property into the City for residential development purposes, a proposed increase of residential use resulting from rezoning a property, an amendment to a planned unit development, or development of subdivision, the owner of the land shall provide land for school needs generated by the proposed residential use. It is the purpose of this Section to require the dedication of land or the payment of fees in lieu thereof directly for the benefit of the school children of the City.

(b) **Amount of Land Dedicated.** Land shall be dedicated or conveyed land for a public school site to the Creede Consolidated School District #1 ("School District"), or in the event the dedication of land is not deemed feasible or in the best interests of the School District as determined by the Superintendent or designee of the School District, payment in-lieu of land dedication or conveyance shall be required. The amount of contribution of either land or payment in-lieu of land shall be determined pursuant to the following formula:

(1) Single-family and duplex or primary secondary: Number of units x .014495 = dedication requirement in acres.

(2) Multi-family: Number of units x .002676 = dedication requirement in acres.²⁰⁹

(c) **Conveyance.** In the event the school site dedication includes dedication of land, prior to recording the final plat the following items shall be completed:

(1) The land shall be conveyed to the School District, by general warranty deed, title to the land slated for dedication, which title is free and clear of all liens, encumbrances and exceptions (except those approved in writing by the School District), including, without limitation, real property taxes, which will be prorated to the date of conveyance or dedication.

(2) Proof of the dedication or conveyance shall be provided to the City.

²⁰⁸ The title of this section was changed from "Fair Contribution for Public School Sites" which was used in CLUC Article 6, Section 6-15.

²⁰⁹ The CLUC Section 6-15 stated "the amount of contribution of either land or payment in-lieu of land shall be determined pursuant to the tables set forth in this section." There were no tables in the section.

(3) At the time of dedication or conveyance, a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property shall be provided.

(4) The public improvement agreement shall provide for the installation of the streets adjacent to the school site, the installation of water, sewer and other public utilities to the school site, and over lot grading of the school site.

(d) Cash In-Lieu of Land Dedication. In the event the school site dedication includes payment in-lieu of the dedication of land, prior to the issuance of any building permit for any residential dwelling unit not otherwise exempt under §9-24-110(e) below, cash in-lieu shall be paid to the City on behalf of the School District. The City, in cooperation with the School District, shall establish cash in-lieu of land dedication fees under a separate ordinance.²¹⁰

(e) Exemptions from School Site Dedication. The following uses shall be exempt from the school site dedication requirements:

(1) Construction of any nonresidential building or structure.

(2) Alteration, replacement or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units.

(f) Storm Drainage Facilities.

(1) **Purpose.** To promote innovative and effective land and water management techniques that protect and enhance water quality. All Storm Drainage Facilities will be designed by an engineer, recommended by the City engineer and approved by the Board of Trustees.

9-24-110 Commercial and Industrial Architecture.

(a) Purpose. The City has the following four distinctly different Commercial/ Industrial types of development within its Planning Area: Downtown (B-1); Mixed Use Highway (B-2); Commercial (c); and Industrial (I). They are different in character, purpose, and mixture of uses. The design considerations vary for each type, although there are many common design elements. The §9-24-160(b), below, outlines the common elements and the specific design considerations are identified by type.

(b) Standards.

(1) **Connections.** Commercial developments must be linked with surrounding areas by extending city streets, sidewalks, and/or paths directly into and through the development, thereby providing convenient, direct pedestrian, bicycle and vehicle access to and from all sides of the development.

²¹⁰ The CLUC contain this language. Should fees be established in this Code?

(2) **Accessibility.** Developments must be accessible to pedestrians and bicyclists as well as motorists. The emphasis must not be placed solely on parking and drive-through functions. Site plans shall equally emphasize the following:

- (i) Pedestrian access to the site and buildings;
- (ii) Gathering areas for people; and
- (iii) Auto access and parking lots.

(3) **Walkways.** Walkways must be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination, and not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access.

(4) **On-Street Parking.** Streets and other elements of the site plan shall be designed so that on-street parking is a functional part of the development (except along arterial streets).

(5) **Building Orientation.** Where possible, buildings shall be located to front on and relate primarily to streets. Building setbacks from local and collector streets should be minimized in order to establish a visually continuous, pedestrian-oriented streetfront. In the case of large buildings for employment, storage or auto-related uses, where greater setbacks are needed, a minimum of thirty (30) percent of the building shall be brought to the setback line. If a minimized setback is not maintained, the larger setback area shall have landscaping, low walls or fencing, a tree canopy and/or other site improvements along the sidewalk designed for pedestrian interest, scale and comfort.

(c) Industrial/ Business Park Architectural Standards.

(1) **Purpose.** State Highway 149 provides the opportunity to localize industrial/business park development, as well as highway commercial. The following standards shall apply:

(2) Building Massing and Form.

- (i) Office and entry spaces shall be distinguished from the building mass.
- (ii) Large, square, “box-like” structures are not an acceptable form. Architectural elements with smaller forms stepping outwards and down shall be included.
- (iii) Loading areas shall not front any street or public right-of way if at all possible.
- (iv) Parking requirements shall be provided to the extent possible at the rear or sides of the building.

(3) Siting Structures.

(i) Structures shall be sited to avoid a “wall” affect along public rights-of-way and along adjacent property lines. This can be achieved by varying the building setbacks and clustering buildings.

(ii) Where multiple buildings are proposed on a development parcel, buildings shall be oriented to allow views into the project and shall preserve high quality views through the project (e.g. views of the mountains).

9-24-120 Lighting.

(a) **Purpose.** To create an attractive lighting system to enhance visibility and safety, while minimizing glare and contrast. To encourage exterior lighting that is functional, aesthetically pleasing, and complimentary to the architectural style of buildings.

(b) **Standards.**

(1) **Evaluation of Exterior Lighting.** Exterior lighting shall be evaluated in the development review process to ensure that the functional and security needs of the project are met in a way that does not adversely affect the adjacent properties or neighborhood. The degree to which exterior night lighting affects a property owner or neighborhood will be examined considering the light source, level of illumination, hours of illumination, and need for illumination in relation to the effects of the lighting on the adjacent property owners and the neighborhood.

(2) **Light Style.** The style of lights shall be consistent with the style and character of architecture proposed on the site. Light fixtures that illuminate signage shall be compatible with the architecture of the building on which they are placed.

(3) **Concealed Light Source.** Light sources shall be concealed or shielded to the maximum extent feasible to minimize the potential for glare and unnecessary diffusion on adjacent property and away from the vision of passing motorists. All lights shall be directed downward and the light source shall be equipped with “cut-off” devices so that it will not be visible from any adjacent property and to ensure that ambient skyward light is eliminated. Accent and flagpole lighting shall be permitted to be directed upward as long as the light source is shielded and not visible from any adjacent property. Light fixtures installed under canopies, awnings, overhangs and the like shall be fully recessed.

(4) **Hours of Lighting Operation.** All parking lot lighting fixtures and exterior building lights, except those required for security purposes, shall be extinguished within one (1) hour after the end of business hours and remain extinguished until one (1) hour prior to the beginning of business hours. If a portion of a parking lot is used after dark, only that portion shall be lighted.

(5) **Height Standards for Lighting.**

(i) Residential Zoning Districts. Light fixtures shall be mounted on concrete, fiberglass or painted metal poles no higher than sixteen (16) feet from the ground.

Lighting mounted on a building or structure shall not exceed the height of the building or structure. Bollard-type lighting fixtures shall be between three (3) and four (4) feet high.

(ii) Non-Residential Zoning Districts. Light fixtures shall be mounted on concrete, fiberglass or painted metal poles no higher than twenty-five (25) feet from the ground, unless a greater height, not to exceed the maximum building height in the applicable zone district, is approved by the variance process found in §9-16-100, *Variance*. Lighting mounted on a building or structure shall not exceed the height of the building or structure. Bollard-type lighting fixtures shall be between three (3) and four (4) feet high.

(6) **Exemption for Outdoor Recreational Uses.** Because of their limited hours of operation and their unique requirements for nighttime visibility, ball diamonds, playing fields, tennis courts, and other similar outdoor recreational uses (both public and private, unless otherwise restricted by the Board of Trustees) shall be exempt from the general provisions of this Section. However, exterior lighting for such uses shall be extinguished no later than 11:00 p.m.

9-24-130 Environmental Considerations

(a) **Purpose.** The purpose of this Section is to ensure that new development limits/mitigates its impact to wildlife and wildlife habitat and that it minimizes environmental impacts.

(b) **Standards.**

(1) **Protection of Wildlife and Natural Areas.** To the maximum extent practical, development shall be designed to ensure that disturbances which occur to any natural area as a result of development shall be minimized through the use of natural buffer zones. If any development materially disturbs a natural area, the development project shall mitigate such lost natural resource either on- or off-site. Any such mitigation shall be roughly proportional to the loss suffered as a result of the disturbance.

