

ARTICLE I

General Provisions

Sec. 16A-1-10. Title and short title.

This Code shall be known as "The Town of Snowmass Village Land Use and Development Code." It may also be referred to as "The Land Use Code" or "The Development Code." (Ord. 4-1998 §1)

Sec. 16A-1-20. Authority.

It is the intention of the Town Council in adopting this Land Use and Development Code to fully exercise all relevant powers conferred on it by the laws of the State, including, but not limited to, the following:

(1) Home rule municipality. All of the powers reserved to the Town as a home rule municipality under Article XX of the Colorado Constitution.

(2) State enabling legislation. All of the powers granted to the Town by:

a. Title 29, Article 20, C.R.S. The provisions of the Local Government Land Use Control Enabling Act of 1974 (Title 29, Article 20, C.R.S.).

b. Title 31, Article 12, C.R.S. The provisions of the Colorado Municipal Annexation Act of 1965 (Title 31, Article 12, C.R.S.).

c. Articles 65, 67 and 68 of Title 24, C.R.S. Articles 65, 67 and 68 of Title 24, C.R.S., which, respectively, provide for the review of areas and activities of state interest, authorize the planned unit development approach to land development and provide for the establishment of vested property rights.

d. Article 23 of Title 31, C.R.S. Article 23 of Title 31, C.R.S., which enables municipalities to adopt zoning regulations and subdivision requirements.

e. All other powers authorized. All other powers authorized by statute or by common law for the regulation of land uses, land development and subdivision, including, but not limited to, the power to abate nuisances. (Ord. 4-1998 §1)

Sec. 16A-1-30. Applicability.

(a) General Applicability. This Land Use and Development Code shall apply to all units and agencies of the federal, state, county and municipal government, and to special districts, to the extent permitted by state and federal law.

The provisions of this Land Use and Development Code shall apply to any and all development of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in this Land Use and Development Code. No development shall be undertaken without prior and proper approval or authorization pursuant to the terms of this Land Use and Development Code. All developments shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Land Use and Development Code.

This Land Use and Development Code establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications for overall development plans, project development plans and final plans will be reviewed for compliance with the applicable standards contained within this Land Use and Development Code. Building permit applications will also be reviewed for compliance with the applicable standards contained within this Land Use and Development Code, and will be further reviewed for compliance with the approved final plan in which they are located.

(b) Compliance Required. Except as herein-after provided, no building, structure or land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with the regulations herein specified for the district in which it is located, nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein or to an amount greater than the maximum requirements set forth herein.

(c) Exceptions.

(1) Existing structures and uses. Structures and uses existing on the effective date of this Land Use and Development Code (September 2, 1998) that do not comply with any of its applicable provisions shall be permitted to continue, subject to the provisions of Section 16A-3-220, Nonconformities.

(2) Building permit applications. Any building permit application submitted prior to the effective date of this Land Use and Development Code (September 2, 1998) may be processed according to the provisions of the Municipal Code in effect at the time the application was submitted, so long as the building permit remains valid, pursuant to Chapter 18 of the Municipal Code.

(3) Developments having vested rights. Any development that shall have established vested rights, pursuant to Section 16-29, Vested Property Rights, of the Municipal Code in effect prior to the effective date of this Land Use and Development Code (September 2, 1998), shall remain so vested for the period for which the vested rights were established.

(4) Voluntary compliance. Notwithstanding the provisions of this Section, any applicant may request to have a development application or a building permit application

reviewed pursuant to the procedures and standards of this Land Use and Development Code. (Ord. 4-1998 §1; Ord. 11-1999 §3)

Sec. 16A-1-40. Purposes.

The purposes of this Land Use and Development Code are as follows:

(1) Establish efficient development review process. To establish a clear, consistent, predictable and efficient land development review process for the review of all proposed development of land within the Town.

(2) Provide for participation. To ensure appropriate opportunities for participation and involvement in the development review process by all interested and affected parties.

(3) Protect quality of life. To manage growth in a way that protects and enhances the quality of life in the Town and its environs so as to promote the general health, safety and welfare of the present and future residents of, and visitors to, the Town.

