

CHAPTER 16

Zoning

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ARTICLE I

Zoning Regulations

Sec. 16-1. General purpose.

This Chapter is enacted for the preservation and promotion of the public health, safety, morals, convenience, order, prosperity and welfare; and for the purposes of lessening congestion in the streets; to secure safety from fire and other damages; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provisions for transportation, water, sewage, parks and other public requirements; to conserve and protect the value of property; and to encourage the most appropriate use of land throughout the Town. (Prior code IV-1-1)

Sec. 16-2. Definitions.

The ordinance codified herein shall be known as and may be cited and referred to as the "Zoning Ordinance." For the purpose of this Chapter certain words and terms are hereby defined. The word *building* includes accessory construction.

(1) *Accessory construction* means anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground, including but not restricted to fences, porches, patios, basketball courts, tennis courts, swimming pools, breezeways, posts, pillars, antennae and lights.

(2) *Dwelling* means a permanent, detached building designed for residential occupancy.

(3) *Dwelling alteration* means any change in the supporting members of a building such as bearing walls, columns, posts, beams, girders, floor joists or roof joists.

(4) *Family* means a collective body of persons related by blood, marriage or adoption, including not more than two (2) unrelated persons who live in one (1) dwelling under one (1) head. The word *family* shall not include paying guests.

(5) *Garage* means an accessory portion of a main building designed or used for the shelter or storage of motor vehicles owned or operated by the occupants of the dwelling.

(6) *Lot* means a parcel of land occupied or designed to be occupied by one (1) dwelling, including the open spaces required by this Chapter and such open spaces as are arranged and designed to be used in connection with such buildings. A *lot* shall be the land shown as a lot on the Town of Bow Mar Zoning Map attached to the ordinance codified herein.

(7) *Street* means all property dedicated, intended or used for public or private street, up to and including collector streets but not including minor arterials, arterials, highways, freeways or any part of an interstate system, of which there are none in the Town; provided, how

ever, that the term *street* shall not include any private driveway or any part of a shoulder or other land contiguous to the street which has been designated as a bridle path, jogging trail, park or green-belt.

(8) *Yard* means an open space on a lot with a building, unoccupied and unobstructed from the ground upward by any structure or portion thereof, except as otherwise provided herein.

(9) *Yard, front*, means a yard extending across the width of the lot and measured between the front line of the lot and the nearest point of the main building.

(10) *Yard, rear*, means a yard extending across the width of the lot and measured between the rear line of the lot and the nearest point of the main building.

(11) *Yard, side*, means a yard on each side of the main building between the main building and the side line of the lot and extending from the front yard to the rear yard. (Prior code IV-1-2; Ord. 194 §1, 1995)

Sec. 16-3. Zoning district.

The incorporated area of the Town is hereby divided into four (4) classes of districts as follows:

Residential District I
Residential District II
Recreational District
Utility District

The boundaries of the above districts are as shown upon the Town of Bow Mar Zoning Map. (Prior code IV-1-3)

Sec. 16-4. Adoption of district map.

The map attached to the ordinance codified herein and designated *Town of Bow Mar Zoning Map* is hereby adopted and made a part of this Chapter and is by reference incorporated herein, and all notations, references or other matters shown by such map shall be as much a part of this Chapter as if the same were fully set forth herein. The official map shall be kept on file with the office of the Town Clerk. Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply: (1) boundaries indicated as approximately following the center lines of streets or roadways shall be construed to follow such center lines; (2) boundaries indicated as approximately following platted lot lines or Town limits shall be construed as following such lot lines or Town limits; (3) boundaries indicated as following or parallel to surface features shall be construed to follow such surface features. (Prior code IV-1-4; Ord. 194 §1, 1995)

Sec. 16-5. Residential District I.

(a) Use regulations. No building, accessory construction or land shall be used and no building or accessory construction shall be erected, converted or structurally altered unless otherwise permitted herein except for one (1) or more of the following uses:

- (1) Single-family dwelling.

(2) Accessory construction or uses incident to the above as is within the scope of this Chapter.

(b) Height regulations. All residences are restricted in height to a maximum of sixteen (16) feet measured from the natural grade or highest approved finished grade at the front setback line to the highest point of the roof.

(c) Area regulations.

(1) Lot area and width: For every dwelling erected or structurally altered, there shall be provided a lot area as platted upon the Zoning Map. The size and dimensions of each existing lot in the Town shall be as platted on said Zoning Map. In order to preserve the spacious character of the Town and to preserve the values enumerated in Section 16-1 above, lots in Residential I shall in no event be less than one (1) acre in size except for lots that have heretofore been platted less than one (1) acre in size.

