

- b. A list of the names and addresses of the owners of the surface estate of all properties within one hundred (100) feet of any part of the area proposed for zoning, disregarding intervening public streets and alleys.
- c. A statement that the petitioner has performed the records searches and other investigations necessary to comply with C.R.S. § 24-65.5-103 regarding notice to mineral estate owners and that the petitioner is then fully prepared to give notice of the public hearing on the petition immediately upon scheduling thereof. The petitioner shall attach a complete mailing list of the persons entitled to receive such notice to the statement required by this Paragraph.
- d. Application fee. Such petition shall also be accompanied by an application fee in an amount to be determined from time to time by resolution of the Board of Trustees and set forth in such fee resolution to defray the costs of processing and determining the petition.

(c) Board of Trustees Review.

(1) Public hearing and notice. The Town Clerk shall schedule a public hearing on the proposed zoning, allowing sufficient time to permit notification to mineral estate owners as required by C.R.S. § 24-65.5-103.

(2) Notice of hearing. The petitioner shall cause written notice of the date, time and place of the hearing, in the form prepared by the Town Clerk, to be given to all interested parties in the following manner:

- a. Publication. Notice shall be published by the petitioner once in a newspaper of general circulation within the Town no later than fifteen (15) days prior to the date of the hearing.
- b. Mailed notice to surface estate owners. Notice shall be mailed by the petitioner by first-class mail, postage prepaid, to each surface estate owner of property located within one hundred (100) feet of any part of the property proposed for zoning, disregarding intervening public streets and alleys, not less than fifteen (15) days before the scheduled date of the hearing.
- c. Mailed notice to mineral estate owners. Notice shall be mailed by the petitioner to the mineral estate owners entitled to receive the same, as provided by C.R.S. § 24-65.5-103.
- d. Posting. Notice shall be posted on the property proposed for zoning no later than fifteen (15) days before the hearing. The sign shall be prepared by the Town and posted by the petitioner on a street frontage so that it is weather-protected and legible from a distance of thirty (30) feet.

- e. Proof of notice. Not later than 12:00 p.m. on the Friday immediately preceding the date scheduled for the public hearing, the petitioner shall file with the Town Clerk the certificate of notice to mineral estate owners required by C.R.S. § 24-65.5-103, and affidavits demonstrating timely publication, mailing to surface estate owners and posting of notice in accordance with the foregoing requirements.

(3) Approval criteria. In determining the zoning, the Board of Trustees shall consider the following factors:

- a. Whether the zoning is consistent with the intent and policies of the Comprehensive Plan.
- b. Whether there have been material changes in the character or conditions of the neighborhood or in the Town generally, such that the requested zoning would be in the public interest.
- c. Whether the proposed zoning will tend to preserve and promote property values in the neighborhood.
- d. Whether development of the property in accordance with the proposed zoning will be compatible with the surrounding zoning and land uses.
- e. Whether the property can be reasonably used and developed as presently zoned.
- f. Whether the proposed zoning will adversely affect traffic circulation.
- g. Whether the proposed zoning will adversely affect adjoining properties due to proposed building height or bulk, lack of screening or intrusions on privacy.
- h. Whether the intensity of the proposed zoning can be accommodated, given the characteristics of the soils, slopes and other potential hazards in a manner intended to protect the health, safety and welfare of potential users.
- i. Whether the property was properly zoned when its current zoning was established.
- j. Whether denial of the proposed zoning would preclude any reasonable economic use of the property.
- k. Whether any other zoning classification would afford any reasonable use of the property.

(4) Resubmittal after denial. If a property owner petition is denied, a period of one (1) year must elapse from the date of such denial before another property owner petition to establish the same or substantially similar zoning for the same property may be submitted.

Sec. 5-70. Variances.

(a) Variances.

(1) The Board of Adjustment may authorize variances from the requirements of this Zoning Ordinance subject to terms and conditions fixed by the Board of Adjustment. A variance from the terms of this Zoning Ordinance shall be considered an extraordinary remedy and the conditions set forth below are intended as limitations on the Board of Adjustment's power to authorize variances.

(2) The endorsement of the variance by adjacent landowners does not relieve the applicant of the burden of meeting all of the requirements set forth in this Section. No variance shall be authorized unless the Board of Adjustment finds all of the following:

- a. The applicant would suffer hardship as a result of the application of this Zoning Ordinance, which hardship is not generally applicable to other lands or structures in the same zone district because of the unusual configuration of the applicant's property boundaries, because of unique circumstances related to the location of existing structures thereon or because of the existence of exceptional topographic conditions thereon.
- b. There are no design alternatives or alternative locations for structures that would obviate the need for the requested variance or would reduce the amount of the variance required.
- c. The enforcement of the provisions of this Zoning Ordinance deprives the applicant of rights enjoyed by a majority of the other properties in the same zone district under the terms of this Zoning Ordinance.
- d. The need for the variance does not result from the intentional, reckless or negligent actions of the applicant or his agent, a violation of any provision of this Ordinance or a previously granted variance.
- e. Reasonable protections are afforded adjacent properties.
- f. The requested variance will not cause an undesirable change in the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding property.
- g. The variance is the minimum variance that will make possible the reasonable use of the land or structure.
- h. The granting of the variance will:
 1. Observe the spirit of this Zoning Ordinance;
 2. Secure the public safety and welfare;

3. Ensure that substantial justice is done; and
 4. Observe common sense.
- i. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance and the Comprehensive Plan and particularly the standards set forth in this Section. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation and punishable under Section 1-80 of this Zoning Ordinance.
 - j. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not authorized in the district involved or any use expressly or by implication prohibited by the terms of this Zoning Ordinance in said district. In addition, neither a nonconforming use of neighboring lands or structures in the same district nor a permitted or nonconforming use of lands or structures in other districts shall be considered grounds for the issuance of a variance.
 - k. Every variance shall run with the land.
 - l. The granting of any variance shall not constitute or be construed as a precedent, ground or cause for any other variance.
 - m. A variance shall be effective for a period of one (1) year from the date it is granted by the Board of Adjustment. Failure to obtain a building permit for the structure for which the variance was granted prior to the expiration of said period will cause lapse of the variance. Requests for an extension of said period shall be presented to the Board of Trustees in writing at least thirty (30) days prior to the scheduled expiration date. The Board of Trustees may authorize up to one (1) additional year if cause exists for the extension and there would be no harm to the adjacent property owners or the community in general arising from the extension.