(4) Provide for orderly development of Town. To provide for the efficient, orderly and safe development of the Town, so that the range of uses necessary to sustain residents of the community and to maintain a healthy resort economy can be accommodated in a compatible manner, with minimal impacts on the natural and visual environments of the Town and the Brush Creek Valley and compatible with the best of the Town's existing aesthetic and environmental character.

(5) Implement Comprehensive Plan. To implement the principles, policies and major elements (Land Use, Transportation, Housing, Economic, Environmental, Wildlife and Community Facilities Policies and Strategic Plan of Action) of the Town of Snowmass Village Comprehensive Plan. (Ord. 4-1998 §1; Ord. 11-1999 §3)

Sec. 16A-1-50. Comprehensive Plan.

(a) Designation of Official Plan. Whenever in this Development Code a finding of consistency with the Comprehensive Plan is required, or reference is made to the Comprehensive Plan, the Town's Comprehensive Plan (hereinafter the Comprehensive Plan) adopted by the Town Council on November 16, 1998 (Ordinance 7, Series of 1998), as such plan may from time to time be amended, shall constitute the official Comprehensive Plan for the purpose of such finding or reference.

(b) Purpose and Effect of Comprehensive Plan. The Comprehensive Plan is intended to be a comprehensive statement of the Town's current growth and development and overall land use philosophy which, by its very nature, is a dynamic statement that can and should be updated and amended over the years in response to changing community needs. Section 1.7 of the Charter requires the Town Council to adopt and maintain a comprehensive plan of the Town and provides further that no subdivision of land, zoning change or land development significantly affecting the Town shall be approved by the County without considering the effect of such approval on the Comprehensive Plan as amended. Specific sections of this Development Code require a finding, at certain stages in the review of a development, subdivision or rezoning review, of consistency with the Comprehensive Plan. For the purpose of determining consistency, the following standards shall apply:

(1) Consistency. An action is consistent if it is generally compatible with the principles and policies stated in the Comprehensive Plan and if the action is proposed in a location not precluded by the Land Use Plan, although specific aspects or details of the action may not have been contemplated. Exact or precise adherence to the Comprehensive Plan is not required in order to find consistency. If an action is determined to be consistent

with the Comprehensive Plan, it means that approval of the action can be considered, not that the action must be approved.

(2) Interpretation. Since the Comprehensive Plan is, by definition, a general statement of the Town's current growth and development and overall land use philosophy, it is anticipated and assumed that circumstances will change to the extent that such philosophy will, from time to time, need to be revised and that the provisions of the Comprehensive Plan will be subject to interpretation by the Town Council.

(3) Inconsistency. If a determination of inconsistency is made at any stage of development review, the application shall be either denied, or in the alternative, with the consent of the applicant, the time for action on the application may be suspended for a specific period of time to be agreed upon by the Town and the applicant in order to consider an amendment to the Comprehensive Plan.

(c) Periodic Review. The Planning Commission shall conduct a review of the Comprehensive Plan at such time as the Planning Commission may determine, but not later than twenty-four (24) months following the most recent review. Following such review, the Planning Commission shall submit a written "State of the Comprehensive Plan" report to the Town Council including, among other things, recommendations for amendments to the Comprehensive Plan. The Planning Commission shall submit its report to the Town Council at a joint meeting with the Town Council. The Town Council shall conduct a public hearing on the "State of the Comprehensive Plan" within forty-five (45) days after the Planning Commission's presentation. A notice of the public hearing shall be published in a newspaper of general circulation in the Town at least thirty (30) days prior to the hearing.

(d) Amendment to Comprehensive Plan. Following the periodic review, the Planning Commission and the Town Council may conduct such additional hearings and investigation as they deem appropriate and may amend the provisions of the Comprehensive Plan. An amendment to the Comprehensive Plan shall be accomplished by ordinance. The Planning Commission shall submit its comments and recommendations in writing to the Town Council prior to first reading of the ordinance. Prior to second reading and final adoption of such ordinance, the Town Council shall hold a public hearing. Public notice of the hearing shall be given by publication of notice, pursuant to Section 16A-5-60(b), Manner and Timing of Notice. (Ord. 4-1998 §1; Ord. 23-1999 §1)

Sec. 16A-1-55. Pre-sketch plan.