(2) Yards: For every dwelling erected or structurally altered there shall be provided a front yard and a rear yard each of not less than forty (40) feet in depth and a side yard on each side of the building of not less than forty (40) feet in width.

(3) Dwellings: Each building must contain a minimum of two thousand five hundred (2,500) square feet of living area on at least one (1) level. Said living area shall not include garage, terraces, porches, breezeways, patios or carports.

No detached cellar or basement shall be used, occupied or rented as a dwelling.

(4) No more than twenty-five percent (25%) of any lot shall be covered by a dwelling. (Prior code IV-1-5; Ord. 194 §1, 1995)

Sec. 16-6. Residential District II.

(a) Incorporation of standards found in Residential I District. The standards and restrictions imposed by this Chapter on Residential I District shall be fully applicable to the Residential II District and are incorporated herein except to the extent specifically modified hereinafter.

(b) Height regulations. All residences are restricted in height to a maximum of twenty (20) feet measured from the natural grade or highest approved finished grade at the front setback line to the highest point of the roof.

(c) Area regulations.

(1) Lot area and width: For every dwelling erected or structurally altered, there shall be provided a lot area as platted upon the Zoning Map. The size and dimensions of each existing lot in the Town shall be as platted on said Zoning Map. In order to preserve the spacious character of the Town and to preserve the values enumerated in Section 16-1 above, lots in Residential II shall in no event be less than one (1) acre in size except for lots that have heretofore been platted less than one (1) acre in size.

(2) Yards: For each dwelling erected or structurally altered there shall be provided a front yard and a rear yard, each of not less than thirty (30) feet in depth, and a side yard on each side of the building of not less than twenty (20) feet in width. (Prior code IV-1-6; Ord. 194 §1, 1995)

Sec. 16-7. Recreational District.

Use regulations. No buildings, accessory construction or land shall be used and no building or accessory construction shall be erected, converted or structurally altered except for the following:

(1) In order to preserve the values listed in Section 16-1 of this Chapter and to limit the uses of all land and structures in this District to those compatible with the character of the Town, all structures and land within this District must be specifically limited to recreational or municipal uses. Recreational or municipal uses shall not include any activity, structure or use which constitutes a nuisance or which is contrary or detrimental to the character of the Town. No residential use or structure may be permitted in the Recreational District.

(2) No roads, streets, curb cuts, driveways or other paths or access for motor vehicles shall be permitted through or across any area zoned recreational.

(3) Accessory construction incident to the above use as is within the scope of this District. (Prior code IV-1-7)

Sec. 16-8. Utility District.

Use regulations. No building, accessory construction or land within this District shall be erected, converted or structurally altered except for the following:

(1) All structures and land within this District shall be specifically limited to the function of developing and supplying water for domestic use and such buildings and facilities shall be limited to wells, pumps and storage, treatment and transmission facilities for domestic water use.

(2) No structures or facilities shall be allowed which constitute a nuisance or which are detrimental to the character of the Town. (Prior code IV-1-8)

Sec. 16-9. Trade or business prohibited.

The maintenance of a professional office or commercial establishment dealing with the public on the premises is hereby prohibited. (Prior code IV-1-9)

Sec. 16-10. Outdoor storage of vehicles prohibited.

(a) The outdoor parking or storage of recreational vehicles is prohibited except where such equipment is of small enough size that it can be, and is, stored in or behind a conforming garage, fence or evergreen shrubs so as to be out of sight from passing traffic and out of sight of contiguous property owners. The term *recreational vehicle* as used in this Section shall refer to all vehicles and equipment constructed in

whole or in part for recreational purposes, regardless of whether actually used for such purposes, including, but not limited to, campers, camper trailers, motor homes, mobile homes, houses trailers, horse trailers, buses, boats, rafts, barges and boat and utility trailers. Automobiles, four-wheel-drive passenger vehicles, passenger vans of three-quarter-ton rating or less with covers over the box not exceeding the height of the cab or the width of the box shall not be considered recreational vehicles for purposes of this Section.

(b) The outdoor parking or storage of any inoperative motor vehicle or any motor vehicle not bearing a current license plate is prohibited except where such vehicle is stored in or behind a conforming garage, fence or evergreen shrubs so as to be out of sight of contiguous property owners. (Prior code IV-1-10)

Sec. 16-11. Accessory construction limitations.

(a) General. Recognizing the desirability of preserving for each lot in the Town, insofar as is consistent with the reasonable use of the same, the natural mountain and/or city and/or lake view or views, proposed accessory construction such as fences, porches, swimming pools, covered patios, breezeways and the like shall have the prior approval of the Building Commissioner and shall be subject to the provisions of Chapter 18 of this Code.