(b) Application Requirements and Setting Hearings. No matter shall be set for a hearing before the Board of Adjustment until the applicant:

(1) Has been afforded a preapplication hearing with the Town Administrator, if so requested by the applicant.

(2) Submits five (5) copies or as directed by the Town Clerk, of an application on the Town-provided form to the Town Clerk.

(3) Pays the application fee in an amount determined from time to time by resolution of the Board of Trustees.

(4) Meets in at least one (1) preapplication conference with the Town Administrator, which conference may result in amendments or corrections to the application.

(5) Submits within thirty (30) days of the final preapplication conference twelve (12) copies of the application or such number of copies as directed by the Town Clerk or revised application as applicable, addressing the Town Administrator's comments made at the preapplication conference.

(6) The official application form must contain the following:

- a. Applicant's name, address, telephone number and facsimile number.
- b. Address of the property.
- c. Legal description of the property.
- d. Citation to or copy of the Section of this Zoning Ordinance from which the variance is being requested or a copy of the Building Official's order, requirement, decision or determination from which an appeal is taken.
- e. Reasons for filing an appeal or request for variance. Requests for variances must describe the evidence supporting each of the conditions required in order for a variance to be granted, as set forth above.
- f. A list of the names and addresses of the owners of all properties within one hundred (100) feet of any part of the affected property, disregarding intervening public streets and alleys.
- g. Any other information pertinent to the application, which addresses issues raised during the review process or which is deemed necessary by the applicant.
- h. Notice of the hearing shall be given as provided in Section 5-60 of this Article for hearings on zoning matters, except that notice shall not be published.

(c) Hearing Procedures and Action.

(1) All hearings before the Board of Adjustment shall be open to the public.

(2) All evidence and testimony shall be presented publicly. The Board of Adjustment may take notice of and may consider any relevant facts within the personal knowledge of any member of the Board of Adjustment, which are publicly stated on the record.

(3) The Board of Adjustment shall cause a record of its proceedings to be prepared, which shall include all documents and physical evidence considered in each case, together with minutes of the proceedings. Minutes or a written findings and order shall state the grounds for each decision and shall indicate by name the maker and second of each motion and the vote on each motion. The record of proceedings shall be filed in the office of the Town Clerk.

(4) For requests for variances, the Board of Adjustment shall make specific findings on the factors set forth above.

(5) The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse or modify any order, requirement, decision or determination of the Town or to approve an application on any matter upon which the Board of Adjustment has been granted jurisdiction. Any decision of the Board of Adjustment shall be subject to review by a court of competent jurisdiction as provided by the Colorado Rules of Civil Procedure.

Sec. 5-80. Nonconforming uses, structures and lots.

(a) Purpose. There may exist uses, structures and lots of land which were lawful prior to the adoption or amendment of this Zoning Ordinance, but which are or have become prohibited, restricted or unlawful as a result of current provisions of this Zoning Ordinance. 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 further intended that nonconforming uses and structures shall not be enlarged upon, expanded or extended or be used as grounds for adding other structures or uses prohibited elsewhere in the zone district.

(b) Nonconforming Uses.

(1) Any use of a building, sign or land lawfully existing at the time of the enactment of this Zoning Ordinance which does not conform to the regulations of the zoning district in which it is located or with the applicable development standards of this Zoning Ordinance is a nonconforming use.

(2) The continuance, modification, expansion, improvement or abandonment of all nonconforming uses shall strictly comply with the regulations set forth below in this Section, in addition to all other applicable regulations of this Zoning Ordinance and the Town's adopted building code.

(3) The continuation of existing legal nonconforming uses may be continued in accordance with the provisions of this Section.

(4) The expansion of a use not permitted in the zoning district in which it is located shall be subject to the following conditions. Any expansion of a nonconforming use in a conforming structure requires a special review use permit from the Town Administrator and shall meet the following criteria:

- a. All expansion of the nonconforming use in a conforming structure shall be confined to and conducted wholly within the structure or portion thereof which is in existence as of the effective date of this Zoning Ordinance.
- b. The total cumulative area of all expansions of the nonconforming use occurring after the effective date of this Zoning Ordinance shall not increase the gross floor area of the nonconforming use above that in existence prior to the effective date of this Zoning Ordinance, except for existing residential structures expanded within conforming setbacks not resulting in more units than permitted by the zoning district in which such residential use is located.

- c. All new site improvements necessitated by an expansion shall comply with the development standards of the zoning district in which the use is located or governing the use whichever is more restrictive.
- (5) Expansion of a nonconforming use in a nonconforming structure shall not be permitted.
 - (6) Change of a use from nonconforming to any use permitted in the applicable zoning district is allowed in accordance with the following conditions:
 - a. The change in use shall not create any additional nonconforming situations nor increase the extent of nonconformance.
 - b. Any new improvements, other than maintenance of existing facilities, necessitated by the change in use shall conform to all applicable regulations of the zoning district in which it is located. Existing site improvements which do not conform to the applicable regulations of the zoning district are not required to be brought into compliance except as required below or in other applicable parts of this Zoning Ordinance.
 - c. Any expansion involved with the change in use shall comply with the applicable regulations of this Zoning Ordinance.
 - (7) New uses which require a special review use permit shall be allowed only if all proposed and existing improvements, other than existing nonconforming structures, comply with all applicable regulations and development standards of the zoning district in which the use is located as specified in this Zoning Ordinance.
 - (8) Any use which is not allowed in the zoning district in which it is located and which is discontinued for a period of six (6) months or more shall be deemed abandoned and such nonconforming use shall not be renewed.

(c) Nonconforming Structures.