(i) Natural areas shall include:

- (A) Floodplains and floodways;
- (B) Natural drainage and water ways;
- (C) Significant native trees and vegetation,
- (D) Wildlife travel corridors;

(ii) The natural area buffer zone shall be used between natural areas and proposed development to ensure that the proposed development does not degrade the natural area. The size of the buffer zone shall be determined in conjunction with the Colorado Division of Wildlife or a City-approved wetland or wildlife ecologist. The City may decrease this buffer when strict application of this Subsection will impose an exceptional and undue hardship upon the property owner or developer.

(2) **Exceptions.** The Board of Trustees may allow disturbance or construction activity within the natural area or natural area buffer zone for the following limited purposes:

(i) mitigation of development activities;

(ii) restoration of previously degraded areas;

(iii) emergency public safety activities and utility installations when such activities and installations cannot reasonably be contained within other nearby developed areas;

(iv) construction of a trail that will provide public access for educational or recreational purposes; or

(v) The enhancement of the habitat value and/or other natural resource values of a natural area.

(3) **Ecological Characterization.** If the City determines that the site likely includes areas with wildlife, plant life, and/or other natural characteristics in need of protection, the City may require the developer to provide a report prepared by a professional qualified in the areas of ecology, wildlife biology, or other relevant discipline. The ecological characterization report should be included on the open space plan and describe the following:

(i) The wildlife use of the natural area showing the species of the wildlife using the area, the times or seasons the areas is used by those species and the “value” (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species;

(ii) The boundary of wetlands in the area and a description of the ecological functions and characteristics provided by those wetlands;

(iii) Any prominent views from or across the site;

(iv) The pattern, species, and location of any significant native trees and other native site vegetation;

(v) The bank, shoreline and high water mark of any perennial stream or body of water on the site;

(vi) Wildlife travel corridors; and

(vii) The general ecological functions provided by the site and its features.

(4) **Wildlife Conflicts.** If wildlife that may create conflicts for the future occupants of the development (including, but not limited to, prairie dogs, beaver, deer and elks) are known to exist in areas adjacent to or on the development site, then the development plan must, to the extent reasonably feasible, include provisions such as barriers, protection mechanisms for landscaping and other site features to minimize conflicts that might otherwise exist between such wildlife and the developed portion of the site. Any impacts to wildlife must be referred

to the Colorado Division of Wildlife and, in the case of threatened or endangered species, United States Fish and Wildlife Services.

(c) **Green Building Practices.** The City seeks to promote the utilization of building practices which benefit the environment and the socio-economic well-being of current and future residents.

(1) **Resource areas.** There are five resource areas which should be addressed by a green building program:

- (i) Water (quality and quantity);
- (ii) Energy (quantity and type);
- (iii) Building Materials (life cycle impacts);
- (iv) Solid Waste (construction and operation impacts); and
- (v) Health and Safety.

(2) **Compliance.** Compliance with the requirements of the U.S. Green Building Council Leadership in Energy and Environmental Design program or any substantially similar green building program is strongly encouraged.²¹¹

9-24-140 Sanitary Sewer.

All residential, commercial and industrial uses which have human occupancy shall have sanitary sewer at the developer's cost. The sanitary sewer system shall be connected to an existing public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built. Sanitary sewer lines are to be of sufficient size and design to collect all sewage from all proposed or portable structures within the subdivision or development. On a case-by-case basis, the Board of Trustees may approve individual sewage disposal systems that comply with Mineral County Health Department standards. However, no new addition, upgrade or major repair to an individual sewage disposal system will be permitted if the property is located within four hundred (400) feet of a municipal or sanitation district collection line, measured through existing sewer easements or utility rights-of-way, except where approved by the Board of Trustees or the Mineral County Health Department.²¹²

9-24-150 Potable Water.

All residential, commercial and industrial uses, which have human occupancy, shall have potable water served by the City or appropriate water district at the developer's cost. The water

²¹¹ The CLUC contained language referencing the "Colorado Green Builder Program" which no longer exists. This was changed to reference the LEED program instead.

²¹² The CLUC contained the following deleted language "except where such connection is not feasible or has been denied by the City or district". The new language inserted clarifies the meaning.

system shall be of sufficient size and design to supply potable water to each structure or lot upon which a structure is to be built at the developer's cost.

9-24-160 Fire Hydrants.

The subdivider shall install fire hydrants at street intersections and at other points as per the requirements of the Mineral County/Creede Fire Protection District. Fire hydrants shall have national standards threads, two and one-half (2½) inch outlets and four and one-half (4½) inch or six (6) inch streamers, built at the developer's cost.

Article 28²¹³

RV Parks

9-28-010 Definitions.

The following definitions apply to this Article:

Recreational vehicle means a vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted or drawn by another vehicle. The following shall be considered a recreational vehicle (RV):

(a) *Camping trailer.* A canvas (or other type of material), folding vehicle of rigid construction, mounted on wheels and designed for travel and recreation.

(b) *Motorized home, motor home and/or recreational bus or van.* A recreational vehicle consisting of a portable, temporary dwelling to be used for travel, recreation and vacation uses, and constructed as an integral part of a self-propelled vehicle.

(c) *Pickup coach.* A vehicle designed to be mounted on or loaded into a truck chassis for use as a temporary dwelling for travel and recreation.

(d) *Tent.* Protective fabric erected to provide protection from the elements.

(e) *Travel trailer.* A towable vehicle designed as a temporary dwelling for travel and recreation.

(f) *Travel trailer, self-contained.* A trailer which can operate independently of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.

Recreational vehicle park means a parcel of land specifically developed for locating only recreational vehicles on lots on a short-term basis.

Recreational vehicle site means a plot of ground within a recreational vehicle park intended

²¹³ Language for this Article is from CLUC Article 7.

for the accommodation of a recreational vehicle, tent, or other individual camping unit on a temporary basis.

Sanitary facilities means toilets, urinals, lavatories, showers, utility sinks and drinking fountains, and the service buildings containing these units.

Sanitary waste station means a facility used for removing and disposing of waste from self-contained camping vehicle sewage holding tanks.

Service building means a structure housing toilet, lavatory, bath, laundry, service sink and other such sanitary facilities as may be required.

9-28-020 Review Process.

(a) All new recreational vehicle parks or development on any recreational vehicle park, new or pre-existing, must submit all plans and specifications in detail for such development to the Planning Commission and obtain approval after formal public hearing from the Board of Trustees. No construction or development shall be commenced until approved by the Board of Trustees and a building permit issued.

(b) Permits for development of recreational vehicle parks shall be granted according to the process found in §9-15-080, *Special Review Use*, of this Code.

(c) The Building Inspector and City Engineer shall inspect each new recreational vehicle park or space/site addition or construction on existing parks to determine compliance with the provisions of this Article and all other applicable ordinances, rules, regulations or codes. No occupancy shall be permitted or certificate of occupancy issued until said officials have made such determination in writing. Occupancy of the premises prior to issuance of a certificate of occupancy based on the above determination shall subject the violator to the penalties set forth in this Article. The above-named officials shall have authority to enter upon the premises for the purpose of such inspection at any reasonable time without notice or approval of the owner or manager.

9-28-030 Location of Recreational Vehicle Parks.

(a) Recreational vehicle parks may be located in areas whose principal characteristic or activity is highway service or highway commercial such as the B-2 zone.

(b) Recreational vehicle parks will not be permitted in any area zoned residential or in floodplain areas.

9-28-040 Park Development Standards.

(a) **Site Conditions.** Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.

(b) **Soil and Groundcover.** Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screening or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust

(c) **Drainage Requirements.** A drainage plan shall be developed for the recreational vehicle park.

9-28-050 Park Size and Density.

(a) **Park Size.** The minimum gross area for a recreational vehicle park is one (1) acres. The maximum gross area allowed is three (3) acres

(b) **Park Density.** The maximum density shall not exceed twelve (12) recreational vehicles per gross acre.

(c) **Minimum Site Size.** Each recreational vehicle site shall contain a minimum of one thousand five hundred (1,500) square feet and shall have a minimum width of twenty-five (25) feet.

(d) **Site Pads.** Each site shall contain a vehicle parking pad of concrete or asphalt paving. Minimum length of the parking pad shall be thirty-five (35) feet. No part of a recreational vehicle or other unit placed on the lot pad shall be closer than five (5) feet to the edge of the lot

(e) **Required Separation Between RV Vehicles.** Recreation vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structure such as attached awnings or comforts for purposes of this separation requirement shall be considered to be part of the recreational vehicle.