(b) Shielded from view. All outdoor clotheslines, tool sheds, playhouses and similar equipment are prohibited unless they are shielded and concealed behind a con-

forming house or shrubs so as not to be visible at any time from any road or from contiguous property.

(c) Antennae. No antenna or other structure or apparatus designed to receive or transmit microwave or electromagnetic signals or other forms of radio, television or communication signals shall extend more than five (5) feet above the roof line, nor shall such antenna or other structure or apparatus be mounted on any freestanding or adjacent tower. All dish antennae and similar structures shall be located only on the ground and they shall not exceed a diameter of four (4) feet. All such dish antennae or similar structures shall not rise more than five (5) feet above the ground and they shall be completely screened from view from neighboring lots and the streets by a conforming house or shrubs.

(d) Overhead wires. No overhead or above ground electrical or transmitting wires or lines shall be allowed.

(e) Solar panels or collectors. No solar panel or collector shall be allowed to extend above the highest point on the roof of any dwelling unless a greater height is expressly authorized by state law.

(f) Fences. No fence shall be more than five (5) feet high. (Prior code IV-1-11)

Sec. 16-12. Landscaping and shrubbery limitations.

Landscaping, including planting of shrubs and trees, shall not obstruct unreasonably the views of the lake, mountains or city lights from any other lot or lots. It is the

intent of this provision to prohibit plantings such as obstructive hedges, heavy shrubs or tree groupings that would, upon predicted maturity, significantly interfere with the view from any other lot or lots. This provision is not intended to discourage realistic and artistic plantings even though the view of other lots may be slightly affected. (Prior code IV-1-12)

Sec. 16-13. Nonconforming uses.

(a) Any dwelling or platted lot which was in existence prior to the time the prior municipal code, as adopted on May 16, 1983 by Ordinance No. 127, Series of 1983, became effective and which is and has been at all times in compliance with Ordinance No. 20, Series of 1958, entitled "An Ordinance Providing for the Zoning of the Town of Bow Mar"; Ordinance No. 41, Series of 1961, entitled "An Ordinance to Amend Ordinance No. 20, Series of 1958, Relating to and Providing for the Zoning of the Town of Bow Mar"; and Ordinance No. 97, Series of 1976, entitled "An Ordinance Providing for the Zoning of the Town of Bow Mar, Colorado, and Repealing Ordinance No. 20 and Ordinance No. 41," shall not be deemed to be a nonconforming dwelling or platted lot merely because it does not comply with revised standards and requirements set forth in Sections 16-4 through 16-8 of this Chapter. Such existing dwelling or platted lot shall continue to be judged by, and subject to, the aforesaid Ordinances 20 and 41 to the extent that the terms and provisions of Ordinances 20 and 41 were modified by Sections 16-4 through 16-8 of this Chapter. Any modification, change or other alteration in or to any such existing dwelling or platted lot shall, however, be judged by, and be subject to, this Chapter rather than

Ordinances 20, 41 and 97. This exception to the definition of *nonconforming uses* is intended to apply only to existing dwelling and platted lots and is not intended to exclude accessory construction, sheds, playhouses or similar facilities, vehicles of any description whatever, landscaping or other facilities, uses or objects from the requirement of compliance with this Chapter.

(b) In case a building or other structure or object which is not in compliance with this Chapter but which is authorized as a nonconforming use pursuant to subparagraph (a) is damaged by fire, explosion or other calamity to the extent of more than seventy-five percent (75%) of its fair market value, it shall not be restored except in full conformity with Sections 16-4 through 16-8 of this Chapter. (Prior code IV-1-13; Ord. 194 §1, 1995)

Sec. 16-14. Discretion of the Building Commissioner.

The Building Commissioner shall have primary responsibility for enforcing this Chapter and he or she may, in his or her reasonable discretion and with the approval of a majority of all of the Board of Trustees, grant a variance from the terms and provisions of this Chapter in order to maintain a pleasing and harmonious appearance with the nearby surroundings, or in order to allow reasonable and economic construction upon a lot, or to prevent manifest injustice. However, no variance shall be granted to modify any lot, road or other detail shown on the attached map nor shall any variance be granted that is inconsistent with the values set forth in Section 16-1 of this Chapter. (Prior code IV-1-14)

Sec. 16-15. Board of Adjustment.

(a) There is hereby established a Board of Adjustment consisting of five (5) members, each to be appointed by the Board of Trustees for three-year terms. The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision or determination made by the Building Commissioner. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Chapter. The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Building Commissioner, or to decide in favor of the applicant any matter upon which it is required to pass under this Chapter, or to effect any variance from this Chapter. Each decision of the Board of Adjustment shall be subject, however, to review by certiorari by the District Court of any county within which the property in question is located. An appeal may be taken by any person aggrieved, by any officer or department of the Town or by the Town itself.