- (1) All nonconforming structures shall comply with the provisions of the Town's adopted building code.
- (2) The continued use of any nonconforming structure shall be subject to the following conditions:
 - a. Continued use of a nonconforming structure is allowed if the structure is legally nonconforming as of the effective date of this Zoning Ordinance.
 - b. If use of a nonconforming structure is ancillary to the primary use on the site, changing the use in the nonconforming structure to any primary use allowed in the zoning district will be considered an increase in intensity of the

nonconformance and will not be permitted unless a variance is granted for the nonconforming structure.

(d) Alteration, Repairs or Replacement.

(1) All interior remodeling or any alteration wholly within a nonconforming structure is allowed if the external configuration of the structure is not changed, provided that such alteration does not create any nonconforming use or situations nor increase the intensity of the nonconformance as described above and all other applicable regulations of this Zoning Ordinance.

(2) Ordinary repairs and maintenance of a nonconforming structure shall be allowed and are encouraged.

(3) Any nonconforming structure extensively damaged by sudden destruction beyond the control of the user or by fire may be reconstructed or replaced if such destruction does not exceed fifty percent (50%) of the total structure (as determined by the Building Official). Such reconstruction shall occur on the same lot and with the same external configuration, only if all other provisions of this Zoning Ordinance are met and appropriate variances are granted regarding the external configuration of the structure. Prior to the granting of said variance, it shall be demonstrated that reconstructing the structure in accordance with the provisions of this Zoning Ordinance would deprive the owner use of the property in a manner which is equitable to other uses in the same zoning district.

(4) Alterations or remodeling of a nonconforming structure which changes the use of the nonconforming structure from an ancillary use to a use similar to the primary use shall not be permitted unless a variance is obtained for the structure.

(e) Nonconforming Site or Lot.

(1) Any use in existence at the time of the effective date of this Zoning Ordinance on a lot which does not conform with the development standards of the zoning district in which it is located shall be allowed to be continued, provided that the use is not discontinued for a period of six (6) months or more, in which case the use shall be deemed abandoned and such use shall not be renewed except in conformance with all applicable Town regulations.

(2) Nonconforming lots of record. Where an individual lot was held in separate ownership from adjoining properties or was platted prior to the effective date of this Zoning Ordinance in a recorded subdivision approved by the Board of Trustees and has less area or width than required in other sections of this Zoning Ordinance, such lot may be occupied according to the permitted uses and other requirements set forth in the district in which the lot is located, provided that no lot area or lot width is reduced more than one-third ($\frac{1}{3}$) the zoning requirements otherwise specified by this Zoning Ordinance.

Sec. 5-90. Public notice requirements.

(a) Purpose. All land use applications that require a public hearing before the Board of Trustees or Board of Adjustment shall be subject to the requirements contained in this Section. It is intended to provide for adequate notification ensuring the opportunity for public participation of land use proposals within the Town.

(b) Responsibility.

(1) It is the responsibility of the applicant to meet these requirements prior to the established hearing date. The Board of Trustees or Board of Adjustment may continue the hearing to a date certain and may keep the hearing open to take additional information to the point a final decision is made. No further notice of a continued hearing need be pursued by the applicant unless a period of six (6) weeks or more elapses between the hearing dates before the same Board. In situations where this time period has passed, the applicant shall be required to publish the "Notice of Public Hearings" again.

(2) These public notice requirements apply to all land within the jurisdiction of the Town.

(3) No public hearing shall commence nor testimony taken until these procedures are met by the applicant.

(c) Public Notice Procedures.

(1) At least fifteen (15) days prior to a public hearing, a notice shall be published at least one (1) time in the legal notice section of a general circulation newspaper within the Town. A publisher's affidavit shall be submitted to the Town Administrator prior to the hearing date to verify the publication of the required notice. The notice shall read as follows:

TOWN OF DEER TRAIL
NOTICE OF PUBLIC HEARING
PROPOSED AMENDMENT TO _____

Notice is hereby given that the Town of Deer Trail Board of Trustees shall hold a public hearing concerning (type of application request), located on property described in Exhibit A, and generally located at (distance and direction of nearest major intersection) pursuant to the Town of Deer Trail Zoning Ordinance.

The public hearing shall be held before the (name of board) on (date), at the hour of (time), or as soon as possible thereafter as the agenda of the (name of board) permits, at 555 2ND Avenue, Deer Trail, Colorado 80105, or at a place otherwise specified by the Town Clerk. Further information is available by calling (303) 769-4464.

ALL INTERESTED PERSONS MAY ATTEND.

EXHIBIT A (legal description)

(2) At least fifteen (15) days prior to a public hearing, a written notice shall be sent by certified mail by the applicant to all Town property owners within seven hundred fifty (750) feet of the site for which the land use application is made. Return receipts shall be submitted with a list of all area property owners to the Town Clerk's office prior to the hearing date. The written notice shall contain the following information:

- a. The entire notice of public hearing outlined in Paragraph (1) above, including the legal description; and.
- b. Brief narrative outlining the proposed land use application.

(3) At least fifteen (15) days prior to a public hearing, a notice shall be posted by the applicant on the property for which the land use application is made. The notice shall consist of at least one (1) sign facing an adjacent public right-of-way in a manner which provides the most visibility to the public of the sign. These notices shall be in the form of signs measuring not less than three (3) feet by four (4) feet; with lettering a minimum of three (3) inches high and on posts no less than four (4) feet above the ground. All lettering shall be clearly legible from the right-of-way the sign faces. These notices shall read:

NOTICE OF PUBLIC HEARING.

Notice is hereby given that the Town of Deer Trail Board of Trustees shall hold a public hearing concerning (type of application request), located on property described in Exhibit A, and generally located at (distance and direction of nearest major intersection) pursuant to the Town of Deer Trail Zoning Ordinance.

The public hearing shall be held before the (name of board) on (date), at the hour of (time), or as soon as possible thereafter as the agenda of the (name of board) permits, at 555 2ND Avenue, Deer Trail, Colorado 80105, or at a place otherwise specified by the Town Clerk. Further information is available by calling (303) 769-4464.