(f) **Site Identification.** Each site for the parking of the recreational vehicle shall be identified by numbers, a minimum of three (3) inches in height, posted in a conspicuous place at the front of the site.

9-28-060 Roadways and Parking.

(a) **Interior Roads.** All interior two-way roads shall be twenty-eight (28) feet minimum width and all interior one-way roads shall be twenty (20) feet minimum width. All roads shall be paved with asphalt and crowned to facilitate drainage. Roadways shall be designed for the safe and convenient movement of vehicles.

(b) **Parking Requirements.** At least one and one-half (1½) off-road parking spaces shall be provided in the park per recreation vehicle site. At least one (1) off-road parking space shall be provided at each site. No on street parking will be permitted.

9-28-070 Entrances and Exits.

(a) **Locations and Access.** No entrance or exit from a recreational vehicle park shall be permitted through a residential district nor require movement of traffic from the park through a

residential district.

(b) Design of Access to Park.

(1) Entrances and exits to recreational vehicle parks shall be designed for the safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic on adjacent streets.

(2) Each recreational vehicle park shall have a separate entrance and exit roadway, each of which shall not be less than twenty-eight (28) feet wide from flow line to flow line, shall be hard surfaced with asphalt or concrete and shall connect to a dedicated public right-of-way not less than forty (40) feet in width.

(c) **Access onto State Highways.** Access onto state-controlled highways or roads will require a permit from the State Department of Transportation. The design of the access will be according to Department of Transportation requirements.

(d) **Distance from Intersection.** Entrance driveways shall be located not closer than one hundred fifty (150) feet from the intersection of public streets.

9-28-080 Accessory Uses.

The following are permitted as accessory uses to the park:

(a) Management headquarters,

(b) recreational facilities,

(c) toilets, dumping stations,

(d) showers,

(e) coin-operated laundry facilities, and

(f) other uses and structures customarily incidental to operation of a recreational vehicle park and campground.

9-28-090 Open Space and Recreational Areas.

(a) A general area or areas amounting to not less than ten percent (10%) of the gross area of the recreational vehicle park, excluding any area dedicated as public right-of-way, shall be provided for recreation and open space use.

(b) Such areas shall not include any area designated as a recreational vehicle space, storage area, required yard, service building or sanitary facility or waste station area.

(c) Recreational facilities shall be included in the ten percent (10%) requirement for open space.

(d) A reasonably sized pet exercising area will be provided. City leash laws are to be enforced.

9-28-100 Buffering; Setbacks, Screening and Landscaping.

(a) **Yards and Setbacks.** Each recreational vehicle park shall set aside along the perimeter of the park the following areas which shall be landscaped and used for no other purpose:

Summary of Yard Setbacks				
<i>If yard abuts a:</i>	<i>Residential District</i>	<i>Other District</i>	<i>Public Right-of-Way</i>	<i>State Highway</i>
<i>Front yard</i>	Not allowed	Not allowed	25'	50'
<i>Side yard</i>	50'	15'	25'	50'
<i>Rear yard</i>	50'	15'	25'	50'

(b) **Landscaping.** A landscaping plan illustrating the placement and type of trees and shrubs must be submitted as part of the park development plan. The design of the landscaping must mitigate the visual impact of the recreational vehicle park on the surrounding area.

(c) **Boundary Fencing.** Except for the front boundary, each recreational vehicle park shall be enclosed by a solid fence of wood or wall of brick or stone not less than six (6) feet in height.

9-28-110 Utilities.

(a) **All Utilities Underground.** All public utilities within the recreational vehicle park shall be underground.

(b) **Water Supply.** The water supply for the recreational vehicle park shall be provided by a delivery system that is owned and operated by the City of Creede. The water system shall be connected by pipes to all service buildings and all recreational vehicle spaces. The water distribution system within the park shall meet the following minimum standards:

(1) The water distribution system shall be designed, constructed and maintained in compliance with State Department of Health regulations and recommendations to provide a safe, potable and adequate supply of water.

(2) The distribution system shall not be connected to any no potable water supply nor be subject to any backflow.

(3) The distribution system shall deliver water at a minimum pressure of at least twenty (20) pounds per square inch and a minimum flow of at least one (1) gallon per minute at all outlets.

(4) The distribution system shall be capable of delivering a minimum volume of one

hundred (100) gallons per day per recreational vehicle site.

(5) Water service lines, riser pipes and valves shall be installed and protected from damage by freezing, ground movement, vehicles or other damage sources.

(6) The riser pipe at each recreational vehicle site shall be at least three-quarters (3/4) inch in diameter and shall extend at least four (4) inches vertically above the ground elevation. It shall be equipped with a three-quarters (3/4) inch valve outlet with a threaded male spigot for attaching a standard garden hose.

(7) Tent camping sites shall be provided with common use water faucets located no more than one hundred fifty (150) feet from any campsite where appropriate and approved by the Board of Trustees.

(8) Drinking fountains, if provided, shall be approved angle jet type with adequate water pressure.

(9) Spillage, overflow, drainage or wastewater from faucets and drinking fountains shall be discharged to approved drains to prevent impoundment of water, creation of mud holes or other nuisance conditions.

(10) A water station for filling camping vehicle water storage tanks shall be provided in each park. These shall be located not less than fifty (50) feet from a sanitary station. The station shall be posted with signs of durable material, not less than two (2) square feet, which state: POTABLE WATER – DO NOT USE TO FLUSH VEHICLE WASTE TANKS. Such water stations shall consist of at least a three-quarter (3/4) inch pipe and valve outlet and shall be protected against the hazards of backflow and back siphonage by an approved vacuum breaker located downstream from the shutoff valve. The fill hose shall be suspended so that no part of the hose and its appurtenances will come into contact with the ground. A sign shall be posted at the entrance of the park indicating the provision of a sanitary station and water station.

(c) **Sewage Disposal.** Facilities shall be provided and properly maintained for the collection and disposal or treatment and disposal of sewage.

(1) Where a public sewer system is available, all plumbing fixtures, building sewers and campground sewers shall be connected thereto. If a public sewer system is not available, a private sewage collection and disposal facility meeting requirements of the State Water Quality Control Commission, the State Department of Health and other applicable local government sewage disposal requirements shall be installed and all building sewers and campground sewers connected thereto.

(2) Solid and liquid wastes shall not be discharged or otherwise disposed of on the surface of the ground or into any well, cave, open ditch, stream, lake or reservoir.

(d) **Sewage Collection.**

(1) Sewage collection lines shall be laid in trenches of sufficient depth to be free of

breakage from traffic, ground movement, agricultural activity or other sources of damage, and shall be separated from the water supply system by a horizontal distance of ten (10) feet and a vertical elevation of two (2) feet below water lines at crossing points unless pressure sewers are used.

(2) The sewer lines shall be constructed of approved materials with adequate vents, watertight joints and sufficient cleanouts. All sewer lines shall have a minimum diameter of six (6) inches, except that a sewer lateral which serves no more than twenty-five (25) individual sewer connections for individual camping vehicle lots or no more than five (5) toilet connections may be four (4) inches in diameter.

(3) Sewers shall be installed at a grade of at least one-eighth (1/8) inch per foot to ensure a velocity of two (2) feet per second when flowing full. Horizontal drainage lines connecting with other horizontal drainage lines shall enter through forty-five (45) degree “y” branches or other combinations of equivalent sweep.

(4) Cleanouts or manholes shall be provided at the upper end of each main sewer line, at intersections of two (2) or more sewer lines, changes in grade or alignment of more than forty-five (45) degrees, and at intervals of not more than four hundred (400) feet.

(5) Individual sewer connections shall meet the following requirements: A four (4) inch inside diameter sewer lateral and riser pipe with the surrounding ground graded to drain from the rim of the riser pipe. The sewer lateral shall be properly trapped and vented if camping vehicles without individually trapped and vented plumbing fixtures are accommodated.

(6) Dependent camping vehicles with a drain hose less than three (3) inches in diameter shall be connected with reducers and a screw or clamp-type fittings.

(7) Drain outlets from independent camping vehicles shall be capped or connected with a durable, readily cleanable, nonabsorbent, corrosion-resistant, drain hose having an inside diameter of not less than three (3) inches. The sewer service connection shall be installed and maintained with a grade not less than one-quarter (1/4) inch per foot.

(8) When the campsite is not occupied, the sewer riser pipe shall be adequately covered.

(9) A flushing sink or other means of disposal shall be provided for disposal of liquid wastes from dependent camping vehicles, unless a sanitary waste station is provided and is conveniently located. The flushing sink shall be easily accessible and located at a distance of not more than three hundred (300) feet from any campsite. The sinks shall not be located in a room containing toilet, lavatory or bathing facilities, and toilets shall not be used for disposal of liquid wastes. Common-use faucets or hydrants and lavatories in service buildings shall not be used for cleaning fish and food, and for washing dishes, utensils, clothing or other articles of household use.