(a) Purpose. The Town Council is authorized to conduct sessions to provide an opportunity for informal discussion among developers, public officials and the public on various issues relating to the use of land in the Town and the relationship of its use to the overall operation and economic stability of the Town.

(1) Allow discussion. The sessions are for the purpose of discussion and education and are not intended to result in any formal action or decision making. Under no circumstances can the Planning Commission or Town Council be estopped to deny approval of any development proposals, or other matter for which approval is required pursuant to the provisions of this Chapter, because of the participation of members of the Planning Commission and/or Town Council in such sessions.

(b) Pre-Sketch Plan Review Procedure. The pre-sketch plan process is an optional step prior to the submission of a sketch plan. The process is a joint planning effort with the applicant and the Town Council and Planning Commission.

The Town Council and the Planning Commission shall hold a joint meeting on the pre-sketch plan. The Town Council and the Planning Commission's participation in the process is informal and nonbinding.

(1) Steps in the pre-sketch plan process. An applicant may utilize the pre-sketch plan process more than once for a single site proposal. No prioritizing or entitlements for the proposed project would occur as a result of going through this process.

(2) Submission of an application. The applicant shall submit a pre-sketch plan and narrative as an application to the Planning Department at least two (2) weeks prior to a scheduled Town Council meeting. Applications will be scheduled before the Town Council subject to available time during a work session.

a. The applicant shall include in the application the name of all property owners.

b. The application shall include a plan displaying the existing improvements, as well as the pre-sketch development proposal, for the entire property.

c. The applicant shall submit a narrative describing the proposed uses and activities.

d. If the applicant is not the owner of the subject property, then the applicant shall include either evidence that the property is under contract or a letter containing the written consent of the landowner to the submission of the pre-sketch plan application.

e. No public notification is required of the applicant; however, the Town will notice the item in a newspaper of general circulation in the area.

(3) Public meeting. A complete copy of the application shall be forwarded to the Town Council and the Planning Commission. The application shall be scheduled for a public meeting to present the initial proposal to the Town Council and the Planning Commission. The Town Council shall schedule the discussion during a work session at their discretion.

(4) Town Council and Planning Commission comments. The Town Council and the Planning Commission shall comment on the proposal and such comments shall be reflected in the minutes of the public meeting.

(5) Modified proposals submitted in response to Town comments. Resubmission of proposals shall be scheduled at the next available Town Council work session or after two (2) weeks following the Planning Department's receipt of a revised application, at the discretion of the Town Council. (Ord. 9-2000 §1; Ord. 16-2010 §1)

Sec. 16A-1-60. Word usage and construction of language.

This Section establishes rules that shall be observed and applied when interpreting the language of this Development Code, unless the context clearly requires otherwise.

(1) Conflicting provisions.

a. More versus less restrictive provisions. Where there exists a conflict or overlap between any provisions within this Land Use and Development Code, or between this Development Code and any other regulation adopted by the Town, the provision that is the more restrictive or particular shall prevail over that which is less restrictive or is general.

b. Text versus table, illustration, graphic depiction or caption. If a conflict or overlap arises between the provisions of the text of this Land Use and Development

Code and any table, illustration, graphic depiction or the caption of any section or subsection, the provisions of the text shall prevail.

c. Private agreements. It is not the intent of this Land Use and Development Code to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this Development Code impose a greater restriction than imposed by a private agreement, the provisions of the Development Code shall control; if the provisions of a private agreement impose the greater restriction, the provisions of the private agreement shall control. The Town shall not be responsible for monitoring or enforcing private agreements.

(2) Provisions are minimum requirements. The provisions of this Land Use and Development Code shall be regarded as the minimum requirements necessary for the protection of the public health, safety, general welfare and the environment. This Development Code shall be liberally construed to further its stated purposes.

(3) Exercise of authority. Whenever a provision appears requiring the Planning Director, or the head of any other Town department, to perform an act or duty, it shall be construed to authorize the Planning Director, or the head of said other Town department, to designate, delegate and authorize subordinates to perform the duty or act, unless the terms of the provision or section specify otherwise.

(4) Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday observed by the Town, that day shall be excluded. Time shall be based on calendar days, not working days, unless otherwise specified.

a. *Day*. The end of a *day* shall be at 5:00 p.m., local time.

b. *Week*. The word *week* shall mean seven (7) days.

c. *Month*. The word *month* shall mean thirty (30) days.

d. *Year*. The word *year* shall mean three hundred sixty-five (365) days.