ALL INTERESTED PERSONS MAY ATTEND.

EXHIBIT A (legal description)

(4) For all other amendments to this Zoning Ordinance, notice shall be by publication only.

Sec. 5-100. Fees.

(a) Intent. The intent of establishing fees is to cover the cost of processing of applications under this Zoning Ordinance. Fees shall be established by resolution of the Board of Trustees and include without limitation:

- (1) Preapplication meetings.
- (2) Special review use permit variances and appeals.

- (3) Rezoning requests.
 - (4) Zoning Ordinance amendments.
 - (5) Planned developments.
 - (6) Sign permits.
- (b) Payment.

(1) All applications for which there is a fee shall be accompanied by the appropriate fee to the Town Clerk. Applications which are not accompanied by the appropriate fee shall be considered incomplete and shall not be processed nor shall any permit be issued unless the appropriate fee accompanies the application. The applicant shall pay the Town the actual cost to the Town for engineering, planning, surveying, legal services and administrative services rendered in connection with the review of the development. The applicant, upon submission of the development proposal, must sign a cost reimbursement agreement.

(2) The Town will send the applicant a statement for the actual costs incurred by the Town for the services described above on a monthly basis. The applicant shall pay the Town the amount due on the statement within fifteen (15) days of the date of issuance of such statement. In the event the applicant fails to pay the amount due on the statement within the time period described above, the Town shall immediately stop the review process for the development. The application will be deemed withdrawn if the statement is not paid in full within thirty (30) days of the date of issuance of the statement, when the application is deemed withdrawn. The Town will not consider another application from the applicant for development until all expenses owed to the Town are paid.

ARTICLE 6

Interpretation and Definitions

Sec. 6-10. Interpretation and definitions.

All words in this Zoning Ordinance, except as specifically defined, shall carry their customary meanings. Words used in the present tense include the future tense; the plural includes the singular; the word *shall* is mandatory; the word *may* is permissive; the words *occupied* or *used* shall be considered as though followed by the words *or intended, arranged or designed to be used or occupied*. For the purposes of this Article, the words and phrases set forth below shall have the meanings ascribed to them as follows:

Abutting. Having a common property line or district line with an adjacent property. Properties separated by a right-of-way or easement shall be deemed abutting if, in the absence of the right-of-way or easement, the properties would have a common boundary.

Accessory equipment for a CMRS facility. Equipment, including buildings and structures, used to protect and enable radio switching equipment, backup power and other devices incidental to a CMRS facility, but not including antennae.

Accessory use or structure. A use or structure (exceeding one hundred twenty [120] square feet) subordinate to the principal structure or use which serves a purpose customarily incidental to the principal use and normally incidental to a use by right and complying with all the following conditions:

- a. Is clearly subordinate, incidental and customary to and commonly associated with the operation of the use by right.
- b. Is operated and maintained under the same ownership as the use by right on the same zone lot.
- c. Includes only those structures or structural features consistent with the use by right.

Acre, gross. An area in any shape containing forty-three thousand five hundred sixty (43,560) square feet.

Agent. Includes any person acting on behalf of or in place of the owner.

Alley. A public or private vehicular passageway dedicated or permanently reserved as a means of secondary access to abutting property and designated an alley on a final plat.

Alter. To change any of the supporting members of a building, such as bearing walls, columns, beams or girders.

Antenna. A metallic apparatus used for sending and/or receiving electromagnetic signals.

Authorized inspector. Any police officer, Building Inspector, Tri-County Health Officer, Code Enforcement Officer or any other officer of the Town duly authorized to examine any public or private property within the Town for the purpose of ascertaining the nature and existence of any nuisance.

Auto repair, major. Vehicle repair consisting of assembly or disassembly of engine parts, body parts, transmission, chassis, axles, etc., and/or the process of painting.

Auto repair, minor. Vehicle repair and/or servicing consisting of a minor nature, such as tune-up, oil change, chassis lubrication, tire change or repair, wheel alignment, muffler repair or installation.

Board of Adjustment. A group of individuals appointed or designated by the Board of Trustees as having the responsibility for hearing requests for variances from these regulations or for hearing appeals as to the interpretation of the provisions of these regulations.

Buffer. A horizontal distance or margin of land designed to provide an attractive space or area, obstruct undesirable views, serve as an acoustic barrier or screen from objectionable noise, smoke or visual impact, provide for future public improvements or additional open space or generally reduce the impact of adjacent development.

Building. Any structure built for the shelter or enclosure of persons, animals, chattels, property or substances of any kind (not including fences), having one (1) or more floors and a roof and permanently affixed to the ground.

Building coverage. The amount of land taken up by the building itself on a zone lot. This "footprint" or building line viewed directly from above the structure includes all attached eaves, cornices, decks (covered and uncovered), covered patios (ground level and uncovered not included), balconies or other building attachments such as garages, porches, porch covers and the like; also includes the ground coverage of accessory uses. The footprint may not encroach into any setback or yard requirement unless otherwise defined in this Zoning Ordinance (see also *Projections*). The amount of building coverage per zone lot specified in each zone district is the maximum amount of land that can be covered by all structures, whether they are principal or accessory uses, attached or detached.

Building envelope. An area within the property boundaries of a lot or property within which an allowed building or structure may be placed.

Building roof-mounted CMRS facility. A CMRS facility that is mounted and supported entirely on the roof of a legally existing building or structure.

Building wall-mounted CMRS facility. A CMRS facility that is mounted and supported entirely on the wall of a legally existing building or structure.

Canopy. An accessory roof-type structure which is permanently affixed to the ground and typically not enclosed. As accessory structures, these structures would be exempt from the minimum distance requirements between structures. These structures must meet all other minimum yard requirements within the zoning district.

Certificate of occupancy. Official certification by the Building Official that a premises conforms to provisions of the Building Code and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures.