(10) A sanitary waste station shall be provided for each one hundred (100) campsites or part thereof not equipped with individual sewer connections. Unless other approved means

are used, the sanitary station shall be designed and constructed to include the following:

- (i) Easy ingress and egress from a service road for camping vehicles and located not less than fifty (50) feet from a campsite.
- (ii) Connection to the sewer system by a trapped four (4) inch sewer riser pipe and vented not more than ten (10) feet downstream from the trap by a four (4) inch vent, adequately supported and extending at least eight (8) feet above the ground surface.
- (iii) The sewage inlet surrounded by a curbed concrete apron or trough of at least three (3) by three (3) feet, sloped to the inlet, and provided with a suitable hinged cover milled to fit tight.
- (iv) A means for flushing the immediate area and a camping vehicle holding tank shall be provided at each sanitary waste station. It shall consist of a properly supported water riser pipe, terminating two (2) feet above the ground with a three-fourth (3/4) inch valve outlet which shall be protected against back siphonage and backflow by an approved vacuum breaker installation located downstream from the shutoff valve.
- (v) A sign, constructed of durable material and not less than two (2) feet square, posted adjacent to the water flushing outlet and inscribed with the warning: UNSAFE WATER FACILITY.

(11) The plumbing shall be installed according to the most recent edition of the Uniform Plumbing Code as adopted by the City of Creede.

(e) Electricity and Natural Gas.

(1) An electric outlet approved by an electric utility shall be provided for each recreational vehicle space. The installation shall comply with all state and local electrical codes. Such electrical outlets shall be weatherproof.

(2) Street and yard lights shall be provided in such number and intensity as to ensure safe movement of vehicles and pedestrians at night. A light directed to the ground shall be located at each outside entrance of the service buildings, which shall be kept lighted during hours of darkness.

(3) Where natural gas or propane is provided, the installation will comply with all applicable State and local building code regulations.

(f) Utility Plans. Plans for water, sewer, electricity and natural gas or propane along with letters of approval from the appropriate utility provider must be submitted to the City for approval.

9-28-120 Refuse Disposal.

(a) The storage, collection and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents, bears or other nuisance conditions.

(b) Durable, watertight, easily cleanable refuse containers, sufficient to contain all the refuse, shall be provided at each service building and sanitary waste station, or at a central storage area readily accessible and located not more than three hundred (300) feet from any campsite. Refuse containers shall be provided at the rate of eight (8) cubic feet (60 gallons) for each five (5) campsites. Individual trash cans at each recreational vehicle site may be provided. All containers for refuse shall be covered with close fitting, fly tight covers.

(c) Refuse shall be collected and removed from the premises as often as necessary, but not less than once weekly, and disposed of at a lawful disposal site.

(d) No burning of refuse will be permitted at the recreational vehicle park.

(e) Bear proof trash containers are required.

9-28-130 Insect and Rodent Control.

Insects and domestic rodents shall be controlled by elimination of breeding and harborage sources, proper sanitary practices, extermination, and vermin proofing of buildings and other approved control methods.

9-28-140 Fire Prevention and Protection.

(a) All recreational vehicle parks shall comply with the current Fire Code of the City.

(b) Hand fire extinguishers of a type approved by the Mineral County/Creede Fire Protection District shall be maintained in effective working order and located in convenient places in the ratio of one (1) to eight (8) recreational vehicle spaces. The location of fire extinguishers must be approved by the Fire Chief of the Mineral County/Creede Fire Protection District.

(c) No outdoor fires will be allowed except in grills, ovens, stoves or park-provided fire boxes. Park-provided boxes must be approved by the Mineral County/Creede Fire Protection District. No open fires are allowed.

(d) Fire plugs shall be located so that every site within the park can be reached with three hundred (300) feet of hose.

9-28-150 Sanitary Facilities.

(a) Sanitary facilities shall be provided and installed in accordance with the latest edition of the Uniform Plumbing Code adopted by the City.

(b) Required toilet, lavatory and bathing facilities shall be provided in the following minimum numbers:

Campsites	Toilets		Urinals	Lavatories		Showers	
	M	F	M	M	F	M	F

15	1	2	1	1	1	1	1
16 – 30	1	2	1	2	2	1	1
31 – 45	2	3	1	3	3	1	1
46 – 60	2	3	2	3	3	2	2
61 – 80	3	4	2	4	4	2	2
81 – 100	3	4	2	4	4	3	3
101 – 120	4	5	3	5	5	4	4

(c) At least one (1) toilet and shower facility shall be provided to accommodate handicapped persons.

(d) No portable toilets will be allowed in recreational vehicle parks.

9-28-160 Service Buildings.

(a) Service buildings shall be constructed of easily cleanable, nonabsorbent materials, maintained in good repair and in a clean and sanitary condition. They shall be conveniently located at a distance of not less than ten (10) or more than four hundred (400) feet from any dependent camping vehicle lot or persons served in a recreational area.

(b) Separate rooms containing required plumbing fixtures shall be provided for each sex and clearly marked “men” and “women.” If located in the same building, they shall be separated by a solid, sound-resistant wall extending from floor to ceiling. The entrances shall be so designed so that the plumbing fixtures are not visible from the outside. A landing shall be provided beyond each exterior door opening and shall have a width and length not less than the door opening.

(c) The floors of service buildings shall have a smooth, impermeable and easily cleaned surface, sloped to drain. Floor drains, properly trapped, shall be provided in all shower baths and shower rooms to remove wastewater and to facilitate cleaning. The walls and ceilings of such buildings shall be finished, and the walls shall have a smooth, nonabsorbent, easily cleanable surface extending to a height of four (4) feet in toilet rooms and six (6) feet in shower rooms.

(d) Every service building shall have a minimum ceiling height of seven and one-half (7 ½) feet. In rooms with sloping ceilings, the required ceiling height shall be provided in at least fifty (50) percent of the room, and no portion of any room having a ceiling height of less than six (6) feet shall be considered as contributing to the minimum required areas.

(e) Every service building shall have at least one (1) window with direct and unobstructed opening to the outside for natural light and ventilation, unless other approved means of light and ventilation to the outside air are provided.

(f) When necessary for exclusion of flies, mosquitoes and other insects, all exterior

openings of service buildings shall be protected with fly screening of not less than sixteen (16) mesh per square inch, unless other approved protective devices are provided.

(g) Every service building shall be provided with at least one (1) ceiling-type light fixture, at least one (1) separate double convenience (GFCI) outlet adjacent to the lavatories, and a light fixture at the outside entrance of the service building. All lights shall have wall switches; no pull cords shall be allowed.

(h) Illumination levels of at least thirty (30) foot-candles shall be maintained at lavatory mirrors and laundry room work areas, and at least five (5) foot-candles shall be maintained for general seeing tasks and at the service building entrance area.

(i) Service buildings shall be provided with approved heating facilities which are properly installed, maintained in a safe working condition and capable of maintaining a room temperature of sixty-eight degrees Fahrenheit (68F).

(j) Toilets and showers shall be separately installed to be individually accessible and to permit simultaneous use.

(k) Each toilet shall be individually partitioned with a door to ensure privacy. The compartment shall be at least thirty (30) inches in width with at least twenty-four (24) inches of clear space in front of a toilet. The dividing partitions shall be at least five (5) feet in height with not less than six (6) inches nor more than twelve (12) inches separating the partition bottom and the floor. Toilets shall be provided with open-front seats.

(l) Each shower shall be individually partitioned with a curtain, screen or door to afford privacy. Shower stalls shall not be less than thirty (30) inches by thirty (30) inches in area and shall be constructed to prevent water flow into the dressing room space. Shower floors shall be skid resistant or provided with disposable or with nonslip impervious mats. Wooden racks (dust boards) over shower floors are prohibited. Where impervious mats are used, they must be cleaned, dried and kept off the shower floor when not in use.

(m) Dressing room space, screened from view and at least 30 sq. foot floor area, shall be provided adjacent to bathing facilities and shall be equipped with a bench and clothes hook.

(n) Hot and cold water under pressure shall be supplied to all required plumbing fixtures, except that cold water only shall be supplied to toilets. Tempered water may be delivered to showers and sinks to conserve heated water and heating equipment. The system shall be designed to prevent discharge of water in excess of one hundred twenty degrees Fahrenheit (120F) at shower heads.

(o) Hot water heating facilities shall have the capacity to provide a minimum of three (3) gallons of hot water (one hundred degrees Fahrenheit (100F) rise) per hour per each campsite during times of peak demands.