(5) Fractions. Whenever a fraction is generated in the computation of standards, the fraction shall be rounded to the most restrictive whole number. For example, in the computation of parking spaces, the number of required spaces would be rounded up to the next highest number; and, in the determination of floor area ratio allowance, the square footage of allowable floor area would be rounded down to the next lowest whole number.

(6) Word usage.

a. Tense. Words used in the past or present tense include the future, as well as the past or present.

b. Singular/plural. A word importing the singular number may extend and be applied to several persons and things as well as to one (1) person or thing. The use of the plural number shall include any single person or thing, unless the context clearly indicates the contrary.

c. Shall/will/must/may/should. *Shall*, *will* and *must* all mean mandatory. *May* means permissive. *Should* means preferred.

d. Masculine/feminine. The masculine gender shall include the feminine, and the feminine gender shall include the masculine.

e. Conjunctions. Unless the context clearly suggests otherwise, conjunctions shall be interpreted as follows:

And means that all connected items, conditions, provisions or events apply; and

Or means that one (1) or more of the connected items, conditions, provisions or events apply.

f. Common/technical terms. Words and phrases shall be construed according to the common and approved usage of the term, but technical words and phrases that have acquired a particular meaning shall be understood according to such meaning.

g. 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, not exhaustive lists of all possibilities.

(7) Abbreviations. The following abbreviations used in this Land Use and Development Code have the following meanings:

a. *CC* means Community Commercial zone district.

b. *CDOW* means Colorado Division of Wildlife.

c. *CGS* means Colorado Geologic Survey.

d. *CON* means Conservation zone district.

e. *C.R.S.* means Colorado Revised Statutes, including all amendments thereto.

f. *CSFS* means Colorado State Forest Service.

- g. *DU* means Duplex Residential zone district.
- h. *EST* means Estate Residential zone district.
- i. *FAR* means floor area ratio.
- j. *max.* means maximum.
- k. *min.* means minimum.
- l. *MF* means Multi-Family Residential zone district.
- m. *MU* means Mixed Use zone district.
- n. *N/A* or *Not Applic.* means not applicable.
- o. *No req.* means no requirement.
- p. *OS* means Open Space zone district.
- q. *PUB* means Public Use zone district.
- r. *PUD* means Planned Unit Development.
- s. *RFTA* means Roaring Fork Transit Agency.
- t. *SF* means Single-Family Residential zone district.
- u. *SPA* means Specially Planned Area.
- v. *sq. ft.* means square feet. (Ord. 4-1998 §1; Ord. 11-1999 §3)

Sec. 16A-1-70. Interpretations.

(a) Authority. The Planning Director shall be authorized to interpret the provisions of the Land Use and Development Code and to interpret the boundaries of the Official Zone District Map.

(b) Initiation. A request for an interpretation may be made by any person by submitting a writ-

ten request to the Planning Director. The written request shall specify the section of the Land Use and Development Code or the portion of the Official Zone District Map for which an interpretation is requested. The written request shall also state the person's understanding of the meaning of the section or map boundary.

(c) Rendering of Interpretation. Within fifteen (15) days of receipt of a complete application for an interpretation, the Planning Director shall review and evaluate the application, consult with the Town Attorney and other staff as necessary and render a written interpretation. When rendering the interpretation, the Planning Director shall consider the Town's legislative intent in adopting the provision, as expressed in this Development Code and the Town's official records.

(d) Official Record. The Planning Director shall keep an official written record of all interpretations that have been rendered. The record shall be available for public inspection, upon reasonable request, during normal business hours.

(e) Appeals. Interpretations or final decisions rendered by the Planning Director may be appealed to the Town Council. The appeal shall be submitted and considered pursuant to the provisions of Section 16A-5-80, Appeals. (Ord. 4-1998 §1; Ord. 11-1999 §3)

Sec. 16A-1-80. Severability.

If any article, division, section, subsection, paragraph, clause, provision or portion of this Development Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Development Code shall not be affected. If any application of this Development Code to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment. (Ord. 4-1998 §1)