Child care facility. 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 and not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes facilities commonly known as day care, day care centers, day nurseries, nursery schools, kindergartens, preschools, play groups, day camps, summer camps, centers for mentally retarded children and those facilities which give twenty-four-hour care for dependent and neglected children and includes those facilities for children under the age of six (6) years with stated educational purposes operated in conjunction with a public, private or parochial college or a

private or parochial school; except that the term shall not apply to any kindergarten maintained in connection with a public, private or parochial elementary school system of at least six (6) grades.

Clustered development. A type of land use design concentrating development in one (1) or more areas of the project and allowing for a reduction in lot size below minimum requirements when compensating amounts of open space are provided within the proposed development.

Commercial mobile radio service (CMRS) facility. An unstaffed facility consisting of antennae, equipment and equipment storage shelters used for reception, switching and/or transmission of wireless telecommunications.

Commercial mobile radio service (CMRS) facility. An unmanned facility consisting of antennae and accessory equipment and used for the reception, switching, transmission or receiving of wireless telecommunications operating at one thousand (1,000) watts or less effective radiated power and using frequencies authorized by the Federal Communications Commission ("FCC"), including but not limited to paging, enhanced specialized mobile radio, personal communication systems, cellular telephone, point-to-point microwave signals and similar technologies.

Comprehensive Plan. Comprehensive Plan (Master Plan): The Master Plan for the Town of Deer Trail, as may be adopted and prepared or which is being prepared for the Town and which includes any part or unit of any such plan separately adopted and any amendment to such plan or parts thereof. It is a plan for the future growth, protection and development of the Town, which makes recommendations and policies to provide adequate facilities for housing, transportation, convenience, public health, safety and the general welfare of its population.

Construction. Any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action.

Convenience store convenience service. A retail or service commercial use which serves the area immediately surrounding the use by providing groceries, sundries and miscellaneous services which do not typically offer comparison shopping opportunities.

Day care. See definition for *Child care facility*.

Density. A unit of measurement, specific to development, to be interpreted as the number of dwelling units per acre of land.

Density, gross. The average number of dwelling units or gross commercial building floor area per acre for the entire development area or site (property boundaries), including all roads and easements within the property boundaries.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Drive-through restaurant. A restaurant operation located either within a retail center or situated on its own freestanding pad, which primarily: a) serves food that is prepared and/or packaged within five (5) minutes and is generally intended for consumption away from the premises; b) contains a drive-in or drive-through facility; and/or c) is intended to primarily serve the passerby and/or motoring public.

Dwelling. Any building or portion thereof, used exclusively for residential purposes. *Single-family* – A building containing one (1) kitchen designed and/or used to house not more than one (1) family, including necessary employees of each such family. *Multi-family* – A building designed and/or used to house two (2) or more families, living independently of each other, including necessary employees of each such family. This includes duplexes, condominiums, townhouses and apartments. *Living unit* – A building or portion thereof containing one (1) family, including necessary employees of such family.

Dwelling unit. A single structure with one (1) or more rooms designed to function as a single living unit and containing only one (1) kitchen plus living, sanitary and sleeping facilities.

Easement. A right granted by a property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose. A right to use the land of another for a special purpose not inconsistent with the ownership of that land.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage, which demands immediate action.

Emergency work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Equipment storage shelter. Buildings, storage shelters and cabinets used to house CMRS facility equipment.

Family. Includes the following:

- a. A single individual or a collective body of persons in a domestic relationship based upon blood, marriage, adoption or fostering, living as a separate, independent housekeeping unit, including domestic servants; or
- b. A group of not more than six (6) unrelated persons, all living together as a separate housekeeping unit in a single dwelling unit. Excludes boarding or rooming houses, lodges, clubs, hotels, motels or fraternities:

Notwithstanding the above, a family shall be deemed to include no more than (8) persons not related by blood, marriage, adoption or legal custody occupying a residential dwelling unit and living as a single housekeeping unit if the occupants are within the definition of "group home" as defined in C.R.S. § 31-23-303.

Fence. A linear structure of wood, wire, metal, brick, stone, frame, stucco or other manufactured material or combination thereof, including gates and posts, which is intended to define an area, mark a property boundary, contain animals, provide screening or reduce roadway noise.

Flag. Flags of the United States, the State, the Town, foreign nations having diplomatic relations with the United States and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, that is allowed to wave, flap or rotate with the wind. Flags may also be logos or solid color.

Flashing sign. Any directly or indirectly illuminated sign, either stationary or animated, which exhibits changing natural or artificial light or color effects by any means whatsoever.

Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland waters; and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain. The area adjoining any river, stream, watercourse, lake or other body of standing water, which is subject to inundation by a one-hundred-year flood.

Floor area ratio (F.A.R.). The ratio of building gross square footage to the gross square footage of a parcel. The quotient of the gross floor area of all buildings on a lot divided by the area of said lot; for example:

Floor area 15,000 sq. ft. divided by land area = 43,560 sq. ft. = .34 (F.A.R.)

Freestanding CMRS facility. A CMRS facility that consists of a stand-alone support structure, such as a tower or monopole and antennae and accessory equipment.

Frontage. The frontage of a parcel of land is considered that distance where a property line is common with a road right-of-way line, unless otherwise defined. Also, see *Lot frontage* and *Linear frontage*.

Fully enclosed structure. A fully enclosed structure shall conform to all Town zoning and building regulations regarding principal or accessory structures on a residential lot. Tarps, portable, movable or temporary storage, trash or recycling containers are not allowed as means of enclosing outdoor storage in any residential zoning district.

Garage. An accessory building or a part of a main building used for storage of private vehicles or boats of the family occupying the dwelling unit to which the garage is accessory.

Grade. The vertical location of the ground surface.

Grade, existing. The surface level of the ground prior to alteration of the land by grading.

Grade, finish. The surface level of the ground after completion of all grading.

Grade plane. A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line, or, where the lot line is more than six (6) feet from the building, between the building and a point (6) feet from the building.

Grading. Any excavating, filling or combination thereof.

Gross floor area (GFA). The total floor area of a building or structure enclosed by the outer walls including all stories (floor levels), exclusive of basement area, garage space and porches.