(p) Required plumbing fixtures shall be maintained in good working order and in clean and sanitary condition. Every service room containing sanitary fixtures shall be provided with a wastebasket.

(q) Toilets shall be provided with a toilet paper holder or dispenser and a supply of toilet paper and a covered receptacle, and lavatory areas shall be provided with clothes hooks, shelves and trash receptacles.

(r) Service building construction shall conform to applicable provisions of the International Building Code and existing local building codes, regarding “*Specifications for making buildings and facilities accessible to and useable by physically handicapped.*”

9-28-170 Safety.

(a) All electrical wiring, equipment and appurtenances shall be installed and maintained in accordance with provisions of the National Electrical Code currently adopted by the City.

(b) Liquid petroleum gas, fuel oil, gasoline and other flammable liquids shall be handled and used in a safe manner and shall not be stored inside or beneath any camping vehicle or within five (5) feet of a door of a camping vehicle.

(c) The grounds, buildings and related facilities shall be constructed, maintained and used in accordance with applicable local and State fire prevention regulations.

(d) Play equipment, when provided for children, shall be designed for safety, maintained in good repair and located in areas free from hazards.

9-28-180 Miscellaneous Regulations.

(a) Liquid petroleum tanks shall be limited to one (1), one hundred (100) pound size per RV.

(b) Storage buildings, lean-tos, bins or other outside storage facilities shall not be allowed at recreational vehicle sites.

9-28-190 Permanent Occupancy Prohibited.

(a) No recreational vehicle shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Continuous occupancy extending beyond six (6) months in any twelve (12) month period shall be presumed to be permanent occupancy.

(b) Any action toward removal of wheels of a recreational vehicle except for temporary purposes of repair or to attach the trailer to the grounds for stabilizing purposes is hereby prohibited.

9-28-200 Licensing and Inspection.

(a) **License Required.** It shall be unlawful for any person to operate any recreational vehicle park within the limits of the City unless he or she holds a valid recreational vehicle park license issued annually by the City in the name of such person for the specific recreational vehicle park.

(b) **Application for License and Fee.** Application for a recreational park license shall be

filed each calendar year with the City Clerk. Applications shall be in writing, signed by the applicant, and shall contain the following information:

(1) Name of applicant.

(2) Location and legal description of the recreational vehicle park.

(3) Complete plan drawn to scale showing all recreational vehicle lots, structures, roads, walkways and other service facilities. Plans shall be filed in subsequent years only if changes in the plan of the recreational vehicle park are to be made.

(4) Such further information as may be requested by City officials to enable them to determine if the proposed recreational vehicle park will comply with the requirements of this Article or other applicable laws and ordinances.

(5) License fee: An annual license fee, of one hundred dollars (\$100.00) plus thirty dollars (\$30.00) per recreational vehicle site shall be assessed whether occupied or not. These fees shall be set by the Board of Trustees and reviewed annually.²¹⁴

(c) **License to be Posted.** The license certificate shall be conspicuously posted in the office of the recreational vehicle park at all times.

(d) **Registration.** All recreational vehicles in the park must have a current valid registration.

(e) **Inspection.** The Building Official shall inspect each recreational vehicle park at least once annually to determine compliance with the provisions of this Article and all other applicable ordinances, rules, regulations or codes. Such official shall have the authority to enter upon the premises for the purpose of such inspections at any reasonable time without notice to the owner or manager.

9-28-210 Revocation of License.

(a) When it appears to any police officer, the Fire Chief, the Building Inspector, or the health officers that any person holding a license under this Article has violated or may have violated any of the provisions hereof, a written notice shall be served on such licensee and/or recreational vehicle park manager in person or by registered United States mail specifying the manner in which it is believed he or she has violated or may have violated this Article. Said notice shall require the owner and/or recreational park manager to appear before the Board of Trustees at a time specified therein, not less than ten (10) days after the service of said notice, and show cause why such license should not be suspended or revoked.

(b) At such time, said licensee or recreational vehicle park manager and member of the Fire, Police, or Building Departments of the City or the Mineral County Health Department may produce such evidence as may be relevant to determine whether the violation charged in the notice has been committed. If the Board of Trustees finds from the evidence that such violation

²¹⁴ These license fees were those in the CLUC, should they be revised?

has not been committed, it shall so advise the licensee and/or recreational vehicle park manager and dismiss the charge. If the Board of Trustees finds from the evidence that such violation has been committed, it shall so advise the licensee or recreational vehicle park manager and may forthwith put said person on probation for thirty (30) days. If the violation is not corrected within such probationary period, the Board of Trustees may revoke or suspend the license held by such person or continue the probation for such period and on such conditions as it shall determine.

(c) It shall be unlawful for any person whose license has been revoked or suspended to operate, continue to operate or offer to operate any recreational vehicle park after the date of such revocation or during the term of such suspension, as the case may be.

9-28-220 Responsibilities of Management.

(a) **Enforcement of Regulations.** The owner or operator of any recreational vehicle park shall arrange for the management and supervision of such recreational vehicle park so as to enforce or cause compliance with the provisions of this Article.

(b) **Maintenance.** The owner, operator or attendant of every recreational vehicle park shall assume full responsibility for maintaining in good repair and condition all facilities of the recreational vehicle park as required herein.

(c) **Office.** In every recreational vehicle park there shall be a designated office building in which shall be located the office of the person in charge of said park. A copy of all required City and State licenses and permits shall at all times be kept in said office.

(d) **Management Duties.** It shall be the duty of the attendant or person in charge, together with the owner or operator, to:

(1) Keep at all times a register of all tenants (which shall be open at all times to inspections by state, county and federal officers and officers of the City) showing for all tenants:

(i) Dates of entrance and departures.

(ii) License numbers of all recreational vehicles and towing vehicles or automobiles.

(iii) States issuing such license.

(2) Maintain the park in a clean, orderly and sanitary condition at all times.

(3) See that provisions of this Article are complied with and enforced and report promptly to the proper authorities any violations of law which may come to his or her attention.

(4) Report to local health authorities all cases known to the owner to be infected with any communicable diseases.

(5) Pay promptly to the City all license fees required by City ordinances or other laws.

(6) Prohibit the use of any recreational vehicle by a greater number of occupants than that which it is designed to accommodate.

Article 32²¹⁵

Floodplain Areas

9-32-010 Authority. The State Legislature has, in §31-23-301, C.R.S., delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

9-32-020 Findings of Fact. The flood hazard areas of the City of Creede are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

Flood losses are caused by the cumulative effect of obstructions in special flood hazard areas, which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to flood loss.

9-32-030 Purpose. It is the purpose of this Article to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in special flood hazard areas;
- (f) Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas so as to minimize future flood blight areas;
- (g) Ensure that potential buyers are notified that property is in special flood hazard areas;
and
- (h) Ensure that those who occupy the special flood hazard area assume responsibility for their actions.

9-32-040 Applicability. The flood damage prevention regulations of this Subsection shall apply to all areas of special flood hazards (ASFH) within the jurisdiction of Creede. The Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA) serves as

²¹⁵ Language for this Article is updated to reflect new regulations by the Colorado Water Conservation Board.

the basis for establishing the ASFH and is adopted by reference. The most recent version of the FIRM received by the City is on file with the City Clerk.

9-32-050 Methods of Reducing Flood Losses. In order to accomplish its purposes, this Subsection includes methods and provisions for:

(a) Restricting or prohibiting uses that are dangerous to health, safety and property due to water or erosion hazards or that result in damaging increases in erosion or in flood heights or velocities;

(b) Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(c) Controlling the alteration of natural floodplains, stream channels and natural protective barriers that may help accommodate or channel floodwaters;

(d) Controlling filling, grading, dredging and other development that may increase flood damage; and

(e) Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards in other areas.

9-32-060 Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered, nor shall any development occur without full compliance with the terms of this Article and other applicable regulations.

9-32-070 Liability. The degree of flood protection intended to be provided by this Article has been determined to be reasonable for regulatory purposes and is based on engineering and scientific methods of study. Floods of greater magnitude may occur and flood heights may be increased by man-made or natural causes, such as ice jams and bridge or culvert openings restricted by debris. This Article does not imply that the areas outside the ASFH or land uses permitted outside the ASFH will be free from flooding or flood damages or that compliance with these regulations will prevent any or all damages from flooding. Nor shall this Article create a liability on the part of or a cause of action against the City of Creede or any officer or employee of the City for any flood damages that may result from reliance on this Subsection or any administrative decision.

9-32-080 Conflicting Regulations. This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where any provision of this Article conflicts or overlaps with another provision of this Development Code; any state or federal law; or any easement, covenant or deed restriction, then the more restrictive provision shall apply.