(b) Any appeal from the Building Commissioner to the Board of Adjustment shall be taken by filing with the Building Commissioner within a period of time to be established by the Board of Adjustment, but in no event more than sixty (60) days, a written notice of appeal, specifying the grounds therefor. The Building Commissioner shall at once transmit to the Board of Adjustment all of the papers constituting the record upon which the action appealed from was taken. The Board of Trustees

may establish by resolution from time to time the filing fee required to be paid in order to maintain such an appeal.

(c) An appeal to the Board of Adjustment stays all proceedings in furtherance of the action appealed from unless the Building Commissioner certifies to the Board of Adjustment after the notice of appeal has been filed that, by reason of factors stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by the District Court on application, on notice to the Building Commissioner, and on due cause shown.

(d) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, but in no event more than ninety (90) days after the filing of a notice of appeal, and it shall decide the appeal within a reasonable period of time. At the hearing, all interested parties, including representatives of the Town, may be present and heard. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, subject to the provisions of Subparagraph (a) of this Section.

(e) Upon appeal in specific cases, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Article, the

Board of Adjustment has the power to vary or modify the application of the regulations or provisions of this Article relating to the use, construction or alteration of buildings or structures, or to the use of land, so that the spirit of this Article is observed, public safety and welfare secured and substantial justice done. No variance shall be granted to modify any lot, road or other detail shown on the map attached to the ordinance codified herein nor shall any variance be granted that is consistent with the values set forth in Section 16-1 of this Chapter.

(f) Any applicant, the Building Commissioner or any other person who is a party to the proceeding before the Board of Adjustment may seek judicial review of the decision of the Board of Adjustment in the manner provided by state law. The Town or any officer thereof may appeal any decision of the Board of Adjustment or of a reviewing court regardless of whether the Town or said officer was a party to the proceedings before the Board of Adjustment. (Prior code IV-1-15; Ord. 194 §1, 1995)

Sec. 16-16. Amendments.

This Chapter and the map attached to the ordinance codified herein may not be amended, nor may any lot or parcel of land described herein be subdivided except by the following procedure:

(1) Public hearing. A public hearing shall be held to discuss and consider the proposed amendment, subdivision or other change. All citizens of the Town and other interested parties shall be given an opportunity to be heard.

(2) Notice. At least fifteen (15) days' notice of the time and place of such public hearing shall be published in

an official newspaper of general circulation within the Town limits. If any lot or parcel of land is proposed to be subdivided or any detail shown on the zoning map is to be modified, a sign measuring at least four (4) feet by four (4) feet shall also be posted on such property, in a way as to be clearly readable from the nearest public road, at least fifteen (15) days prior to the time of the public hearing, containing a brief notice of the proposed change and of the time and place of the public hearing.

(3) Vote. Within a reasonable time following the public hearing, the Board of Trustees shall hold a meeting to act upon the proposed change. Any change or modification of this Chapter or the zoning map and any subdivision of any lots herein shall not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of all the Trustees.

(4) Additional roads or junction of roads. No additional roads or portions of roads may be added in the Town nor any additional junctures or joinder of any existing road with any other road shall be permitted except upon notice as provided herein and the affirmative vote of three-fourths ($\frac{3}{4}$) of all the Trustees. (Prior code IV-1-16; Ord. 194 §1, 1995)

Sec. 16-17. Interpretation.

In interpreting and applying the provisions of this Chapter whenever this Chapter imposes a greater restriction upon the use of lands and/or construction of buildings or accessories than other building or zoning standards which have been adopted, then and in that event the provisions of this Chapter shall govern. (Prior code IV-1-17; Ord. 194 §1, 1995)

Sec. 16-18. Violation and penalty.

(a) Any person violating any provision of this Chapter shall be guilty of a petty offense, and upon conviction thereof shall be punished as set forth in Section 1-72 of this Code.

(b) In lieu of or in addition to the foregoing penalty, the Building Commissioner or the Board of Trustees may pursue any other remedy at law or equity, including but not limited to injunctive relief, under the laws of the State for the enforcement of this Chapter. Such legal action or proceedings shall not prohibit the imposition of the penalties specified above.

(c) Further, if after fifteen (15) days' written notice a property owner fails or refuses to remove a nonconforming structure, vehicle in violation of Section 16-10, landscaping in violation of Section 16-12 or other structure or object in violation of this Chapter, the Building Commissioner may order any member of the Police Department to enter the premises of such owner and to take such steps as are reasonable to eliminate such violation. (Prior code IV-1-18; Ord. 194 §1, 1995)

Secs. 16-19--16-30. Reserved.