Group home. Any structure that provides noninstitutional housing for not more than eight (8) service-dependent or developmentally disabled individuals living as a single housekeeping unit with professional staff who function as surrogate parents and are not considered a family. Certain forms of group housing are specifically regulated by the federal or state government, as defined in C.R.S. § 31-23-303, including:

- a. Group home for handicapped.
- b. Group home for developmentally disabled.
- c. Group home for mentally ill.
- d. Group home for the elderly.

Hazard. A hazard to public health, safety and welfare and includes any activity so recognized by the laws and regulations of the United States, the State of Colorado, Arapahoe County or the ordinances of the Town. Such hazards shall also include, but not be limited to, activities likely to cause foul or offensive odors, promote the growth or propagation of disease-carrying insects, pollute the air or ground waters of adjacent property, create loud or offensive sounds, cause drainage and runoff to occur in other than historical patterns or dead trees or vegetation that constitute such a hazard.

Height, building. The vertical distance from grade plane to the average height of the highest roof surface.

Height, structure. Structure height (not including buildings) is measured from the average finished grade five (5) feet from each support of the structure to the highest point of the structure. Structure height is used to measure structures such as signs and fences.

Home occupation. Any occupation or activity which is clearly incidental to and conducted wholly within a dwelling unit and not in any accessory building or space on the premises by residents of the dwelling unit.

Hospital. A facility that makes available one (1) or more of the following: medical, surgical, psychiatric, chiropractic, maternity and/or nursing services.

Hotel. A building or group of attached or detached buildings designed for occupancy of specified rooms by short-term or part-time residents who are lodged with or without meals being provided in a restaurant and in which no facilities are provided for cooking in the individual rooms.

Impervious coverage. Any material that substantially reduces or prevents the infiltration of stormwater or other water into previously undeveloped land.

Implements of husbandry. Every vehicle, farm tractor or machine that is designed, adapted or used for agricultural purposes.

Improvement. Upgrading a piece of land by constructing buildings, streets, utilities and the like upon it or under its surface. Improvements may be either public or private depending upon who is the ultimate owner after construction. Improvements may also be designated as either "on-site" or "off-site" in relation to a development parcel.

Kennel. Any building, structure or open space or portion thereof, used for the breeding, raising, boarding or selling of animals that are more than six (6) months' old or for more than one (1) litter.

Lineal frontage. The left-to-right maximum front dimension of a building.

Loading area. A parking space other than a public street or alley for the parking of commercial vehicles for the purpose of loading or unloading materials or merchandise.

Lot. The unit into which land is divided on a subdivision plat or deed, with the intention of offering such unit for sale, lease or separate use, either as an undeveloped or developed site, regardless of how it is conveyed. A lot is the smallest unit into which land is divided on a subdivision plat.

Lot, corner. A lot abutting two (2) or more streets at their intersection or upon two (2) parts of the same street and where in either case the interior angle formed by the intersection of the street lines does not exceed one hundred thirty-five (135) degrees.

Lot coverage. That portion of the lot area covered by a building, including all overhanging roofs and impervious surfaces.

Lot frontage. That boundary of a lot which abuts a dedicated public street. In the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner based on the address of the property and filed with the Building Department.

Lot line. The external boundary of a lot.

Lot width. The distance parallel to the front lot line measured between side lot lines through that part of the building or structure where the lot is narrowest. Or, where no building exists, the average distance between two (2) side lot lines.

Microwave dish antenna. A disk-type antenna used to link communication sites together by wireless voice or data transmission via ultrahigh frequency electromagnetic waves.

Motel. See *Hotel*.

Nonconforming lot. Pertains to a defined lot where the area, width or other characteristic of which fails to meet requirements of the zoning district in which it is located.

Nonconforming structure. A structure legally existing and/or used at the time of adoption of this Zoning Ordinance, or any amendment thereto, which does not conform to the regulations of the zoning district in which it is located.

Nonconforming use. A use legally existing and/or used at the time of adoption of this Zoning Ordinance, or any amendment thereto, which does not conform to this Zoning Ordinance.

Nuisance or public nuisance. This includes:

- a. The conducting or maintaining of any activity in violation of statute or ordinance:
- b. Any unlawful pollution or contamination of any air, water or other substance or material; any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of an agency or officer of the Town, the Tri-County Health Department, County or State, continues to exist or be conducted in violation of statute, ordinance or regulation of the Town, the County or the State;
- c. Any activity, operation, condition, building, structure, place, premises or thing which is injurious to the public health, safety and welfare of the citizens of the Town, which contributes to blight or property degradation or which is indecent or offensive to the senses of an ordinary person, so as to interfere with the comfortable enjoyment of life or property. For the purposes of this Subsection, an accumulation of activities, operations, conditions or things that might individually not arise to the level of a nuisance may be deemed a nuisance if, taken together, they would be indecent or offensive to the senses of the ordinary person; and
- d. Any nuisance defined or declared as such by applicable statute or ordinance.

Nursing home, including assisted living. Facilities which make medical services and nursing care available for a continuous period of twenty-four (24) hours or more to three (3) or more persons not related to the operator.

Open space. A parcel of land, an area of water or a combination of land or water within the site designated for a Planned Development or subdivision, designed and intended primarily for the

use or enjoyment of residents, occupants and owners of the P.D. and/or the general public for uses, including but not limited to recreation areas and facilities, gardens, parks, walkways, paths and trails and areas of native vegetation left substantially in their natural state or supplemented by additional plant material. The term shall not include space devoted to buildings, streets, roads and other ways, parking and loading areas. Open space credit for nonresidential developments shall be given for treatments such as berms, sodded areas, trees, water features, decorative rock treatments and, in some cases, landscaped plazas and atriums.

- a. *Common open space* means open space designed or intended primarily for the common use of the lawful owners, residents and occupants of a P.D. or subdivision, but not necessarily including the general public, which is owned and maintained by an organization established for such purpose or by other adequate arrangements.
- b. *Public open space* means an open area developed, designed and dedicated to a public authority for use by the occupants of the development and by the general public. Portions of areas containing steep slopes (angle of incline greater than forty-five [45] degrees) and special sub-areas of floodplains (such as bogs) may not be dedicated as public open space.