9-32-090 General Standards. In all ASFH, the following standards are required:

(a) Construction Materials and Methods

(1) All new construction and substantial improvements shall be constructed with

materials and utility equipment resistant to flood damage;

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(b) Utilities

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(c) Subdivision Proposals

(1) A subdivision proposal shall be consistent with the need to minimize flood damage;

(2) A subdivision proposal shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development that contain at least fifty (50) lots or five (5) acres.

(d) Effect of Development. Any proposed development shall be analyzed to determine effects on the flood-carrying capacity of the ASFH.

(e) Use Regulations. Uses shall be regulated in the ASFH and subareas of the ASFH pursuant to this Subsection.

(1) **Prohibited Uses in Floodway.** No development, encroachment, use or alteration in, on or over any part of the floodway shall be permitted that alone or cumulatively with other such uses would cause or result in:

(i) The occupation of permanent or temporary structures.

(ii) The development or use of overnight campgrounds or travel trailer parks.

(iii) Uses that customarily include the use, storing or processing of materials that are buoyant, flammable, explosive or otherwise potentially injurious to human, animal or plant life during a time of flooding. Examples include, but are not limited to, junkyards, automotive shops and dry cleaners.

- (iv) Solid waste disposal sites and central collection sewage treatment facilities.
- (v) Uses that serve vulnerable populations with limited mobility (including but not limited to child care facilities, elementary schools and senior housing).
- (vi) The potential of solid debris (including but not limited to, garages, storage sheds, decks or fences) or waste (including but not limited to, septic systems or portable toilets) being carried downstream.
- (vii) An encroachment that would adversely affect the efficiency and capacity of the floodway, change the direction of flow, cause any increase in the base flood elevation or cause foreseeable damage to others, wherever located.
- (viii) An encroachment, including fill, new construction, substantial improvements or other development unless certification by a registered professional engineer or architect is provided and demonstrates that encroachments shall not result in any increase in flood levels or velocities during the occurrence of the base flood discharge.

(2) Allowed Uses in Floodway. The following uses shall be permitted within the floodway to the extent that they are not prohibited in a particular area by any underlying zoning district and only if they do not adversely affect the efficiency of the floodway, change the direction of flow or increase the base flood elevation:

- (i) Agricultural uses, such as general farming, pasture, grazing, forestry, sod farming and wild crop harvesting.
- (ii) Recreational uses not requiring permanent or temporary structures designed for human habitation.
- (iii) Uses accessory to residential uses, including but not limited to lawns, open areas, gardens, driveways and play areas.
- (iv) Road and highway structures.

(3) Prohibited Uses in Flood Fringe. No development or uses on or over any portion of the flood fringe shall be permitted that alone or cumulatively with other such development or uses would cause or result in any of the following:

- (i) The storage or processing of materials that are buoyant, flammable, explosive or otherwise potentially injurious to human, animal or plant life in a time of flooding.
- (ii) Solid waste disposal sites and central collection sewage treatment facilities.
- (iii) The potential of solid debris (including but not limited to garages, storage sheds, decks or fences) or waste (including but not limited to septic systems or portable toilets) being carried downstream.

(4) Allowed Uses in Flood Fringe. Uses shall be allowed within the flood fringe

subject to the zoning designation the property and this Subsection and shall comply with the applicable standards of this Subsection.

(i) Residential Structures. Residential structures and uses are allowed, provided that:

(A) Any residential structure designed for human occupancy or the storage of property shall be constructed, located or improved so that any external wall shall be not less than thirty (30) feet from the stream side of the flood fringe.

(B) The lowest floor, including the basement, of any residential building or structure shall be not less than one (1) foot above the maximum base flood elevation. The lowest adjacent grade surrounding the structure shall be filled to at least the base flood elevation (BFE), compacted with slopes and protected by vegetated cover.

(C) The lowest interior grade, including crawl spaces, of any residential building or structure, shall not be lower than the lowest adjacent grade.

(ii) Nonresidential Structures and Uses. The following nonresidential structures or uses are allowed:

(A) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, wild crop harvesting and sod farming.

(B) Private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, trap and skeet ranges, hunting and fishing areas, fish hatcheries, hiking, biking and equestrian trails.

(C) Open area nonresidential uses, such as lawns, gardens, parking areas and play areas.

(D) Uses accessory to open space or uses for which a permit is required under this Article.

(E) Railroads, streets, roads, bridges, utility lines and facilities and structures for irrigation, drainage or flood control.

(iii) Nonresidential Standards. Nonresidential structures or uses shall comply with the following:

(A) Any nonresidential structure shall either have the lowest floor, including the basement, not less than one (1) foot above the BFE; or together with attendant utility and sanitary facilities shall be flood-proofed so that, below the computed BFE, the structure is water-tight with walls substantially impermeable to the passage of water; have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and be certified by an engineer or architect registered

in the State of Colorado that the standards of this Subsection are satisfied. Such certifications shall be submitted to the City Manager or its designated representative and provide that where a nonresidential structure is intended to be made watertight below the BFE;

(B) A registered professional engineer or architect in the State of Colorado shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with current technical criteria; and

(C) A record of such certificate that includes the specific elevation (in relation to the appropriate datum) that the structures are flood proofed. All flood proofing shall meet the current technical criteria set by the CWCB and FEMA. The applicant shall provide the certifications to the City Manager.

In the event that floodwaters in the flood fringe can be expected to attain a velocity greater than three (3) feet per second at any point where the proposed development is to occur, then additional flood-proofing shall be required sufficient to withstand such greater water velocity.

(iv) Recreational Vehicles. Recreational vehicles that meet the following conditions may be located in the flood fringe:

(A) The recreational vehicle is located on the site for fewer than one hundred eighty (180) consecutive days.

(B) The recreational vehicle is fully licensed and ready for highway use.

9-32-100 Floodplain Development Permit. A floodplain development permit shall be obtained from the City Manager before the start of construction or development within the ASFH.

(a) Contents of Floodplain Development Permits. Applications for floodplain development permits are to be submitted to the City Manager and shall include the following information as applicable:

(1) Application Form. A completed application form with all necessary information completed.

(2) Site Plan. A plan at a scale of one inch equals two hundred feet (1" = 200') or as approved by the City Manager, stamped by an engineer registered in the State of Colorado, which includes:

(i) The site location;

(ii) A legal description of the parcel;

(iii) Base flood limits and water surface elevations;

- (iv) Floodway limits;
 - (v) Channel of watercourse;
 - (vi) Existing and proposed contours or elevations at no more than two-foot intervals;
 - (vii) Existing and proposed structures, with the lowest floor elevations (including basements);
 - (viii) Proposed elevations to which structures will be flood-proofed (if applicable); and garages) of each structure;
 - (ix) Location and elevations of existing streets, water supply and sanitation facilities;
 - (x) Limits and total land area of all existing and proposed impervious surfaces, including structures;
 - (xi) Existing water supply ditches, irrigation ditches and laterals; and
 - (xii) All maps shall comply with the National Map Accuracy Standards.
- (3) Channel Cross-Section. A typical cross-section showing:
- (i) The channel of the watercourse;
 - (ii) Limits of floodplain adjoining each side of channel;
 - (iii) Cross-section area to be occupied by the proposed development; and
 - (iv) Existing and proposed base flood elevations.
- (4) Construction Specifications. Specifications for construction and materials of buildings, flood-proofing, filling, dredging, grading, channel improvements, storage of materials, water supply and sanitation facilities as applicable.
- (5) Alteration of Water Course. Description of the extent to which any water course will be altered or relocated as a result of the proposed development.
- (6) Floodway Floodplain Development Requirements. If development is proposed in a floodway, then a floodway analysis by a Colorado Registered Professional Engineer must be completed using methodology acceptable to the FEMA and CWCB and must meet the following guidelines:
- (i) If a detailed hydraulic floodway analysis has not been performed, the responsibility for determining the floodway boundary rests with the floodplain development permit applicant. The need for a detailed hydraulic floodway analysis shall be the decision of the City Manager.

(ii) The City Manager may require that the detailed hydraulic floodway analysis be based on the identical hydraulic model which was used to develop the engineering study currently adopted by the Board of Trustees. The applicant should obtain, through the City Manager, a copy of the input data representing the computer model used for the effective flood hazard study if available.

(iii) The model must then be updated to existing hydraulic conditions to determine what increase in the one-hundred-year water surface elevation levels have already been achieved by development since the floodplain was established.

(A) Alternative floodway configurations may then be analyzed based on methods as outlined in the current U.S. Army Corps of Engineers HEC-RAS Water Surface Profiles Users Manual and submitted to the City Manager for review and approval.