Outdoor storage. The storage of materials, equipment or vehicles, which material is either wholly or partially visible from the any right-of-way or abutting lot.

Person. An individual, proprietorship, partnership, corporation, limited liability company, association or other legal entity.

Pets. Dogs, cats, small animals, reptiles and birds which are customarily kept in the home or on the premises, as those that may be purchased at local pet stores, for the sole pleasure and enjoyment of the occupants.

Place of worship. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Planned Development (PD). An area of land controlled by one (1) or more landowners to be developed under unified control or unified plan of development for a number of residential, commercial, educational, recreational or industrial uses or any combination of the foregoing, the plan for which may not correspond to lot size, bulk or type of use, lot coverage, open space and/or restrictions of the existing land use regulations.

Plot plan. A surveyed overhead view plan that shows the location of the building on the lot and includes all easements, property lines, setback lines and a legal description of the lot.

Pole-mounted CMRS facility. A CMRS facility that is mounted and supported entirely on a legally existing traffic signal, utility pole, street light, flagpole, CMRS facility, electric transmission line or other similar structure.

Principal use. The primary use located on a given lot or parcel of land, as opposed to an accessory use; also, a use which is listed as a use by right in any given zone district in this Zoning Ordinance.

Principal use or structure. The primary use or structure located on a given lot or parcel of land, as opposed to an accessory use or structure.

Projections. Parts of buildings, such as architectural features that are exempted, to a specified amount, from the setback requirements of this Zoning Ordinance.

Property boundary. An imaginary line along the ground surface and its vertical extension which separates the real property owned by one (1) person from that owned by another person, but not including intra-building real property divisions.

Public right-of-way. Any street, avenue, boulevard, highway, sidewalk or alley or similar place, which is owned or controlled by a governmental entity. This term includes Town right-of-way.

Public space. Any real property or structures thereon which are owned or controlled by a governmental entity.

Public utility. Every firm, partnership, association, cooperative, company, corporation and governmental agency and the directors, trustees or receivers thereof, whether elected or appointed, which is engaged in providing railroad, airline, bus, electric, rural electric, telephone, telegraph, communications, gas, gas pipeline carrier, water, sewerage, pipeline, street transportation, sleeping car, express or private car line facilities and services.

Recreational facilities. Uses, structures and/or land utilized for the provision of recreational activities and/or open space that may be developed, operated and/or maintained by a public entity.

Residential property. Property that is zoned primarily for residential use.

Residential zone district. Any zone district in which residential use is the predominate land use.

Rezoning. A revision to the Official Zoning Map.

Right-of-way. An area or strip of land over which a right of passage has been recorded for use by vehicles, pedestrians and/or facilities of a public utility.

Screening. A structure erected or vegetation planted to conceal from viewers the area behind it.

Separation distance. The distance between structures measured from the foundation of one (1) structure to the foundation of an adjoining structure; provided, however, that exterior chimneys,

soffits and bay windows may extend into this open area a distance of up to twenty-four (24) inches for each of the structures.

Setback. The distance required between the face of a building and the lot line opposite that building face, measured perpendicularly to the building. Where angled buildings or lots, curved streets, etc., exist, the setback shall be taken as an average distance. *Setback* also refers to the horizontal distance (plan view) between the delineated edge of wetlands, stream/river corridors, riparian areas or wildlife habitat and the closest projection of a building or structure.

Setback, front yard or front lot. A line which forms a vertical plane parallel with a front lot line of a lot, tangent to that part of a building or structure situated on such a lot which is closest to such lot line and intersecting two (2) other lot lines of such lot.

Setback line. A line or lines within a property defining the minimum horizontal distance required between a building or structure and property line.

Setback, rear yard or rear lot. A line which forms a vertical plane parallel with a rear lot line of a lot, tangent to that part of a building or structure situated on such a lot which is closest to such rear lot line and intersecting two (2) other lot lines of such lot.

Setback, side yard or side lot. A line which forms a vertical plane parallel with a side lot line of a lot, tangent to that part of a building or structure situated on such a lot which is closest to such side lot line and intersecting two (2) other lot lines of such lot.

Site development plan. A plan view of land drawn to scale showing accurate dimensions and containing the information required in this Zoning Ordinance, including uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, parking, building sites, reserved open space, buildings, major landscape features, both natural and man-made, and the locations of proposed utilities and easements.

Sight triangle. An area of land located at intersections of streets, drives and other public and/or private ways situated to protect lines of sight for motorists, within which the height of materials and/or structures is limited.

Small wind energy conversion system (SWECS). Any mechanism, including blades, rotors or other moving surfaces, designed for the purpose of converting wind energy into mechanical or electrical power. For the purpose of these Regulations, towers, tower bases, guy wires and any other structures necessary for the installation of a small wind energy conversion system are also included.

Special review use. A use that must have approval of the Board of Trustees before being allowed in the specific zoning district.

Stealth CMRS facility. A CMRS facility with an alternative design which camouflages or conceals the presence of antennae or towers, such as, but not limited to, artificial trees, clock and bell towers and steeples.

Street. A public right-of-way which provides the principal means of access to abutting property.

Structure. Anything which is constructed or the use of which requires permanent location on the ground or attachment to something having permanent location on the ground. *Structure* may also include a street, driveway, culvert, fence, gate, post, monument, sign, mailbox, fire hydrant, public utility, berm, hedge and landscaping, among others.

Subdivision regulations. The Subdivision Regulations duly adopted by the Board of Trustees of the Town of Deer Trail.

Town. The Town of Deer Trail, Colorado.

Town Administrator. That employee or consultant designated by the Board of Trustees to enforce these Regulations. Town Administrator may include a designee of the Town Administrator.

Town Engineer. The employee or consultant designated by the Board of Trustees as the Engineer for the Town.