(B) Approval will be based on demonstration that the cumulative effects of the proposed development, plus the effects of development since the original flood hazard area was established, does not cause a rise in the base flood elevation.

(C) At the City Manager 's discretion, where a regulatory floodway has been designated, it may not be necessary to determine the cumulative effects of existing development.

(iv) Floodway boundary configurations will be examined and approved by the City Manager. The following specific information, for the stream reach one thousand (1,000) feet upstream and one thousand (1,000) feet downstream from the proposed encroachment, must be submitted:

(A) A copy of the printout for the hydraulic computer model representing the base flood profile run for conditions existing at the time the currently effective floodplain was developed. The printout must include the full input and output listing.

(B) A copy of the printout from the hydraulic computer model representing the floodway run for the proposed floodway configuration and including developments and other hydraulic changes within the floodplain since the currently effective floodplain was established. The printout must include the full input and output listing with all input changes from the original model highlighted.

(C) A copy of the floodway data table representing data for the proposed floodway configuration.

(D) A copy of the currently effective official engineering study showing the existing floodplain and the proposed floodway configuration.

(E) Certification from a Colorado Registered Professional Engineer that the proposed floodway configuration, in combination with current floodplain hydraulic conditions, meets FEMA and CWCBC requirements when evaluated against flood elevations established when the original floodplain study was completed.

(F) Electronic copies of all aforementioned data and model input files of this Section shall be submitted on a suitable medium.

(7) Report. An engineering report addressing those standards set forth in this Section, signed and sealed by a Colorado Registered Professional Engineer.

(b) Standards for Permit Review:

(1) Completeness. No later than ten (10) days following receipt of a completed application for a floodplain development permit, the City Manager shall:

(i) Determine and set a fee in an amount necessary to cover the costs incurred in the review and approval or disapproval of the permit application, including all hearings, copying, mailings, publications, labor, overhead, consultants, experts and attorneys that the City deems necessary and shall notify the applicant in writing of the amount of the fee. Until the fee is paid to the City Manager, the application for the floodplain development permit shall not be further processed.

(ii) Determine if the application is complete. If the application is not complete, the City Manager shall in writing notify the applicant of the deficiency of the application. Until the information is submitted to the City Manager, the application for the floodplain development permit shall not be further processed.

(iii) The amount of the fee may be increased at any time if it is determined by the City Manager that the fee is not sufficient to cover all costs associated with the floodplain development permit.

(2) Review of Application. Once the application is complete and the fee is paid, the City Manager shall within thirty (30) days either:

(i) Approve the application and grant a permit if the proposed development complies with these regulations. The City Manager may attach such permit conditions as deemed necessary in furthering the purpose of the ASFH.

(ii) Deny the application if the proposed development does not comply with the regulations of the ASFH. The decision of the City Manager shall state, in writing, reasons for the decision and shall be given to the applicant.

(3) Permit Issued Only for Allowed Use. A floodplain development permit shall not be issued unless the proposed development complies with the standards and uses allowed in the ASFH and will not otherwise violate the purposes and intent of these floodplain regulations.

(4) Determination of Flood Hazard. In reviewing an application for a floodplain development permit, the City Manager shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.

(5) Other Permits and Approvals. The floodplain development permit applicant must

obtain all other necessary permits and approvals from which approval is required by local, federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. §1334.

(6) Issuance of Permit. If the City Manager determines that the application for a floodplain development permit meets the purposes and requirements of this Article, the floodplain development permit shall be issued, with the attachments of any conditions as deemed necessary to further the purposes of this Article. Such conditions may include, but are not limited to, specification for modification of waste disposal methods and facilities, landscaping, periods of operation, operational controls, sureties, deed restriction and adequate flood-proofing.

(c) Building Permit. The City Manager shall not issue any permit for, nor allow any use involving, any building, structure or other development within the ASFH unless a floodplain development permit has been granted for the development.

(d) Permit Expiration. A floodplain development permit shall expire two (2) years after the date of issuance if the permittee has not commenced construction under the permit.

(e) Waiver of Submission Requirements. The City Manager may waive any part but not all of the submission requirements imposed by the ASFH upon petition by the applicant that a portion of the submission requirements is inapplicable to the development for which the permit is sought and/or full compliance with the submission requirements would be unreasonable for the applicant and that the proposed development will have an insubstantial impact on the surrounding area. Such a waiver may be granted, after due consideration by the City Manager, upon written determination that the information to be submitted is sufficient for the City Manager to arrive at a permit decision in full compliance with the law and these floodplain regulations and that the proposed development will have an insubstantial impact on the surrounding area.

(f) Notice to Purchaser or Lessee. In addition to the provisions set forth in the administrative regulations, in the event that a permit issued under these floodplain regulations allows a structure to be located in a floodplain, the terms of the permit shall require notice that the structure is being located in a floodplain and must be disclosed to the purchaser or lessee in the purchase contract, deed or lease.

(g) Permit Conditions. The City Manager may attach such conditions to granting of a permit for proposed development in the floodway, the flood fringe or a flood-prone area, as he or she deems necessary in furthering the purposes of these floodplain regulations. Such conditions may include, but not be limited to, specifications for modifying waste disposal and water supply facilities, landscaping, deed restrictions or adequate flood proofing.

9-32-110 Variance.

(a) A variance from the requirements in this Article may be obtained. Applicants must follow the procedures outlined in §9-16-100, *Variance*.

(b) Review Criteria:

(1) In passing upon a variance application, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article, and the following:

- (i)** The danger that materials may be swept into other lands to the injury of others;
- (ii)** The danger to life and property due to flooding or erosion damage;
- (iii)** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv)** The importance of the services provided by the proposed facility to the community;
- (v)** The necessity to the facility of a waterfront location, where applicable;
- (vi)** The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii)** The compatibility of the proposed use with the existing and anticipated development;
- (viii)** The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
- (ix)** The safety of access to the property at times of flood for ordinary and emergency vehicles;
- (x)** The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (xi)** The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(2) Conditions for Variances.

(i) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided that items (i) through (xi) in Subsection (b)(1) above have been fully considered. As the lot size increases beyond one-half ($\frac{1}{2}$) acre, the technical justifications required for issuing the variance increase.

(ii) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.

(iii) Variances shall not be issued within any designated floodway if any increase in flood levels would result.

(iv) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(v) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the BFE and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation

(b) Upon consideration of the factors of §9-32-110(b)(1) above and the purposes of this Article, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.

(c) The City Manager, through his or her department, shall maintain the records of all appeal actions, including technical information, and report any variances to the FEMA.

Article 36

Annexation and Disconnection Procedures

9-36-010 Purpose.²¹⁶

(a) The City of Creede acknowledges the applicability of the Colorado Municipal Annexation Act of 1965, C.R.S. §31-12-101 et seq., for annexations to the City of Creede except to the extent otherwise permitted by law.

(b) This Article is intended to implement and supplement the Colorado Municipal Annexation Act of 1965 and shall be liberally construed for the following purposes:

(1) To encourage a natural and well-ordered development of the City;

(2) To distribute fairly and equitably the costs of municipal services among those persons who benefit from such services;

(3) To extend municipal government, services, and facilities to eligible areas which form a part of the whole community;

(4) To simplify governmental structure in urban areas;

(5) To provide an orderly system for extending municipal regulations to newly annexed areas;

²¹⁶ This language provides better clarification and detail regarding the purpose, in comparison to that found in CLUC Article 9.

(6) To reduce friction among contiguous or neighboring municipalities;

(7) To increase the ability of municipalities in urban areas to provide their citizens with the services they require; and

(8) To exercise to the greatest extent possible the City's powers conferred to the City as a statutory town under Title 31 Colorado Revised Statutes.

9-36-020 Definitions.

The meaning of words and phrases contained in this Article shall have the meanings ascribed to them by §31-12-103, C.R.S., unless the context clearly indicates a different meaning.

9-36-030 Three Mile Plan.

(a) Except as otherwise provided in this section, no annexation may take place that would have the effect of extending the City's municipal boundary more than three miles in any direction from any point of such municipal boundary in any one year. Within the three-mile area, the contiguity required by §31-12-104(1)(a), C.R.S., may be achieved by annexing a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway. Such three-mile limit may be exceeded if such limit would have the effect of dividing a parcel of property held in identical ownership if at least fifty percent of the property is within the three-mile limit. In such event, the entire property held in identical ownership may be annexed in any one year without regard to such mileage limitation.