Town right-of-way. Same as *Public right-of-way* and *Right-of-way*.

Use. The purpose for which land or premises or a building thereon is designed, arranged or intended or for which it is or may be occupied, and includes the activity or function that actually takes place or is intended to take place on a lot.

Use, principal. The primary use located on a parcel of land.

Variance. A decision of the Board of Adjustment which grants a property owner relief from certain provisions of this Zoning Ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.

Weekday. Any day Monday through Friday which is not a legal holiday.

Whip antenna. An array of antennae that is cylindrical in shape.

Yard. An open space on the same lot with a building or building group lying between the front, rear or side wall of a building and the nearest lot line, unoccupied except for projections and the specific minor uses or structures allowed in such open space under the provisions of this Zoning Ordinance.

Yard, front. A yard extending the full width of the lot on which a building is located and situated between the front lot line and a line parallel thereto and passing through the nearest point of the building.

Yard, rear. A yard extending the full width of the lot on which a building is located and situated between the rear lot line and a line parallel thereto and passing through the nearest point of the building.

Yard, side. A yard on the same lot as a building situated between the side lot line and a line parallel thereto and passing through the nearest point of a building and extending from the front yard to the rear.

Zoning district. A portion of the Town within which the use of land and structures and the location, height and bulk of structures are governed; i.e., the R classification is a district.

**Appendix A
Development Stipulations Chart**

<i>Development Stipulations</i>	
Existing zoning	
Proposed zoning	
Existing land use	
Proposed land use	
Total site area	
Density (for residential, state total units and dwelling units per acre, for nonresidential, state gross floor area)	
Minimum lot size	
Setbacks (from property lines)	Front – Side – Rear – Between structures – Parking lot –
Maximum building height	
Maximum building coverage	
Area in parking and drives	
Minimum open space	
Other information as requested in letter from Town Administrator	

**Appendix B
Certifications and Signature Blocks**

(a) Intent. The Official Development Plan and the Final Development Plan shall contain executed certificates, notices and statements in the following form. Such certificates, notices or statements may be modified with the permission of the Town Attorney when warranted by special conditions.

(b) Signatures. All signatures must be signed in indelible black ink only as approved by the Clerk and Recorder. No pencils, red ink or ball points.

(c) Board of Trustees Certification. This [Official Development or Final Development] Plan was approved by the Board of Trustees of the Town of Deer Trail, Colorado, on the 13 day of July, 2021 for filing.

(d) Title Verification. I/We (name), a (choose one: qualified title insurance company, title attorney or attorney-at-law), do hereby certify that I/we have examined the title of all land identified hereon and that title to such land is in the owner(s) name free and clear of all liens, taxes and encumbrances, except as follows:

(When signed by an attorney):

(Signature) (Registration No.)

Name of Attorney

Date: _____

(When signed by an official of a title insurance company):

(notarized signature)

Company Name

Date: _____

(e) Clerk and Recorder.

STATE OF COLORADO)

) ss.

COUNTY OF ARAPAHOE)

I hereby certify that this [Official Development or Final Development] Plan was filed in my office on this ___ day of _____, 20__ A.D., at _____ a.m./p.m., and was recorded at Reception Number _____.

(signature)
County Clerk and Recorder

(f) Dedication Statement (if applicable). The undersigned, being all the owners, mortgagees, beneficiaries of deeds of trust and holders of other interests of the lands described herein, have laid out the property subject to this [Official Development or Final Development] Plan as shown hereon under the name and subdivision of _____. The utility easements as shown hereon are hereby dedicated for public utilities and cable communication systems and other purposes as shown hereon. The entities responsible for providing the services for which the easements are established are hereby granted the perpetual right of ingress and egress from and to adjacent properties for installation, maintenance and replacement of utility lines and related facilities. All streets and rights-of-way shown hereon are dedicated and conveyed to the Town of Deer Trail, Colorado, in fee simple absolute, for public uses and purposes. Drainage and detention easements as shown hereon are hereby dedicated to the Town of Deer Trail. The Town is hereby granted the perpetual right of ingress and egress from and to the adjacent properties for construction, repair, maintenance, operation and replacement of storm sewers and drainage facilities.

(Owners/Mortgagee)

By _____

Title: _____

ATTEST:

Secretary

Subscribed and sworn to before me this ___ day of _____, 20___, by* (name printed).

WITNESS my hand and official seal.

Notary Public

My commission expires: _____.

* Signatures of officers signing for a Corporation shall be acknowledged as follows:
"(Print name as President/Vice-President and (print name) as Secretary/Treasurer of (name of corporation), a (state) corporation."

NOTE: Include signature lines and notary lines for all owners/mortgagees.

ORDINANCE NO. 279

AN ORDINANCE APPROVING THE ADOPTION OF
THE TOWN OF DEER TRAIL ZONING ORDINANCE

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF DEER TRAIL, COLORADO, THAT:

Section 1. Following a duly noticed public hearing on July 13, 2021 as required by law, the Town of Deer Trail Zoning Ordinance, attached hereto as **Exhibit A**, and incorporated herein by this reference, is hereby adopted as the zoning ordinance of the Town of Deer Trail.

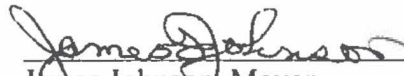
Section 2. Repealer. All acts, orders, resolutions, ordinances, or parts thereof, of the Town that are inconsistent or in conflict with this Ordinance are hereby repealed to the extent only of such inconsistency or conflict, including without limitation, any maximum specific penalty contained in any acts, orders, resolutions, or ordinances for any violation thereof.

Section 3. Recording and Authentication. Immediately upon its passage, this Ordinance shall be recorded in the Town of Deer Trail Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and Clerk and shall be published as required by law.

Section 4. Effective Date. This Ordinance shall become effective thirty (30) days after final publication.

ADOPTED AND APPROVED this 13 day of July, 2021.

TOWN OF DEER TRAIL, COLORADO


James Johnson, Mayor

(S E A L)

ATTEST:


Candice Reed, Town Clerk