(b) The City of Creede Comprehensive Plan shall serve as and shall constitute the "plan in place" referenced in §31-12-105(1)(e), C.R.S., unless a different plan, supplement, or revision is expressly adopted to serve as a plan in place. The plan in place may also be commonly referred to as the "Three-Mile Plan" and such plan shall be deemed automatically updated annually on January 1 of each year without further action by the City unless a change or modification is necessary and is adopted by resolution or ordinance by the Board of Trustees. The absence of a specific reference in such plan to a particular parcel of land proposed for annexation shall not be interpreted as a statement of intent to not annex such parcel of land; it is the plan and intent of the Board of Trustees to evaluate and to consider for potential annexation all property within three miles of the City's then existing municipal boundaries upon submission of a petition or as otherwise permitted by this Article and the Colorado Municipal Annexation Act of 1965. The absence in the plan of a specific reference to any character or extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the City and the proposed land uses for the area shall not be interpreted as a failure to comply with §31-12-105(1)(e), C.R.S., but shall be interpreted as a plan by the City to determine the appropriate character or extent of land uses and services through the City's applicable processes of annexation, planning, and development approvals on a case by case basis. The plan in place may also be amended or modified to more specifically identify the character or extent of land uses and services at any time or contemporaneously with any annexation.

9-36-040 Fees and Charges for Annexation Petitions.²¹⁷

(a) The City Manager may administratively establish and modify as needed an application fee for the processing of an annexation petition. In setting such fee, the City Manager shall consider the costs incurred by the City in reviewing and processing the annexation and obtaining necessary data, studies, and reports. No petition shall be processed unless accompanied by the applicable application fee and such petition shall be deemed incomplete until such fee is paid in full.

(b) The City may require as a condition of annexation the payment of additional amounts by the petitioners or others deemed necessary, beneficial, or advantageous by the City, including but not limited to payments to offset anticipated costs or expenses of providing services to the annexed property or residents of the annexed area, mitigate anticipated impacts to the annexed area or to surrounding lands, to upgrade infrastructure within the City, or to defray any costs or expenses of the City.

(c) The City may waive all or any portion of a fee or charge for annexation where the Board of Trustees administratively finds in its sole discretion that the proposed annexation will provide substantial benefits or advance important economic or other goals and objectives of the City.

9-36-050 Annexed Property Subject to All Laws.

Unless otherwise provided by an agreement governing the annexation of property into the City of Creede, the ordinances, resolutions, rules, and regulations of the City of Creede shall remain fully valid and effective as to any property annexed into the City of Creede.

9-36-060 Annexation Agreements.

(a) The City is authorized to enter into one or more agreements with property owners memorializing understandings of the landowner and the City and/or imposing terms, conditions, obligations, and rights upon annexation mutually acceptable to the parties. An annexation agreement is not required as a condition of all annexations. Nothing contained in such agreement shall supersede any provision of any ordinance, resolution, rule, or regulation of the City of Creede unless:

(1) such agreement explicitly identifies a provision of an ordinance, resolution, rule, or regulation of the City of Creede that is intended to be superseded by the agreement; or

(2) a provision of such agreement directly and irreconcilably conflicts with obligations and rights of the parties otherwise made applicable by a provision of an ordinance, resolution, rule, or regulation of the City of Creede.

(b) Annexation agreements shall be approved by ordinance.

²¹⁷ CLUC Article 9 contained no information about fees other than reimbursement. This provides the City manager with the ability to revise fees as needed.

9-36-070 Non-Resident Petitions for Annexation Election Authorized.²¹⁸

(a) The City of Creede hereby supplements the Colorado Municipal Annexation Act of 1965 by the addition of another method or means to petition for an annexation election in addition to petitions signed by registered electors as permitted by C.R.S. §31-12-107(2). Such additional method or means shall authorize and entitle owners of non-residential property to petition for an annexation election which petition shall be processed and considered in the same manner and under the same procedures as resident landowner petitions filed pursuant to C.R.S. §31-12-107(2), except that any requirement that petitions be signed by resident landowners or eligible electors shall not apply to such petition.

(b) A non-resident petition for annexation election shall meet or satisfy the following requirements:

(1) The petition shall propose annexation of property zoned and used for non-residential use only;

(2) The petition shall propose annexation of not less than three (3) subdivided or legally recognized and contiguous lots or parcels *not* held in identical ownership;

(3) The petition shall not propose for annexation property eligible for annexation without petition as an enclave pursuant to §31-12-106, C.R.S.;

(4) The petition shall be signed by the owners of record of more than one-half of the total number of lots or parcels proposing annexation regardless of the percentages of land area owned by such owners;

(5) The petition shall be filed with the office of the City Clerk of the City of Creede.

(6) The petition shall comply with the provisions of paragraph (c) of subsection (1) of §31-12-107, C.R.S.; except that:

(i) Rather than an allegation that any certain percentage of total land area is owned by the petitioners, the petition shall contain an allegation that the signers of the petition are the record owners of land in the area proposed to be annexed; and

(ii) The petition shall identify the lot or parcel owned by each petitioning owner and identify the other lots or parcels owned by others not parties to the petition; and

(iii) The petition shall request that the City commence proceedings for the holding of an annexation election.

9-36-080 Annexation Election Procedures.

Following a finding by the Board of Trustees that the petition filed is in substantial compliance with this Article and applicable provisions of the Colorado Municipal Annexation

²¹⁸ CLUC Article 4 did not contain this provision.

Act of 1965, the Board of Trustees shall cause to be conducted an election in accordance with §31-12-112, C.R.S.

9-36-090 Disconnection Purpose and Applicability.²¹⁹

This Article is also intended to provide for policies and procedures for the disconnection of lands from the municipal boundaries of the City of Creede. This Article shall be liberally construed for the following purposes:

- (a) To create logical, uniform, and identifiable boundaries for the City;
- (b) To best organize and manage lands within the City to ensure efficient and cost effective delivery of municipal services;
- (c) To reasonably demarcate the locations at which the City's responsibility for the delivery of municipal services begin and end as a means of reducing confusion among the citizens and to provide for reasonable City identity; and
- (d) To distribute fairly and equitably the costs of City services among those persons who most directly use City resources and most directly benefit from such services.

9-36-100 Method of Petition for Disconnection.

Proceedings for disconnection may be initiated only by petition of the Board of Trustees. Disconnection is a legislative act and the Board of Trustees shall exercise its sole discretion in the disconnection of land.

9-36-110 Petition for Disconnection by Board of Trustees.

A petition for disconnection shall meet or satisfy the following requirements:

- (a) The petition shall propose disconnection of land contiguous to the border or boundaries of the City of Creede; and
- (b) Where land proposed for disconnection is not owned or controlled by the City of Creede, the written consent of the owner of record shall be required as a condition of disconnection; and
- (c) The petition shall be signed by a majority of the members of the Board of Trustees and shall state the reason or reasons justifying the proposed disconnection.

9-36-120 Processing of Disconnection Petitions.

(a) Following submission of a completed petition from the Board of Trustees, the City Clerk shall cause to be published a notice of a public meeting at which the Board of Trustees shall consider such petition and determine whether such disconnection should be approved. No other notice shall be required. Notice shall be published at least ten (10) days prior to the public

²¹⁹ Disconnection was not addressed in the CLUC.

meeting. Persons interested in such disconnection may submit written comments and such comments shall be provided to the Board of Trustees if received by the City at or prior to the meeting. The Board of Trustees may, at its discretion, accept comments at the public meeting from interested parties.

(b) Approval of any disconnection shall be made by ordinance. No disconnection shall be approved by emergency ordinance.

(c) Following approval of an ordinance disconnecting land from the City, the City Clerk shall cause to be mailed or otherwise delivered the following:

(1) Two (2) certified copies of the disconnection ordinance to the county clerk and recorder of the county in which the disconnected property lies, together with instruction to the county clerk to file one copy with the Colorado division of local government in the department of local affairs pursuant to §24-32-109, C.R.S.; and

(2) A copy of the ordinance to the county assessor of the county in which the disconnected property lies.

(3) A copy of the ordinance to the county surveyor of the county in which the disconnected property lies.

(4) A certified copy of the ordinance to the Colorado division of local government in the department of local affairs.

Mailing of the disconnection ordinance shall not be a pre-condition to the effective date of the ordinance or the disconnection of the property described in the disconnection ordinance.

9-36-130 Standards for Approval of Disconnection.

Approval of disconnection shall require a finding by the Board of Trustees that:

(a) The petition for disconnection meets the requirements of this Article; and

(b) The disconnection is in the best interests of the Board of Trustees.

9-36-140 Lands Subject to Tax for Prior Indebtedness.

Land disconnected in accordance with this Article shall not be exempt from the payment of any taxes lawfully assessed against it for the purpose of paying any indebtedness lawfully contracted by the Board of Trustees while such land was within the limits of the City and which remains unpaid and for the payment of which said land could be lawfully taxed.